



DRAFT

July 5, 2022



SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

**of the City of Martinsburg,
West Virginia**

Part 13, Chapter 4, Articles 1 - 5
of the Martinsburg City Code
Part 13, Chapter 3

Enacted:

Effective:



SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF THE CITY OF MARTINSBURG, WEST VIRGINIA

ACKNOWLEDGEMENTS

Mayor and Council of the City of Martinsburg

Kevin Knowles, Mayor

Cory Roman, Councilmember-At-Large

Ken Collinson, Councilmember Ward 3

Steve Knipe, Councilmember-At-Large

Kimberly Nelson, Councilmember Ward 4

Dennis (J) Etherington, Councilmember Ward 1

Jason W. Baker, Councilmember Ward 5

David Haarberg, Councilmember Ward 2

City of Martinsburg Planning Commission

Jim Rodgers

Yvonne Jenkins

Jeffrey Molenda

Scott Hamilton

Mark Palmer

Steve Workings

George Reichard

Keenan Puller

Reenie Raines

Steve Knipe

City Officials

Mark Baldwin, City Manager

Dana Keith, City Planner

Andy Blake, Assistant City Manager

Shane C. Farthing, Economic Development
Director

Kimberly J. Petrucci, P.E., City
Engineer/Planning Director

Consultant

Michael Baker International



Table of Contents

ARTICLE 1 GENERAL PROVISIONS..... 1

Section 1.01 Short Title..... 1

Section 1.02 Purpose..... 1

Section 1.03 Authority..... 1

Section 1.04 Jurisdiction..... 1

Section 1.05 Applicability..... 1

Section 1.06 Interpretation..... 3

Section 1.07 Severability..... 3

Section 1.08 Zoning Ordinance – Compatibility and Incorporation of Provisions..... 3

Section 1.09 Administration and Enforcement..... 4

Section 1.10 Permits, Fees, and Inspections..... 6

Section 1.11 Appeals; Waivers; Amendments..... 8

ARTICLE 2 DEFINITIONS.....10

ARTICLE 3 SUBDIVISION AND LAND DEVELOPMENT APPLICATION & APPROVAL REQUIREMENTS.....22

Section 3.01 Terminology and Processing Alternatives.....22

Section 3.02 Applicability.....22

Section 3.03 Subdivision and/or Land Development Application Submission and Review Procedures.....25

Section 3.04 Preliminary Subdivision and/or Land Development Application Requirements.....39

Section 3.05 Final Subdivision and/or Land Development Application Requirements.....54

Section 3.06 Boundary Line Adjustments, Merger, and Vacations.....61

Section 3.07 Vacating a Plat.....62

Section 3.08 Amendment of Approved Final Plans and Plats.....63

Section 3.09 As-Built Drawings.....64

ARTICLE 4 SITE PLANNING & DESIGN SPECIFICATIONS.....69

Section 4.01 General Site Planning and Design Specifications.....69

Section 4.02 Street Design Standards.....72

Section 4.03 Subdivision and Site Development Access.....81

Section 4.04 Subdivision Road & Common Area Ownership Maintenance.....83

Section 4.05 Off-Street Parking Standards.....83

Section 4.06 Speed Humps.....85

Section 4.07 Traffic Management Standards.....85



Section 4.08 Driveway Standards85

Section 4.09 Utilities and Water & Sanitary Sewer Systems.....86

Section 4.10 Stormwater Management and Erosion & Sediment Control87

Section 4.11 Buffer and Screening Standards.....87

Section 4.12 Landscaping Standards.....89

Section 4.13 Outdoor Lighting92

Section 4.14 Park, Recreation, and Open Space Amenity Standards96

Section 4.15 Trail Standards97

Section 4.16 Homeowners Associations98

Section 4.17 Parking and Loading Standards98

Section 4.18 Monuments107

Section 4.19 Geotechnical Observation and Materials Testing Requirements.....109

Section 4.20 Floodplain Standards.....111

Section 4.21 Karst Geology Standards111

Section 4.22 Bus Shelters114

Section 4.23 Bicycle Parking.....114

Section 4.24 Manufactured Home Park Standards.....115

ARTICLE 5 GUARANTEE OF IMPROVEMENTS118

Section 5.01 Purpose and Authorization118

Section 5.02 Bonding Arrangements.....118

Section 5.03 Bond Submission Requirements119

Section 5.04 Term of Performance Agreement119

Section 5.05 Time Extensions of Construction Bonds119

Section 5.06 Acceptable Forms of Surety or Security.....120

Section 5.07 Bond Estimate122

Section 5.08 Bond Procedures and Requirements123



ARTICLE 1 GENERAL PROVISIONS

Section 1.01 Short Title

This Ordinance and any amendments and supplements thereto shall be known and may be cited as the “Subdivision and Land Development Ordinance of the City of Martinsburg, West Virginia” and hereinafter referred to as this “Ordinance.”

ENACTED: [DATE]
EFFECTIVE: [DATE]

Section 1.02 Purpose

The Subdivision and Land Development Ordinance of the City of Martinsburg, West Virginia is intended to guide future growth and development by regulating the Subdivision and physical Development of land within the jurisdiction of the City of Martinsburg for the improvement of the health, safety, comfort, morals, and general public welfare of Martinsburg citizens. This Ordinance is in compliance with Chapter 8A, Land Use Planning, of the West Virginia Code, and has been enacted following public hearings after public notice. In addition, this Ordinance works in conjunction with the Zoning Ordinance and is in accordance with the Martinsburg Comprehensive Plan.

Section 1.03 Authority

This Ordinance is enacted pursuant to the authority contained in West Virginia Code §8A-4-1(a)(1).

Section 1.04 Jurisdiction

This Ordinance shall apply to all properties within the corporate limits of the City of Martinsburg, West Virginia, hereinafter referred to as the “City.”

Section 1.05 Applicability

- (A) No Lot, tract or parcel of land within the City of Martinsburg shall be subdivided and no such land may be developed, and no Street, sanitary sewer, storm sewer, water main, or associated facility may 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 in accordance with the provisions of this Ordinance and other applicable City ordinances.
- (B) No Subdivision or Development of land in the City shall be commenced unless and until:
 - 1. The Planning Commission (or where such authority has been delegated to the City Engineer/Planning Director or designee) has approved, and so stamped and signed, a Final Record Plat for the subject Subdivision or Land Development; and
 - 2. The approved Final Record Plat has been duly recorded in the Office of the Clerk of the Berkeley County Commission. It shall be unlawful for any Person that owns or controls any land subject to the provisions of this Ordinance to sell, otherwise transfer, agree to sell or otherwise transfer (except when such agreement is



expressly contingent upon approval and recordation of a Final Record Plat), or advertise for sale (except when the pending status of Final Record Plat approval is disclosed), any Lot, tract, or parcel of such land within a Subdivision or Land Development, or to be created by Subdivision or Development activities by such Person, until the Final Record Plat of such Subdivision or Land Development shall have been so approved and recorded.

- (C) No Subdivision or Development of land in the City shall be commenced, undertaken, developed, constructed, or otherwise undertaken except in accordance with the provisions, Plans, drawings and other content of this Ordinance and wherein with reference to the Zoning Ordinance.
- (D) The scope of this Ordinance shall include all matters over which, by law, the City of Martinsburg is authorized to exercise control by enactment and enforcement of this Ordinance, including, but not limited to:
1. All Improvements within any tract undergoing Subdivision or Land Development;
 2. The improvement of public facilities adjacent to any tract undergoing Subdivision or Land Development, including Streets and Drainage Facilities which border upon any such tract; and
 3. The installation or enhancement of off-site Improvements needed to adequately serve the Subdivision or Land Development, provided that the extent of required off-site Improvements shall be economically feasible in relation to the size and scope of the proposed Subdivision or Land Development.
- (E) Once a Subdivision or Land Development Application, whether for a Minor Subdivision or Major Subdivision and/or Land Development, is duly filed as provided in this Ordinance, the Applicant shall be entitled to a decision in accordance with the provisions of this Ordinance as they existed at the time the application was duly filed. However, if a Subdivision or Land Development Application is properly and finally denied, any subsequent re-application shall be subject to the provisions of the Ordinance in effect at the time of re-application.
- (F) Nothing in this Ordinance shall be deemed or construed to void, nullify, abrogate, modify, limit or otherwise adversely affect any right vested under applicable law at the time of enactment of this Ordinance, whether such right arose under a Subdivision or Land Development Plan or Plat, proffer, condition of annexation, or Development agreement proposed by a Person and accepted or approved by the City or any of its departments or commissions or any other source. This Ordinance is not intended to interfere with or abrogate or annul any more restrictive Easements, covenants, Building restrictions, or other agreements between parties relating to use or Development of land.
- (G) The terms of this Ordinance shall be applied to support the intent set forth in the Martinsburg Comprehensive Plan.
- (H) Exclusions. The sale or other transfer of one or more parcels or Lots from a Subdivision for which Plats or deeds were recorded with the Clerk of the Berkeley County Commission prior to the effective date of this Ordinance shall not constitute a Subdivision or Land Development, or otherwise be, subject to the requirements of this Ordinance, but only if



such previously recorded Plats or deeds are of sufficient survey accuracy to permit the clear conveyance of the subject Lots by direct Plat or deed reference without modification or addition; *provided that*, any resurvey or amended, modified, or corrective Plat shall be subject to the requirements of this Ordinance.

