

**ARTICLE 1**  
**GENERAL PROVISIONS**

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**Section 1-010 Title**

This ordinance shall be known and may be cited as the City of Charleston Subdivision and Land Development Ordinance and its provisions shall apply to all lands to be subdivided in the City of Charleston, West Virginia.

**Section 1-020 Authority**

These regulations, enacted pursuant to the Code of West Virginia, Chapter 8A, as amended, and pursuant to the Charleston City Code and all other applicable authorities and provisions of West Virginia statutory law, shall apply to all land use within the City corporate limits, except where specifically exempted by State law.

**Section 1-030 Applicability**

All subdivisions of land shall be subject to the provisions of this ordinance. No recordation of such documents shall be permitted until such documents have been reviewed and approved in accordance with this Ordinance.

**Section 1-040 Purpose**

This ordinance has been designed and adopted to provide uniform standards and procedures for the regulation and control of subdivision and land development within the City of Charleston, West Virginia. The purpose of such regulation and control is to:

- A. Facilitate in defining the character of the City through the land development patterns permitted;
- B. Ensure that any new subdivision or development is integrated into the community at a scale, density and intensity that is appropriate to existing development and in accordance with the City of Charleston Comprehensive Plan;
- C. Control the division of land within the municipal boundaries of the City in order to

- promote the public health, safety and general welfare of the City;
- D. Establish accurate records of land subdivisions;
- E. Implement the City of Charleston Comprehensive Plan;
- F. Secure safety from fire and other dangers;
- G. Facilitate adequate and coordinated provision for transportation, water, sewer, schools, parks, playgrounds and other public facilities; and,
- H. Preserve natural features, and in particular, recognize that the severe topography may play a critical role in the decision-making process relative to land development and subdivision; and,
- I. Preserve historical landmarks.

**Section 1-050 Subdivision and Land Development Control**

- A. No lot in a subdivision may be sold; no permit to erect, alter or repair any building upon land in a subdivision may be issued; and no building may be erected in a subdivision, unless and until a final subdivision plan has been approved and recorded; and until the improvements required by the Municipal Planning Commission have either been completed or guaranteed as provided by this ordinance. Where, owing to special conditions, a literal enforcement of this provision would result in unnecessary hardship, the Commission may make such reasonable exception thereto as will not be contrary to the public interest and may permit the sale of a single lot subject to conditions necessary to assure adequate streets and other public improvements.
- B. No lot, tract or parcel of land will be subdivided, and no land will be developed, and no street, alley, sanitary sewer, storm sewer, water main or related facility will be laid out, constructed, opened or dedicated for public use or travel, or for the use of occupants of buildings abutting or to abut on them, except according to the provisions of this ordinance, any other applicable ordinances of the City, and the City of Charleston Comprehensive Plan.

**Section 1-060 Inclusion and Relationship to Other Ordinances**

- A. The Subdivision and Land Development Ordinance shall be interpreted to include any and all other provisions of the Charleston City Code which are necessary for an understanding of this ordinance and the attainment of its purposes. The City Council of the City of Charleston, West Virginia intends that all Charleston City Code provisions relating to subdivision and land development, and all orders, rules, and regulations established pursuant to these provisions, be read as part of a uniform system of Charleston subdivision and land development regulation.
- B. All departments, officials and employees of the City of Charleston that are vested with the duty or authority to issue permits, certificates or approvals, shall conform to the provisions of this Ordinance and shall issue no permit, certificate or approval for any use, structure or activity if the same would be in conflict with the provisions of this Ordinance, unless otherwise provided for by law. Any permit, certificate or approval

issued in conflict with the provisions of this Ordinance shall be null and void and, in no event, shall act as a waiver of the standards and requirements of these regulations.

**Section 1-070 Consistency with Comprehensive Plan**

All subdivisions approved in accordance with the requirements of this Ordinance shall be consistent with the City of Charleston Comprehensive Plan.

**Section 1-080 Interpretation, Conflict and Severability**

- A. In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- B. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. Where the conditions imposed by, or pursuant to, these regulations are different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute or other provision of law, the provisions which are more restrictive and which impose the higher/greater standards shall control.
- C. The provisions of this Ordinance are separable. If any part or provision of these regulations or their application to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or their application to other persons or circumstances. The City hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.
- D. The provisions of this chapter shall not apply to any existing subdivision which has heretofore been approved by the Charleston Municipal Planning Commission and the plat thereof recorded pursuant to the provisions of the subdivision regulations of the City of Charleston, as amended. No such prior approved subdivision shall be modified, changed or altered except by approval of the Charleston Municipal Planning Commission in accordance with the provisions of this ordinance.

**Section 1-090 Effective Date**

- A. The effective date of the Subdivision and Land Development Ordinance as amended shall be August 1, 2008. Any concept plan submitted after August 1, 2008 shall comply with this ordinance.
- B. Any subdivision or land development plan submitted as a complete application or approved in preliminary or final form, but not yet expired, prior to the effective date may, at the discretion of the applicant, continue under the subdivision regulations adopted 1954, as amended, but no extensions shall be granted for these subdivisions or land plans.

**ARTICLE 2**  
**DEFINITIONS**  
**Contents**

- 2-010 Rules of Construction, Content and Usage**
- 2-020 Definitions of Terms**

**Section 2-010 Rules of Construction, Content and Usage**

The following rules of construction shall apply to the text of this ordinance:

- A. The particular shall control the general.
- B. In the event there is any conflict or inconsistency between the heading of an article, section, subsection, or paragraph of this ordinance and the context thereof, the heading shall not be deemed to affect the scope, meaning, or intent of the context.
- C. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- D. In case of conflict between regulations, the more restrictive shall apply.
- E. Words used in the present tense shall include the future.
- F. Words used in the singular number shall include the plural, and the plural the singular, unless the context indicates the contrary.
- G. The masculine shall include the feminine and neuter.
- H. The word "shall" is always mandatory and not discretionary.
- I. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:
  - 1. "and" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "or" indicates that the connected items, conditions, provisions, or events shall apply singly or in any combination.
  - 3. "either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- J. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".

- K. The word "includes" or "including" or the phrase "such as" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of similar character.
- L. A "building" or "structure" shall include any part thereof.
- M. The word "person" includes an individual; a private, public, or quasi-public corporation whether operated for profit or nonprofit; a partnership; an association; a governmental body or agency, or any other similar entity.
- N. The word "state" shall mean the State of West Virginia. The word "county" shall mean the County of Kanawha, State of West Virginia. The word "city" shall mean the City of Charleston, West Virginia.
- O. The word "Commission" shall mean the Municipal Planning Commission of the City of Charleston, West Virginia.
- P. The word "Council" shall mean the City Council of the City of Charleston, West Virginia.
- Q. The terms "Board of Zoning Appeals", "Building Commissioner", "City Clerk", "City Engineer", "City Manager", "City Attorney", "City Treasurer", "City- County Health Department", "Director of Public Works", "Historic District Review Board", "Historic Landmark Commission", "Municipal Beautification Commission", "Mayor", "Planning Director", "Sanitary Board", "Street Commissioner", and "Traffic Engineer" shall mean the respective boards, councils, and officers of the City and County of their authorized agents.
- R. The term "Building Code" shall mean those regulations administered by the Building Commissioner, as adopted by the City Council of Charleston.
- S. The term "Code of the City of Charleston" or "City Code" shall mean the Code of the City of Charleston, April 7, 2003, as amended.
- T. The term "Code of West Virginia" shall mean the Code of the State of West Virginia, 1931, as amended.
- U. The term "Comprehensive Plan" shall mean the plan for the City of Charleston, West Virginia, entitled "Charleston 1996: Comprehensive Plan, Bridges to Tomorrow", as amended, as passed by ordinance of City Council, April 17, 1979, and as subsequently amended.
- V. The term "Fire Code" shall mean the Fire Prevention Code, 1968, as amended.
- W. The term "Subdivision Regulations" shall mean the Subdivision Regulations for the City of Charleston, West Virginia, as passed by ordinance of City Council, March 7, 1983 and as subsequently amended.
- X. The phrase "this ordinance" shall mean all portions of this amended Zoning Ordinance of the City of Charleston, West Virginia, including the Zoning Map, as passed by ordinance of City Council, November 21, 2005 and as subsequently amended.

**Section 2-020 Definitions of Terms**

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them within this section. If not defined in this section, or within other sections of this ordinance, terms used in this ordinance shall have the meanings provided in any standard dictionary or American Planning Association publication as determined by the Planning Director.

**Abandonment.** The relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the nonconforming use of the property for a period of one year.

**Abutting.** Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

**Access.** The way or means by which pedestrians or vehicles approach, enter or exit property.

**Accessory Structure.** See Structure, Accessory.

**Addition.** Any increase in the gross floor area of a structure or use, including those in which the building footprint is not enlarged

**Adverse Impact.** A negative consequence for the physical, social, or economic environment resulting from an action or project.

**Affected Persons.** Those owners of record of real property located in whole or in part within a specified distance as indicated in this ordinance, including public streets and other rights-of-way.

**Aggrieved Person.** A person who (1) is denied by the Planning Commission or Board of Zoning Appeals, in whole or in part, the relief sought in any application or appeal; or (2) has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the City may suffer.

**Amendment.** Any repeal, modification, or addition to a regulation; any new regulation; any change in the numbers, shape, boundary, or area of a district; or any repeal or abolition of any map, part thereof, or addition thereto.

**Amenity.** Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. Amenities may differ from development to development but may include such things as a unified building design, recreational facilities (e.g. swimming pool, walking trails, bicycle trails, lakes, tennis courts, picnic areas, playgrounds), views, landscaping, etc.

**Apartment.** One or more rooms in a building designed and intended for occupancy as a separate dwelling unit. See Dwelling, Multi-family.

**Area, Buildable.** The area of a lot remaining after the minimum yard and open space requirements of the zoning ordinance have been met.

**Basement.** The portion of a building having at least one-half its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of 6.5 feet or more.

**Berm.** A mound or embankment of earth.

**Bikeway.** A pathway used for bicycling, walking and other recreation.

**Block.** Property having frontage on both sides of a street, and lying between the two nearest intersecting or intercepting streets, or nearest intersecting and intercepting street and railroad right-of-way, waterway or other barrier (including an alley between zoned areas).

**Block Face.** A single boundary of a block described in the definition of a block. A block face is opposing when it is across a public street.

**Buffer.** A strip of land, fence, or border of trees, etc., between one use and another, which may or may not have trees and shrubs planted for screening purposes, designed to set apart one use area from another. An appropriate buffer may vary depending on uses, districts, size, etc.

**Buffer Strip.** Land area used to visibly separate one use from another or to shield or block noise, light or other nuisances. A strip may be required to include fencing, berms, shrubs and/or trees.

**Buildable Area.** See Area, Buildable.

**Building.** A structure with a roof built and maintained for the support, shelter, or enclosure of persons, motor vehicles, animals, or personal or real property.

**Building Area.** The maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces, unenclosed porches and not exceeding one story in height, or architectural appurtenances projecting not more than three (3) feet.

**Building Envelope.** The area formed by the front, side and rear setback lines of a lot within which the principal building must be located.

**Building Footprint.** The outline of the total area of a lot covered by a building's perimeter. Where a building has a recessed ground floor, the footprint shall be construed to be the outline of the largest perimeter of the building, excluding architectural decorations or features as defined herein.

**Building Height.** The vertical distance of a building measured from the average grade level at the front line of the building to the highest point of the roof if the roof is flat or mansard, or to the average level between the eaves and the highest point of the roof if the roof is of any other type. Height calculation shall not include chimneys, spires, towers, elevator and mechanical penthouses, water tanks, radio antennas, and similar projections.

**Building Line.** The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

**Building Wall.** An exterior load-bearing or non-load-bearing vertical structure that encompasses the area between the final grade elevation and eaves of the building, and used to enclose the space within the building. A porch, balcony or stoop is part of the building structure and may be considered as a building wall.

**Build-To Line.** An alignment established a certain distance from the front property line to a line

along which the building shall be built.

**Caliper.** A horticultural method of measuring the diameter of nursery stock. For trees less than four inches in diameter, the measurement should be taken at six inches above the ground level. For trees greater than four inches in diameter up to and including 12 inches, the caliper measurement must be taken 12 inches above the ground level. For trees greater than 12 inches in diameter, the trunk is measured at breast height, which is 4.5 feet above the ground.

**Clear-cutting.** Removal of an entire stand of trees, shrubs and other vegetative ground covering.

**Combined Sewer.** The Sanitary Board's piping network that collects and conveys domestic sewage during dry weather flow and a combination of storm water and sanitary flow during wet weather flow.

**Commission.** The Municipal Planning Commission of the City of Charleston, West Virginia.

**Common Area.** Any portion of a development that is not part of a lot or tract and is designed for the common use of the development. These areas include green open spaces and may include such other uses as parking lots and pedestrian walkways. Maintenance of such areas is not the responsibility of city government and shall be set forth by the development association in the form of restrictive covenants, which shall guarantee the maintenance of these areas.

**Comprehensive Plan.** The Comprehensive Plan for the City of Charleston, West Virginia.

**Condominium.** A common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interest in the common elements are vested in the unit owners.

**Contiguous.** Lots, parcels, municipal boundaries or county boundaries that are next to, abutting, and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous.

**Covenant.** A restriction on the use of land set forth in a written document or plat. The restriction runs with the land and is binding upon subsequent owners of the property.

**Density.** The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting surface water, un-developable lands (e.g. wetlands) and the area in rights-of-way for streets and roads.

**Density Bonus.** The granting of the allowance of additional density in a development in exchange for the provision by the developer of other desirable amenities from a public perspective (e.g., public open spaces, plazas, art, landscaping, etc.).

**Development.** (1) Any man-made change to improved or unimproved land, including but not limited to the construction, reconstruction, conversion, structural alteration, relocation, enlargement or use of any structure or parking area; (2) Any mining, excavation, dredging, filling, grading, drilling or any land disturbance; or (3) Any use or extension of the use of the land.

**Development, Cluster.** A development design technique that concentrates buildings in specific area on a site to allow remaining land to be used for recreation, common open space, or the



preservation of historically or environmentally sensitive features.

**Drainage.** (1) Surface water run-off; (2) the removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development; or (3) the means for preserving the water supply and the prevention or alleviation of flooding.

**Driveway.** A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

**Driveway, Common.** A driveway shared by adjacent property owners and privately owned and maintained.

**Driveway, Cross Access.** A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

**Dwelling, Duplex.** A freestanding building containing two dwelling units.

**Dwelling, Modular Home.** Any structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installed on a building site and designed for long-term residential use and is certified as meeting the standards contained in the West Virginia State Fire Code.

