

COMPREHENSIVE DEVELOPMENT PLAN

MARTINSBURG, WEST VIRGINIA

SUBDIVISION REGULATIONS

ADOPTED AND EFFECTIVE

SEPTEMBER 11, 1969

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Prepared for the Martinsburg Planning Commission by Marcou, O'Leary and Associates—Planners

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## INTRODUCTION

This is a FINAL DRAFT of the proposed subdivision regulations for Martinsburg. These regulations have been prepared as part of the current Martinsburg Planning program. The original draft of the subdivision regulations was prepared by the City's planning consultant, Marcou, O'Leary and Associates, in July 1968. The draft was reviewed by the Martinsburg Planning Commission. The Planning Commission then held a public hearing on the proposed subdivision regulations on November 26, 1968. As a result of the review, and of comments and suggestions made at the public hearing, a number of revisions have been made in the original draft.

The Planning Commission is now transmitting this final draft of the subdivision regulations to the City Council. The City Council will hold a public hearing before final adoption of the regulations. The Council may make additional revisions before adopting the regulations.

Subdivision regulations provide a tool for helping guide the development of a safer, healthier, more efficient, and more attractive city. The regulations provide for Planning Commission review of the design of new subdivisions, both internally and also with respect to the overall design of a section of the City. In addition, the regulations provide for installation of streets and other improvements by subdivision developers.

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## **ARTICLE I: GENERAL PROVISIONS**

### **SECTION 1: TITLE**

These regulations shall be known as, and may be cited as the "Martinsburg Sub-division Regulations."

### **SECTION 2: LEGISLATIVE AUTHORITY**

These sub-division regulations are established in accordance with the provisions of Sections 28 through 35 of [Article 24, Chapter 8, of the West Virginia Code](#).

### **SECTION 3: STATEMENT OF LEGISLATIVE INTENT**

These sub-division regulations are adopted by the City Council of Martinsburg, West Virginia, for the following purposes:

1. To assist orderly and efficient land development;
2. To provide for the coordination of existing streets and public utilities with new streets and utilities;
3. To provide for efficient and orderly extension of community services and facilities at minimum cost and maximum convenience;
4. To ensure that proper provisions are made for drainage, water supply, sewerage, and other needed improvements;
5. To ensure equitable processing of all sub-division plans by providing uniform procedures and standards for observance both by subdividers and the Planning Commission;
6. To ensure conformance of land development with the Martinsburg Comprehensive Development Plan;
7. To promote the health, safety, and general welfare of the residents of Martinsburg.

### **SECTION 4: ADMINISTRATION OF REGULATIONS**

These sub-division regulations shall be administered by the Martinsburg Planning Commission. All applications, fees, maps, and documents relative to sub-division approval shall be submitted to the Martinsburg Planning Commission.

The Planning Commission may request the employment of a Planning Administrator to handle the daily administration of these regulations and may seek advice from other local and state agencies regarding sub-division proposals. The Planning Commission may also appoint a sub-division committee, comprising members of the Planning Commission, to study proposed sub-divisions. However, no sub-division plat shall be approved except by action of a majority of the Planning Commission.

### **SECTION 5: JURISDICTION**

The provisions of these regulations shall apply to all lands within the incorporated areas of the City of Martinsburg.

### **SECTION 6: APPLICATION**

No land within the City of Martinsburg shall be subdivided, nor shall any lot be sold or building erected in a sub-division as herein defined, until a plat of the sub-division is approved by the Martinsburg Planning Commission and the plat properly filed and recorded by the County Clerk.

In their interpretation, and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the provisions of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, Ordinances, deed restrictions or covenants, that provision which is more restrictive or imposes higher standards or requirements shall govern.

## **ARTICLE II: DEFINITIONS**

### **SECTION 1: INTERPRETATION**

For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

The present tense includes the future tense; the singular number includes the plural; and the plural number includes the singular.

The word "shall" is mandatory, the word "may" is permissive.

The phrase "used for," includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

The word "lot" includes the words "plat" or "parcel."

### **SECTION 2: DEFINITIONS OF TERMS**

As used in these Regulations, the following terms shall be defined as follows:

**Alley:** A minor way that is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

**Block:** An area of land containing two or more lots and bounded by streets providing access to such lots.

**Building Line:** A line drawn parallel to a lot line at a distance there from equal to the depth of a required yard.

**Clear Sight Triangle:** An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street right-of-way lines.

**Comprehensive Development Plan:** A plan for the physical development of the area within the jurisdiction of the Martinsburg Planning Commission, which shall have been adopted by the Planning Commission and the City Council.

**Dedication:** The deliberate appropriation of land by its owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

**Developer:** Any person, firm, corporation, partnership, or association who shall lay out, for the purpose of sale or development, any sub-division, or part thereof, as defined herein, either for himself or others.

**Easement:** A grant by a property owner of the use of a designated part of his land by another party for a specified purpose and for a specified time; which shall be included in the conveyance of land by such easement.

**Floodplain:** An area that would be under water as the result of the largest rainfall during a fifty-year (50) period.

**Half or Partial Street:** A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for satisfactory improvement and use of the street.

**Interior Walk:** A right-of-way for pedestrian use extending from a street into a block or across a block to another street.

**Lot:** A tract or parcel of land intended for transfer of ownership, use or improvement.

**Lot, double frontage:** A lot, the opposite ends of which abut on streets.

**Owner:** The owner of the land proposed to be subdivided whose name last appears on the tax rolls.

**Performance Guarantee:** Any security that may be accepted in lieu of a requirement that certain improvements be made before the Planning Commission approves a plat, including but not limited to performance bonds, escrow agreements and other similar collateral or surety agreements with surety to be approved by the Planning Commission.

**Plat:** A map or layout of a sub-division indicating the location and boundaries of individual properties.

a. **Sketch Plat:** A preliminary sketch indicating the subdivider's general objectives and desires in regard to the future development of his land, which may be presented to the Planning Commission for its informal consideration.

b. **Preliminary Plat:** The preliminary drawings and supplementary material indicating the proposed layout of the sub-division to be submitted to the Planning Commission for its consideration.

c. **Final Sub-division Plat:** The final map, drawing or chart upon which the subdivider's plan of sub-division is presented to the Planning Commission for approval, and which, if approved, will be submitted to the County Clerk for recording.