Section 1.06 Interpretation

- (A) In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of public health, safety, comfort, convenience, and general welfare of the City of Martinsburg and its citizens. Stricter requirements in any other applicable rule, regulation, statute, ordinance, or other law shall prevail.
- (B) The Planning Department and/or Planning Commission shall interpret the intent and effect of this Ordinance and may issue decisions regarding the same.
- (C) In the event of a conflict between or among the provision of this Ordinance, the Zoning Ordinance, and/ or any other Codified Ordinance of the City, the conflicting provisions shall be given precedence in the following order:
 - 1. The provisions of the Zoning Ordinance;
 - 2. The provisions of this Ordinance; and
 - 3. The provisions of the City's other Codified Ordinances with precedence among them given to the provision bearing the latest date of passage.

Section 1.07 Severability

Should a court of competent jurisdiction declare any article, section, subsection, or provision of this Ordinance invalid or unconstitutional, this decision shall not affect the validity or constitutionality of this Ordinance as a whole, or any part thereof, other than the particular part so declared to be invalid or unconstitutional.

Section 1.08 Zoning Ordinance – Compatibility and Incorporation of Provisions

- (A) Nothing contained in this Ordinance shall be deemed to relieve any Person from complying with the applicable provisions of the Zoning Ordinance. It is the expressed intent that the Martinsburg Subdivision and Land Development Ordinance and Zoning Ordinance be compatibly enforced and together foster the stated planning goals and objectives of the City.
- (B) Where any inconsistencies between the Martinsburg Subdivision and Land Development Ordinance and Zoning Ordinance may exist, the provisions of the Zoning Ordinance shall be deemed to control.
- (C) The various bulk and area regulations specified in Article 3 of the Zoning Ordinance are incorporated herein by reference as standards applicable to the Subdivision and Development of land located in the indicated Zoning Districts. The Setback requirements for certain specified Structures and riparian buffer Setbacks are set forth in the Supplemental Regulations contained in Article 5 Supplemental Regulations of the Zoning Ordinance.



- (D) The various provisions of the Supplemental Regulations in Article 5 of the Zoning Ordinance are incorporated herein by reference as standards applicable to the Subdivision and Development of land, to the extent said provisions contain such standards.

Section 1.09 Administration and Enforcement

- (A) The provisions of this Ordinance shall be administered by the Martinsburg Planning Department. The City Engineer/Planning Director or designee shall act on the Planning Commission’s behalf and carry out the duties listed in Subsection (C) of this Section.

- (B) All departments, officials, and public employees of the City of Martinsburg which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, Building or purpose if the same would be in conflict with the provisions of this Ordinance.

- (C) It shall be the duty and the power of the City Engineer/Planning Director or designee or designee to:

1. Receive and examine all applications and submissions related to any proposed Subdivision or Land Development, including, without limitation, Preliminary Plans, Final Plats (whether for Minor Subdivision or Major Subdivision and/or Land Development), Erosion and Sediment Control Plans, applications for Land Disturbance Permits, and As-Built Plans. All applications, Plans, and documents submitted shall be considered a public record provided that the City Engineer/Planning Director or designee may withhold sensitive information, such as the information of a complainant in a violation, as permitted by Chapter 29B of the West Virginia Code, Freedom of Information;
2. Issue permits only where there is compliance with the provisions of this Ordinance and with other City Ordinances;
3. Meet with applicants for Major Subdivision and/or Land Development to:
 - a. Discuss the proposed Major Subdivision and/or Land Development and the criteria for its classification as major, and
 - b. Understand, discuss, and attempt to resolve issues. The City Engineer/Planning Director or designee may make site inspections of properties when determined appropriate;
4. Approve or deny a Final Subdivision and/or Land Development Application for a properly classified Minor Subdivision;
5. Review Preliminary and Final Subdivision and/or Land Development Applications for Major Subdivision and/or Land Development for completeness and make recommendations to the Planning Commission regarding completeness;
6. Review Preliminary and Final Subdivision and/or Land Development Applications for Major Subdivision and/or Land Development, and conduct inspections and



surveys, to determine compliance with the requirements of this Ordinance, and make recommendations to the Planning Commission regarding compliance;

7. Receive applications for Waivers and promptly forward these applications to the Planning Commission;
8. Issue written stop, cease and desist orders and other written orders for correction of all conditions found to be in violation of provisions of this Ordinance. Such written orders shall be served by certified mail upon Owners or Persons deemed by the City Engineer/Planning Director or designee to be violating the requirements and standards of this Ordinance;
9. Institute in the name of the City, any appropriate action or proceeding seeking an injunction to restrain a Person from violating this Ordinance or directing a Person to remove a Structure erected in violation of this Ordinance;
10. Bring any matter to the Planning Commission for its action or information;
11. Upon the request of the Planning Commission, or the Board of Appeals, present to such body's facts, records, or reports which they may request to assist them in making decisions or assist them in any other way as requested; and
12. Create and maintain standardized forms for applications and other required documents.

References in this Ordinance to the "Planning Commission" with respect to performance of any of the tasks set forth in this Subsection (C), or reasonably contemplated in the performance of such tasks, shall be deemed to include reference to the City Engineer/Planning Director or designee.

(D) Violations, Penalties, Continuing Offenses.

Consistent with West Virginia Code §8A-10-2, a Person who violates any provision of this Ordinance, including without limitation failure to comply with any stop, cease, and desist or other order issued pursuant to this Ordinance, is guilty of a misdemeanor, and upon conviction, shall be fined for each offense not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). Each and every day during which such violation continues shall be deemed a separate offense. Work carried on in violation of the cancellation of any permit issued under this Ordinance shall also be deemed a violation punishable in the same manner. City Council is empowered to enforce this penalty, and it may do so on a case-by-case basis by directing the City Engineer/Planning Director or designee to act on its behalf.

(E) Injunctive Relief.

When any land is subdivided or developed in violation of this Ordinance, or any provision of this Ordinance is otherwise violated, the Planning Commission, Board of Appeals, or City Engineer/Planning Director or designee may institute action in the Circuit Court of Berkeley County for an injunction to restrain a Person from violating this Ordinance or directing a Person to remove a Structure erected in violation of this Ordinance.



(F) Procedures.

Whenever the City Engineer/Planning Director or designee becomes aware that any Person is in violation of any provision of this Ordinance, the City Engineer/Planning Director or designee shall provide to such Person a written stop, cease, and desist order specifying the violations and stating that, unless such Person:

1. Immediately ceases any actions identified as being in violation of this Ordinance,
2. Commences correction of all violations within five (5) days of the receipt of the order, and
3. Completes correction of all violations within thirty (30) days thereafter (or such extension of time as allowed by the City Engineer/Planning Director or designee or Planning Commission when correction of such violation is being pursued in good faith to the satisfaction of the City Engineer/Planning Director or designee or Planning Commission), each and every day during which such violation continues shall be deemed a separate offense punishable by the fine prescribed under Subsection (D) above.

(G) Other Relief.

In the case of any violation of this Ordinance, City Council may, in addition to other remedies institute injunction, mandamus, or other appropriate action or proceeding to prevent such violation, the occupancy of any Building, Structure, or land subdivided or developed in violation of this Ordinance, or any illegal act, conduct, business, or use in or about such premises. The rights and remedies provided in this Ordinance are cumulative and are in addition to all other remedies provided by law.

Section 1.10 Permits, Fees, and Inspections

(A) Permits. The following permits shall be required as specified below.

1. Land Disturbance Permits.

The Development of any land in the City, including the construction or alteration of any Building or Structure, is prohibited and shall not be commenced unless and until a Land Disturbance Permit is obtained from the City Engineer/Planning Director or designee, except as expressly exempted under Section 1.10(A)(1)(c).

a. Application. An Applicant for a Land Disturbance Permit shall submit to the City Engineer/Planning Director or designee an application consisting of the following items:

- (1) A completed application form for such permit, in the form prescribed by the City Engineer/Planning Director or designee, together with applicable fees;



- (2) The Final Plat for the subject Subdivision or Land Development, stamped and signed as approved by the Planning Commission, or a copy thereof;
 - (3) A Plan clearly showing the area to be disturbed and/or any Structures to be constructed or altered upon the subject land, unless such items are clearly shown on the Final Record Plat;
 - (4) If the proposed activities will involve the disturbance of at least one (1) acre or creation or replacement of 5,000 square feet of Impervious Area, an Erosion and Sediment Control Plan approved by the City Engineer/Planning Director or designee in accordance with the provisions of Section 5.02. Alternatively, the Applicant may submit an application for approval of the Erosion and Sediment Control Plan together with the application for the Land Disturbance Permit, in which case approval of the Erosion and Sediment Control Plan shall be a prerequisite for approval of the Land Disturbance Permit, and the application for approval of the Land Disturbance Permit shall not be deemed complete, and its review shall not commence, until the Erosion and Sediment Control Plan is duly approved;
 - (5) Any state and federal permits required under applicable law for the proposed activities upon the subject land and duly issued by the appropriate authority; and
 - (6) Any performance guarantee required pursuant to Article 5 hereof for the proposed activities upon the subject land.
- b. Review and Approval Process. The City Engineer/Planning Director or designee shall review each application for a Land Disturbance Permit to determine its conformance with the provisions of this Ordinance and other applicable law. Within thirty (30) days after receiving a complete application for a Land Disturbance Permit, the City Engineer/Planning Director or designee shall, in writing:
- (1) Issue the permit; or
 - (2) Issue the permit subject to such reasonable conditions necessary to substantially satisfy the requirements of this Section; or
 - (3) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application.
- c. Exemptions. No Land Disturbance Permit is required for the following activities:
- (1) Any emergency activity which is immediately necessary for the protection of life, property or natural resources.