**Dwelling, Multi-Family (Limited).** A freestanding building containing three or more dwelling units, whether they have direct access to the outside, or access to a common building entrance. Multifamily dwellings can consist of rental apartment buildings, rental or owner occupied townhouse buildings, and rental or owner occupied condominium buildings, provided that all such freestanding buildings contain three or more dwelling units.

**Dwelling, Multi-Family (Unlimited).** A freestanding building containing three or more dwelling units, whether they have direct access to the outside, or access to a common building entrance. Multifamily dwellings can consist of rental apartment buildings, rental or owner occupied townhouse buildings, and rental or owner occupied condominium buildings, provided that all such freestanding buildings contain three or more dwelling units. The number of dwelling units permitted in this type of development shall be limited only by the intensity of use standards for the zoning district in which the development is located.

**Dwelling, Single Family.** A freestanding building designed solely for occupancy by one family for residential purposes, as a single housekeeping unit.

**Dwelling, Townhouse.** Also known as a Rowhouse. A one-family dwelling unit, with private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation. Setbacks are measured from the perimeter of the overall building.

**Dwelling, Triplex.** A freestanding building containing no more than three dwelling units.

**Dwelling Unit.** A single unit providing complete, independent living facilities for a single housekeeping unit. In no case shall a motor home, trailer, hotel or motel, lodging or boarding house, automobile, tent, or portable building be considered a dwelling unit. Dwelling units are contained within single-family dwellings (in which case the definition is synonymous), garage

and accessory apartments, duplex dwellings, mixed-use dwellings, and multifamily dwellings.

**Easement.** A grant by a property owner to the use of the land by the public, a corporation, or persons for specific purposes as the construction of utilities, drainage ways and roadways.

**Easement, Conservation.** A non-possessor's interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources; or maintaining air or water quality.

**Elevation.** (1) A vertical distance above or below a fixed reference level; or (2) a flat scale drawing of the front, rear or side of a building.

**Erosion.** The process by which the ground surface is worn away by the action of wind, water, gravity, ice or a combination thereof, or the detachment and movement of soil or rock fragments.

**Excavation.** Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

**Fence.** An artificially constructed barrier of wood, masonry, stone, brick, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas. Also called a wall.

**Fill.** Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans, for purposes of creating a new elevation of the ground.

**Frontage.** (1) The boundary of a lot fronting on a public street; (2) the front lot line.

**Frontage, Store.** (1) The length of a front store façade; (2) the length of a front building facade.

**Grade.** The average level of the finished surface of the ground adjacent to the exterior walls of a building.

**Grade, Percentage of.** The rise or fall of a slope in feet and tenths of a foot for each 100 feet of horizontal distance.

**Ground Cover.** Any evergreen or broadleaf evergreen plant that does not attain a mature height of more than one foot. Sod and seed shall also be considered as qualifying groundcover.

**Ground Floor.** The first floor of a building other than a basement.

**Group Housing Development.** More than one principal residential building per lot of record, with or without accessory uses or structures.

**Hardship, Unnecessary.** A hardship by reason of exceptional lot shape, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed.

**Historic District.** A geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of sites, buildings,

structures or objects united historically or aesthetically by plan or physical development.

**Historic Landmark.** A site, building, structure or object designated as historic on a national, state or local register.

**Historic Site.** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure and designated as historic on a national, state or local register.

**Historic Structure.** Any structure that is: (a) listed individually on the National Register of Historic Places or preliminarily determined by the United States Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the United States Secretary of Interior as contributing to the historical significance of a registered historic district; (c) individually listed on the West Virginia inventory of historic places; (d) individually listed on a County, City or other local inventory of historic places that has been certified by an approved State program as determined by the United States Secretary of Interior.

**Homeowners' Association.** An incorporated nonprofit organization operating under recorded land agreements through which: (1) each lot owner is automatically a member, and (2) each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property and making capital improvements. Also known as a Maintenance Association.

**Impervious Surface.** Surfaces that do not absorb water. Examples of such surfaces include buildings and concrete or asphalt parking areas, roads, sidewalks, or driveways.

**Improvement.** Any man-made, immovable item that becomes part of, placed on, or is affixed to real estate.

**Land Development.** 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.

**Landscaped Area.** A portion of the site or property containing vegetation to exist after construction is completed. Landscaped areas include, but are not limited to, natural areas, buffers, streetscapes, lawns and plantings.

**Landscaped Buffer.** An area of landscaping separating two distinct land uses, or a land use and a public right-of-way, and acts to soften or mitigate the effects of one land use on the other.

**Landscaping.** Open area devoted primarily to trees, grass, shrubs, or plants to soften building lines, provide shade and generally produce a pleasing visual effect of the premises. As complementary features, fountains, pools, screens, decorative lighting, sculpture, or outdoor furnishings may be placed within the area.

**Lot.** See Lot of Record.

**Lot Area.** The total area within the lot lines of a lot, excluding any street rights-of-way.

**Lot, Building.** A parcel of land that was legally existing at the time of adoption of this ordinance, or is legally created through subdivision thereafter, upon which a building or structure may be erected in accordance with all relevant provisions in this ordinance (including variance provisions, if applicable). Parcels of land that area created in violation of any provision of the City’s subdivision ordinance shall not be eligible for the issuance of permits to build any structure upon.

**Lot, Corner.** A lot located at the junction of two or more intersecting streets.

**Lot Coverage.** The total area covered, measured from the outside of the exterior walls, by all principal and accessory buildings on a lot. Open porches, decks, balconies and similar features that are not covered by a roof shall not be counted.

**Lot, Critical.** A lot designated as critical during the Preliminary Plat review process based on soil conditions, slopes greater than 1:1 ratio, contains natural floodplains, lacks infrastructure such as sewer service, or other lot features that could affect the feasibility of construction.

**Lot Depth.** The distance measured from the front lot line to the rear lot line. Where the front and rear lot lines are not parallel, the lot depth shall be measured by drawing lines from the front to rear lot lines at right angles to the front lot line, every ten feet and averaging the length of these lines.

**Lot, Flag.** A polygonal-shaped lot with the appearance of a frying pan or flag and staff in which the handle is most often used as the point of access. The handle, when less than the minimum width for a building lot in the zoning district in which it is located, is not to be used in computing the minimum required lot area or delineating the minimum required building envelope.

**Lot Front.** The side of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot. Where buildings exist on the lot, the frontage may be established by the orientation of the building, or of the principal entrance, if building orientation does not clearly indicate lot frontage. Where no other method determines conclusively the front of a lot, the Planning Director shall select one frontage on the bases of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

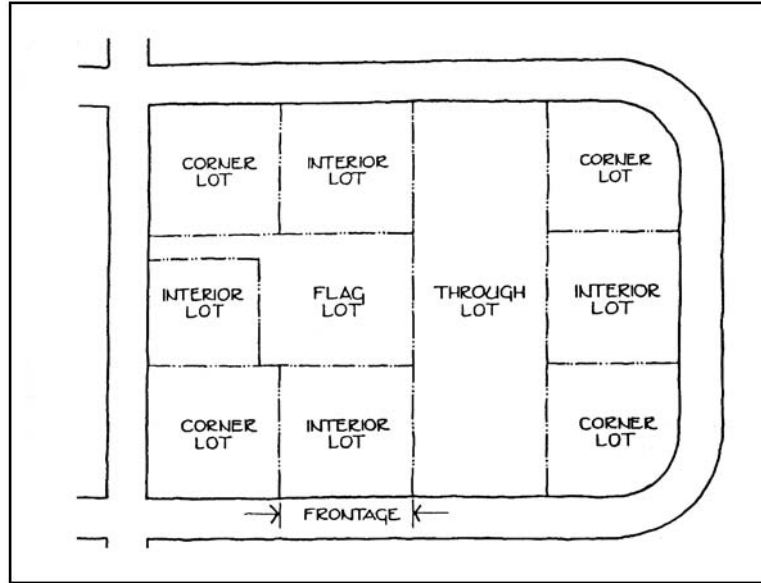
**Lot, Irregular.** A lot of such shape or configuration that technically meets the area, frontage and width to depth requirements of the ordinance but has unusual elongations, angles, and curvilinear lines.

**Lot Line.** The property line bounding a lot.

**Lot Line, Front.** The lot line separating a lot from the street.

**Lot Line, Rear.** (1) The lot line that is opposite and most distant from the front lot line; (2) The rear lot line of an irregular or triangular lot shall be a line entirely within the lot at least 10 feet long and parallel to and most distant from the front lot line; (3) A corner lot shall have no rear lot line.

**Lot, Nonconforming.** A lot or parcel of land that was of record and lawfully established and maintained but which, because of the enactment of this ordinance, no longer conforms to the land-use standards or use regulations of the zone in which it is located.



Source: *A Glossary of Zoning Development and Planning Terms*, Davidson and Dolnick, APA publication, 1999.

**Lot, Pre-existing Nonconforming.** A lot or parcel of land that was of record and lawfully established and maintained by which, because of the enactment of this ordinance, no longer conforms to the land-use standards or use regulations of the zone in which it is located. To qualify as a pre-existing, nonconforming lot of record, the lot had to have been created on or before March 7, 1983.

**Lot line, Side.** Any lot line which is not a front lot line or a rear lot line.

**Lot of Record.** A lot which is part of a legal subdivision recorded in the Office of the County Clerk, or a lot or parcel described by metes and bounds the description of which has been so recorded and legally subdivided.

**Lot, Through.** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

**Lot Width.** The distance between the side lot lines of a lot at the building line.

**Open Space.** Any land or area, the preservation of which in its present use would: (1) conserve or enhance natural or scenic resources; or (2) promote streams or water supply; or (3) promote conservation of soils, or wetlands; or (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or (5) enhance recreational opportunities.

**Open Space, Improved.** Parks, playgrounds, swimming pools, ball fields, plazas, landscaped green spaces, and other areas that are created or modified by man. Improved open space shall not include schools, community centers or other similar areas in public ownership.

**Open Space, Natural.** Areas of natural vegetation, water bodies, or other landforms that are to be left undisturbed. Creation of a graded and surfaced walking trail through areas of natural open space shall constitute disturbance of the area in the amount of the length of the walking trail

multiplied by its approximate average width. Natural open space shall not include schools, community centers or other similar areas in public ownership.

**Parcel.** A single lot, or a grouping of old lots acquired by a single deed, and considered as one buildable lot for zoning purposes. Parcels that consist of a grouping of old City lots acquired by a single deed may be subdivided for purposes of creating more buildable parcels, provided all regulations contained within this ordinance and the City's subdivision ordinance are adhered to.

**Park.** Any area that is predominately open space, used principally for active or passive recreation, and not used for a profit-making purpose. Any area designated by the City as a park.

**Paved Surface Area.** Ground surface covered with cobblestones, clay fired bricks, concrete precast paver units, poured concrete with or without decorative surface materials, blacktop, or other asphalt or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

**Performance Guarantee.** Any security that may be accepted by the City as a guarantee that improvements required as part of an application for development are satisfactorily completed.

**Person.** Any association, company, corporation, firm, organization or partnership, singular or plural, of any kind.

**Plan, Land Development.** A written description for the development of land.

**Planned Unit Development.** See Development, Planned Unit.

**Plat, Land Development.** A map of the land development.

**Plat, Preliminary.** A plan drawn to scale that shows street, lot, and open space layouts, public dedications, and reservations, if any, and proposed environmental changes to the tract. It includes topographical information, existing site conditions, analysis, and off-site conditions.

**Prints.** Black line or blue line prints.

**Public Improvement.** Any improvement, facility, or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public utilities, cable television, or similar essential services.

**Public Space.** Any lots, tracts or parcels of land, structures, buildings or parts thereof owned or leased by a governing body or unit of government.

**Public Utility.** An establishment engaged in the generation, transmission, treatment, collection, and/or distribution of electricity, gas, steam, water, sanitary sewer, and stormwater management systems.

**Retaining Wall.** A wall or terraced combination of walls used to retain more than 18 vertical inches of material and not used to support, provide a foundation for, or provide a wall for a building or structure.

**Retention System.** A storm water facility that is designed to accept runoff from a developed

site and discharge it at a limited rate (when the runoff rate into the system drops below the limited rate). A specified volume is stored indefinitely (retained) until it is displaced by runoff from another storm.

**Right-of-Way.** A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, waterline, sanitary sewer, and/or other public utilities or facilities.

**Roundabout/Traffic Circle.** A raised island that is usually landscaped and located at the intersection of two streets used to reduce traffic speeds and accidents without diverting traffic onto adjacent residential streets

**Runoff.** The portion of rainfall, melted snow, or irrigation water that flows across ground surface and is eventually returned to a waterbody such as a river, stream, pond, or reservoir.

**Sanitary Board.** The Sanitary Board of the City of Charleston, West Virginia, a Municipal Utility, that collects, conveys and treats domestic sewage.

**Sanitary Sewer.** The Sanitary Board's piping network and appurtenances that collect and convey domestic sewage.

**Screen.** See Berm Buffer, or Fence.

**Setback.** The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

**Setback, Front.** The minimum allowable distance from the street right-of-way line to the closest point of the foundation of a building or projection thereof.

**Setback, Front, On Corner Lots.** The front setback of a corner lot shall be measured from the side of the lot designated as the "front." On a corner lot, only one street line shall be considered a front line, which shall be the shorter street frontage.

**Setback, Garage Entrance.** A setback measured from a street lot line to the entrance to a garage or carport. It is essentially a minimum driveway length.

**Setback, Rear.** The shortest distance between the building line and the rear lot line.

**Setback, Side.** The shortest distance between the building line and the side lot line.

**Sidewalk.** That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

**Site.** A lot, tract or parcel of land considered as one land-unit for purposes of this ordinance. For a single-family residence, the site shall be the subdivided lot on which it is located. For multi-family projects, the site shall be all land occupied by the buildings in the project and adjoining such property and under common ownership with it. For vacant land, the site shall be all of the adjoining vacant land under single ownership. For single-occupancy, non-residential properties, the site shall be the subdivided lot that is occupied. For multiple-occupancy properties, the site shall be all land included under the original "site plan" or "subdivision plan" approval under this ordinance.

**Site Plan.** A plan depicting the proposed development of a property, in terms of the location, scale and configuration of buildings and other features containing all the required information under the site plan review section of this ordinance.

**Stormwater Detention.** Any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells or any combination thereof.

**Stormwater Management.** Any storm water management technique, apparatus, or facility that control or manages the path, storage, or rate of release of storm water runoff. Such facilities may include storm sewers, retention or detention basins, drainage channels, drainage swales, inlet or outlet structures, or other similar facilities.

**Street.** A street, avenue, boulevard, highway, road, lane, alley and public way.

**Street, Alley.** A right-of-way dedicated to public use, other than a street, road, crosswalk, or easement, designed to provide a secondary means of access for the special accommodation of the property it reaches. An alley shall not be considered adequate as the sole access for a parcel of land.