**Reverse Frontage Lot:** A lot extending between and having frontage on a freeway, arterial, or collector street and a local street, and with vehicular access solely from the latter.

**Right-of-Way:** Land reserved for use as a street, interior walk, or for other public purposes.

**Setbacks:** See "[Building Line](#)."

**Sight Distance** (along road): A straight line with unobstructed view measured between a point four feet above the finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located one foot above finished grade at the center line of the same traffic lane.

**Sight Distance** (across intersections): A straight line with unobstructed view measured in either direction across the corner between points, each seventy-five (75) feet back from the theoretical intersection of the edges of the pavement prolonged; one point four feet above the grade of the pavement edge, the second point one foot above the grade of the pavement edge.

**Street**: A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thoroughway, road, avenue, boulevard, lane, place or however otherwise designated.

**Street Right-of-Way**: Includes all the land between the front property lines of properties bordering the street.

**Pavement** (Street): That portion of the right-of-way designed and intended for vehicular movement, bordered by a curb and gutter or a shoulder and grass strip.

**Sidewalk**: A paved surface located between the pavement edge and the street right-of-way line, designed for and intended for pedestrian traffic.

**Street Classification**: The City's highways and streets are classified into one of four major groupings: freeway, arterial, collector, and local.

**Freeway**: devoted entirely to the task of traffic movement and provides little or no land service function. It is designed to move large volumes of vehicles at relatively high speeds over fairly long distances. Its geometric features include access control with no intersections at grade.

**Arterial**: A street designed for through traffic movements between areas and across the city and to provide for the distribution of travel to and from the collector streets. Arterial routes sometimes provide a secondary function of serving some of the access needs of the abutting properties. However, land service functions are subordinated to demands for traffic movements.

**Collector**: Street system includes nonlimited access routes that provide for travel movements between the arterial and local street network. This type of street performs equally the task of moving vehicles and providing access to the abutting properties.

**Local**: Streets whose sole function is to provide access to the immediately adjacent land.

**Marginal Access Street**: A local street which is parallel to and adjacent to an arterial street or highway, and which provides access to abutting properties and protection from through traffic.

**Cul-de-sac**: A local street that intersects with another street at one end and is permanently terminated at the other end by a vehicular turnaround.

**Subdivider**: Any person, firm, corporation, partnership, or association, who shall lay out, for purpose of sale or development, any sub-division, or part thereof, as defined herein, either for himself or others.



Sub-divisions: The term "sub-division" means the division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development of one or more of the lots, or any division of land if a new street is involved. The term "sub-division" includes re-sub-division and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

The term "sub-division" shall not include:

- a. The division of land for a minor boundary adjustment;
- b. A division of land for agricultural or natural resource purposes into lots or parcels of ten (10) acres or more, provided that such division does not involve a new street, entrance to a street, or building site;
- c. A testamentary division of land;
- d. A division of land upon dissolution of a bona fide partnership in existence for two (2) or more years;
- e. A division of land among the immediate members of a family for personal use.

Zoning Ordinance: The officially adopted Zoning Ordinance of the City of Martinsburg, together with any and all amendments thereto.

## **ARTICLE III: PROCEDURES FOR FILING SUB-DIVISION APPLICATIONS**

### **SECTION 1: GENERAL PROCEDURE**

The procedure for obtaining approval of a sub-division plat includes three steps:

1. Sketch Plat Review (optional);
2. Preliminary Plat Review and Approval; and
3. Final Plat Review and Approval

### **SECTION 2: SKETCH PLAT REVIEW**

The purpose of the sketch plat procedure is to give the subdivider an opportunity to obtain advice and assistance from the Planning Commission before committing undue time and money to the project. Sketch plat review is optional.

#### **A. Procedure**

1. Before filing an application for approval of the Preliminary Plat, the subdivider may meet with the Planning Commission to discuss his proposed sub-division. For this review, the subdivider shall submit to the Planning Commission the plans and data listed in Article IV. This material shall be submitted at least five days in advance of the scheduled meeting. This step does not require formal application or fee.
2. The Planning Commission and the subdivider shall discuss the requirements of these regulations as they apply to the proposed sub-division. Within fifteen (15) days, the Planning Commission shall inform the subdivider that the plans and data as submitted, or as modified, do or do not meet the objectives of these regulations. When the Planning Commission finds the plans and data do not meet the objectives of these regulations, it shall express its reasons in writing.

### **SECTION 3: PRELIMINARY PLAT**

#### **A. Procedure**

1. The subdivider shall cause to be prepared a Preliminary Plat, together with improvement plans and other supplementary material as specified in Article IV.
2. Six copies of the Preliminary Plat and the supplementary material specified shall be submitted to the Planning Commission, together with a written application of forms provided by the Planning Commission.
3. Upon receipt of the six copies of the Preliminary Plat and other required data, and the written application form, the Planning Commission shall set a place and date for a public hearing, and notify by general publication or otherwise any person or governmental unit having a probable interest in the proposed sub-division.
4. The Planning Commission shall transmit a copy of the Preliminary Plat, and the supplementary data, to the Martinsburg-Berkeley County Department of Health. The West Virginia Department of Health shall review the proposed provisions for water supply and disposal of sewage and shall transmit

recommendations on the proposed water and sewage systems to the Planning Commission before the date established for the public hearing. The Planning Commission may transmit copies of the Plat and data to other local and state agencies for review and recommendations.

5. The public hearing shall be held. After the hearing, the Planning Commission shall proceed to the consideration of the Preliminary Plat. The Planning Commission shall consider the comments and opinions expressed at the public hearing but the Commission shall be responsible for reaching its own conclusions on the merits of the proposed sub-division. In determining whether conditional approval should be given to the Preliminary Plat, the Planning Commission shall be guided by the accompany design standards. Particular attention shall be given to the arrangement, location, and width of streets and their relation to the topography, water supply, sewage disposal, drainage, lot sizes and arrangements, the future development of adjoining lands not yet subdivided, and the requirements of the Comprehensive Development Plan and the Zoning Ordinance.