- (2) Existing nursery and agricultural operations conducted as a principal Permitted Use or Accessory Use under the Zoning Ordinance.
 - (3) Any activity for which approval of a Final Subdivision and/or Land Development Application is not required under this Ordinance.
 - d. **Multiple Permits.** A Land Disturbance Permit will pertain to and authorize only the specific activities covered in the underlying application. One or more additional Land Disturbance Permits will be required for other activities. For example, if an initial Land Disturbance Permit for a residential Subdivision applies only to the construction and installation of Roads, water and sewer Improvements, and other infrastructure, additional permits may be required for the subsequent construction of residential Units.
 - e. **Building Permits.** Nothing herein shall be deemed to eliminate or modify the requirement for a Building permit under other applicable law.
 - f. **Revocation of Permit.** A Land Disturbance Permit may be revoked by the City Engineer/Planning Director or designee for failure to comply with the Land Disturbance Plan or requirements or conditions of the Land Disturbance Permit.
- (B) **Fees.** All Subdivision and Land Development Applications and other applications and submissions made under this Ordinance shall be accompanied by the prevailing fees.
- (C) **Inspections.** All Stormwater Management Facilities on land subject to a Land Disturbance Permit shall be inspected periodically by the City Engineer/Planning Director or designee during construction. Prior to the release of bonding, all Stormwater Management Facilities shall be as-built and inspected by the City Engineer/Planning Director or designee.

Section 1.11 Appeals; Waivers; Amendments

- (A) **Appeals.** Appeals from orders, requirements, decisions, or determinations made by the City Engineer/Planning Director or designee or Planning Commission under this Ordinance, or any rule or regulation adopted pursuant thereto, may be made to the Berkeley County Circuit Court.
- (B) **Waivers.**
- 1. The Planning Commission may grant a Waiver to the requirements of one or more of the provisions of this Ordinance only when the Commission finds that granting a Waiver will be consistent with all of the following criteria and the exception is the minimum necessary to afford relief:
 - a. That the design of the project will provide public benefit such as a reduction in City maintenance cost, greater Open Space, or benefits of a similar nature;



- b. The Waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of Adjacent Property Owners or residents;
 - c. That the Waiver, if granted, will be in keeping with the intent and purpose of this Ordinance; and
 - d. That the Waiver, if granted, will result in a project of better quality and/or character.
 - e. No process or procedural Waivers will be granted.
2. An application for a Waiver may be made by anyone with a financial interest in a property. The owner is responsible for providing all information and justification for the Waiver request.
 3. 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.
 4. 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.
 5. Waivers which are granted shall be noted upon the Final Plat.
- (C) Amendments. Pursuant to West Virginia Code §8A-4-5, all amendments to this Ordinance shall be made by City Council after holding a public hearing with public notice.



ARTICLE 2 DEFINITIONS

(A) Rules of Interpretation. The following rules apply to the interpretation of this Ordinance:

1. Words in the singular include the plural and those in the plural include the singular;
2. Words used in the present tense include the future tense;
3. The words “Person”, “Applicant”, “Developer”, and “Owner” include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual engaged in the Subdivision of land and/or Land Development;
4. The word “Building” includes Structure and shall be construed as if followed by the phrase “or part thereof”;
5. The word “Watercourse” includes channel, creek, ditch, dry run, spring, stream, Swale, and river;
6. The words “should” and “may” are permissive; the words “shall” and “will” are mandatory and directive;
7. The word “Lot” includes the words plot, tract and parcel; and
8. The word “used” or “occupied” as applied to any land or Building shall be construed to include the words “intended, arranged or designed to be used or occupied.”

(B) Defined Words and Terms. The following terms or words, when capitalized herein, shall be interpreted or defined as indicated:

ACCESS DRIVE – A paved way or drive, whether on the same parcel as the primary use served thereby or by Right-of-Way on another parcel, providing a place and access for vehicular movement between a Street or Alley and an off-street parking area/facility for any use of land other than a single residential Unit of occupancy or agricultural use (farm) or between a Street or Alley and one or more Driveways.

ADJACENT PROPERTY – Property that is contiguous with, or directly across a public Street or other Right-of-Way from, the boundaries of any side of the subject property.

ALLEY – A minor Right-of-Way, publicly or privately owned, primarily for service access to the back or side of properties and not intended for general traffic circulation.

ASTM – ASTM International, originally known as the American Society for Testing and Materials (ASTM).

BERM – An earthen mound designed to create a visual interest on a site, screen undesirable views, reduce noise or provide a buffer between a use and adjoining properties, Streets, and adjacent uses.



BLOCK – A surface land area which is separated and distinguished from other surface land areas by visible physical boundaries such as Streets, railroads, rivers, extremely steep land, or other physical barriers.

BUILDING – Any Structure on a Lot having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of Persons, animals, or chattels, and including covered porches or bay windows, and chimneys.

CARTWAY – That portion of a Street or Alley that is improved or intended for vehicular use excluding the shoulders.

CERTIFICATION – A signed statement appended to a Plan or other document whereby the signer represents that to the best of their knowledge and belief said Plan or document is true and correct and that the City may rely upon the accuracy thereof.

CITY – The City of Martinsburg, West Virginia.

CITY COUNCIL – City Council of the City of Martinsburg, West Virginia.

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 the Street center lines (see Figure 2-1).

CROSSWALK – A Right-of-Way, publicly or privately owned, intended to furnish access for pedestrians.

CUL-DE-SAC – A Street with access closed at one end and with a vehicular turn-around at the closed end. The length of a Cul-de-sac shall be measured from the centerline of the intersecting Street to the center of the turning circle.

CUT – An Excavation. The difference between a point on the original ground and designated point of lower elevation on the final grade. Also, the material removed in Excavation.

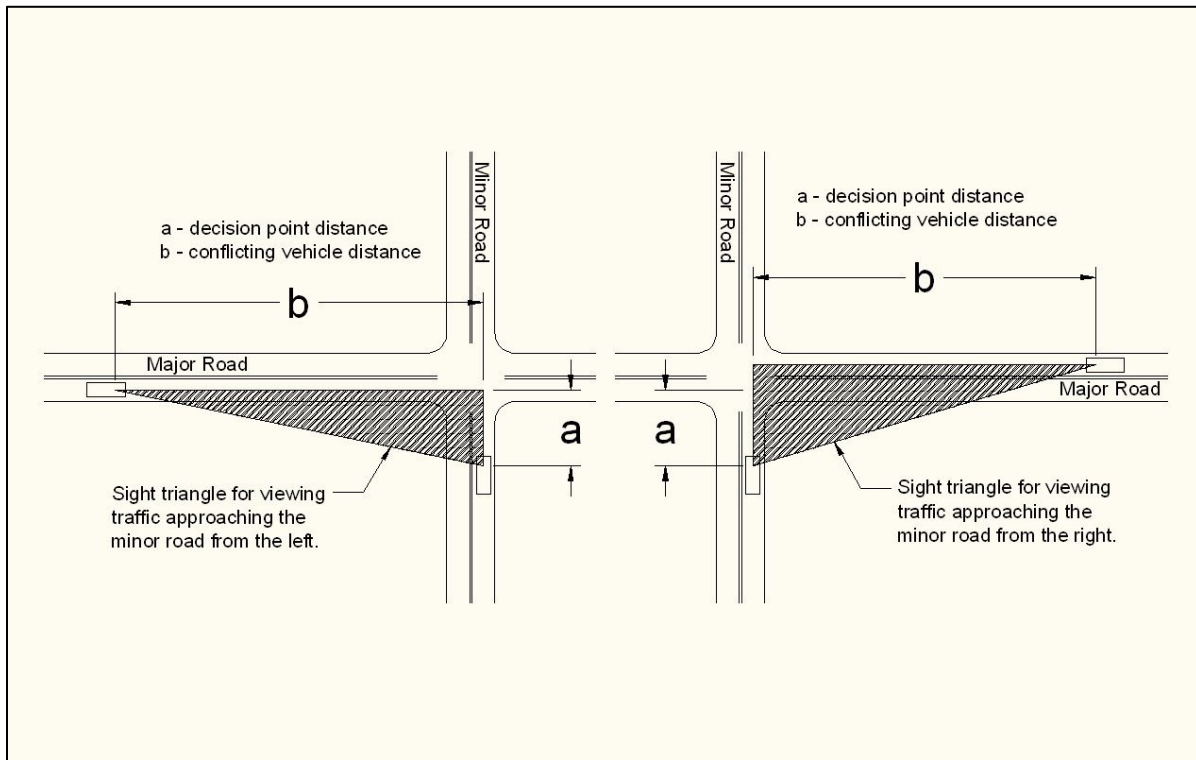
DEDICATION – The deliberate donation of land by its owner for any general and public, or limited public, use, reserving to the owner no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

DETENTION – The temporary storage of storm Runoff in a Stormwater Management practice with the goals of controlling Peak Discharge rates and providing gravity settling of pollutants.

DEVELOPER – The legal or beneficial owner or owners of a Lot or of any land included in a proposed Development, including the holder of an option or contract to purchase, or other Persons having enforceable proprietary interests in such land.

Figure 2-1, Clear Sight Triangle

Source: American Association of State Highway and Transportation Officials (AASHTO) "A Policy on Geometric Design of Highways and Streets"



DEVELOPMENT – The physical alteration or improvement of improved or unimproved land, and/or Structures thereon, by human activity or action, or any change or expansion in use of land that would require such alteration or improvement to comply with the requirements of this Ordinance (assuming for purposes of such analysis that the change or expansion of use is deemed a Development). Development includes, without limitation, the following activities:

1. Subdivision of land;
2. Construction or alteration of Structures, Buildings, Roads, utilities, and other facilities;
3. Installation of water, sewer (or septic), Stormwater Management, or other utility systems, facilities, or Improvements;
4. Grading, dredging, Filling, paving, or Excavation;
5. Deposit of refuse, debris, or Fill materials;
6. Clearing of natural vegetative cover (with the exception of agricultural activities);
7. A change or expansion in use of land that requires alteration or improvement of the land to comply with the requirements for landscape



creening, parking, Impervious Coverage, and other provisions of this Ordinance applicable to the changed or expanded use; and

8. Routine repair and maintenance of existing Improvements do not constitute Development.

DRAINAGE – The flow of water or liquid waste and the methods of directing such flow.