**Street, Arterial.** A street designated for large volumes of traffic movement. Certain arterial streets may be classed as limited access highways to which entrances and exists are provided only at controlled intersections and access is denied to abutting properties.

**Street, Collector.** A street which primarily collects traffic from local streets and feeds it to the arterial network. Collector streets provide circulation within neighborhood areas.

**Street, Cul-de-sac.** A street with a single common ingress and egress and with a turnaround at the end.

**Street, Dead-end.** A local street open at one end only and without a special provision for vehicles turning around.

**Street Frontage.** The distance for which a lot line adjoins a public or private street from one lot line intersecting said street to the furthest lot line intersecting the same street.

**Street, Frontage Road.** A minor street, parallel to and adjacent to an arterial street, whose primary purpose is providing access to abutting properties.

**Street, Interstate Highway.** The highest type of primary arterial highway, with full access control, high design speeds. Access control is exercised to give preference to through traffic, by providing access connections with selected public roads only, and by prohibiting crossings at grade or direct private driveway connections.

**Street, Loop.** A short, independent street that usually terminates along the same collector street of its origin.

**Street, Major Importance.** A street of major importance requires a paving width of no less than twenty-four (24) feet.

**Street, Minor Importance.** A street of minor importance requires a paving width of no less than



twenty-one (21) feet.

**Street Private.** Any road or street that is not publicly owned and maintained and used for **Access** by the occupants of the development, their guests, and the general public.

**Street, Residential.** A street used primarily for access to abutting properties, usually residential.

**Structure.** Anything constructed or erected the use of which requires permanent location of the ground or attachment to something having a permanent location on the ground. The word "structure" shall include the word "building".

**Structure, Accessory.** A subordinate structure detached from but located on the same lot as a principal structure. The use of an accessory structure must be accessory to the use of the principal structure.

**Structure, Detached.** A structure with no vertical common or party wall with another structure.

**Structure, Nonconforming.** A structure that legally existed prior to the adoption date of this ordinance, but which is not in compliance with the requirements of this ordinance for the district in which the structure is located.

**Subdivision.** The division 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. This definition shall exclude and exempt grave sites or burial plots in cemeteries.

**Subdivision, Major.** Any subdivision that is not a minor subdivision.

**Subdivision, Minor.** Any subdivision containing not more than four (4) lots fronting on an existing street; not involving any new street or road, the extension of municipal facilities, or the creation of any public improvements; not adversely affecting the remainder of the parcel or adjoining property; and, not in conflict with any provision of the Zoning Ordinance or these regulations. Additionally, the following types of subdivisions shall be categorized as minor subdivisions:

- (1) Mergers or consolidations of parcels of land
- (2) Minor boundary line adjustments.

**Subdivision Regulations.** The Subdivision Regulations of the City of Charleston, West Virginia, as adopted by ordinance by Charleston City Council and as subsequently amended.

**Tree.** A plant having at least one well-defined stem or trunk and normally attaining a mature height of at least 15 feet, with an average mature spread of 15 feet, and having a trunk that shall be kept clear of leaves and branches at least 6 feet above grade at maturity

**Tree, Public.** Any tree located on city owned or controlled property including parks, street right-of-ways, parkways, etc.

**Unnecessary Hardship.** See Hardship, Unnecessary.

**Use.** Any purpose for which a building or other structure of a tract of land may be maintained or occupied; or any activity, occupation, business, or operation carried on in a building or other

structure or on a tract of land.

**Use, Existing.** The use of a lot or structure at the time this ordinance was enacted.

**Use, Principal.** The primary use of any lot.

**Use, Public.** A use by an agency or department of the city, county, state, or federal government. This shall also include public utilities or uses by any organization that receives funding either all or in part from any agency or department of the city, county, state, or federal government. This shall also include buildings and premises used in the operation of the public use.

**Variance.** A deviation from the terms of this ordinance.

**Vested Right.** A right to undertake and complete the land development. The right is established when the land development plan and plat is approved by the Municipal Planning Commission and is only applicable under the terms and conditions of the approved land development plan and plat.

**Viewshed.** The area within view from a defined observation point.

**Vision Triangle, Clear.** An area of unobstructed vision at street intersections between two and one-half and eight feet above the street pavement-and within a triangular area at the street corner, which area is bounded by: (1) The street property lines of the corner lot and a line connecting points 20 feet distant from the intersection of the property lines of such lot; or (2) The curb lines of an intersection and a line connecting points 40 feet distant from the corner of the intersection, such corner determined by projecting the curb lines out to a specific point, whichever is the lesser.

**Wall, Exterior.** A vertical, structural component of a building which encloses habitable or usable space; a parapet extending not more than twelve inches above a flat roof shall be considered part of the exterior wall for purposes of determining signage.

**Zero Lot Line.** The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

## ARTICLE 3

### PROCEDURES FOR SECURING APPROVAL OF SUBDIVISION PLANS

#### Contents

- 3-010 Minor Subdivision Defined**
- 3-020 Authority to Approve Minor Subdivisions**
- 3-030 Minor Subdivision Review Procedures**
- 3-040 Major Subdivision Defined**
- 3-050 Authority to Approve Major Subdivisions**
- 3-060 Major Subdivision Review Procedures**

#### **Section 3-010 Minor Subdivision Defined**

- A. A minor subdivision is any subdivision:
  - 1. Containing not more than four lots fronting on an existing street;
  - 2. Not involving any new street or road, the extension of municipal facilities, or the creation of any public improvements;
  - 3. Not adversely affecting the remainder of the parcel or adjoining property; and,
  - 4. Not in conflict with any provision of the Zoning Ordinance or these regulations.
- B. Additionally, the following types of subdivisions shall be categorized as minor subdivisions:
  - (1) Mergers or consolidations of parcels of land
  - (2) Minor boundary line adjustments.

#### **Section 3-020 Authority to Approve Minor Subdivisions**

Minor subdivisions shall be reviewed by the Municipal Planning Commission, acting through the Planning Director or his authorized designee, in accordance with the review procedures as stated in Section 3-030 of this Ordinance.

#### **Section 3-030 Minor Subdivision Review Procedures**

- A. Minor Subdivision Approval Process
  - 1. The Minor Subdivision applicant or his agent shall contact the Planning Director or his authorized designee to discuss the plat preparation and approval process prior to submitting a plat for review. The Planning Director will provide information and advice concerning the review procedure, and coordination for plat review and approval. Eight (8) original, Final Plat maps, stamped and signed by a registered West Virginia Surveyor, shall be prepared in conformance with the requirements specified in Article 5 and submitted to the Planning Director or

his authorized designee. The Planning Director will distribute the plat maps to the appropriate City agencies for review and comment.

- 2. If the Planning Director and other appropriate City agencies are satisfied that the proposed subdivision is not contrary to applicable provisions of these regulations or any other law or ordinance, it will, after approval and signature of the City Engineer, the Sanitary Board, and any other applicable agency head deemed necessary, approve such subdivision and have the plat signed and dated by the Planning Director.
- 3. The Planning Director may attach reasonable conditions and/or restrictions to the final plat.
- 4. Following approval and signature by the Planning Director, four (4) prints of the Final Plat are to be filed with the Clerk of Court of Kanawha County by the applicant, and other copies distributed to appropriate agencies including one (1) each for the files of the City Engineer, the Sanitary Board, the Planning Department, and the E-911 Addressing Coordinator.

**B. Recording of the Final Plat**

Within thirty (30) days of the approval, the final plat shall be recorded by the applicant in the Office of the Clerk of Kanawha County. One copy of the recorded plat shall be returned to the Planning Director within five (5) days after recording. The applicant shall furnish the Planning Director with verification that the final plat is properly recorded. No permits will be issued for construction until the properly recorded plat is submitted to the Planning Commission.

**Section 3-040 Major Subdivision Defined**

A major subdivision is any subdivision that is not a minor subdivision.

**Section 3-050 Authority to Approve Major Subdivisions**

Major subdivisions shall be reviewed by the Municipal Planning Commission in accordance with the review procedures as stated in Section 3-060.

**Section 3-060 Major Subdivision Review Procedures**

**A. Preliminary Plat Conference**

The Major Subdivision applicant or his agent shall schedule a conference with the Planning Director or his authorized designee to discuss the plat preparation and approval process prior to submitting a plat for review. The Planning Director will provide information and advice concerning the review procedure and provide coordination for plat review and approval. The Planning Department, however, will not undertake to design the subdivision or perform any service for which a qualified engineer or surveyor should be engaged.

**B. Pre-Application Procedure**

- 1. Before filing the formal application for conditional approval of the Preliminary

Plat, the applicant or his agent shall submit to the Planning Commission a concept plan of the proposed subdivision indicating existing conditions, land characteristics, available utilities, existing covenants, and a general description or layout of the proposed number of residential lots, average lot sizes, utility and street improvements, and areas for all uses other than residential. This step does not require formal application but serves as an opportunity for preliminary discussions and recommendations.

2. Within fifteen (15) days of the filing of the concept plan, the Planning Commission shall inform the applicant or his agent that the plans and data as submitted, or as modified, do or do not meet the criteria of these regulations. When the Planning Commission finds the plans and data do not meet the criteria of these regulations, it shall express its reasons in writing to the applicant.

C. Preliminary Plat - Application for Conditional Approval

1. The applicant shall prepare a Preliminary Plat, together with preliminary improvement plans and other supplementary material as specified in Article 5.
2. Before any applicant or his agent contracts for the sale of or offers to sell the whole or any part of any subdivision of land or any interest therein, the applicant or his agent shall file eight (8) prints and an electronic file in a format specified by the Planning Director of a Preliminary Plat of the proposed subdivision with the Planning Commission for its study, review, and recommendations. Such prints shall be filed in the office of the Planning Commission at least 45 days prior to the legal advertising deadline for a public hearing on the submission of a Preliminary Plat.
  - a. If, within the 45-day period, an application is determined to be incomplete, the Planning Commission staff may disapprove the application. The applicant shall be notified in writing of such action along with the reasons for the disapproval.
  - b. If the application is determined to be complete, the application shall be legally advertised at least twenty-one (21) days prior to the Planning Commission public hearing on the matter.
3. The Preliminary Plat shall be prepared in accordance with the requirements specified in Article 5 and shall be submitted prior to the completion of the final surveys of streets and lots and before any grading or construction work has been started upon the proposed streets and before any map of the proposed subdivision is made in final form for recording.
4. Copies of the Preliminary Plat shall be submitted to the Planning Commission office and the Planning Commission staff will distribute as follows:
  - a. The Planning Department
  - b. The City Engineer
  - c. The Sanitary Board

- d. The City Traffic Engineer
  - e. The Public Works Department
  - f. The Charleston Fire Prevention Bureau
  - g. The E-911 Addressing Coordinator, and
  - h. Other relevant City agencies as required
  - i. The applicant may be asked to submit the plat to relevant State agencies such as the Department of Environmental Protection for an NPDES permit on any site meeting the minimum review requirements for such a permit.
5. Upon receipt of reports from the various reviewing agencies, the Planning Commission shall consider the application, and approve or disapprove the Preliminary Plat, advising the applicant in writing within fifteen (15) days of its decision.
  6. The Planning Commission may attach reasonable conditions and/or restrictions to the Preliminary Plat.
  7. Preliminary approval shall not constitute approval of the Final Plat and does not authorize the transfer of any proposed parcel of land within the proposed subdivision to another entity. Rather, preliminary approval shall be deemed an expression of the approval of the layout submitted on the Preliminary Plat as a guide to the preparation of the Final Plat which will be submitted for the approval of the Planning Commission and for recording upon fulfillment of the requirements of these regulations and the conditions of the preliminary approval, if any.
  8. The action of the Planning Commission shall be noted on four (4) copies of the Preliminary Plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the applicant, one (1) copy shall be returned to the City Engineer for inspection purposes, one (1) copy shall be returned to the Sanitary Board, and one (1) copy shall be retained by the Planning Commission.
  9. Should the applicant fail to submit to the Planning Commission, within two (2) years of the date of the conditional approval of the Preliminary Plat, a Final Plat affecting all or a portion of the area covered by the Preliminary Plat, the conditional approval of the Preliminary Plat shall expire unless the applicant applies to and receives an extension from the Planning Commission.
- D. Final Plat - Application for Approval
1. Application for approval of the Final Plat shall be submitted in writing to the Planning Department at least forty-five (45) days prior to the regularly scheduled Planning Commission meeting at which the applicant desires the public hearing to be held.

2. Eight (8) copies and an electronic copy of the Final Plat and other exhibits required for approval shall be submitted to the Planning Commission Office as specified in Article 5 of this Ordinance and the Planning Commission staff will distribute as follows:
  - a. The Planning Department
  - b. The City Engineer
  - c. The Sanitary Board
  - d. The City Traffic Engineer
  - e. The Public Works Department
  - f. The Charleston Fire Prevention Bureau
  - g. The E-911 Addressing Coordinator
  - h. Other relevant City agencies as required
  - i. The applicant may be asked to submit the Final Plat to relevant State agencies such as the Department of Environmental Protection for an NPDES permit on any site meeting the minimum review requirements for such a permit.
3. The Final Plat shall conform substantially to the Preliminary Plat as approved, and if desired by the applicant, it may constitute only that portion of the approved Preliminary Plat which he proposes to record and develop at the time; provided, however, that such portion conforms to all the requirements of these regulations.
4. Approval by the City Engineer and the Sanitary Board shall be furnished stating that the improvements required to be accomplished by the applicant have been satisfactorily and substantially completed to the satisfaction of the City Engineer and the Sanitary Board; or, in lieu thereof, the applicant shall furnish to the City a bond or other form of guarantee in accordance with Article 6 of this Ordinance.
5. The Planning Commission shall review each application for final approval presented in accord with these rules and regulations. When the Planning Commission grants final approval, such approval shall be entered in writing by the Secretary of the Commission on the original plat, one (1) print of which is to be filed with the Clerk of Court of Kanawha County by the applicant, and other copies distributed to appropriate agencies including one (1) each for the files of the City Engineer, the Sanitary Board, and the Planning Department. One (1) print of the signed plan shall be returned to the applicant.
6. The Planning Commission may permit a major subdivision that has been given Final Plat approval to be divided into two or more phases for development and final platting purposes and may impose such conditions upon the filing of each phase as it may deem necessary to assure the orderly development of the

subdivision. Each phase shall be bonded independently of the other phases, unless expressly stated otherwise.

E. Recording of the Final Plat

1. Within thirty (30) days of the approval, the Final Plat shall be recorded by the applicant in the Office of the Clerk of Kanawha County. One copy of the recorded plan shall be returned to the Planning Director within five (5) days after recording. The applicant shall furnish the Planning Director with verification that the final plat is properly recorded.
2. As-built plans shall be approved and recorded if they differ from the plan of record.