6. Following review of the Preliminary Plat and other material submitted for conformity to these regulations, and discussions with the subdivider on changes deemed advisable, and the kind and extend of improvements to be made by him, the Planning Commission shall, within forty-five (45) days after the public hearing, approve or disapprove the Preliminary Plat. If approved, the Planning Commission shall express its approval as Conditional Approval and state the conditions of such approval, if any. If disapproved, the Planning Commission shall express its reasons for disapproval in writing.

7. The action of the Planning Commission shall be noted on two copies of the Preliminary Plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other retained by the Planning Commission.

8. Conditional Approval of a Preliminary Plat shall not be deemed an expression of approval of the Preliminary Plat as a guide to the preparation of the Final Plat. Upon fulfillment of the requirements of these regulations and the conditions of the Conditional Approval, if any, the Final Plat shall be submitted for the approval of the Planning Commission.

9. For a sub-division containing not more than four lots and no new streets, the Planning Commission may decide to consider the Preliminary Plat as the Final Plat, if the plat and supporting documents comply with the pertinent requirements for the Final Plats outlined in Article IV.

#### **SECTION 4: FINAL PLAT**

##### **A. General Procedure**

1. The Final Plat shall conform substantially to the Preliminary Plat as conditionally approved by the Planning Commission and shall incorporate all modifications and revisions specified by the Commission in its Conditional Approval of the Preliminary Plat. Otherwise, the plat shall be considered as a revised Preliminary Plat.

2. The Commission may permit submission of the Final Plat in sections, each covering a portion of the entire proposed sub-division as shown on the Preliminary Plat.

3. The Final Plat and supporting documents shall comply with the provisions of Article IV (Page 10) of these regulations.

4. The Final Plat shall be submitted to the Planning Commission within twelve (12) months after approval of the Preliminary Plat. Otherwise, such approval shall become null and void, unless an extension of time is applied for by the subdivider and granted by the Planning Commission.

#### **B. Subdivider Procedure**

1. The Application for Final Plat approval shall be on forms provided by the Planning Commission, accompanied by the required fees.

2. The application shall be accompanied by six (6) copies of the Final Plat and supporting documents.

3. The application, plats, and supporting documents shall be filed with the Planning Commission at least ten (10) working days in advance of the meeting at which the plat is to be considered.

4. Upon approval of the Final Plat by the Planning Commission, the subdivider shall file such plat in the Office of the County Clerk in accordance with the appropriate provisions of the law within ninety (90) days of such approval or mutually agreed upon extension of time. In the event that the Final Plat is not so filed within the appropriate time, the application shall be considered withdrawn and any previous approval or waivers shall be considered lapsed.

#### **C. Planning Commission Procedures**

1. The Planning Commission shall review the Final Plat and within sixty (60) days of the meeting at which the Final Plat is first considered, the Commission shall approve, modify and approve, or disapprove such plats.

2. If the subdivider has installed the necessary improvements in the subdivision, the Planning Commission shall determine that the improvements have been installed in accordance with the design standards adopted by the Commission and as shown on the Final Plat. If the subdivider elects to post a bond to cover future installation of improvements, the Planning Commission shall determine that the bond meets the requirements outlined in Article IV of these regulations.

3. If the Planning Commission approves the Final Plat, it shall affix its seal upon the Plat. The Plat shall be signed and dated by the President of the Planning Commission. If the Commission disapproves the Plat, it shall set forth the reasons in its own records and provide the applicant with a copy.

### **SECTION 5: FEES**

The City Council may establish a uniform schedule of fees proportioned to the cost of checking and verifying the proposed Preliminary and Final Plats. The subdivider shall pay the specified fee at the time of filing his application for preliminary plat approval.

## **ARTICLE IV: PLAT REQUIREMENTS**

### **SECTION 1: SKETCH PLAT**

If the developer elects to follow the sketch plat procedure, he shall submit the following information

1. General sub-division information (word description) shall describe or outline the existing conditions of the site and the proposed developments as necessary to supplement the drawings required below. This information shall include data on existing covenants, general soil information, existing zoning and available community facilities and utilities; and information describing the sub-division proposal such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park area, and other public areas, proposed protective covenants and proposed utilities and street improvements. If only part of the sub-division is to be developed at one time, an estimated time schedule of eventual development should be included.

2. A location map that shall show the relationship of the proposed sub-division to existing community facilities, which serve or influence it. The location map shall include development name and location; main traffic arteries; public transportation lines; shopping centers; elementary and high schools; parks and playgrounds; principal places of employment; other community features such as railroad stations, airports, hospitals, fire stations and churches; title, scale, north arrow, and ate. Other adjacent property holdings of the owner shall also be shown

3. A sketch plat on an existing topographic survey that shall show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plat shall show all of the drainage facilities, connecting piping or ditches leading to a live stream for the final disposition of the flow of surface water. The sketch may be a freehand rendering made directly on a print of the topographic survey. Where the sub-division covers only part of the owner's entire holdings, the sketch shall show the prospective street layout for the remainder of the property.

### **SECTION 2: PRELIMINARY PLAT**

A. General: The Preliminary Plat shall be submitted by the subdivider on durable paper and shall be clear and legible. The scale shall be not smaller than one (1) inch equals one hundred (100) feet and the size of sheets shall be twenty-four (24) by thirty-six (36) inches, including a one and one-half (1 ½) inch margin for binding along the left edge. When more than one (1) sheet is required, an index sheet of the same size shall be submitted showing the entire sub-division drawn to scale. The Preliminary Plat shall be labeled "PRELIMINARY PLAT" in large letters.

B. Required Information: The Preliminary Plat shall show or be accompanied by the following information:

1. Vicinity map at a scale of six hundred (600) feet or more to the inch indicating the location of the property with respect to surrounding property and streets. The map shall show all streets and property within 1,000 feet of

the applicant's property. All property held by the applicant in the area shall be identified.

2. The names of all property owners within two hundred (200) feet of the extreme limits of the sub-division as their names appear on the deed books and the names of adjacent sub-divisions.