DRAINAGE EASEMENT – A legal right granted by a Landowner to a grantee allowing the use of private land for Stormwater Management purposes.

DRIVEWAY – A private travel way for Vehicles that provides access to a public Street or Road from a parking space, Garage, Dwelling, Structure or Use. Driveways shall be paved with asphalt or concrete.

EASEMENT – A right to use or control land owned by another (or an area above or below it) for a specified purpose.

ENGINEER, CITY – The duly authorized Engineer for the City of Martinsburg, West Virginia.

EROSION AND SEDIMENT CONTROL PLAN – A Plan that is designed to minimize Accelerated Erosion and Sediment Runoff at a site during construction activities.

EXCAVATION – Any act by which earth, sand, gravel, rock or any other similar material is dug into, Cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

FILL – Shall be defined as follows:

1. Any act by which earth, sand, gravel or rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the stripped surface and shall include the conditions resulting therefrom;
2. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade; and
3. The material used to make a Fill.

FINAL PLAN – The Plan and Plat submitted as part of a Final Subdivision and/or Land Development Application.

FINAL PLAT – The final version of the Plat submitted as part of a Final Subdivision and/or Land Development Application approved by the City Engineer/Planning Director or designee, which Plat has been stamped and signed by or on behalf of the Planning Commission and is to be recorded pursuant to Section 3.05.



FINAL SUBDIVISION AND/OR LAND DEVELOPMENT APPLICATION – The application for approval of a Final Plan & Plat for a Subdivision and/or Land Development, which application is prepared in accordance with, and contains the content specified in, Section 3.05.

FLOOD – A temporary inundation of normally dry land areas.

FLOODPLAIN – See definition of “Flood-Prone Area” below.

FLOOD-PRONE AREA – A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or Watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

FRONTAGE – Abutting Lot boundary line that abuts a Public Street, Road, or highway, or rural Right-of-Way.

IMPERVIOUS AREA – Any portion of a Lot covered by material impenetrable by precipitation, including but not limited to Buildings, Structures and paved areas.

IMPERVIOUS COVER – Any natural or Person-made material utilized to cover, pave or re-surface any portion or area of a Lot whether permeable or impermeable excepting only soil, plants or vegetative coverings. Impervious Cover shall include, among other materials, any form or mixture of concrete, stone, asphalt, tar, porous pavement, or other substance designed and intended to alter the natural state of the land.

IMPERVIOUS COVERAGE – That portion of any Lot, tract or property covered by an Impervious Surface.

IMPERVIOUS SURFACE – A surface covered with Impervious Cover that prevents the percolation of water into the ground.

IMPROVEMENTS – Those physical changes to the land necessary to produce usable and desirable Lots from raw acreage including but not limited to: grading, paving, curb, gutter, storm sewers and drains, Improvements to existing Watercourses, sidewalks, Crosswalks, Monuments, water supply facilities, and sewerage disposal facilities.

INTERSECTION – A crossing of two or more roadways at grade, a crossover, or any at-grade connection with a roadway such as a commercial entrance.

KARST – A type of geology that is formed over limestone, dolomite or gypsum by solution of the rock and is characterized by closed depressions or Sinkholes, caves and underground Drainage.

LAND DEVELOPMENT – The Development of one or more Lots, tracts, or parcels of land by any means and for any purpose; *provided that*, for purposes of this Ordinance, the following shall not be considered a Subdivision or Land Development:



1. Easements, Rights-Of-Way, or construction of private Roads for extraction, harvesting or transporting natural resources;
2. Remodeling projects involving no change in use, and rehabilitation or renovation of single-family residences;
3. Additions to an existing Structure requiring construction upon no more than 250 additional square feet of land and involving no change in use;
4. The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential Units, unless such Units are intended to be a condominium;
5. The addition of an accessory Building, including farm Buildings, on a Lot or Lots subordinate to an existing principal Building and involving no change in use; *provided that*, the added accessory Building contains no more than five hundred (500) square feet of floor area; and
6. The addition or conversion of Buildings or rides within the confines of an existing amusement park. For the purposes of this subclause, an amusement park is defined as a tract or area used principally as the location for permanent amusement Structures or rides. This exclusion shall not apply to land not previously used as an amusement park.

Also, a Land Development is, collectively, the various Lots, tracts, or parcels subject to Development.

LAND DISTURBANCE OR LAND DISTURBANCE ACTIVITY – A Person-made change to the land surface that potentially changes its Runoff Characteristics including any clearing, grading, or Excavation associated with a construction activity regulated pursuant to the Clean Water Act and this chapter.

LAND DISTURBANCE PERMIT – A permit issued by the City of Martinsburg for the clearing, filling, excavating, grading, transporting of land, or for any combination thereof or for any purpose set forth by this Ordinance.

LANDOWNER – The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if lessee is authorized under the lease to exercise the rights of the Landowner, or other Person having a proprietary interest in land.

LANDSCAPING – The planting of turf, trees, shrubs, and other appropriate vegetative materials and ground cover within the open areas of a Lot other than for agricultural purposes, and including the maintenance and replacement thereof, for the purposes of erosion control, retention of precipitation, protection against the elements and promotion of human comfort and welfare.

LICENSED LANDSCAPE ARCHITECT – Any Person who engages in the Practice of Architecture and is licensed by the West Virginia Board of Landscape Architects.



LOT – A designated parcel, tract, or area of land established or to be established by Plat or Subdivision or otherwise as permitted by law, or previously established as a record Lot.

LOW IMPACT DESIGN (LID) – A Stormwater Management method that is modeled after nature. LID treats Stormwater close to where it falls, which makes LID designs unique to each site.

MAINTENANCE AGREEMENT – A legally recorded document that acts as a binding restriction and/or covenant upon the subject property, and which provides for long-term maintenance of Stormwater Management Facilities, Private Streets, or other Improvements.

MAJOR LAND DEVELOPMENT – A Preliminary Plan and Plat Approval is required for the submission of a Building or multiple Buildings on one lot where there is no Subdivision of land.

MAJOR SUBDIVISION AND LAND DEVELOPMENT – A Preliminary Plan and Plat Approval and a Final Plan and Plat Approval is required for the submission of a Building or multiple Buildings that will require the merger, adjustment or Subdivision of land.

MAJOR SUBDIVISION DEVELOPMENT – A Preliminary Plan and Plat Approval and a Final Plan and Plat Approval is required.

MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) – The MUTCD is published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart (F).

MANUFACTURED HOME – A Structure, built to the Manufactured Home Construction and Safety Standards (HUD Code) in the controlled environment of a manufacturing plant on a permanent chassis, and transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) both feet or more in length, or, when erected on site, is three hundred twenty (320) square feet or more, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems contained therein. *Note: HUD was given exclusive jurisdiction over design and construction of Manufactured Homes by legislation enacted by Congress in 1974, and effective in June of 1976. There is no difference other than a clause in the 1974 Federal Legislation that gave HUD jurisdiction over Manufactured homes. It mandated that what was formerly called a Mobile Home must forevermore be referred to as a Manufactured Home.*

METES AND BOUNDS – A description where the land or the associated effects on the land have been measured by starting at a known point and describing, in sequence, the lines by direction and distance forming the boundaries of the land or a defined area relative to the physical land features, associated effects or structural Improvements on the land.



MINOR SUBDIVISION– Does not require a Preliminary Plan and Plat Approval, only a Final Plan and Plat Approval. Also known as a Final Record *Plat*.

MANUFACTURED HOME PARK – A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more Manufactured Home Spaces for the placement thereon of Manufactured Homes.

MOBILE HOME – See MANUFACTURED HOME.

MONUMENTS – Markers placed on or in the land.

OPEN SPACE – A parcel or parcels of land or an area of water, or a combination of land and water within a Development site and designed and intended for the use or enjoyment of residents of the Development, not including buffer areas, Streets, sidewalks, Stormwater Detention ponds, off-street parking areas, and areas set aside for public facilities.

PERFORMANCE AGREEMENT – An agreement between the Planning Commission and an owner/Developer that specifies the Improvements required to be constructed in accordance with Article 5 of this Ordinance by the owner/Developer, the manner of construction of such Improvements, and the required date of completion.

PERSON – Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political Subdivision of the State of West Virginia, any interstate body or any other legal entity.

PLAN – A written description of a Subdivision or Land Development.

PLAT – A map of a Subdivision or Land Development.

PRACTICE OF GEOLOGY – The performance of any service or work for the general public wherein the principles and methods of geology are applied.

PRACTICE OF LANDSCAPE ARCHITECTURE – The performance of professional services, including but not limited to, analysis, consultations, evaluations, research, planning, design, management or responsible supervision of projects principally directed at the functional, aesthetic use, preservation and stewardship of the land and natural and built environments.

PRACTICE OF SURVEYING – Providing professional surveying services, including consulting, investigating, expert testimony, evaluating, planning, mapping and surveying, and as further defined in West Virginia Code §30-13A.

PRELIMINARY PLAN & PLAT – The Plan and Plat submitted as part of a Preliminary Subdivision Land Development Application.