## ARTICLE 4

### GENERAL REQUIREMENTS AND MINIMUM DESIGN STANDARDS FOR SUBDIVISIONS

#### Contents

<b>4-010</b>	<b>General Requirements</b>
<b>4-020</b>	<b>Monuments</b>
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<b>4-040</b>	<b>Plans and Procedures for Critical Lots</b>
<b>4-050</b>	<b>Lots</b>
<b>4-060</b>	<b>Blocks</b>
<b>4-070</b>	<b>Improvements</b>
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<b>4-140</b>	<b>Easements</b>
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#### Section 4-010 General Requirements

- A. Unless otherwise specified in these regulations, all subdivisions shall comply with the requirements of Article 4 of this Ordinance.
- B. In addition to the requirements established herein, divisions of land shall comply with all applicable laws, ordinances, resolutions, rules, policies or regulations, including, but not limited to the following:
  - 1. All applicable provisions of West Virginia law, regulations, or policy.
  - 2. The Zoning Ordinance, Building Code, and all other applicable City laws.
  - 3. The City of Charleston Comprehensive Plan.
  - 4. The rules, regulations and policies of the Sanitary Board of the City of Charleston.
  - 5. The rules of the Charleston-Kanawha Health Department and the West Virginia State Health Department.
  - 6. The rules of the West Virginia Department of Transportation, Division of Highways if the subdivision or any lot contained therein abuts or encompasses a state highway or proposed state route.

7. The standards and regulations adopted by all other boards, commissions, and agencies of the City and County, where applicable.
8. The rules of the West Virginia Department of Environmental Protection, the West Virginia Department of Natural Resources, and the U.S. Army Corps of Engineers.
9. The rules of the Public Service Commission of West Virginia.

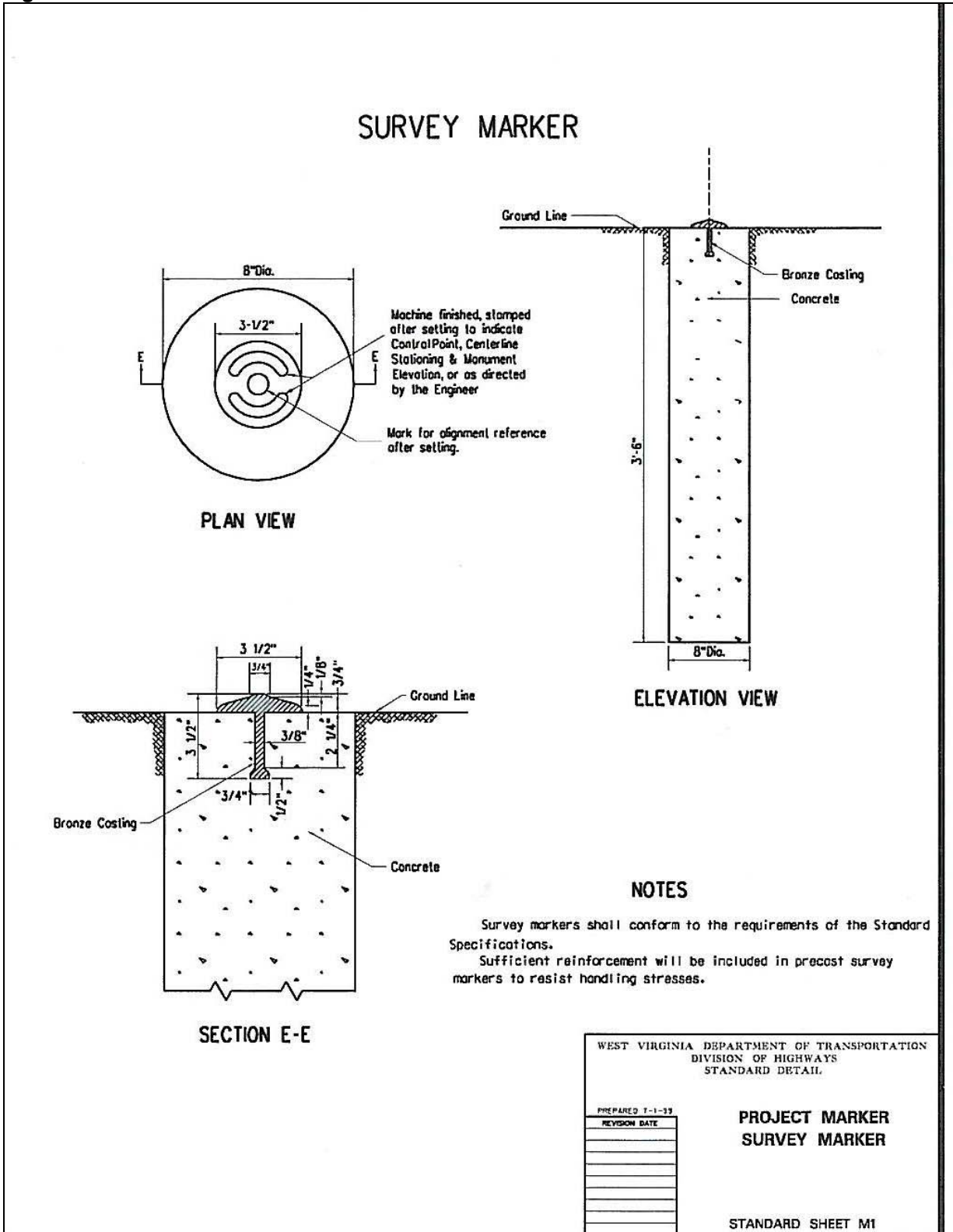
#### **Section 4-020 Monuments**

Monuments tied into the State Plane Coordinate System shall be placed at all block corners and at intermediate points as shall be required by the City Engineer. The monuments shall be of such material, size and length as may be approved by the City Engineer or the West Virginia Department of Transportation Standard Detail for Survey Markers (see Figure 4-1).

#### **Section 4-030 Critical Lots**

- A. *Suitability of the Land.* Land which the Planning Commission finds to be unsuitable for subdivision or development due to flooding as shown on FEMA maps or identified in local studies confirmed by the Engineering Department, steep slopes as shown on the City's topographical maps, rock formations, problem soils, sinkholes, other adverse earth formations or topography, utility easements, or other features which may be harmful to the safety, health, and general welfare of inhabitants of the land and surrounding areas shall not be subdivided or developed unless adequate methods to solve the problems created by the unsuitable land conditions are formulated by the applicant and approved by the Planning Commission. Additional technical evaluations, plans, and analysis of a proposed subdivision by a professional engineer specializing in geotechnical, soils, hydrology, and/or structures may be required and shall be submitted at the expense of the applicant.
- B. *Designation of Critical Lots.* When a proposed lot contains natural or manmade features that affect the feasibility of construction, it shall be designated a critical lot during the Preliminary Plat and subsequent subdivision submittals. Whenever the applicant sells a vacant critical lot, he or she shall make the purchaser aware in writing that the lot has been designated as a critical lot and explain in such notice (i) why the lot has been designated a "Critical Lot" and (ii) what challenges the purchaser may face in obtaining a building permit on the lot to be sold.
  1. A lot shall be designated critical when the lot is created on a natural slope of a 1:1 ratio, when it contains natural floodplain, or is lacking infrastructure such as sewer service.
  2. A lot may be designated critical on the basis of any other lot feature(s) that affects the feasibility of construction as listed in Section 4-030(A) of this Ordinance.
  3. Lots in floodplains shall be subject to the development standards in Article 24 of the Zoning Ordinance.
  4. A star symbol shall be used to identify critical lots on the Preliminary Plat and subsequent subdivision submittals.

Figure 4-1.



- C. *New Critical Lots.* Any lot that will be created as a result of the grading process that meets the definition of a critical lot, shall also be identified as such on the Preliminary Plat and the Final Plat, and shall be subject to the development standards herein.
- D. *Prior to Preliminary Plat Approval.* Prior to approval of a Preliminary Plat for a subdivision that includes lots designated as critical, the applicant shall provide the Planning Department with a preliminary grading study and a description of the measures to be taken:
1. To protect the natural features of the critical lots.
  2. To minimize changes in grade, cleared area, and volume of cut or fill, and to control adverse impacts on the critical lots during and following the period of site disturbance.
  3. To align streets to minimize disturbance of slopes.
  4. To identify easements along property lines to meet future drainage needs.
- E. *Critical Lot Plan Required.* Prior to application for a building permit on a lot designated as critical, a plan shall be submitted to the Planning Department for approval as described in Section 4-040 of this Ordinance. The Planning Director may direct a critical lot plan to the Planning Commission for decision.

#### **Section 4-040 Plans and Procedures for Critical Lots**

- A. *Designation of Critical Lots.* Lots are designated critical during the Preliminary Plat review process based on soil conditions, degree of slope, flooding, or other lot features, and to address concerns related to the feasibility of construction as described in Section 4-030(A) of this Ordinance.
- B. *Zoning Code Requirements.* All critical lots shall meet the applicable requirements of the Zoning Code.
- C. *Critical Lot Plan Required.* Prior to application for a building permit on a lot designated as critical, a plan shall be submitted to the Planning Director for approval. The plan shall provide a survey of existing conditions, details of the proposed development, and address any concerns in relation to the feasibility of construction on the lot as follows:
1. The critical lot plan shall show existing conditions, to a point ten (10) feet outside the lot boundaries, including:
    - a. All contour lines.
    - b. The location and elevation of the curb or edge of pavement fronting the lot and the elevation of the driveway at the house.
    - c. Lot dimensions, easements, setbacks, etc. which are shown on the recorded plat or a note designating setbacks to be determined by the zoning and/or any easements if not shown on the plat.

- d. Existing tree masses and locations of existing trees of 8" caliper or greater, including any to be removed.
  - e. Notations of significant features such as streams, springs, rock outcrops, and sinkholes; and, if applicable, the floodplain as shown on the final plat.
  - f. The proposed building footprint.
  - g. The location of other proposed lot improvements.
  - h. Proposed driveway locations and grades greater than fifteen (15) percent.
  - i. Specified and illustrated methods of stabilization of slopes greater than a ratio of 2:1 including silt fencing and other temporary measures.
  - j. The limits of grading.
  - k. Methods of managing stormwater runoff.
2. For lots in a floodplain, the plan shall show the minimum finished floor elevations.
  3. It is emphasized that a typical house design may not be suitable for a critical lot and a house designed specifically for the lot may be necessary.
  4. The City Engineer may request additional technical evaluation and analysis of a proposed critical lot by a professional engineer specializing in geotechnical, soils, hydrology, and/or structures, which shall be submitted at the expense of the applicant.
- D. *Critical Lot Plan Review.* Two (2) copies of the critical lot plan shall be submitted to the Planning Director to initiate the review process. Within fourteen (14) days of the submittal date, the Planning Director shall notify the applicant of the approval or disapproval of the plan or the changes necessary to gain approval.
- E. *Basis for Critical Lot Plan Approval.* Critical lot plan approval shall be based on the care taken to minimize the lot area subject to grading, the cut/fill required to prepare the lot for construction, and the effectiveness of the plan to preserve the natural features of the lot and stormwater flow management details.
- F. *General Guides for the Critical Lot Plan.* The following are typical review items, but not all inclusive:
1. Driveways crossing sidewalks in compliance with the City Engineer's accessibility standards.
  2. The diversion of runoff away from foundations.
  3. Grading near lot boundaries that does not undercut trees on adjacent lots or direct stormwater flow to adjacent lots and structures.

4. Grading at the minimum necessary to allow for building construction.
  5. Avoidance of excessive foundation and retaining wall heights.
  6. Details of any retaining walls.
- G. *Issuance of Building Permits.* No building permit shall be issued at any time prior to approval of the critical lot plan.

#### **Section 4-050 Lots**

- A. *Lot Arrangement.* The lot arrangement shall be such that there shall be no foreseeable difficulties, for reasons of topography, flood hazards, or other conditions in providing a building site and yard area. Lots proposed for creation on steep slopes shall be designated on the face of the plat as critical lots in accordance with the provisions of Section 4-030 of this Ordinance.
- B. *Lot Dimensions.* The size, area, dimensions, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated and all such lots and the use contemplated thereof shall meet the minimum standards specified by the Zoning Ordinance for the district in which located.
1. *Lot Lines.* Residential side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will provide a better street or lot plan.
  2. *Frontage.* Each lot shall provide the minimum frontage as required by the Zoning Ordinance on a public street or, where permitted, on a private street to enable vehicular access to be provided. Lots in commercial zones may be excepted where a joint access driveway provides better access management.
  3. *Flag Lots.* Residential flag lots shall not be permitted except the Planning Commission may waive the requirement if it finds that, due to unusual conditions, limited area for lot frontage on a street is available, or if all of the following conditions are met:
    - a. The proposed lots fit into the character of the area and are consistent with the general plan.
    - b. All minimum standards of the Zoning Ordinance shall be met.
    - c. Up to three lots are proposed.
    - d. The residential unit on the lot with frontage comparable to other lots in the area shall face the street.
    - e. The flag lot private drive and/or access easement shall connect to a street.
    - f. The flag lot private drive and/or access easement shall be at least ten (10) feet wide for its entire length.

- g. The flag lot shared access easement shall be part of one non-frontage lot and under the same ownership as that lot.
- 4. *Corner Lots.* Dimensions of corner lots shall be large enough to allow for street intersection radii and for erection of buildings, as stipulated by the requirements of the Zoning Ordinance.
- 5. *Lot Depth.*
  - a. Excessive depth in relation to lot width shall be avoided. A proportion of no more than three (3) feet in depth to one (1) foot in width shall be considered appropriate.
  - b. Every residential lot shall be at least one hundred (100) feet in depth.
  - c. Corner residential lots shall be platted at least five (5) feet wider than interior lots in order to permit conformance with the setback required by the Zoning Ordinance on the side street.
  - d. Residential lots fronting on highways, thoroughfares and parkways should have extra depth to permit deep front setbacks for the buildings.
- C. *Double Frontage Lots.* Creation of lots with double frontage shall be avoided.
  - 1. *Exceptions.* Exceptions may be made where necessary to provide access to residential development from other than arterial or collector streets, or to overcome specific disadvantages of topography and orientation, or to provide an appropriate and attractive development of the whole of such lots compatible with single-frontage lots in the vicinity.
  - 2. *Preferred Approach to Residential Subdivisions Fronting on an Arterial or Collector.* When property is subdivided along an arterial or collector street, dwelling units are required to face the arterial or collector wherever practicable with vehicular access via a shared frontage road, driveway easement, or rear alley to minimize curb cuts on the arterial or collector. There shall be a separation area between the arterial or collector and the edge of the frontage road or shared driveway easement.
- D. *Access from Arterial or Collector Streets.* When property is divided along an existing street, the City Engineer may require that lots not derive access from arterial or collector streets. Where driveway access from arterial or collector streets is necessary, the City Engineer may require that lots be served by combined driveways, usually one driveway entrance shared by two lots, or by a private access drive serving more than two lots in order to limit driveway entrances and potential traffic hazards.
- E. *Relationship to Watercourses.* If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the adjacent lots.
  - 1. The Planning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the water body is so

placed that it shall not become a public responsibility.