3. The proposed name of the sub-division, which shall not duplicate or closely approximate the name of any other sub-division in the county.

4. The name and address of the owner or owners of the land to be subdivided, and the name and address of the subdivider, if other than owner.

5. A letter from the owner, if different from the subdivider, authorizing the subdivider to act as his agent with full authority.

6. The name and address of the registered engineer, land surveyor, architect, or planner responsible for the preparation of the Plat.

7. Zoning classification on the tract of adjoining properties and any proposed changes from existing zoning.

8. North arrow, scale, and date.

9. Copies of proposed deed restrictions, if any.

10. Computation of total area of the sub-division.

Site Data:

11. Sub-division boundaries with bearings and distances (include entire area proposed to be subdivided and remainder of the tract in the same ownership); all existing easements, railroad and utility right-of-ways and the purpose for which such easements and right-of-ways have been established; parks and other public open spaces.

12. All existing pertinent features either natural or manmade that may influence the design of the sub-division, such as water courses, tree groves, swamps, rock outcrops, outstanding natural topographic features, power transmission towers, scenic or historic areas, existing buildings, sewers, water mains, culverts, utility lines, and fire hydrants.

Where underground utilities exist within or adjacent to the tract the approximate location, pipe size, and direction of slope shall be indicated.

13. Existing topography, normally with two-foot contour intervals. Where the terrain is rugged and hilly and where existing grades are ten (10) percent or more, five-foot contour intervals will be permitted over the area where such grades exist. Contour lines shall be shown two hundred (200) feet beyond the sub-division boundary.

14. Location, widths, and names of all existing improved streets or alleys on or within one hundred (100) feet of the sub-division. Recorded but unimproved streets should be shown with dashed lines.

15. If individual wells and/or septic tanks are proposed, show subsurface conditions on the proposed sub-division, including location and results of tests made to ascertain surface soil, rock, and ground water conditions. Show location and results of soil percolation tests in accordance with the specifications of the State Department of Health. Due regard shall be given to the effects of cut and fill which may make such data obsolete. Anticipated areas of cut and fill shall be noted upon the Preliminary Plat.

#### Proposed Design and Improvements

16. The layout of all proposed and existing lots with approximate dimensions and area in square feet for each lot; proposed uses of property and proposed front yard setbacks or other setback lines. Also, when known, the location of each building and the first floor elevation and the proposed location and grade of each driveway.

17. The locations, width, and names of proposed streets and alleys. Approximate elevations at the center line of the street shall be shown at the beginning and end of each street, at street intersections, and at all points where there is a change in grade or direction. A preliminary provide of each street, at the same scale or a larger scale than the plat with tentative grades indicated shall be included.

18. The cross section of each street, at a scale of ten (10) feet or less to the inch, showing the width and type of pavement, the size and type of gutters, the location and width of sidewalks and the location and sizes of existing utility lines.

19. Location of existing monuments and proposed new monuments.

20. The approximate location, dimensions and area of all property proposed to be dedicated or temporarily reserved for public use, or to be reserved by a blanket covenant for use of all property owners in the sub-division and conditions for such conveyance or reservation. Also, the location, dimensions, area, and purposes of any proposed easements.

21. Proposed public improvements, streets, or other major improvements planned by public bodies for future construction on or near the proposed sub-division or any street or park or public improvement shown on the Martinsburg Comprehensive Development Plan.

22. Proposed provision of water supply, fire protection, disposal of sanitary waste, storm water drainage, street trees, street lighting fixtures, street signs and sidewalks, and other proposed improvements.

23. Proposed drainage system with typical cross sections of all proposed drainage, including underground drains, culvert headwalls, ditch lines, easements through lots of adjoining properties and other structures. Also the

location, size and invert elevation of storm sewers and appurtenances thereto.

24. Connections with existing water supply, unless individual water supply systems are being considered.

25. Connections with existing sanitary sewer system or alternative means of sewage treatment and disposal, giving location, size and invert elevations. If connections to an existing system cannot be accomplished, an interim communal sewage disposal system shall be shown and its feasibility described, unless individual sewage disposal systems are being considered.

26. The location of existing gas lines, fire hydrants, electric and telephone poles and street lights, and the recommended future locations of these services.

27. An overlay of Preliminary Plat showing the proposed location of tree groves to be retained.

28. When the Preliminary Plat covers only a part of the owner's entire adjacent holdings, a scaled drawing with topography of the entire adjacent holding shall be submitted.

### **SECTION 3: FINAL PLAT**

#### **A. General:**

The Final Sub-division Plat shall be legibly drawn in black waterproof ink on tracing cloth. The scale shall not be smaller than one (1) inch equals one hundred (100) feet and the size of the sheet shall be twenty-four (24) by thirty-six (36) inches, including a one and one-half (1 ½ ) inch margin for binding along the left edge. When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire sub-division drawn to scale.

#### **B. Required Information:**

The Final Plat shall show the following information:

1. Sub-division name and name or number of the largest sub-division or tract of which the tract being subdivided forms a part.
2. Names and location of adjoining sub-divisions, and location and ownership of adjoining unsubdivided property.
3. True and magnetic North point (designate plat North), scale, and date.
4. The name and address of the owner of the land and the name and address of the subdivider, if other than the owner.
5. The name, address, and seal of the registered professional civil engineer or land surveyor responsible for the preparation of the plat, and certification that the plat represents a survey made by him and that all monuments shown



thereon actually exist, and that their location, size, and material are correctly shown.

6. Bearings and distances to nearest established street bounds, established survey lines, or other official monuments. These monuments shall be located or accurately described in the plat.

7. The accurate location and material of all permanent reference monuments.

8. The exact layout for the sub-division, including:

a. Street and alley lines; their names, bearings, angles of intersections and widths, including widths along the line of any obliquely intersection street.

b. The lengths of all arcs, radii, points of curvature and tangent bearings.

c. All easements of right-of-ways, when provided for or owned by public utilities, with the limitation of the easement right definitely stated on the plat.

d. All lot lines with dimensions in feet and hundredths, and width bearings or angles to minutes, for lot lines that are not at right angles to the street and alley lines.