PRELIMINARY SUBDIVISION LAND DEVELOPMENT APPLICATION – The application for approval of a Preliminary Plan & Plat for a Subdivision or Land Development, which application is prepared in accordance with, and contains the content specified in, Section 3.04.



PROFESSIONAL ENGINEER, – A person who has been duly registered or licensed as a Professional Engineer by the West Virginia State Board of Registration for Professional Engineers. The board may designate a Professional Engineer, on the basis of education, experience and examination, as being licensed in a specific discipline or branch of engineering signifying the area in which the Engineer has demonstrated competence.

PROFESSIONAL GEOLOGIST – A person who is certified in the Practice of Geology and by the West Virginia Board for Professional Geologists.

PROFESSIONAL LAND SURVEYOR – A person licensed by the West Virginia Board of Professional Surveyors to engage in the Practice of Surveying.

PROPERTY OWNER – A person or persons having an ownership interest in real property located within the geographic boundaries of Berkeley County, West Virginia.

RECREATION, ACTIVE – Leisure time activities, usually of a more formal nature and performed with other individuals, often requiring equipment and taking place at prescribed places, site or fields. Such areas usually require physical alteration to the area before they can occur and are intensively used, such as playgrounds, ball courts, and swimming pools.

RECREATION, PASSIVE – Leisure time activities, usually of an informal nature and which can be carried out with little alteration or disruption to the area in which they occur, such as hiking and picnicking.

RIGHT-OF-WAY – A public thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a Street, highway, thoroughfare, parkway, Road, avenue, boulevard, lane, Alley, or however designated.

ROAD – A Street, avenue, boulevard, Road, highway, freeway, parkway, lane, Alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrian whether public or private.

RUNOFF (OR STORMWATER RUNOFF) – That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

RUNOFF CHARACTERISTICS – The surface components on any water shed which either individually or in any combination thereof, directly affect the rate, amount and direction of Stormwater Runoff. These may include, but are not limited to: vegetation, soils, Slopes and any type of person-made landscape alterations.

SCREENING – The use of plant or Landscaping materials, fencing, walls and/or earthen Berms to aid in the concealment of such features as parking areas and vehicles within them or open storage areas, and to provide privacy between two or more different land uses which abut one another.

SEDIMENT CONTROL – Related to the prevention of eroded sediment from leaving the site.



SETBACK – The minimum horizontal distance required between the Building Restriction Line and the related front, side or rear property line, unless otherwise allowed by the Zoning Ordinance. In cases where the property line is located within a Street, Alley, or other Right-of-Way for vehicle access (e.g., for older parcels in Martinsburg where the property line is the center line of the Street), the required Setback shall be measured from the face of the curb if a curb exists, or otherwise from the edge of Street pavement, whichever applies.

SIGHT DISTANCE – The length of roadway visible to the driver of a passenger vehicle at a given point on the roadway when the view is unobstructed by traffic.

SINKHOLE – Any natural depression formed as a result of subsurface removal of soil or rock materials and causing the formation of a collapse feature that exhibits internal Drainage. The existence of a Sinkhole shall be indicated by the uppermost closed depression contour lines on the United States Geological Survey (7.5 minute quadrangle topographic maps or as determined by field investigations.

SLOPE – The face of an embankment or Cut section; any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per one hundred (100) feet of horizontal distance.

STORMWATER – Runoff from the surface of the land resulting from precipitation or snow or ice melt.

STORMWATER MANAGEMENT – The use of structural or non-structural practices that are designed to reduce Stormwater Runoff pollutant loads, discharge volumes, and/or Peak Discharge rates.

STORMWATER MANAGEMENT PLAN – A Plan or design for controlling Stormwater in order to reduce or minimize the risk and degree of erosion and Flooding and/or other adverse effects of Stormwater from Impervious Areas, as required by Section 4.01 of this Ordinance.

STORMWATER RUNOFF – See RUNOFF

STREET – A Street, avenue, boulevard, Road, highway, freeway, parkway, lane, Alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. See Section 4.02(C) for types of Streets.

STREET, HALF – A Street or Right-of-Way that only partially meets width requirements. Also referred to as a partial Street. Half Streets are prohibited unless authorized by the City Council pursuant to Section 4.02(N) of this Ordinance.

STREET LINE OR STREET RIGHT-OF-WAY LINE – The dividing line between a Lot and a STREET.



STREET, PRIVATE – A strip of land, including the entire Right-of-Way, intended for use as a means of vehicular and pedestrian circulation, but not intended to be dedicated for public use.

STREET, PUBLIC – A strip of land, including the entire Right-of-Way, intended to be dedicated for use as a means of vehicular and pedestrian circulation by the public at large.

STRUCTURE – Any person-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

SUBDIVISION – The division of a Lot, tract or parcel of land by any means into two (2) or more Lots, tracts, parcels or other divisions of land, or the merger, consolidation, or other recombination of Lots, tracts, or parcels of land, including any further division of such merged or consolidated Lots, tracts, or parcels. Also, collectively, the various Lots, tracts, or parcels resulting from the Subdivision of land.

SUBDIVISION AND/OR LAND DEVELOPMENT APPLICATION – A Preliminary or Final Subdivision Land Development Application.

SUBDIVISION LAND DEVELOPMENT, MAJOR – See definition of Major Subdivision Development, Major Land Development, Major Subdivision and Land Development, and Section 3.02(A)3.

SUBDIVISION, MINOR – See definition of Minor Subdivision and Section 3.02(A)2.

SURVEYOR – A person licensed to practice surveying under the provisions of West Virginia Code, Article 13A, Land Surveyors. Surveyor shall also be referred to herein as “Professional Land Surveyor” or “Land Surveyor.”

SWALE – A low-lying stretch of land characterized as a depression used to carry surface water Runoff.

UNIT – A part of a property, Structure, or Building designed or intended for any type of independent use, which has direct exit to a Public Street or way, or to a common element or common elements leading to a Public Street or way or to an Easement or Right-of-Way leading to a Public Street or way, and includes a proportionate undivided interest in the common elements, which is assigned to the property, Structure or Buildings.

WAIVER – Adjustments that may be made to the requirements of this Ordinance to unusual site conditions in order to achieve a better design. Waivers may not be used to circumvent the process requirements of this Ordinance.

WALKWAY – A landscaped pathway provided for pedestrian use through parking Lots.

WATERCOURSE – Any channel of conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.



WATERSHED – The entire region or area drained by a river or other body of water whether natural or artificial.

WATERWAY – A channel that directs surface runoff to a Watercourse, or to the public storm drain.

WETLAND – Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

ZONING ORDINANCE – The Martinsburg Zoning Ordinance, Part 13, Chapter 3, Articles 1 – 6, of the Martinsburg Code.



ARTICLE 3 SUBDIVISION AND LAND DEVELOPMENT APPLICATION & APPROVAL REQUIREMENTS

Section 3.01 Terminology and Processing Alternatives

- (A) Terminology and Processing Alternatives of Subdivision or Land Development covers the following circumstances:
1. The term Subdivision or Land Development can either be a combined process or a single step process as described in Section 3.01(A)(3)(a) and (3)(c).
 2. Minor Subdivision.
 - a. Does not require a Preliminary Plan and Plat Approval, only a Final Plat Approval.
 3. Major Subdivision or Land Development.
 - a. Major Subdivision. Preliminary Plan Approval and a Final Plat Approval is required. Phasing is permitted in this scenario. A Sketch Plan is optional.
 - b. Land Development. A Preliminary Plan Approval is required for the submission of a Building or multiple Buildings on one Lot where there is no Subdivision of land. A Sketch Plan is optional.
 - c. Major Subdivision and Land Development. A Preliminary Plan and Plat Approval and a Final Plan and Plat Approval is required for the submission of a Building or multiple Buildings and will require the merger, adjustment or Subdivision of land. A Sketch Plan is optional.

Section 3.02 Applicability

- (A) Minor Subdivision and Major Subdivision and/or Land Development. The procedures set forth in this article apply to Minor Subdivision and Major Subdivision and/or Land Development, which are defined as follows:
1. Minor Subdivision. A Minor Subdivision is a Subdivision that will not require the Development or extension of off-tract infrastructure or Improvements, municipal or other local governmental facilities or Improvements, or Public Streets or Roads. Only the following shall be considered Minor Subdivision:
 - a. Division of one parcel into a maximum of four (4) parcels. The division of one (1) existing parcel into a maximum of four (4) proposed parcels including the remaining parent tract if, and only if, the new parcels and the residue parent tract will each:
 - (1) Adjoin an existing Public Street or Road, and



- (2) Satisfy the minimum Lot size requirements for the Zoning District in which the land is located.
- b. Only three (3) new parcels plus the residue parent tract may be created from a parent tract existing as of the effective date of this Ordinance pursuant to a Minor Subdivision. Any further Subdivision or Development of the new parcel or the residue parent tract will not be a Minor Subdivision and must be processed under the Major Subdivision provisions of this Ordinance. Such division shall meet the standards of Section 3.03(C).
- c. Minor Boundary Line Adjustments. Minor boundary line adjustments, including transfer of parcels of land to achieve a boundary line settlement, where no new parcels are created.
- d. Merger. Merger or consolidation of the entirety of two or more contiguous parcels of land owned by the same Person. Once merged or consolidated, the new tract shall be a single parcel and any further Subdivision or Development of that tract must comply with this Ordinance.
- e. Residential Construction. The construction, erection, installation or placement of one (1) single-family residence on a single parcel or Lot; provided that, such activity shall not be considered a Land Development subject to this Ordinance (excepting only the requirements herein for a Land Disturbance Permit) if the subject Lot was specifically identified as a separate identical Lot on a Final Plat approved as part of a previously approved Final Subdivision and/or Land Development Application for a Subdivision containing said Lot.
- f. Testamentary Transfers. Division of land among devisees by will or heirs by intestacy if, and only if, each resulting parcel will satisfy the minimum Lot size requirements for the Zoning District in which the land is located.
- g. Judicial Partition. Division of land pursuant to court order if, and only if, each resulting parcel will satisfy the minimum Lot size requirements for the Zoning District in which the land is located.
- h. Re-Surveys. Surveys of existing Lots that do not alter boundary lines (although the Metes and Bounds descriptions of such lines may vary insignificantly from prior descriptions of such lines) or reflect a Subdivision and/or Land Development in any manner.
- i. Utility Lots. Utility Lots or areas created for the purpose of facilitation, metering or transmission of a legal utility such as water, sewer, electric, gas, power, telephone, or rail transportation. The deed and Plat (including the Final Record Plat) shall contain the following statement:

“THE SUBJECT PROPERTY IS DEEMED A “UTILITY LOT” AND, AS SUCH, CLASSIFIED AS A MINOR SUBDIVISION UNDER THE MARTINSBURG SUBDIVISION AND LAND DEVELOPMENT ORDINANCE THE SUBJECT PROPERTY SHALL NOT BE USED FOR ANY USE OTHER THAN THE



LEGAL UTILITY FOR WHICH THE LOT WAS DESIGNED. IF THE SUBJECT PROPERTY IS TRANSFERRED OR USED FOR ANY OTHER USE, THE PRIOR MINOR SUBDIVISION SHALL BE VOID AND DEEMED NOT TO HAVE OCCURRED AND THE TRANSFER OR CHANGE IN USE SHALL BE DEEMED TO CONSTITUTE THE SUBDIVISION OF THE PROPERTY, WHICH MUST COMPLY WITH ALL PROVISIONS OF SAID ORDINANCE”

- j. Notwithstanding the foregoing, if any of the following conditions apply, the subject Subdivision will not be considered a Minor Subdivision:
- (1) The Subdivision would create a Lot that is in more than one Zoning District;
 - (2) The proposed Subdivision is a Planned Unit Development; or
 - (3) If the Final Record Plat of the subject Subdivision could impact an approved special requirement or condition of the property established at an earlier date.

2. Major Subdivision and/or Land Development. A Major Subdivision and/or Land Development is any Subdivision and/or Land Development that does not meet the criteria specified in this Ordinance for classification as a Minor Subdivision.

(B) Review Fees.

1. Review fees for the reasonable and necessary charges for a Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor retained by the City as necessary to review and report on a Subdivision or Land Development Application for a Major Subdivision and/or Land Development shall be paid by the Applicant. Such review fees shall be established by resolution of the City Council and shall be reasonable and not more than the total rate of compensation paid by the City to the respective Professional Consultants. The City, in its discretion, may require the Applicant to establish an interest-bearing escrow account with the City to pay review fees or bill the Applicant on a monthly basis for the review fees.
2. If the City elects to require the Applicant to establish an interest-bearing account, an initial amount to be deposited in the escrow account shall be determined by the City based upon an estimate by the City's Professional Consultants. If necessary, to cover the cost of review fees, the Applicant shall deposit additional funds in the escrow account upon request by the City. Once all review fees have been paid, any funds remaining in the escrow account shall be refunded to the Applicant.
3. If the City elects to bill the Applicant for review fees, the City shall provide bills to the Applicant for review fees, as referenced above, on a monthly basis. The bills for review fees shall be due and payable within thirty (30) days of the date of the bill.



4. The Planning Commission shall require, as a condition of Subdivision and/or Land Development Application approval, that the Applicant provide payment to the City for any outstanding review fees. In the event that an Applicant fails to provide payment to the City for review fees in accordance with the bills for review fees, then:
 - a. The City shall not authorize the continued review of the Subdivision and/or Land Development Application for the subject Minor Subdivision or Major Subdivision and/or Land Development by the Professional Consultants; and/or
 - b. The Planning Commission shall act to deny the Subdivision and/or Land Development Application for the subject Minor Subdivision or Major Subdivision and/or Land Development.

5. Subsequent to a decision on the Subdivision and/or Land Development Application for the subject Minor Subdivision or Major Subdivision and/or Land Development, the Finance Department shall submit to the Applicant an itemized bill or notice for review fees, specifically designated as a final bill or notice. The final bill or notice shall include all review fees incurred at least through the date of the decision on the application. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of the approval, the review fees shall be charged to the Applicant as a supplement to the final bill or notice, and shall be subject to the same payment schedule as established in Subsection (B)(3) above.

Section 3.03 Subdivision and/or Land Development Application Submission and Review Procedures

(A) General. Table 3.01 indicates the required procedures for Minor Subdivision and Major Subdivision and/or Land Development.

Table 3.01, Application and Review Procedures

Minor Subdivisions			Major Subdivisions and Land Developments		
Stage	Requirements	Public Hearing	Stage	Requirements	Public Hearing
Pre-submission Consultation Meeting	Not Required	Not Required	Pre-submission Consultation Meeting	Recommended	Not Required
Preliminary Plan and Plat Approval	Not Required	Not Required	Preliminary Plan and Plat Approval	Required	Required
Final Plan and Plat Approval	Required	Not Required	Final Plan and Plat Approval	Required	Required
Guarantee of Surety	Not Required	Not Required	Guarantee of Surety	Required	Not Required



(B) Minor Subdivision.

1. Pre-submission Consultation Meeting.

The Applicant may arrange for a pre-submission consultation meeting with the City Engineer/Planning Director or designee to discuss the general concept, use, and design of the proposed Minor Subdivision. While a Sketch Plan is not required for the pre-submission consultation meeting, enough detail shall be provided to depict the proposed Minor Subdivision.

2. Application Submission and Classification.

a. The Applicant shall submit to the City Engineer/Planning Director or designee

(1) A Final Subdivision Application containing the items set forth in Section 3.05; and

(2) The required fees.

b. The City Engineer/Planning Director or designee may meet with the Applicant to discuss the proposed Subdivision and the criteria proposed for its classification as a Minor Subdivision.

c. Within ten (10) days of receipt of the Final Subdivision Application, the City Engineer/Planning Director or designee shall notify the Applicant in writing whether the proposed Subdivision has been classified as a Minor Subdivision. If the proposed Subdivision is not classified as a Minor Subdivision, the Applicant may only proceed under the Major Subdivision process.

d. When time permits and prior to the expiration of the ten (10) day period following receipt of the Final Subdivision Application, the City Engineer/Planning Director or designee may notify the Applicant of factors that make the proposed Subdivision unlikely to be classified as a Minor Subdivision. In such a case, the Applicant may, prior to the expiration of such ten (10) day period: (a) notify the City Engineer/Planning Director or designee in writing that the Applicant intends to submit a revised Final Subdivision Application, which notice will serve as the Applicant's request to extend the ten (10) day period until ten (10) days after submission of the revised application; or (b) elect to continue with processing of the application originally submitted. Failure to give timely notice of intent to submit a revised application will be deemed an election to proceed with processing of the original application.

3. Approval Process.

a. Generally, the City Engineer/Planning Director or designee has full authority to approve Minor Subdivision without Planning Commission review; however, the City Engineer/Planning Director or designee may, when the City Engineer/Planning Director or designee deems it



appropriate, submit a Final Subdivision Application to the Planning Commission for its review. In such cases, the Planning Commission may take action on the application, with or without public hearing as it deems appropriate.

- b. Any revisions made to a Final Subdivision Application subsequent to its initial submittal shall contain a transmittal letter listing the revisions and the agency to which the revisions pertain. The revisions will be used by the City Engineer/Planning Director or designee (or Planning Commission as may be required) when considering the application.
- c. Within fifteen (15) days after classification of the proposed Subdivision as a Minor Subdivision, the City Engineer/Planning Director or designee shall approve or deny the Final Subdivision Application and duly notify the Applicant in writing of the decision. A Final Subdivision Application will be approved if it is complete and satisfies all applicable requirements of this Ordinance.
 - (1) Approval. If the City Engineer/Planning Director or designee approves the Final Subdivision Application, then the final version of the Plat submitted as part of the Final Subdivision Application is approved and shall be signed on behalf of the Planning Commission by the City Engineer/Planning Director or designee. Once so signed, such Plat will be the Final Record Plat.
 - (2) Denial. If the City Engineer/Planning Director or designee denies the Final Subdivision Application, then the City Engineer/Planning Director or designee shall notify the Applicant in writing of the reasons for denial.
 - (a) The Applicant shall then have the period of time specified in the statement of conditions to satisfy the conditions. If the Applicant timely satisfies all conditions, then the final version of the Plat submitted as part of the Final Subdivision is deemed approved and shall be stamped and signed on behalf of the Planning Commission by the City Engineer/Planning Director or designee.
 - (b) If all the conditions are not satisfied within the specified period or any extensions thereof granted by the City Engineer/Planning Director or designee, the Final Subdivision and/or Land Development Application shall be considered denied and a new application shall be required for further consideration.
 - (c) The Applicant may request a reevaluation of the denied Final Subdivision Application if a written request to do so is filed with the Planning Commission within ten (10) days from receiving the City Engineer/Planning Director or designee's written decision of denial.



- (3) Application Review Divergence. If there is a discrepancy between Staff and the Applicant regarding the required standards a written request by either the Staff or the Applicant to be on the next available agenda for the Planning Commission shall be permitted. Specific differences shall be clearly described so that the Planning Commission can make an informed decision.