2. No more than ten (10) percent of the minimum lot area of a lot may be satisfied by land that is under water.
  3. Where a watercourse separates a buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other drainage device of a design approved by the City Engineer, and no building permit shall be issued for a structure on such lot until the installation is completed and approved by the City Engineer. (See City of Charleston Storm Water Management Reference Manual).
- F. *General Guides for the Lot Plan.* The following are typical review items, but not all inclusive:
1. Driveways crossing sidewalks in compliance with the City Engineer's accessibility standards.
  2. The diversion of runoff away from foundations.
  3. Grading near lot boundaries that does not undercut trees on adjacent lots or direct stormwater flow to adjacent lots and structures.
  4. Grading at the minimum necessary to allow for building construction.
  5. Avoidance of excessive foundation and retaining wall heights.
  6. Details of any retaining walls. When a retaining wall is adjacent to a public right of way, the wall shall be designed by a registered professional engineer and the design submitted to the City Engineer for approval.

#### **Section 4-060 Blocks**

- A. *Orientation.* The length, width and shape of a block shall be determined with due regard to:
1. Provision of adequate building sites suitable to the needs of the type of use contemplated;
  2. The need for convenience, access, circulation, control and safety of street traffic;
  3. Limitations and opportunities of the topography; and,
  4. Zoning requirements as to lot sizes and dimensions.
- B. *Block Widths and Lengths.*
1. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depth, unless, in the opinion of the Planning Commission, prevented by exceptional topography or other physical conditions.
  2. The lengths of blocks shall be appropriate, in the opinion of the Planning



Commission, for the locality and the type of development contemplated, but shall not exceed eighteen hundred (1,800) feet where the average size of lots does not exceed two (2) acres in area.

3. The number of intersecting streets along highways, primary or secondary thoroughfares shall be held to a minimum, and where practicable, blocks along such traffic ways shall be not less than twelve hundred (1,200) feet in length
- C. *Easements through Blocks.* The Planning Commission may require the dedication of an easement through blocks to accommodate utilities, drainage facilities, or pedestrian traffic.

#### **Section 4-070 Improvements**

- A. *Authorization to Construct Improvements.* The approval of the Preliminary Plat by the Planning Commission shall be authorization to proceed with construction of improvements within a subdivision.
- B. *Construction of Improvements.* Construction shall be completed to the approved construction plans, construction specifications, and construction inspection requirements of the applicable department and agencies. Inspections during the construction process shall meet the requirements of Section 4-100 of this Ordinance. If construction has not started within a phase within two years within approval of the Preliminary Plat, construction plans shall be resubmitted to the Planning Commission for re-approval.
- C. *Completion of Improvements.* After all required inspections are completed, the final paving course shall be applied within two (2) years of Final Plat approval. Under no circumstances shall final paving occur until all utility installations, including service lines to lots are complete. However, when an undue hardship is created by disallowing the final paving of a street prior to the two (2) years following the date of Final Plat approval, the City Engineer may require final paving to occur and the Planning Commission may allow the subsequent reduction of the Performance Bond as described in Article 6 of this Ordinance.

#### **Section 4-080 Sidewalks**

- A. *Requirements for Sidewalks on New Subdivision Streets.* Sidewalks shall be located within the right-of-way on one side of new streets, including new extensions of existing streets. All sidewalks and pedestrian ways constructed upon public rights-of-way shall be in accordance with the adopted construction standards of the City Engineer's Office. Sidewalks shall not be required:
1. On new subdivision streets in industrial zoning districts.
  2. Where all interior lots of an infill development are accessed from permanently dead-ended streets of no more than one thousand (1,000) feet in length, sidewalks are not required along the dead-end streets.
  3. Where a development regulated by a zoning district governed by design overlay standards, sets out special design intentions that exclude sidewalks on a street at the neighborhood edge, if approved by the Planning Commission.

4. Where determined by the City Engineer and affirmed by the Commission that sidewalks are not feasible due to topography.
- B. *Requirements for Sidewalks on Existing Streets Fronting the Property Subdivided*
1. *Construction of sidewalks where there is an existing sidewalk network is required.* New sidewalks shall be consistent with existing sidewalk development along the block face. Where existing conditions do not meet an adopted standard, a design compatible with existing conditions may be considered and approved by the Planning Commission.
  2. *Existing sidewalk repair or replacement.* Sidewalks on streets fronting the property, that are not consistent with existing sidewalk development on the block face, shall be repaired or replaced as part of a new development.
  3. *New sidewalk to fill a gap in the existing network.* New sidewalk shall be constructed on streets fronting the property wherever installation would be contiguous to and connect existing sidewalk segments.
  4. *New sidewalk to extend the existing network.* New sidewalk shall be constructed on streets fronting the property wherever installation would be adjacent to and extend an existing sidewalk.
  5. *New sidewalk on the same block face as existing sidewalk.* New sidewalk shall be constructed on streets fronting the property wherever public sidewalk already exists on the same block face.
- C. *Sidewalk Dimensions.* The minimum width of public sidewalks shall be five (5) feet.
- D. *Sidewalk Encroachments/Obstructions.* Encroachments including, but not limited to utility poles, fire hydrants, parking meters, mailboxes, sign standards, and street furniture shall not be located within the concrete portion of the sidewalk area, unless determined to be compliant by the City Engineer. However, tree grates, utility grates, and manholes may be permitted within a sidewalk.
- E. *Sidewalk Tree Preservation.* When specimen quality trees or other natural features exist, that are desired to be preserved or protected, in the path of a sidewalk, the sidewalk may be located so as to preserve those features. Under such conditions, the sidewalk may be located within a pedestrian easement outside of the dedicated public right-of-way. Exceptions to allow a non-contiguous pedestrian easement may be considered by the Planning Commission.

## **Section 4-090 Streets**

- A. General Requirements
1. All plans for street improvements require the approval of the City Engineer.
  2. *Civil Engineer Required.* Streets shall be designed by a Registered Professional Civil Engineer. The Engineer shall prepare engineering drawings which shall include the design or selection of typical section, grades, pavement type and thickness, guardrail, subsurface drainage, surface drainage, subgrade material,

specifications and other elements required for the construction of streets. The engineering drawings shall be approved by the City Engineer prior to construction.

3. *Relation to Adjoining Street System.* The proposed street system shall extend existing streets to the same or greater width but in no case less than the required minimum width. Where, in the opinion of the Planning Commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by their dedication to the boundary of such property.
4. *Contour of Land.* The proposed subdivision shall take advantage of and be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

#### B. Curves and Grades

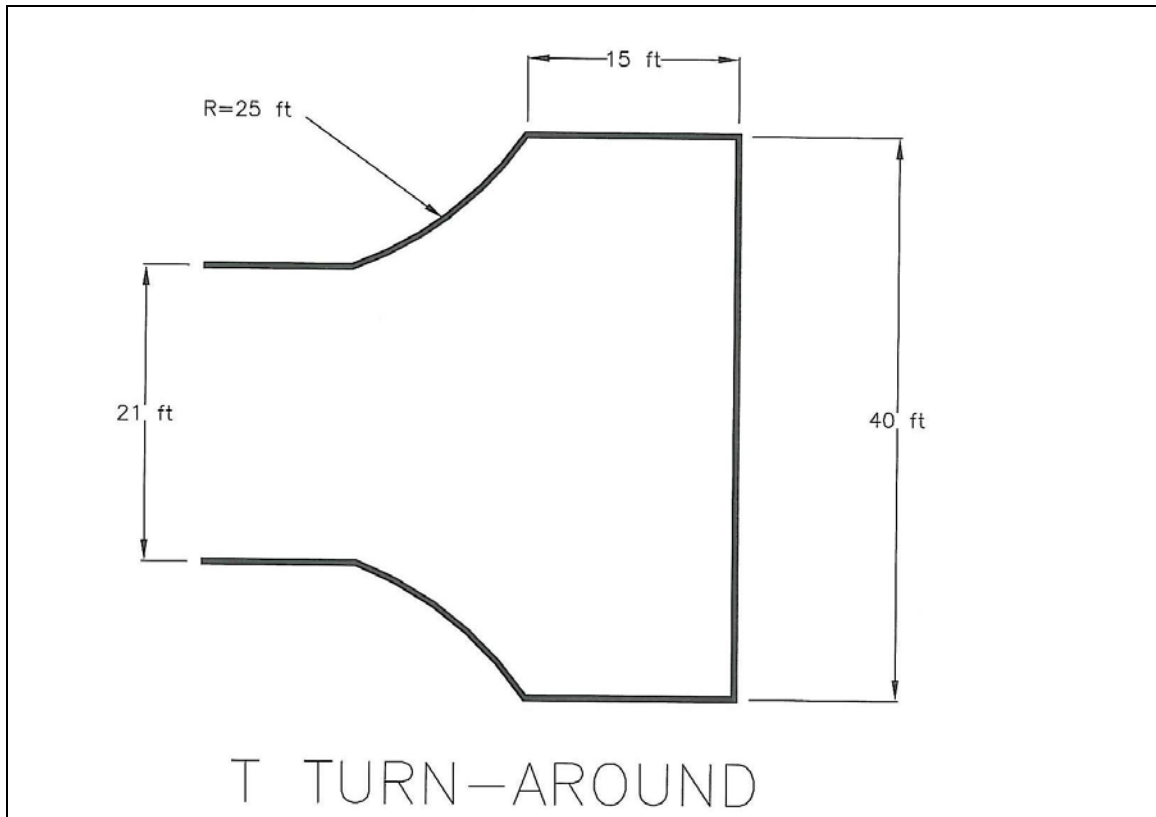
1. *Curves.* The radii of curvature on the center line shall not be less than the following:
  - a. Highway, thoroughfare or parkway: 300 feet.
  - b. Street of Major Importance: 100 feet.
  - c. Local street, street of minor importance, service drive and alley: 50 feet.
2. *Grades.* Grades on all street profiles shall be approved by the City Engineer and shall not exceed the following maximum standards:
  - a. Highway, primary or secondary thoroughfare, or parkway: 5 percent.
  - b. Street of Major Importance: 13 percent.
  - c. Street of Minor Importance: 16 percent.
  - d. Service drive or alley, where required or permitted: 16 percent.
3. *Change in Street Grade.* All changes in street grades above one (1) percent shall be connected by vertical curves of a minimum length equal to fifteen (15) times the algebraic difference in the rate of grade for highways, thoroughfares and parkways, and one-half of this minimum for all other streets.

#### C. Intersections

- a. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect with any other street at less than a sixty (60) degree angle.
- b. Property lines at street intersections shall be rounded with a radius of ten (10) feet.
- c. At alley intersections, curbs shall be rounded by an arc, the minimum radius of which shall be five (5) feet.

- d. Street curb intersections shall be rounded by radii of at least twenty-five (25) feet.
- D. Widths and Rights-of-Way
1. *Street Widths.* Streets shall be graded to a width of at least three (3) feet wider than the required paving width on each side.
    - a. Minimum berm width: 3 feet.
    - b. Minimum paving widths:
      - i. Minor Streets: 21 feet.
      - ii. Major Streets: 24 feet.
    - c. The width is face to face of the curb, where curbing is required.
  2. *Street Rights-of-Way.* Street right-of-way widths shall be not less than as listed below. Subject to the approval of the City Engineer, these requirements may be reduced in cases where the full specified right-of-way width is not available.
    - a. Highway or primary thoroughfare: 80 feet.
    - b. Secondary thoroughfare or parkway: 60 feet.
    - c. Street of Major Importance: 50 feet, depending on location, length and relative importance.
    - d. Street of Minor Importance or dead-end street (court): 40' right of way. All dead-end streets shall terminate in a circular turn-around having a minimum right of way diameter of seventy (70) feet, unless the Planning Commission approves a modification for a "T" or "Y" shaped paved space in place of the required turning circle. An approved circular turnaround shall be provided unless the developer demonstrates to the satisfaction of the City Engineer that it is not topographically reasonable. A "T" or "Y" shaped paved space shall be a minimum of forty (40) feet wide with at least a fifteen (15) foot flared portion rounded by a minimum radii of twenty-five (25) feet (see Figure 4-2).
    - e. Alley or service drive: 20 feet.
    - f. A private easement shall not be permitted as a means of vehicular or pedestrian access to a proposed subdivision or to a lot within a subdivision or to property adjoining such subdivision.
    - g. There shall be no grading or filling allowed on the established street right of way without the approval of the City Engineer.

Figure 4-2.



#### E. Pavement Design Standards

1. In lieu of an Engineering Report, a developer may use the following pavement designs:
  - a. *Portland Cement Concrete.* Method of construction and material shall conform to West Virginia Department of Highways Standard Specifications, Road and Bridges, current edition:
    - i. Class K Concrete shall have a minimum twenty-eight (28) day design strength of 4,000 psi compression.
    - ii. Concrete pavement shall have a eight (8) inch thickness.
    - iii. Subgrade shall meet West Virginia Department of Highways Standard Specifications, Road and Bridges, current edition, with a minimum depth of six (6) inches of free draining aggregate.
    - iv. Reinforcement shall equal 0.15 square inches of grade 60 reinforcement steel per one foot of slab width, both dimensions (i.e. #3 rebar on 8-inch centers both ways or an equivalent ASTM standard wire reinforcement). Welded wire fabric having

opening dimensions of six (6) inches by six (6) inches and meeting the West Virginia Department of Highways Standard Specifications, Roads and Bridges, current edition, shall be used.

- v. Load transfer units at all contraction and expansion joints as detailed in the West Virginia Department of Highways Standard Details Book, current edition.
- b. *Bituminous Pavement.* Method of construction and material shall conform to Divisions 300 and 400 of the West Virginia Department of Highways Standard Specifications, Roads and Bridges, current edition:
  1. Four (4) inches of bituminous concrete.
  2. Nine (9) inches of Class 1 or 2 crushed aggregate base meeting the requirements of the West Virginia Department of Highways Standard Specifications, Roads and Bridges, current edition, with suitable lateral drainage to prevent entrapment of water in the aggregate.

F. Temporary Turn-Arounds.

The City Engineer may require a suitable turn-around when a street is temporarily dead-ended over one hundred fifty (150) feet from its nearest intersection. Such turn-around will be adequate to accommodate the turning radius of fire engines and other emergency vehicles. Temporary turn-arounds shall be bonded for one hundred (100) percent of the total paving and resurfacing costs for a period not to exceed eighteen (18) months.