9. Lots numbered in numerical order, and blocks lettered in alphabetical order or numbered in numerical order throughout the entire sub-division.

10. Area of each lot to the nearest square foot.

11. Front yard setback building lines, the minimum as fixed by the Zoning Ordinance and any other setback lines or street lines established by public authority, and those stipulated in the deed restrictions.

12. Accurate outlines of any areas to be reserved for common use by the residents of the sub-division, or for the general public use with the purposes indicated thereon.

13. Space for statement of approval by the President of the Planning Commission, with lines for signatures and dates.

The Final Plat should be accompanied by:

1. Profiles and cross sections of all streets, drawn to a scale approved by the Planning Commission and based on a datum plane approved by the Planning Commission.

2. Plans and cross sections of all street pavements, including sidewalks, curbs, and gutters, and the location, size, and elevations, when appropriate, of all underground utilities, including water, sanitary and storm sewers, and gas.

3. A written offer of dedication of streets and other public property.
4. Copies of protective covenants in form for recording, including covenants governing the maintenance of unceded public spaces or reservations.
5. Such other certificates, affidavits, endorsements, or other agreements as may be required by the Planning Commission in the enforcement of these regulations.
6. A certificate by the Planning Administrator certifying that the subdivider has installed all improvements in accord with the requirements of these regulations and with the action of the Planning Commission giving condition approval of the Preliminary Plat, or that the subdivider has posted a bond which shall:
  - a. Run to the City.
  - b. Be in an amount determined by the Commission to be sufficient to complete the improvements and installations in compliance with the Ordinance.
  - c. Be with surety satisfactory to the Planning Commission.
  - d. Specify the time for the completion of the improvements and installations.

Any funds received from these bonds shall be used only for completion of the improvements and installations for which they were provided.

## **ARTICLE V: DESIGN STANDARDS**

### **SECTION 1: GENERAL REQUIREMENTS**

1. In designing a sub-division, the subdivider shall comply with the principles and requirements of this Article.
2. The Planning Commission in considering an application for the sub-division of land shall be guided by the considerations and standards contained herein.
3. Land to be subdivided shall be of such a character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
4. Sub-divisions shall conform to the adopted Comprehensive Development Plan of Martinsburg.

### **SECTION 2: LAND REQUIREMENTS**

Land shall be suited for the purposes for which it is to be subdivided. In general, the Planning Commission shall take the following factors into consideration prior to the approval of any sub-division.

1. Sub-divisions laid out on land subject to periodic flooding shall not be approved unless adequate safeguards against such hazards are provided; and
2. Areas characterized by steep slopes, rock formations, poor soils or other unsuitable physical features shall not be subdivided unless adequate safeguards against potential hazards are provided.

### **SECTION 3: STREETS**

**A. General Requirements:** The arrangement, character, extent, width, and location of all streets shall conform to the Transportation Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to their appropriate relation to the proposed uses of the land to be served by such streets.

In designing a street system, the subdivider shall be guided by the following principles:

1. Adequate vehicular pedestrian access shall be provided to all parcels.
2. Local street systems shall be designed to minimize through traffic movement.
3. Street patterns shall minimize out-of-the-way vehicular travel.
4. Local street systems shall be logical and comprehensible.
5. The arrangement of local streets shall permit economical and practical patterns, shapes and sizes of development parcels.

## B. Street Layout and Design

1. Streets shall be classified as arterial, collector, minor, and marginal access. Street right-of-way widths and pavement widths shall not be less than as follows:

<u>Street Type</u>	<u>Right-of-Way</u>	<u>Pavement</u>
Arterial	80	40
Collector	60	40
Local	50	26
Marginal Access	50	30

These are minimum standards and may be increased where necessary.

2. When any proposed sub-division fronts on or has access to a State road, the Planning Commission shall consult with the West Virginia State Road Commission concerning the effect of the sub-division on the State road.

3. Whenever a proposed sub-division contains any part of a street so designated on the Transportation Plan, such part of said street shall be platted by the subdivider in the location and at the width indicated in the Plan.

4. Where appropriate to the design, new streets shall be continuous in alignment with existing streets with which they are to connect.

5. Proposed streets shall be extended to the boundary lines of the proposed sub-division unless such extension is not feasible because of topography or other physical conditions, or unless, in the opinion of the Planning Commission, such extension is not necessary or desirable for the coordination with existing streets or the most advantageous development of adjacent tract.

6. Dead-end streets shall be prohibited except as stubs to permit future extensions to adjoining tracts or where necessitated by topography, or where, in the opinion of the Planning Commission, they are appropriate for the type of development contemplated and are designed as cul-de-sacs.

7. Half streets shall be prohibited, except where essential to the reasonable development of the sub-division in conformity with the other requirements of these regulations, and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

8. Sub-divisions that adjoin or include existing streets that do not conform to widths shown on the Transportation Plan shall be required to dedicate additional width along either one or both sides of such streets of inadequate width as to bring them up to standards.

9. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the City under conditions approved by the Planning Commission.

10. Where a sub-division abuts or contains an existing or proposed arterial street or railroad right-of-way, the Planning Commission may required the separation of local and through traffic. This shall be achieved by one of the following means:

- a. A marginal access street, separated from the arterial street by a planting strip; or
- b. Reverse frontage lots, with the lots fronting on an interior local street and having a non-access reservation along the rear property line; or
- c. An alley may be provided along the rear lot line providing vehicular access to the lots abutting the arterial street.

Where any of the aforementioned arrangements are used, the statement "vehicular ingress and egress, restricted" shall be shown with limits on the Final Sub-division Plat and no driveways shall have direct access to the arterial street.

11. The street system layout shall be so designed to preserve, wherever possible, natural features such as trees, brooks, hilltops, and scenic views.

12. Proposed streets which are clearly aligned with existing streets shall bear the name of the existing street. In no other case shall the names of the proposed streets duplicate or be phonetically similar to an existing street name, irrespective of the suffix, street, avenue, place, or other.

### C. Street Grades

1. Grades of streets shall conform as closely as possible to the original topography and shall be designed to product useable lots and reasonable grades.