G. Street Names

1. The developer shall be required to file a separate application for the naming of all streets within the subdivision prior to the approval of a Final Plat. Street names are subject to approval of the E-911 Addressing Coordinator, the Planning Commission and City Council.
2. Proposed streets which are aligned with or are extensions of existing streets that are already named shall bear the name of the existing streets. In no case shall the name for proposed streets duplicate, or be phonetically similar to existing street names, irrespective of the use of the following suffixes: Street, Avenue, Boulevard, Drive, Place or Court.
3. The E-911 Addressing Coordinator shall approve all proposed street names during the Preliminary Plat approval phase.
4. Street signs and other traffic control signs and devices shall be erected by and at the expense of the developer in compliance with the Manual of Uniform Traffic Control Devices, current edition, and as approved by the City Traffic Engineer.

I. Substandard Streets

1. *Proposed Subdivisions.* Substandard streets encompassed by the proposed subdivision shall be improved by the developer. Construction plans shall be approved by the City Engineer for that street portion located within the boundaries of the subdivision.
2. *Infill Development.* Infill development, located on streets that are predominantly developed, provide access to primarily residential uses, and are established with a non-standard right-of-way and/or pavement width, generally shall not be required to provide right-of-way or pavement width in excess of the existing street dimensions.

J. Connection to City Streets

The streets and sidewalks of any subdivision of property located in or outside the City shall not connect in any way whatsoever with the streets and sidewalks owned and maintained by the City, until and unless the owner of such streets and sidewalks shall first have filed with the City Engineer a map showing plainly the size, location, dimensions, material and connection of such streets and sidewalks and not then unless and until the owner shall have first obtained the written approval and permission of the City Engineer to do so. The City Engineer shall not approve or grant such permission unless the streets and sidewalks meet the construction standards outlined in this Ordinance and as required by the City Engineer. Improvements to existing undeveloped rights of way must be approved by the City Engineer and developed to the standards set forth in this Ordinance.

K. Street Dedication

The developer shall be required to file a separate application for the acceptance and dedication of the streets within the subdivision into the street system of the City. All final plats and applications for street dedications must include a meets and bounds description of each street right of way by a WV Licensed Surveyor. Upon dedication of a street to the City of Charleston and acceptance of the street right of way by City Council, the meets and bounds description of the accepted street or right of way will be conveyed to the County Assessor's Office for tax purposes. Maintenance of the streets within the subdivision shall be the sole responsibility of the developer until formal acceptance of the streets is approved by City Council. A street will be not be considered for dedication until a minimum of eighty percent (80%) of all the approved parcels with frontage on the proposed street to be dedicated have been developed with structures approved by the City. The driveways connecting to the street to be dedicated shall have approved drainage facilities as required by the City Engineer. The street shall not exceed the maximum allowed street grade as specified in this Ordinance, shall meet the minimum street width paving requirements as outlined in this Ordinance, shall connect to an existing City street or State road, shall be paved to specifications as outlined in this Ordinance, and dead-end streets shall have a turnaround as outlined in this Ordinance.

L. Street Maintenance Bond

The developer or applicant shall be required to file a maintenance bond, or similar guarantee type, as outlined in Article 6, prior to City acceptance and dedication of the

subdivision streets. The bond or similar guarantee shall be in an amount considered adequate by the City Engineer and in a form approved by the City Solicitor. The bond or similar guarantee shall assure the satisfactory condition of the streets for a minimum period of two (2) years after the date of dedication of the street or streets by City Council. The bond shall cover repair and maintenance costs resulting from faulty construction of the street and paving system, as determined by the City Engineer.

#### **Section 4-100 Required Inspections During Construction**

- A. *Pre-construction.* Prior to construction, the developer shall schedule an on-site pre-construction meeting with the Engineering Department. The developer, his designated general contractor and his designated engineer shall be required to attend the meeting. The developer shall also be required to outline his proposed construction procedures and submit a tentative construction schedule. Copies of the inspection reports shall be made a part of the permanent record of the subdivision and are required for Final Plat approval.
- B. *Erosion Control Inspections.* The City Engineer shall make an initial inspection prior to any proposed grading and routine inspections throughout the duration of the project in addition to the following scheduled inspections.
- C. *Storm Sewer Inspections.* The developer shall contact the City Engineer no less than forty-eight (48) hours prior to placing backfill around any drainage structure.
- D. *Compaction Test.* The subgrade material shall be compacted to not less than ninety-five (95) percent maximum density. The developer shall provide the City Engineer with compaction test results for the road subgrade. The test shall be conducted at intervals not to exceed one hundred (100) feet, including all utility trenches within the roadway and any other areas deemed necessary by the City Engineer. Fill areas shall be tested at intervals not exceeding fifty (50) feet horizontally. Certified tests from a professional geotechnical testing agency shall be submitted and approved prior to the placement of any base material by the developer.
- E. *Paving Inspections.* The developer shall contact the City Engineer no less than forty-eight (48) hours prior to paving.
- F. *Semi-final Inspection.* Prior to submitting the Final Plat for the subdivision, the developer shall contact the City Engineer to schedule an inspection. Following the inspection, the developer shall be provided with a punch list of items that are to be completed prior to Final Approval.
- G. *Final Inspection.* Final inspection shall be scheduled after the developer submits the Final Plat.

#### **Section 4-110 Drainage and Storm Sewers**

- A. *General Requirements*
  - 1. The storm water system within a subdivision shall be designed in accordance with the requirements of the City of Charleston Stormwater Management Reference Manual. All ditch channelization, culvert, storm drain, or catch basin construction shall be governed by the Stormwater Management Reference



Manual. The City of Charleston Stormwater Management Reference Manual is adopted herewith by reference and made a part of these regulations.

2. During the process of installing improvements, the developer shall control runoff, erosion and sedimentation to prevent flooding of surrounding areas, maintain City streets free of mud, and protect both public and private properties. Temporary measures to stabilize the soil, such as seeding, shall be established (as noted in the grading plan) on disturbed areas as each stage of grading is completed. The developer shall also be responsible for keeping local streets free of mud and dirt from construction vehicles and equipment and minimizing dust in neighboring areas. Mud, dirt and debris which are carried onto public or private property shall be removed by the developer within twenty-four (24) hours.
3. Upon completing improvements, the developer shall stabilize soils through re-vegetation of disturbed areas or by other means as shall be approved by the City Engineer.

B. *Storm Water Facilities*

1. Drainage facilities shall be located in the road right-of-way, where feasible, or in perpetual unobstructed easements.
2. *Accommodation of Upstream Drainage Areas.* A culvert or other drainage facility shall in each case be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The developer's engineer shall determine the necessary size of the facility. The developer shall be responsible for upsizing cross-drains under existing streets due to relocation of existing drainage channels or increased run-off resulting from the subdivision.
3. *Effect on Downstream Drainage Areas.* The effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision shall be determined. Where it is determined that the additional run-off incident to the development of the subdivision will overload existing downstream drainage facilities, provisions shall be made for improvement of such drainage facilities or inclusion of detention or retention facilities within the proposed development as determined by the City Engineer. Generally, the developer's responsibility for downstream improvements shall not extend beyond the second downstream structure.
4. *Storm Sewer Maintenance Bond.* The developer shall be required to file a maintenance bond, or similar guarantee of a type as outlined in Article 6, prior to City acceptance of dedication of the subdivision's drainage system. The bond or similar guarantee shall be in an amount considered adequate by the City Engineer and in a form approved by the City Solicitor. The bond or similar guarantee shall assure the satisfactory condition of the drainage system for a minimum period of two (2) years after the date of Final Plat approval. The bond shall cover repair and maintenance costs resulting from faulty construction of the drainage system, as determined by the City Engineer.

**Section 4-120 Water Distribution System**

- A. Every subdivision shall be provided with a complete water distribution system adequate to serve the area being platted, including a connection for each lot and appropriately spaced fire hydrants. The entire water system shall be designed to meet the approval of the City Fire Department and shall be in compliance with West Virginia State Fire Code.
- B. Blocks shall be laid out so as to provide fire hydrants at a rate of one hydrant for every one thousand (1,000) feet of street or fraction thereof as measured along the paved street between fire hydrants when the fractional portion exceeds five hundred (500) feet, such fire hydrants shall be capable of producing one thousand (1,000) gallons per minute with a twenty (20) pound per square inch residual pressure. However, such hydrant shall be installed within one thousand (1,000) feet of adjacent hydrants, and no hydrant shall be closer than five hundred (500) feet to another hydrant. Location of such fire hydrants shall be approved by the Municipal Fire Chief.
- C. Fire hydrants, and required water lines to such hydrants, shall be installed by the developer.

**Section 4-130 Sanitary Sewer Collection, Conveyance and Disposal System**

- A. The developer's proposed method of sanitary sewage collection, conveyance, and disposal for the subdivision, and the design and construction of the facilities to provide sanitary sewer service to the subdivision, must comply with all applicable rules and regulations of the Sanitary Board, the Public Service Commission of West Virginia, the West Virginia Department of Environmental Protection, the West Virginia State Health Department, and the Kanawha-Charleston Health Department.
- B. Every subdivision shall be provided with satisfactory collection, conveyance, and disposal of sanitary sewage adequate to serve the subdivision. The developer shall, prior to preparing plans for, or developing in any way, the sanitary sewage collection, conveyance, and disposal facilities, contact the Sanitary Board for the Sanitary Board's determination of whether the subdivision can be served by an existing Sanitary Board main or whether a mainline extension will be required. The Sanitary Board will also determine the sanitary sewer facilities that are necessary within the subdivision to adequately serve the area. If the Sanitary Board questions whether the capacity of the existing collection system that the proposed subdivision will connect to is inadequate to handle the proposed new flows, the developer, at its expense, shall cause a West Virginia Registered Professional Engineer to conduct a flow study. The flow study shall be conducted per the Sanitary Board's requirements and will determine the existing flows in the affected sanitary sewers and whether or not capacity is available to serve the proposed subdivision. If the flow study finds that there is inadequate capacity, the Sanitary Board will not approve the proposed subdivision.
- C. The provision of sanitary sewer service to the subdivision will be governed by the Sanitary Board's Mainline Extension Agreement or Alternate Mainline Extension Agreement, whichever is deemed applicable by the Sanitary Board. The Mainline Extension Agreement and the Alternate Mainline Extension Agreement authorized by the Sanitary Board are incorporated by reference herein. All subdivision applications will be subject to compliance with these Agreements.

- D. The developer shall provide the subdivision with a complete sanitary sewer system connected with a Sanitary Board sewer main, including a lateral connection for each lot, in accordance with the Mainline Extension Agreement or the Alternate Mainline Extension Agreement as required by the Sanitary Board.
- E. The sanitary sewer system of any subdivision of property in the City shall not connect in any way whatsoever with the sanitary sewer system owned and maintained by the Sanitary Board, until and unless the developer of such sanitary sewer system shall first have complied with the requirements of this Section regarding entering into a Mainline Extension Agreement or an Alternate Mainline Extension Agreement with the Sanitary Board, and not then unless and until the developer shall have first obtained the written approval and permission of the Sanitary Board to do so.
- F. As provided in the Mainline Extension Agreement or the Alternate Mainline Extension Agreement with the Sanitary Board, the developer must include a lateral connection for each lot in the subdivision, and prior to actual connection of the lateral to the sewer main, the owner of the property must pay a connection fee to the Sanitary Board in accordance with the Sanitary Board's tariff.
- G. The developer must preserve all existing sanitary sewer laterals of all razed structures, and such existing laterals must be either re-used by the developer, or plugged at the property line in accordance with the Sanitary Board's requirements.

#### **Section 4-140 Easements**

- A. *Drainage Easements.* Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way in favor of the City, conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.
- B. *Sanitary Sewer Easements.* The developer shall grant to the Sanitary Board on its prescribed form(s) all real property and easements necessary for the ownership, operation and maintenance of the sanitary sewer system, and necessary to allow the Sanitary Board to make future extensions into unserved areas, as required by the Mainline Extension Agreement and the Alternate Mainline Extension Agreement required in Section 4-130 herein. All sanitary sewer easements shall be exclusively for the Sanitary Board; no other utilities will be permitted within the Sanitary Board's easement.
- C. *Utility Easements.* Easements for utilities, where provided within the subdivision, shall be at least ten (10) feet wide and centered on rear or side lot lines.

#### **Section 4-150 Utilities**

- A. Underground conduits for electric lights, telephone lines, electricity, and communication lines, when not already provided for at the street, shall be placed in easements provided along rear or side lot lines, as agreed upon with the appropriate public utilities concerned, wherever this is practicable.
- B. If street lighting is proposed as a part of the original subdivision or planned for the future, the lighting shall be installed by the developer and approved by the City Traffic Engineer.

Locations of proposed utilities shall be indicated on the Preliminary Plat for new subdivisions.

**ARTICLE 5**  
**PLAN REQUIREMENTS FOR SUBDIVISIONS**

**Contents**

- 5-010 Major Subdivisions – Concept Plan Requirements**
- 5-020 Major Subdivisions – Preliminary Plan and Plat Requirements**
- 5-030 Major and Minor Subdivisions – Final Plan and Plat Requirements**
- 5-040 Revisions to Approved Subdivision Plans**

**Section 5-010 Major Subdivisions - Concept Plan Requirements**

- A. A concept plan shall be submitted to the Planning Director before any formal application is made for a major subdivision.
- B. The concept plan does not have to be drawn to scale but must illustrate the following elements in such a way that the Planning Director or his authorized designee can determine if the proposed subdivision meets the criteria of this ordinance.
- C. A concept plan shall include the following elements:
  - 1. Existing conditions
  - 2. Land characteristics
  - 3. Available utilities
  - 4. All existing sanitary sewer facilities and combined sewer facilities
  - 5. Existing covenants
  - 6. General layout of the proposed number of lots and average lot sizes
  - 7. Location of proposed land uses
  - 8. Location of proposed street and utility improvements
  - 9. Any other information requested by the Planning Director in order for the Planning Director to make an accurate determination.
- D. Once the applicant receives approval from the Planning Director, a Preliminary Plat and formal application can be submitted.

**Section 5-020 Major Subdivisions – Preliminary Plan and Plat Requirements**

- A. Submission

1. The submission of a Preliminary Plan and Plat is a required step for major subdivisions.
2. The Preliminary Plan and Plat and complete application shall be submitted to the Planning Director only after approval of the concept plan for a major subdivision.
3. The applicant is responsible for submitting an application and all supporting documents to the Planning Department. It shall be accompanied by the fee for Preliminary Plat review.

B. Requirements

1. The Preliminary Plat shall be at a scale of one hundred feet to the inch (100' = 1") or less.
2. Eight (8) copies of the Preliminary Plat, prepared by a registered professional engineer licensed in the State of West Virginia, shall be submitted. The Preliminary Plat also shall be submitted in the most current version of AutoCAD dwg format with the application.
3. A vicinity sketch at a scale of approximately four hundred feet to the inch (400' = 1") shall be drawn on the Preliminary Plat. Such vicinity sketch shall show the tract lines and the street lines immediately adjoining the proposed subdivision, and between the proposed subdivision and the nearest highways or thoroughfares.
4. The Preliminary Plat shall contain and illustrate the following information:
  - a. Name of the proposed subdivision, which shall not duplicate or closely approximate the name of any other subdivision in Kanawha County, and the words "Preliminary Plat."
  - b. North point, graphic scale and date.
  - c. The tract designation and deed reference according to real estate records in the Office of the Clerk of the County of Kanawha County, including appropriate county tax map and parcel numbers.
  - d. The names and address of the property owner or owners, the subdivider, and the engineer who prepared the plat, along with the engineer's seal.
  - e. The location and names of adjoining subdivisions and the names and addresses of property owners of record of adjoining parcels of land.
  - f. An outline of all adjoining lands owned by the subdivider or the property owner or owners of the tract to be subdivided, designating the same as such.
  - g. A description of the land use of adjoining parcels, or the intended use, if known.

- h. The boundary lines of the tract to be subdivided, accurate in scale and bearing.
- i. The location, widths and names of all existing or platted streets, public ways, pavement and all easements, within and adjacent to the tract, and other important features such as existing permanent buildings, large trees, railroad lines, watercourses, etc.
- j. The location of existing and proposed sanitary sewers and sewerage facilities, storm sewers, catch basins, culverts and other drainage structures within the tract and immediately adjacent thereto; together with pipe sizes, grades, width of easement and other specifications designated as to the "existing" and approximated as to the "proposed."
- k. Contours, normally with intervals of two (2) feet, referenced to a permanent benchmark, or as may be required by the Planning Commission, including such projection of such contours onto adjoining lands as may be necessary to indicate the desirability or likelihood of extension of streets and other improvements to or from adjoining lands.
- l. The layout, proposed names and widths of proposed streets, public ways, pavement and all easements, with the pavement width to be centered upon the center line of each such street; easements for sanitary sewers and other utilities customarily shall be located within the paved portion of the street right of way unless otherwise approved by the Sanitary Board and at least five (5) feet of easement shall be provided on each side of the center of such sanitary sewer line. All other utilities shall be located within the street right-of-way of such sewer or other utility; and the layout, numbers and approximate dimensions of proposed lots.
- m. Proposed street names shall not duplicate or closely approximate existing street names in Charleston and environs, except extensions of existing streets. Proposed street names must be approved by the E-911 Addressing Coordinator. Application for street names shall be made with the addressing coordinator in the Planning Department at the time of application for preliminary plat approval, heard before the Municipal Planning Commission and approved by City Council.
- n. Zoning districts and location of zoning district boundary lines if they border upon or cross any part of the proposed subdivision.
- o. Proposed uses of property and proposed front yard setback and other setback lines.
- p. All parcels of land intended to be dedicated or reserved for public use, or to be reserved in the deeds for the use of property owners within the subdivision, with the purpose, conditions or limitations of such dedications or reservations indicated.
- q. Copies of any private restrictions, covenants and/or conditions proposed

- to be included in the deeds.
- r. Signature block for preliminary approval by the Municipal Planning Commission.
5. Construction plans for improvements shall include and illustrate the following information:
- a. Cover Sheet
    - i. Name of the proposed subdivision.
    - ii. The date, names, addresses and contact information for the developer, surveyor and engineer.
    - iii. A vicinity sketch at a scale of four hundred feet to the inch (400' = 1") showing tract lines and street lines adjoining the proposed subdivision.
    - iv. A sheet index.
  - b. Property Map (scale 100' = 1" or less)
    - i. Tract designation according to the real estate records in the Office of the Clerk of the County of Kanawha County.
    - ii. The boundary line of the tract being subdivided, accurate in scale and bearing.
    - iii. The location and names of adjoining subdivisions and the names and addresses of surrounding property owners.
    - iv. An outline of all adjoining lands owned by the subdivider or property owner owners of the tract to be subdivided, designated as such.
    - v. A description of the land use of adjoining parcels, or intended use, if known.
    - vi. The municipal boundary line, if applicable.
    - vii. Surveyor's seal.
  - c. Site Map (scale 100' = 1" or less)
    - i. Contours shown at two-foot intervals.
    - ii. North-point, scale and the date.
    - iii. Water, sanitary sewer, gas, electric and all underground utilities. Include all utility locations, size and composition of all main lines, valves, manholes, etc.



- iv. Location of all fire hydrants in the proposed water distribution system.
  - v. Layout, number and dimensions of all proposed lots.
  - vi. Existing and proposed land use of all proposed lots.
  - vii. All parcels of land intended to be dedicated or reserved for public use, or to be reserved in the deed restrictions for the exclusive use of property owners within the subdivision, with the purpose, conditions or limitations of such dedications or reservations indicated.
  - viii. Location and widths of sidewalks, if applicable.
  - ix. All existing and new sanitary sewer appurtenances: manholes (including the top of casting elevations and invert elevations and materials of construction and diameters of all pipes entering and exiting); sewer main pipe diameters, type, length and slope between all manholes; service lateral pipe size and type; clean-outs; valve pits, and force mains.
  - x. All existing and new combined sewer appurtenances: manholes and drop inlets (including the top of casting elevations and invert elevations and materials of construction and diameters of all pipes entering and exiting); combined sewer main pipe diameters, type, length and slope between all manholes and drop inlets; service lateral pipe size and type; clean-outs; and storm water detention system piping and appurtenances.
- d. Road Plan and Profiles (on the same sheet)
- i. Road Plan
    - a. Contours shown at two-intervals.
    - b. North-point, scale and the date.
    - c. Scale of fifty feet to the inch (50' = 1")
    - d. Location, width and names of all existing or platted streets, public ways, pavement and all easements within and adjacent to the tract and other important features such as existing permanent buildings, large trees, railroad lines, watercourses, etc.
    - e. Layout, proposed names and widths of proposed streets, public ways, pavement and all easements, with the pavement to be centered upon the centerline.
    - f. Stations and profiles at minimum fifty-foot intervals.

- g. Guardrail locations.
- ii. Road Profile
  - a. Scale of fifty feet to the inch (50' = 1").
  - b. Proposed grade and existing grade.
  - c. Vertical curve data and all changes in grade, in accordance with Section 4-090(B).
- e. Street Cross-Sections
  - i. Scale of ten feet to the inch (10' = 1") on fifty-foot intervals.
  - ii. Original grade, and cut and fill limits.
  - iii. Typical cross section showing road/shoulder width, thickness, type of pavement and base.
  - iv. Location, width and thickness of sidewalks.
  - v. Location, composition and size of utility main lines.
  - vi. For embankment slopes exceeding a 3:1 horizontal to vertical slope, provide street cross-sections at twenty-five-foot intervals.
- f. Drainage/Storm Water Management Plan
  - i. Scale of fifty feet to the inch (50' = 1") or less.
  - ii. Location of existing and proposed storm sewers, catch basins and other drainage structures within the tract and immediately adjacent thereto, together with pipe sizes, materials.
  - iii. Inlet and manhole elevations (including top, invert in and invert out), width of easements and other specifications designated as existing or proposed.
  - iv. Easements for storm sewers of five (5) feet on each side of the line.
  - v. Contours at two-foot intervals for existing and proposed grade.
  - vi. Drainage for each lot, either natural or tap.
  - vii. Storm water discharge point for each lot, either natural drainage channel or connection to proposed or existing storm water collection system.
  - viii. Grades, sizes and composition indicated, or method of storm water disposal in lieu of storm sewers.

- ix. Refer to the City of Charleston Stormwater Management Reference Manual if a stormwater detention pond is required.

- g. Grading and Erosion Control Plan

A grading plan identifying the following shall be submitted:

- i. Land areas to be disturbed, shown by hatching or specking such areas which will be graded, cut or filled for streets or lot development.
- ii. Stages of grading showing the limits of sections to be graded and indicating the approximate order of development. It is suggested that grading be performed in only one section at a time, and that work be completed in a section before additional sections are developed.
- iii. The extent of cuts and fills, shown by drawing a dashed line along the top of the cut and toe of the fill and marking the lines "C" and "F".
- iv. Unusual material or soils in land areas to be disturbed. If there are any surface indications of unusual materials or soils that would cause street or lot instability, such as non-vertical tree growth, old slides, seepage, depressions in the soil, caves or old mine entrances, they should be noted and accompanied by the engineer's recommendation for correcting such problem areas.
- v. Outside material to be used for fills. If there are any surface indications that local material is not suitable for fills, such as those listed in paragraph iv above, those areas to be filled with outside material should be identified and the type and source of the fill material noted.
- vi. Measures to control runoff, erosion and sedimentation during the process of construction (designed for a storm of five-year frequency), noting those areas where control of runoff will be required during construction and indicating what will be used, such as straw bales, silt dams, brush check dams, lateral hillside ditches, catch basins, etc.
- vii. Measures to protect neighboring built-up areas and City property during the process of construction, noting work to be performed, such as cleaning existing ditches, storm culverts and catch basins or raising existing curbs in neighboring areas.
- viii. Provisions to stabilize soils and slopes after completion of streets, sewers and other improvements, noting on the grading plan when and where ground cover will be planted, also noting any other means to be used such as placement of stone embankments and riprap or construction of retaining walls.

- ix. Requirements of the City of Charleston Building Code relating to items in this subsection shall not apply to any subdivision being developed under the provisions of these subdivision regulations.
- h. Water Distribution System Plan
  - i. Pipe sizes.
  - ii. Location of valves and fire hydrants.
- i. Detail Sheet

All applicable details and infrastructure inventory chart (inlets, culvert, asphalt, concrete, headwall, cleanouts, valves, curbs, gutters, manholes, outfalls, erosion control measures, etc.). Also, detail of all required street signs and other traffic control devices in compliance with the Manual on Uniform Traffic Control devices.
- j. Sanitary Sewer Plans, Profiles and Details
  - i. When a Main Line Extension Agreement or an Alternate Main Line Extension Agreement is executed by and between the developer and the Sanitary Board, per Section 4-130 herein, the developer shall submit plans, profiles and details of all sanitary sewers and appurtenances in accordance with the provisions of such agreements.
  - ii. All sanitary sewer system plans, other than described in paragraph B.5.j.i. herein, shall include the details set forth in paragraphs B.5.c.x. and B.5.c.xi. herein.

**Section 5-030 Major and Minor Subdivisions – Final Plan and Plat Requirements**

- A. Submission
  - 1. The submission of a Final Plan and Plat is a required step for all subdivisions.
  - 2. The applicant is responsible for submitting an application and all supporting documents to the Planning Department. It shall be accompanied by the fee for Final Plat review.
  - 3. For major subdivisions, the Final Plat and complete application shall be submitted to the Planning Director only after approval of the Preliminary Plat and Plat, and completion of all major subdivision improvement work.
  - 4. For minor subdivisions, the Final Plat and complete application shall be submitted to the Planning Director. The Planning Director may waive any of the following submission requirements as deemed not applicable to minor subdivisions.

## B. Requirements

1. The Final Plat shall be at a scale of one hundred feet to the inch (100' = 1") or less.
2. Eight (8) copies of the Final Plat, prepared by a registered professional engineer licensed in the State of West Virginia, shall be submitted. The Final Plat also shall be submitted in the most current version of AutoCAD dwg format.
3. The Final Plat shall contain and illustrate the following information:
  - a. North-point, scale (both numerical and graphic), and the date.
  - b. All plat boundary lines with lengths of courses to the hundredths of a foot and bearing to minutes, these boundaries to be determined by an accurate survey in the field which shall be balanced and closed with an error of closure not to exceed one (1) to twenty thousand (20,000).
  - c. The exact locations and the widths along the property lines of all existing or recorded streets intersecting or paralleling the boundaries of the tract.
  - d. True bearings and distances to nearest established street bounds, other established survey lines, or other official monuments, which monuments shall be located or accurately described on the plat.
  - e. Any established survey of municipal boundaries shall be accurately marked with monuments and located on the plat.
  - f. The accurate location and material of all permanent monuments.
  - g. Permanent monuments shall be placed at such critical points (at least two in each block) as will enable any skilled surveyor to lay out correctly any lot in the subdivision.
  - h. The exact layout including:
    - i. Street and alley lines, their approved names, bearings and widths (including widths along the line of any obliquely-intersecting street).
    - ii. The lengths and bearings of all chords, radii, points of curvature and tangent bearings.
    - iii. All easements or rights-of-way, when provided for or owned by public utilities or services (with the general purpose, width and location of such easement designated on the plat).
    - iv. All lot lines with dimensions in feet and hundredths, and with bearings or angles to minutes if other than right-angles to the street and alley lines.
  - i. Lots numbered in numerical order, and blocks numbered in numerical

order or lettered in alphabetical order with a notation on each lot determined during the preliminary plat review process to be a designated critical lot along with a legend outlining the reason for such designation.

- j. The accurate outline, fully platted, of all property which is offered for dedication for public use, together with a clear statement or designation of the public use for each area which is the subject of such dedication; and the accurate outline, fully platted, of all property reserved for the common use of the property owners in the subdivision, together with a clear statement or designation of such common use for any area which is the subject thereof, including all private restrictions, covenants and/or conditions in connection therewith; provided, that all such statements, designations, private restrictions, covenants and/or conditions may instead be incorporated in a proper deed or other effective declaration duly of record in the Office of the Clerk of the County of Kanawha County, to the extent permitted by the Planning Commission.
- k. Front yard set-back building lines as fixed by the Zoning Ordinance or at a greater depth and any other set-back lines or street lines established by public authority and those which may be stipulated by restrictions, covenants and/or conditions in the deeds.
- l. Private restrictions, covenants and/or conditions, if any, concerning boundaries of each type of use or other provisions for each restricted section of the subdivision; provided, that all such restrictions, covenants and/or conditions may, in lieu of entry thereof on the final plat, be incorporated in a proper deed or other effective declaration duly of record in the Office of the Clerk of the County of Kanawha County.
- m. Name of the subdivision and name or number of the largest subdivision or tract of which the tract being subdivided forms a part.
- n. Names and locations of adjoining subdivisions, and locations and ownership of adjoining property.
- o. Names and addresses of the owner or owners of record, the subdivider, and the engineer who prepared the plat, along with the engineer's seal.
- p. Certificate by the professional licensed surveyor who prepared the plat to the effect that the plat represents a survey made by him, that all monuments and improvements indicated thereon actually exist and that their location, size and material are correctly shown; and that he is familiar with all requirements of this ordinance and that, to the best of his knowledge and belief, all requirements of this ordinance have been fully complied with.
- q. For all Sanitary Sewer System facilities and appurtenances:
  - i. Northings and eastings of the center points of all manholes, clean-outs and valve pits.
  - ii. Bearings and distances and size and type of all pipes.