2. Grades of streets shall be arranged to obtain as many building sites as possible at or above the grade of the abutting street.

3. Street grades, wherever feasible, shall not exceed the following with due allowance for reasonable vertical curves:

<u>Street Type</u>	<u>Percent Grade</u>
Arterial	6
Collector	6
Minor	10
Marginal Access	10

The Planning Commission may permit steeper grades in special circumstances.

4. No street grade shall be less than 0.75 percent.

5. Sight distances over grades shall not be less than two hundred (200) feet. Sight distances around curves shall not be less than 200 feet.

A combination of steep grade and sharp curves shall be avoided.

6. Grades at street intersections shall be held to a maximum of four (4) percent for a distance of one hundred (100) feet in any direction from the point of intersection of the street center lines.

#### D. Horizontal Alignment

1. A tangent shall be introduced between reverse curves and shall be of at least one hundred (100) feet in length on local and collector streets.

2. When continuing street lines of collector streets deflect from each other any one point by more than ten (10) degrees, they shall be connected by a curve with a radius at the inner street right-of-way line of not less than 350 feet; where continuing street lines of arterial streets deflect from each other by more than five (5) degrees, they shall be connected by a curve of not less than 800 feet radius.

#### E. Street Intersections

1. Streets should be laid out to intersect as nearly as possible at right angles, and not street shall intersect with any other street at less than sixty (60) degrees. Any change in street alignment to meet this requirement shall occur at least one hundred (100) feet from the intersection.

2. Multiple intersections involving junctions of more than two streets shall be avoided.

3. Clear sight triangles of fifty (50) feet measured along street right-of-way lines from their points of junction shall be provided at all intersections, and

4. Streets entering opposite sides of another street shall be laid out either directly opposite one another or with a minimum offset of one hundred fifty (150) feet between their center lines.

5. Minimum curb radii at street intersections shall be ten (10) feet for streets with sixty (60) foot right-of-way and five (5) feet for streets with fifty (50) and forty (40) foot right-of-way.

6. Where a proposed sub-division abuts or contains an existing or proposed arterial street, the number of intersections with the arterial street shall be kept to a minimum. To the fullest extent possible, intersections with arterial streets shall be located not less than eight hundred (800) feet apart, measured from center line to center line.

#### F. Cul-De-Sac Streets

1. Cul-de-sac streets, permanently designed as such, shall not exceed six hundred (600) feet in length. In circumstances where physical features of the site make longer cul-de-sacs necessary, the Planning Commission may require turnaround areas at intermediate points.

2. Cul-de-sac streets shall be provided at the closed end with a paved turnaround having a minimum radius of fifty (50) feet to the outer pavement edge or curb line and a radius of sixty (60) feet to the right-of-way line.
3. A suitable turnaround may be required by the Planning Commission when a street is temporarily dead-ended over one hundred and fifty (150) feet from its nearest intersection.

#### G. Alleys

1. Alleys shall be provided in commercial and industrial districts, except that the Planning Commission may waive this requirement where other definite and assured provision is made for service access. Alleys shall not be provided in other locations unless required by special conditions.
2. The minimum width of an alley shall be twenty (20) feet.
3. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
4. Dead-end alleys shall be avoided, but, if unavoidable, shall be provided with adequate turnaround facilities at the dead-end, as determined by the Planning Commission.

### **SECTION 4: LOTS AND LOT SIZES**

#### A. General Requirements

1. The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the Zoning Ordinance for the district in which the lots are located and shall be appropriate for the type of development and use contemplated.
2. All lots shall have frontage upon an approval and improved public street, except that in a Planned Unit Development lots having access to a street or common parking area along a pedestrian way may be allowed if the development meets the specifications outlined in the Zoning Ordinance.
3. The ratio of the depth of any lot to its width shall not be greater than two and one-half to one, except for lots one acre or more in size.
4. Side lots lines shall be substantially at right angles or radial to street lines, unless a variation from this rule will give a better street or lot plan.
5. Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from arterial streets and highways or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided

along the line of lots abutting such an arterial street or highway or other disadvantageous use.

6. Corner lots shall have sufficient extra width to permit appropriate building setbacks from both streets.

7. Where a water course separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, of design approved by the Planning Commission.

## **SECTION 5: BLOCKS**

### **A. Block Shape**

Block length and width or acreage within bounding streets shall be such as to accommodate the size of lot required in the area by the Zoning Ordinance and to provide for convenient access, circulation control, and safety of street traffic. Blocks shall be of such sizes and shapes as considerations of topography and street layout shall dictate, but the Planning Commission shall not approve blocks that are unreasonably large or small. The corners of blocks at street intersections shall be cut back on an arc concentric with the arc of the curb lines or on the chord of such concentric arc.

### **B. Block Dimensions**

1. Blocks shall have a minimum length of four hundred (400) feet. The maximum block dimension shall be sixteen hundred (1,600) feet. In the design of blocks longer than one thousand (1,000) feet, special consideration shall be given to pedestrian through walks and satisfactory fire protection.

2. Residential blocks shall be of sufficient depth to accommodate two (2) tiers of lots of minimum depth, except where reverse frontage lots bordering a freeway or arterial street are used.

3. Pedestrian through walks may be required where necessary to assist circulation or provide access to community facilities. Such walks shall have a right-of-way width of not less than fifteen (15) feet and a paved walk of not less than four (4) feet.

## **SECTION 6: EASEMENTS**

### **A. General Requirements**

To the fullest extent possible, easements shall be centered on or adjacent to rear or adjacent to rear or side lot lines. Easements shall be fully indicated on the Final Sub-division Plat.

### **B. Pedestrian Easements**

1. The Commission may require, when it deems it necessary to facilitate pedestrian access to community or other nearby streets, perpetual unobstructed easements at least fifteen (15) feet in width. The Commission may require a paved walk for pedestrian safety within such an easement.



2. Where a sub-division borders on a water course in an area designated in the Comprehensive Development Plan for recreational use, the Planning Commission may required easements to be reserved for public access to the water.

#### C. Utility and Drainage Basements

Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street right-of-ways, perpetual unobstructed easements at least twenty (20) feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.