- iii. Show a ten (10) foot wide (five [5] feet from each side of the center of all sanitary sewer pipes and laterals) permanent and exclusive sanitary sewer easement along all sanitary sewer pipes.

#### **Section 5-040 Revisions to Approved Subdivision Plans**

A. *Revisions to Approved Preliminary Plats.* The applicant shall submit proposed revisions to the approved Preliminary Plat to the Planning Director. The Planning Director shall initiate a review of the proposed revisions. For all revisions determined to be major revisions, Planning Commission approval shall be required.

1. *Minor Revisions.* If the Planning Director deems the revisions to be minor, the Planning Director is authorized to approve the revisions to the Preliminary Plat. Minor revisions are insignificant shifts in street and open space locations, minor changes to lot size, minor changes to unit size and distribution of intensity; minor shifts in lot lines; and other changes which do not alter the general layout and intensity of the approved Preliminary Plat or have a significant impact on proposed or existing infrastructure.
2. *Major Revisions.* All other revisions, including revisions that are determined by the Planning Director to constitute a public interest shall be deemed to be major revisions. At the request of the applicant, any revised Preliminary Plat shall be forwarded to the Planning Commission for decision, including reversal of the decision of the Planning Director. The Planning Director may direct any revised Preliminary Plat to the Planning Commission. For all revisions determined to be major revisions, Planning Commission approval shall be required. The Planning Commission shall approve, conditionally approve, or disapprove the proposed major revision to the Preliminary Plat. Procedures for considering a major revision to a Preliminary Plat shall be the same as required for an initial application for Preliminary Plat approval.
3. Any revised Preliminary Plat must be reviewed and approved by the Sanitary Board prior to approval of the Planning Director or the Planning Commission.

B. *Revisions to Approved Final Plats.* Upon completion of the staff review, the applicable approval procedure below shall be followed.

1. *Minor Revisions.* If the Planning Director deems that the Final Plat shows only minor revisions to the Preliminary Plat and meets all the regulatory requirements, the Planning Director is authorized to approve the Final Plat on behalf of the Planning Commission. The Planning Director may direct a Final Plat to the Planning Commission. At the request of the applicant, a Final Plat shall be forwarded to the Planning Commission for decision, including reversal of the decision of the Planning Director.
2. *Major Revisions.* All other revisions shall be deemed to be major revisions. If the Final Plat contains major revisions, a revised Preliminary Plat shall be submitted to the Planning Commission for approval by the applicant. The

procedures for major revisions to an approved Preliminary Plat shall be followed for any major revisions at the time of Final Plat.

3. Any revised Final Plat must be reviewed and approved by the Sanitary Board prior to approval of the Planning Director or the Planning Commission.



**ARTICLE 6**  
**METHODS OF SECURITY**  
**Contents**

- 6-010 Purpose**
- 6-020 Improvement Guarantees**

**Section 6-010 Purpose**

- A. Bonds may be required by the Planning Commission and provided for by the developer or applicant as an acceptable method of security for infrastructure construction. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the developer. These guarantees shall be in compliance with Article 6 of Chapter 8A of the Code of West Virginia, as amended.
- B. The money from the bond shall only be used by the City for the completion of the infrastructure construction, when the infrastructure construction is not completed as approved at the issuance of the bond.

**Section 6-020 Improvement Guarantees**

- A. General Requirements
  - 1. Financial security required by this Section shall be posted by a financially responsible bonding company or a Federal- or State-chartered institution, provided that the bonding company or lending institution is authorized to conduct business within the State of West Virginia and stipulates that it shall submit to West Virginia jurisdiction and Kanawha County venue in the event of legal action.
  - 2. All agreements for required guarantees shall be executed by the applicant or developer, shall be payable to the City of Charleston, and shall be approved by the City upon advisement of the City Attorney.
- B. Improvement Guarantee
  - 1. If financial security has been provided in lieu of the completion of improvements required as a condition for approval of a Final Plat as set forth by this Ordinance, the City shall not condition the issuance of a building, grading, or other permit relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the approved Final Plat upon actual construction of the improvements. Moreover, occupancy permits for any building or buildings to be erected shall be withheld until the following occurs:
    - a. The completion of the construction of new streets in accordance with City requirements in all respects except for the installation of the wearing course, and

- b. The completion of all other improvements as depicted upon the approved Final Plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the buildings or buildings.
2. The applicant shall provide to the City financial security in an amount sufficient to cover the cost of all improvements, both public and private, and common amenities, including but not limited to streets, walkways, street lights, stormwater management facilities, recreational facilities, open space improvements, buffer or screen plantings, water mains and other water supply facilities, fire hydrants, and sanitary sewage disposal facilities.
3. When requested by the applicant, the City shall furnish the applicant with a signed copy of the decision of the Planning Commission or Planning Director indicating approval of the Final Plat contingent upon the providing of financial security by the applicant. The Final Plat shall not be signed or recorded until the financial improvements agreement has been executed. The written decision of the Planning Commission or Planning Director and letter of contingent approval shall expire if the financial improvements agreement is not executed and delivered within ninety days, unless an extension to such period has been granted in writing by the Planning Commission. Any request for such an extension shall be submitted in writing from the applicant to the Planning Commission.
4. The financial security shall provide for and secure to the public the completion of all improvements for which the security is being posted within one (1) year of the date of Final Plat approval for completion of such improvements.
5. The amount of financial security to be posted for the completion of the required improvements shall be equal to one hundred ten (110) percent of the estimated cost of completion, including engineering and inspection costs, as of ninety (90) days following the completion date anticipated by the applicant.
6. The City may adjust the amount of the financial security annually by comparing the actual cost of the improvements which have been completed and the estimated cost of the completion of the remaining improvements as of the expiration of the ninetieth day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the City shall require the applicant to post additional security in order to assure that the amount of the financial security will equal no less than one hundred ten (110) percent of the cost of the remaining improvements at all times.
7. The amount of the financial security shall be based upon an estimate of the cost of completion of the required improvements, submitted by the applicant and prepared by a professional engineer licensed in the State of West Virginia and certified by such engineer to be a fair and reasonable estimate of such cost. The City, upon the recommendation of the City Engineer, may refuse to accept such estimate. If the City and the applicant are unable to agree upon an estimate, then the estimate shall be re-calculated and re-certified by another, neutral, professional engineer licensed in the State of West Virginia and chosen mutually by the City and the applicant. The estimate certified by the neutral engineer shall be presumed fair and reasonable, and shall be the final estimate. In the event that

a neutral engineer is so chosen, fees for the services of said engineer shall be paid equally by the City and the applicant.

8. If the party posting the financial security requires more than one (1) year from the date of posting the security to complete the improvements, the amount of the security shall be increased by an additional ten (10) percent for each one (1) year period beyond the first anniversary date from the date of the original posting. The new amount shall not exceed one hundred ten (110) percent of the cost of completing the remaining required improvements as established upon the expiration date of the preceding one year period, as described in Section B6 above.
9. Where development is projected over a period of years, the City may authorize submission of Final Plats by phase of development, subject to such requirements or guarantees for improvements within the future phase(s) of development which are necessary to secure the proper functioning of any improvements within any finally approved phase(s) of the development.
10. As the work of installing the required improvements proceeds, the party posting the financial security may request the Planning Commission to release or to authorize the release of such portions of the financial security representing the cost of improvements properly completed in accordance with City specifications. Any such requests shall be in writing, addressed to the Planning Commission. The Commission shall have forty-five (45) days from the receipt of such request within which to allow the City Engineer to certify in writing to the Commission that such portion of the work upon the improvements has been completed in accordance with the approved plans. Upon such certification, the Commission shall authorize release by the bonding company or lending institution of an amount as estimated by the City Engineer fairly representing the values of the improvements completed.
11. The City Engineer, in certifying the completion of work for a partial release, shall not be bound to the amount requested by the applicant, but shall certify to the Planning Commission his independent evaluation of the proper amount of partial releases.

C. Release from Improvements Guarantee

1. When the applicant has completed all of the necessary and appropriate improvements, he shall notify the Planning Commission of the completion of the required improvements. Upon receipt of such notice, the City Engineer shall give a final inspection to the improvements covered by the guarantee. The City Engineer shall file a report in writing with the Planning Commission, and shall promptly mail a copy of the report to the applicant. The report shall be made and mailed within thirty (30) days after receipt by the City Engineer of the notification from the Planning Commission. The report shall be detailed and shall indicate his recommendation of approval or rejection of improvements, whether in whole or in part. If the City Engineer recommends non-approval or rejection of the improvements, or any portion thereof, the report shall state the reasons for such recommendation.

2. The Planning Commission shall notify the applicant in writing of the action of the Planning Commission with regard to approval, non-approval, or rejection of the improvements. Such notification shall be communicated to the applicant personally or mailed to him not later than fifteen (15) days following the decision of the Planning Commission.
  
3. If any portion of the improvements shall not be approved or shall be rejected by the Planning Commission, the applicant shall proceed to complete those improvements to the satisfaction of the Planning Commission. Upon completion, the same procedure of notification and inspection as described herein shall be used.

## ARTICLE 7

### ADMINISTRATION AND ENFORCEMENT

#### Contents

<b>7-010</b>	<b>Administration</b>
<b>7-020</b>	<b>Jurisdiction of Municipal Planning Commission</b>
<b>7-030</b>	<b>Public Hearings</b>
<b>7-040</b>	<b>Fees</b>
<b>7-050</b>	<b>Amendments</b>
<b>7-060</b>	<b>Waivers</b>
<b>7-070</b>	<b>Appeals</b>
<b>7-080</b>	<b>Enforcement and Guarantees</b>

#### **Section 7-010 Administration**

The administration of this Ordinance provides for discretion only where specifically authorized. While West Virginia law requires a public hearing, there is no discretion in the review and approval process. A proposed plan that meets the standards established by this Ordinance must be approved. Only when there are specific findings that the application does not meet the standards of the ordinance is denial possible.

#### **Section 7-020 Jurisdiction of Municipal Planning Commission**

- A. The Municipal Planning Commission has the authority to:
1. Approve a minor subdivision application within its jurisdiction;
  2. Exempt an application for a minor subdivision within its jurisdiction; and
  3. Approve a major subdivision application within its jurisdiction.
- B. The Planning Department, serving as staff to the Municipal Planning Commission, has the authority to approve a minor subdivision application within its jurisdiction, if granted such authority by City Council through the adoption and implementation of this Ordinance.

#### **Section 7-030 Public Hearings**

The Planning Commission shall conduct public hearings on all preliminary subdivision applications.

- A. *Notice.* All Planning Commission public hearings are scheduled within regular monthly meetings conducted by the Commission. A schedule of public meetings is available from the Planning Office and at <http://www.cityofcharleston.org/planning.htm>. The Planning Commission shall also publish a legal advertisement in the Charleston Gazette at least twenty-one (21) days prior to the public hearing.

- B. *Purpose.* The approval of subdivision plans is a ministerial function of the Planning Commission. The purpose of the public hearing is to provide an opportunity for the public to voice concerns about the design of the proposed development and whether it meets the standards of this Ordinance.
- C. *Sequence of Hearing Elements.* The public hearing shall be opened by the President of the Planning Commission and shall consist of the following elements conducted in the sequence specified below:
- a. *Plan Presentation.* The Planning Director, and/or his or her authorized agent, or the applicant or his or her authorized agent, shall make a presentation of the proposed subdivision plan. Planning Commission members may ask questions of the applicant and Planning Director.
  - b. *Planning Department Recommendations.* The Planning Director shall present its determination regarding whether the proposed subdivision conforms to the requirements of this Ordinance. Staff shall present any recommended conditions for compliance along with any written comments received from review agencies. Planning Commission members may ask questions of the Planning Director and representatives of any review agencies.
  - c. *Public Comments.* The public will be invited to present sworn testimony. Both opinions and questions will be taken during the public hearing. Planning Commission members may ask questions of the public, the Planning Director, the applicant, and representatives of any review agencies.
  - d. *Closing.* At the conclusion, the Planning Commission may ask follow-up questions of witnesses and the applicant. The public hearing shall be closed immediately after all public testimony has been received.

#### **Section 7-040 Fees**

- A. The Municipal Planning Commission shall establish by resolution a collection procedure and a schedule of fees to be paid by the applicant at the time of filing for review of a plan.
- B. The fee schedule shall be posted in the Planning Office and is accessible at <http://www.cityofcharleston.org/planning.htm>
- C. No plan shall be considered accepted for review until all fees have been paid in full.
- D. In the event that the applicant is required to pay additional fees at the filing of the Final Plat, such fees shall be collected by the Planning Office prior to distributing the Final Plat. There shall be no refund or credit of any portion of the fee should the applicant fail to file for final approval within the required period of time or if the Final Plat covers only a section of the subdivision or land development shown upon the approved Preliminary Plat.

#### **Section 7-050 Amendments**

- A. The City Council may, from time to time, revise, modify, or amend this Ordinance.

- B. Amendments to this Ordinance shall become effective only after a public hearing held pursuant to public notice, as required by Chapter 8A of the Code of West Virginia, as amended.

**Section 7-060 Waivers**

- A. The Municipal Planning Commission may grant a waiver to the requirements of one or more of the provisions of this Ordinance if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such waiver(s) will not be contrary to the public interest nor be in conflict with the purpose or intent of this Ordinance, any other municipal regulation, or the City of Charleston Comprehensive Plan.
- B. All requests for a waiver shall be in writing and shall accompany the Preliminary Plat submission. The request shall cite or refer to the sections of this Ordinance involved and the minimum modification necessary. The Planning Commission shall keep a written record of all actions on all requests for waivers.
- C. The Planning Commission shall not be bound by the terms of the applicant's request for waiver(s), and may grant waivers with such conditions as will, in the estimation of the Commission, assure adherence to the intent of the standards or requirements being waived.
- D. Waivers which are granted shall be noted upon the Final Plat.

**Section 7-070 Appeals**

- A. An appeal may be made by an aggrieved person from any decision or ruling of the Planning Commission to the Circuit Court of Kanawha County, pursuant to the provisions of Article 9 of the Code of West Virginia.
- B. Within thirty (30) days after the date of the decision, the petition, specifying the grounds of the appeal in writing, must be filed with the Circuit Court of Kanawha County.

**Section 7-080 Enforcement and Guarantees**

- A. The Planning Commission is vested with all the necessary authority to administer and enforce conditions attached to the Final Plat approved for a development project, including, but not limited to, the authority to:
  - 1. Order, in writing, the remedy for any noncompliance with the conditions;
  - 2. Bring legal action to ensure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding; and
  - 3. Require a guarantee satisfactory to the Planning Commission in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Planning Commission upon the submission of satisfactory evidence that construction of the improvements

has been completed in whole or in part.

- B. Failure to meet all conditions attached to the Final Plat approved for a development project shall constitute cause to deny the issuance of any of the required use, occupancy or improvement location permits, as may be appropriate.