#### D. Storm Water Easements

Where a sub-division is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width as may be deemed necessary by the Planning Commission to permit the construction of improvements designed to restrict the flooding of said water course on adjoining properties. Parallel streets or parkways may be required.

#### E. Widening or Realignment of Existing Roads

Where the sub-division borders an existing street and the Comprehensive Development Plan indicates plans for realignment or widening of the street that would require reservation of some land of the sub-division, the Planning Commission may require that such areas be shown and marked on the plat "reserved for Street Realignment (or Widening) Purposes." Land reserved for street widening may not be counted in satisfying the minimum front yard or minimum lot area requirements of the Zoning Ordinance.

### **SECTION 7: LAND REQUIREMENTS FO COMMUNITY FACILITIES**

1. In reviewing sub-division plats, the Commission will consider the adequacy of existing or proposed community facilities to serve the additional dwellings proposed by the sub-division.

2. Where a proposed park, playground, or other recreational area, proposed school site, or other public uses, shown in the adopted park plan, school plan, or other part of the Comprehensive Development Plan, is located in whole or in part within a proposed sub-division, such proposed public use or park, if not dedicated to public use, or conveyed to the City or the Board of Education, shall be reserved for a period of not less than five (5) years for schools and three (3) years for parks and other community facilities, from the date of final approval of the Final Sub-division Plat by the Planning Commission for acquisition by the City Council, Board of Education, or other public agency by purchase or other means.

## **SECTION 8: MISCELLANEOUS**

### **A. Preservation of Existing Features**

Existing features which would add value to residential development, or natural or manmade assets of Martinsburg, such as trees, water courses, vistas, historic spots, historic or architecturally significant buildings, and similar irreplaceable assets, should be preserved, insofar as possible, through harmonious and careful design of the subdivision.

### **B. Preservation of Natural Cover**

Land to be subdivided shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading and cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil.

### **C. Sediment Control**

The subdivider shall provide effective sediment control measures in the planning and construction of sub-divisions. Practical combinations of the following technical principles shall be applied:

1. The smallest practical area of land shall be exposed at any one time during development.
2. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
3. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.
4. Sediment basins (debris, basins, desilting basins, or silt traps) shall be installed and maintained to remove sediment from runoff waters from land undergoing development.
5. Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.
6. The permanent final vegetation and structures shall be installed as soon as practical in the development.
7. The development plan shall be fitted to the topography and soils so as to create the least erosion potential.
8. Wherever feasible, natural vegetation shall be retained and protected.

### **D. Self-Imposed Restrictions**

The subdivider may place restrictions on the development greater than those required herein or by the City Zoning Ordinance. Such restrictions, if any, shall be indicated on the Sub-division Plat.

### E. Modification of Standards

The Planning Commission may modify the special requirements in any individual case where, in the Commission's judgment, such modification is in the public interest. No modifications shall be granted which will have the effect of nullifying the intent and purpose of these Regulations or the Martinsburg Development Plan. In granting any adjustment, the Commission shall attach such conditions as are necessary, in its judgment, to secure substantially the objectives of the standards or requirements so adjusted.

## ARTICLE VI: REQUIRED IMPROVEMENTS

### SECTION 2: REQUIRED IMPROVEMENTS

Before obtaining approval of the Final Plat, the subdivider shall install the required improvements indicated below, or as modified in the Preliminary Review, or shall post a bond covering the cost of the required improvements, in accord with the provisions of Article IV, Section 3, of these regulations. Minimum improvements and construction standards required for all sub-divisions shall be as set for in these regulations and in the applicable design standards of other public agencies.

#### A. Monuments and Markers

1. Monuments shall be set at the intersection of all lines forming angles in the boundary of the sub-division.

A minimum of two monuments shall be placed within each block of a sub-division and shall be designated as Control Corners. The Planning Commission may require additional monuments at other points.

Monuments shall be placed so that the scored or marked point shall coincide exactly with the intersection of the lines to be marked, and shall be set so that the top of the monument is level with the surface of the surrounding ground. Monuments may be of the following two types:

- a. Cut stone 6" x 6" x 3'0" long with a drill hole in the center.
- b. Reinforced concrete 6" x 6" x 3'0" long with a ½" round brass pin in the center.

The subdivider shall bear the cost of replacing a disturbed monument until construction of the sub-division is completed.

2. Markers shall be set at all block corners, angle points, lot corners, and points of all curves along street property lines. Markers shall consist of steel bars at least fifteen (15) inches long and not less than three-quarters (3/4) inch in diameter.

#### B. Gas, Electric, and Telephone Utilities

The Planning Commission may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in the form of a letter addressed to the Planning Commission stating that such public utility company will make the necessary installations for furnishing its services within a specified time. The Planning Commission may require placing electric and telephone lines underground in new sub-division.

### C. Water Supply

1. Where a public water supply, in the opinion of the Planning Commission, is reasonably accessible, the sub-division shall be provided with a complete water distribution system, including a connection for each lot and appropriately spaced fire hydrants.
2. The City shall refund part of the cost of installing water mains on a basis determined by the City Council.
3. Where public water supply is not available within a reasonable distance, an alternate supply, approved by the Planning Commission and the West Virginia Department of Health, shall be furnished.

### D. Sanitary Sewage System

1. Where a public sanitary sewer system, in the opinion of the Planning Commission, is reasonably accessible, sanitary sewers shall be installed to adequately serve all lots with connections to the public system.
2. The City shall refund part of the cost of installing sewer lines on a basis determined by the City Council.
3. Where a public sanitary sewer system is not available within a reasonable distance, individual septic tanks and disposal fields may be used. Use of a local disposal system or septic tanks shall be approved by the Planning Commission and the West Virginia Department of Health.
4. Where there is a plan for extending a public sanitary sewer system into an area that is being subdivided, and it is reasonably expected that the area will be served by the public system within a period of five (5) years, capped sewers shall be installed to adequately serve all lots in the proposed sub-division.

### E. Storm Drainage

1. All storm runoff shall be collected and conducted to a point of discharge in a positive and suitable manner.

Storm sewers, culverts, and related installations shall be provided where necessary to:

- a. Permit unimpeded flow of natural water courses;
  - b. Ensure adequate drainage of all low points along streets; and
  - c. Intercept storm water runoff along streets at intervals reasonably related to the extent and grade of the area drained.
2. In determining the proper drainage of any sub-division, the Planning

Commission shall take into consideration and, if possible, make provisions for future drainage problems which may arise, and shall not be restricted in imposing conditions or regulations respecting drainage problems to the particular sub-division under consideration.

3. The subdivider shall provide for the construction of all necessary structures and storm drainage facilities required beyond the immediate boundary of the sub-division in order to conduct runoff to acceptable point of disposal.

4. Lots shall be laid out and graded to provide positive drainage away from buildings.

5. In the design of storm sewerage installations, special consideration shall be given to avoidance of problems which may arise from concentration of storm water runoff over adjacent properties.

#### F. Street Improvements

Street improvements include grading of the street right-of-way, street pavement, curbs and gutters or shoulders, and sidewalks. Street improvements shall be provided on the basis of two types of sub-divisions: urban and suburban.

Urban sub-divisions shall have street pavements, curbs and gutters, and sidewalks. Sidewalks shall be at least five (5) feet wide.

Suburban sub-divisions shall have street pavement but shoulders may be substituted for curbs and gutters, and sidewalks may be omitted.

The designation of a proposed sub-division as urban or suburban shall be determined by the Planning Commission. In determining the designation, the Planning Commission shall consider the location, character, and density of the proposed sub-division, and the character of surrounding development.

#### G. Street Improvement Construction Standards

The subdivider shall provide for the construction of required street improvements, constructed according to standards approved by the Planning Commission and the City Council.

## ARTICLE VII: NONRESIDENTIAL SUB-DIVISIONS

### SECTION 1: GENERAL REQUIREMENTS

Nonresidential developments include commercial and industrial developments. The Planning Commission recognizes that the subdivider creating nonresidential sub-divisions faces unique problems of lot design not normally encountered in residential sub-divisions. For this reason, the initial emphasis of the Planning Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the owner to follow the regular procedure outlined in Article III and to show the entire tract to be subdivided with necessary improvements and as many parcels as he cares to show, but at least two. As prospective buyers express interest in lots sized to their required specifications, the owner may submit to the Planning Commission an amendment to the approved Final Sub-division Plat for consideration. Regular procedural requirements shall then apply. In addition to the principles and standards in these regulations that are appropriate to the planning of all sub-divisions, the subdivider shall demonstrate to the satisfaction of the Planning Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed.

### SECTION 2: DESIGN STANDARDS

#### A. Site Design

1. Proposed nonresidential street layout, blocks, and parcels shall be suitable in area and dimensions to the types of development anticipated.
2. The total area shall be sufficient to provide adequate space for off-street parking and loading, landscaping, and other facilities as required by the Zoning Ordinance.
3. Whenever possible, commercial parcels should include enough land to provide for a group of commercial establishments, planned, developed, owned, and managed as a unit. Narrow, ribbon developments along arterial streets will be discouraged.
4. With respect to physical improvements, special requirements may be imposed by the Commission within the nonresidential sub-division.
5. Every effort shall be made to protect adjacent residential areas from potential nuisance from the nonresidential sub-divisions, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

#### B. Street System

1. Traffic movements in and out of commercial and industrial areas should not interfere with external traffic, nor create hazards for adjacent residential areas.
2. The design of streets, service drives, and pedestrian ways should provide for safe and hazard-free internal circulation.

3. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas, nor connected to streets intended for predominately residential traffic, but shall be connected insofar as is possible to arterial or collector streets in such a way that the number of intersections with such arterials or collectors shall be minimized.

4. Street right-of-ways and pavement shall be adequate to accommodate the type of volume of traffic anticipated to be generated thereon. Curb radii at intersections shall be at least fifty (50) feet. Curb radii at driveway intersections shall be at least twenty-five (25) feet.

### C. Building Setback Lines

Building setback lines shall be as specified by the Zoning Ordinance.

### D. Utilities

Nonresidential sub-divisions shall be provided with water and sewerage systems, which are adequate to maintain adequate health standards, and to dispose of commercial and industrial wastes. These facilities shall be approved by the West Virginia Department of Health, and the Martinsburg-Berkeley County Health Department.

### E. Drainage

The Planning Commission shall require adequate provisions for the discharge of surface water which will result from commercial and industrial developments with large roof areas and large paved parking areas.



## **ARTICLE VIII ADMINISTRATION**

### **SECTION 1. HARDSHIP**

Where the Planning Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose the Comprehensive Development Plan or these regulations. The Planning Commission shall determine extraordinary hardship only if it finds all of the following facts in regard to the sub-division:

1. That the land is of such shape or size, or is affected by such topographical conditions, or is subject to such title limitations of record that it is impossible or impractical for the subdivider to comply with all of the regulations of this Ordinance.
2. That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

### **SECTION 2. LARGE-SCALE DEVELOPMENT**

The standards and requirements of these regulations may be modified by the Planning Commission in the case of a plan and program for a complete community, or a neighborhood unit, which in the judgment of the Planning Commission provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and that also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

### **SECTION 3. CONDITIONS**

In granting Variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

### **SECTION 4. APPEAL**

A decision of the Planning Commission may be reviewed by certiorari procedure. A petition for review shall specify the grounds upon which the petition alleges the illegality of the Commission's action. Such petition must be filed in the Circuit Court of the County within thirty (30) days after the date of such decision.

## **ARTICLE IX ORDINANCE PROVISIONS**

### **SECTION 1. AMENDMENTS**

The regulations set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed, provided however that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City.

Any proposed amendment shall be submitted to the Planning Commission for report and recommendation prior to any action thereon by the City Council.

### **SECTION 2. PLATS FILED WITHOUT APPROVAL**

After the adoption of these regulations, the filing and recording of a plat involving the sub-division of lands covered by these regulations shall be without legal effect unless approved by the Planning Commission.

### **SECTION 3: REPEAL OF CONFLICTING ORDINANCES**

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance shall become effective on September 11, 1969.

### **SECTION 4. SEPARABILITY**

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.