- d. Recording of the Final Record Plat. Within one hundred twenty (120) days after approval of the Final Subdivision Application for a Minor Subdivision and satisfaction of all conditions of its approval, the Final Record Plat shall be recorded by the Applicant in the Office of the Clerk of Berkeley County. The Applicant shall promptly notify the City Engineer/Planning Director or designee of such recording and provide the relevant recording information. Subdivision or Development of the subject land shall not be commenced until the Final Record Plat is duly recorded.

- (C) Major Subdivision and/or Land Development.
 - 1. Pre-submission Consultation Meeting. The Applicant may arrange for a pre-submission consultation with the City Engineer/Planning Director or designee and staff to discuss the general concept, use, and design of the proposed Major Subdivision and/or Land Development. While a Sketch Plan is not required for the pre-submission consultation meeting, enough detail shall be provided to depict the proposed Major Subdivision and/or Land Development. This meeting is an opportunity for the Applicant to explain to the City Engineer/Planning Director or designee the proposed concept and for the City Engineer/Planning Director or designee to inform the Applicant of the process and general Zoning Ordinance and Subdivision Ordinance requirements. There is no binding action. A Pre-submission Consultation Meeting is an informal meeting with no binding agreements.

 - 2. Preliminary Plan and Plat Submission.
 - a. The Preliminary Plan and Plat is a site Plan, including supporting data, indicating a proposed site layout design or Subdivision design, prepared by, as necessary, a Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor.

 - b. Application Submission and Review for Completeness.
 - (1) The Applicant shall submit to the City Engineer/Planning Director or designee a Subdivision Application in accordance with the processing alternatives found in Section 3.01(A)(3)(a) and (3)(c) and listed below:
 - (a) Major Subdivision Development. Preliminary Subdivision and/or Land Development Application containing the items set forth in Section 3.04.

 - (b) Land Development. Preliminary Land Development Application containing the items set forth in Section 3.04.



- (c) Major Subdivision and Land Development. Preliminary Subdivision and Land Development Application containing the items set forth in Section 3.04.
 - (2) Required Fees. No Preliminary Plan and Plat Application shall not be reviewed until all related fees and costs are paid in full.
 - c. A complete application shall be submitted to the City Planning Department. By complete, all the necessary information required from Section 3.04. Any application that does not have the minimum required information from Section 3.04 will be considered an incomplete application, returned and unreviewed for content of the application.

Within forty-five (45) days after receipt of a complete Preliminary Plan and Plat Application, the City Engineer/Planning Director or designee shall review the Preliminary Plan and Plat Application for completeness and determine whether the subject Preliminary Plan Application is complete, in which case the application is accepted for further review, or whether it is incomplete and denied.

- (1) Complete. A Preliminary Plan and Plat Application submitted to the City that meets the requirements set forth in this Ordinance and is not deficient of any information required by this Ordinance shall be deemed complete. Upon a determination that a Preliminary Plan Application is complete, the City Engineer/Planning Director or designee shall duly notify the Applicant in writing that the Preliminary Plan and Plat Application has been accepted as complete and that it is being acted upon pursuant to Section 3.03(C)2.d Hearing and Approval Process. (Note: No Preliminary Plan and Plat Application shall be deemed complete until all related fees and costs are paid in full).
 - (2) Incomplete. A Preliminary Plan and Plat Application submitted to the City that does not meet all the requirements set forth in this Ordinance or otherwise is deficient of any information required by this Ordinance shall be deemed incomplete. Upon a determination that a Preliminary Plan and Plat Application is incomplete, the City Engineer/Planning Director or designee shall notify the Applicant in writing that the application has been denied and the reasons for denial shall be duly noted. Any such denial shall not prevent the Applicant from re-submitting a complete Preliminary Plan Application for the same project.
 - d. Hearing and Approval Process.
 - (1) The Planning Commission must set a date, time and place for a public hearing and a meeting to follow the public hearing to vote on the subject application. The public hearing must be held within forty-five (45) days of the Preliminary Plan Application determination to be complete, and the Planning Commission must



- notify the Applicant of the public hearing and meeting in writing unless notice is waived in writing by the Applicant.
- (2) The Planning Commission must publish a public notice of the public hearing and meeting in a local newspaper of general circulation in the City of Martinsburg at least twenty-one (21) calendar days prior to the scheduled public hearing, a notice posted on the property by planning staff, and letters sent to the Adjacent Property Owners.
- e. The review of the Preliminary Plan and Plat Application at the Public Hearing shall consider the following:
- (1) The Planning Commission shall conduct a Public Hearing on the Preliminary Plan and Plat Application for the proposed Development. At the Public Hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, the public input given at the Public Hearing and the Planning Commission's input.
 - (2) After the close of the Public Hearing, the Planning Commission may discuss and recommend to the Applicant information presented during the hearing, including any Planning Commission input, any possible changes to the Preliminary Plan and Plat Application. The Applicant may agree to any proposed changes presented or alternatives presented. Any changes the Applicant has agreed to, shall become part of the record and will be required on the Preliminary Plan and Plat and/or Final Plan and Plat.
- f. At a meeting at the conclusion of the public hearing or, in the Planning Commission's discretion, a meeting held within fourteen (14) days of the public hearing, the Planning Commission shall take one of the following actions with respect to the subject Preliminary Plan Application and the City Engineer/Planning Director or designee shall duly notify the Applicant in writing of the Planning Commission's decision:
- (1) Approval without Changes to the Preliminary Plan and Plat Application. Approve the subject Preliminary Plan and Plat Application, without any changes/offers provided by the Applicant. The act of approval by the Planning Commission is acknowledgement by the Commission that the Applicant is in general compliance with the requirements of this Ordinance and the Zoning Ordinance.
 - (2) Table. Table for up to forty-five (45) calendar days for additional information the Planning Commission determines necessary to its determination whether to approve or deny the subject Preliminary Plan and Plat Application; or



- (3) Denial. Deny the subject Preliminary Plan and Plat Application, in which case the City Engineer/Planning Director or designee shall notify the Applicant in writing of the reasons for denial.
 - (a) If the subject Preliminary Plan and Plat Application is denied, the Applicant may request, one time, reconsideration of the decision if a written request to do so is filed with the Planning Commission within ten (10) business days from receiving the Planning Commission's written decision of denial.
 - (b) A resubmission of a denied application after the initial ten (10) business day period shall be deemed a new Subdivision and/or Land Development Application submission and the required review fees shall apply.
- g. Vested Property Rights. The right to undertake and complete a Subdivision or Land Development is established as a vested property right when the subject Preliminary Plan and Plat Application is approved by the Planning Commission. The right is only applicable under the terms and conditions of the approved Preliminary Plan and Plat Application. Failure to abide by the terms and conditions of the approved Preliminary Plan and Plat Application will result in forfeiture of the right. The vesting period for an approved Subdivision and/or Land Development Application is five (5) years from the time said Preliminary Plan and Plat Application was approved by the Planning Commission. An approved Preliminary Subdivision and/or Land Development Application shall become null and void and of no effect if a Final Subdivision and/or Land Development Application, or for non-residential projects, no Guarantee of Improvements and commencement of construction of Buildings, for the same Subdivision or Land Development is not submitted within five (5) years of approval of the Preliminary Subdivision and/or Land Development Application.
- h. Effect of Preliminary Subdivision and/or Land Development Application Approval. Notwithstanding the provisions of Section 1.05(B), upon approval of a Preliminary Subdivision and/or Land Development Application, the Planning Commission may in its discretion authorize the Applicant to make site Improvements (for example, clearing or grading for Lots and Roads), but only to the extent:
 - (1) The Improvements are expressly specified as authorized by the City Engineer/Planning Director or designee;
 - (2) The specified Improvements will conform with the approved Preliminary Subdivision and/or Land Development Application;
 - (3) The Applicant obtains a Land Disturbance Permit for the Improvements as required under Section 1.10(A)(1); and
 - (4) The Applicant has furnished any performance Guarantee of Improvements as required under Article 5 of this Ordinance.



- i. *Phased Final Plan and Plat Approval.* An Applicant may apply for Final Plan and Plat approval in phases by submission, from time to time, of multiple Final Subdivision Land Development Applications, each of which pertains to only a portion of the land subject to an approved Preliminary Subdivision and/or Land Development Application. Each phase will require approval of the Planning Commission and, if applicable, Guarantee of Improvements as outlined in Article 5.
 - j. *Zoning Ordinance Compliance.* Notwithstanding anything to the contrary herein, no Subdivision and/or Land Development Application shall be approved unless and until the City Engineer/Planning Director or designee or designee has confirmed in writing that the proposed Subdivision and/or Land Development, and any changes created by the same, will conform with the applicable requirements and regulations of the Zoning Ordinance.
 - (1) Pursuant to the Zoning Ordinance, parcels in the Annexation Reserve (AR) Zoning District may not be subdivided or further developed. Such parcels must be rezoned to another Zoning District prior to Subdivision or Development.
 - k. *Guarantee of Improvements.* See Article 5, Guarantee of Improvements.
 - l. *Signing of Preliminary Plat and Plan.* The Preliminary Plat and Plan shall be signed by the President of the Planning Commission, Property Owner and Engineer and/or Surveyor.
 - m. *Preliminary Plan and Plat Creating Lots.* Preliminary approval shall not constitute approval of the Final Plan and 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 Plan and Plat as a guide to the preparation of the Final Plan and Plat which will be submitted for approval and for recording upon fulfillment of the requirements of these regulations and the conditions of the preliminary approval, if any.
3. *Final Plat Submission.*
- a. The Final Plat is a Final Record Plat, including supporting data, indicating a proposed site layout design or Subdivision design, is to be recorded in the Office of the Clerk of the Berkeley County Commission and prepared by, as necessary, a Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor.
 - b. *Application Submission.*
 - (1) The Applicant shall submit to the City Engineer/Planning Director or designee:



- (a) A Final Plat Application in accordance with the processing alternatives found in Section 3.01(A)(3)(a)(3)(c), and listed below:
 - i. Major Subdivision Development. Preliminary Subdivision Application containing the items set forth in Section 3.04 and if applicable, Final Subdivision Application containing the items set forth Section 3.05.
 - ii. Major Subdivision and Land Development. Preliminary Subdivision and Land Development Application containing the items set forth in Section 3.04 and Final Subdivision and Land Development Application containing the items set forth Section 3.05.
- (b) The required fees.
- (2) A complete application shall be submitted to the City's Planning Department. By complete, all the necessary information required from Section 3.04, if applicable, and 3.05 shall be in the application. Any application that does not have the minimum required information from Section 3.04, as may be applicable, and 3.05 will be considered an incomplete application, returned and unreviewed for content of the application.
- c. Application Review Divergence. In the event that there is a discrepancy between Staff and the Applicant regarding the required standards or the requirements of the approved Preliminary Plan and Plat, a written request by either the Staff or the Applicant to be on the next available agenda for the Planning Commission shall be permitted. Specific differences shall be clearly described so that the Planning Commission can make an informed decision.
- d. Application Review and Approval.
 - (1) Upon written request of the Applicant for a determination, the Planning commission must determine by vote at the next regular meeting or at a special meeting, whether or not the application is complete based upon a finding that the application meets the requirements set forth in this Ordinance.
 - (2) At a meeting where the application is determined to be complete, the Planning Commission must set a date, time and place for a public hearing and a meeting to follow the public hearing to vote on the application. The public hearing must be held within forty-five (45) days, and the Planning Commission must notify the Applicant of the public hearing and meeting in writing unless notice is waived in writing by the Applicant. The Planning Commission must publish a public notice of the public hearing and meeting in a



- local newspaper of general circulation in the area at least twenty-one (21) calendar days prior to the public hearing.
- (3) At a meeting at the conclusion of the public hearing or a meeting held within fourteen (14) days after the public hearing, the Planning Commission shall vote to approve, deny or hold the application.
 - (4) The application may be held for additional information necessary to make a determination. An application may be held for up to forty-five (45) days.
 - (5) The Planning Commission shall approve the application after the Planning Commission determines that an application is complete and meets the requirements this Ordinance.
 - (6) If the Planning Commission approves the application, then the Planning Commission shall affix its seal on the Subdivision or Land Development Plan and/or Plat.
 - (7) If the Planning Commission approves the application with conditions, then the Planning Commission must specify those conditions.
 - (8) If the Planning Commission denies the application, then the Planning Commission shall notify the Applicant in writing of the reasons for the denial. The Applicant may request, one time, a reconsideration of the decision of the Planning Commission, which request for reconsideration must be in writing and received by the Planning Commission no later than ten (10) days after the decision of the Planning Commission is received by the Applicant.
- e. *Recording of the Final Record Plat.* Within one hundred twenty (120) days after approval of the Final Subdivision and/or Land Development Application for a Major Subdivision and/or Land Development and satisfaction of all conditions of its approval, the Final Record Plat shall be recorded by the Applicant in the Office of the Clerk of Berkeley County. Before recordation can occur, Guarantee of Improvements per Article 5 is required. The Applicant shall promptly notify the City Engineer/Planning Director or designee of such recording and provide the relevant recording information. Subdivision or Development of the subject land shall not be commenced until the Final Record Plat is duly recorded.
- (1) An original copy of any final declaration of private restrictions, covenants and/or conditions submitted as part of the Subdivision and/or Land Development Application approved by the City Engineer/Planning Director or designee, which declaration has been duly executed and acknowledged by the declarant, shall be duly filed by the Applicant in the Office of the Clerk of Berkeley County at the time of filing the Final Record Plat.



- (2) *Proof of Recordation*. the Applicant shall provide to the City Engineer/Planning Director or designee a copy of the recordation label(s).
- f. *Vested Property Rights*. The right to undertake and complete a Subdivision or Land Development is established as a vested property right when the subject Final Plat is recorded. The right is only applicable when the Final Plat is in conformance with the terms and conditions of the approved Preliminary Plan and Plat Application. Failure to abide by the terms and conditions of the approved Preliminary Plan and Plat Application and recordation of the Final Plat will result in forfeiture of the right.
- g. *Effect of Final Plat Application Approval*. Notwithstanding the provisions of Section 1.05(B), upon approval of a Final Plat Application, the Planning Commission may in its discretion authorize the Applicant to make site Improvements (for example, clearing or grading for Lots and Roads), but only to the extent:
 - (1) The Improvements are expressly specified as authorized by the City Engineer/Planning Director or designee;
 - (2) The specified Improvements will conform with the approved Preliminary Subdivision and/or Land Development Application; and
 - (3) The Applicant obtains a Land Disturbance Permit for the Improvements as required under the Applicant has furnished any performance Guarantee of Improvements required by the Planning Commission under Article 5.
- h. *Phased Final Plan & Plat Approval*. An Applicant may apply for Final Plan & Plat approval in phases by submission, from time to time, of multiple Final Subdivision and/or Land Development Applications, each of which pertains to only a portion of the land subject to an approved Preliminary Subdivision and/or Land Development Application. Each phase will require approval of the Planning Commission and Guarantee of Improvements as outlined in Article 5.
- i. *Zoning Ordinance Compliance*. Notwithstanding anything to the contrary herein, no Subdivision and/or Land Development Application shall be approved unless and until the City Engineer/Planning Director or designee or Designee has confirmed in writing that the proposed Subdivision and/or Land Development, and any changes created by the same, will conform with the applicable requirements and regulations of the Zoning Ordinance.



- (1) Pursuant to Zoning Ordinance, parcels in the Annexation Reserve (AR) Zoning District may not be subdivided or further developed. Such parcels must be rezoned to another Zoning District prior to Subdivision or Development.
 - j. Guarantee of Improvements. See Article 5, Guarantee of Improvements.
 - k. Signing of Final Plat. The Final Plat shall be signed by the President of the Planning Commission, Property Owner, and a Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor.
 4. Guarantee of Improvements Submission.
 - a. Once the City Engineer/Planning Director or designee has approved a Final Plan and Plat, the Applicant shall establish the Guarantee of Improvements in accordance with Article 5 and the Guarantee of Improvements policy before the Plat's recordation and prior to the Applicant proceeding with any site work.
 - b. 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.
 - c. 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 Land Disturbance Permits, as may be appropriate.
 - d. Application Submission and Review for Completeness.
 - (1) The Applicant shall submit a request for a bond estimate to the City Engineer/Planning Director or designee, including an application. The estimate shall be prepared and sealed by a Professional



- Engineer or Professional Land Surveyor registered in the State of West Virginia retained by the Applicant.
- (2) The application for final completion, acceptance and/or approval of the Improvements and surety release shall include a Certification of final completion from a Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor retained by Applicant.
 - (3) The required fees.
- e. A complete application shall be submitted to the City's Planning Department. By complete, all the necessary information required by Article 5 Guarantee of Improvements shall be in the application. Any application that does not have the minimum required information from Article 5 will be considered an incomplete application, returned and unreviewed for content of the application.
- f. After receipt of a complete application for the release of the Guarantee of Improvement, the Planning Commission shall review the application for completeness and determine by vote at the next regular meeting (provided that the City Engineer/Planning Director or designee has had a reasonable opportunity to review the application and make a recommendation thereon) or at a special meeting whether the guarantee of public Improvement application is complete, in which case the application is accepted for further review, or whether it is incomplete and denied.
- (1) **Complete.** A Guarantee of Improvements application submitted to the City that meets the requirements set forth in this Ordinance and is not deficient of any information required by this Ordinance shall be deemed complete. Upon a determination that a Guarantee of Improvement application is complete, the City Engineer/Planning Director or designee shall duly notify the Applicant in writing that the Guarantee of Improvement application has been accepted as complete and that it is being acted upon by the City Planning Commission. (Note: No Guarantee of Improvement application shall be deemed complete until all related fees and costs are paid in full, including any unpaid costs associated with a review by the City's contractual engineering firm).
 - (2) **Incomplete.** A Guarantee of Improvement application submitted to the City that does not meet all the requirements set forth in this Ordinance or otherwise is deficient of any information required by this Ordinance shall be deemed incomplete. Upon a determination that a guarantee of public Improvement application is incomplete, the City Engineer/Planning Director or designee shall notify the Applicant in writing that the application has been denied and the reasons for denial shall be duly noted. Any such denial shall not prevent the Applicant from re-submitting a complete Guarantee of Improvement application for the same project.



- (3) Revision of Application. When time permits and prior to the Planning Commission's determination whether a guarantee of public Improvement application is complete, the City Engineer/Planning Director or designee may notify the Applicant of deficiencies in the subject Guarantee of Improvement application that render it likely to be determined incomplete. In such a case, the Applicant may, prior to the expiration of the forty-five (45) day period following receipt of the application:
 - (a) Notify the City Engineer/Planning Director or designee in writing that the Applicant intends to submit a revised guarantee of public Improvement application, which notice will serve as the Applicant's request to extend the review and determination period until forty-five (45) days after submission of the revised application; or
 - (b) Continue with processing of the application originally submitted. Failure to give timely notice of intent to submit a revised application will be deemed to proceed with processing of the original application.
- g. The Planning Commission shall review the application in accordance with the requirements of this Ordinance, Zoning Ordinance, approved Land Development Plan, approved construction drawings and conditions of Preliminary Subdivision and/or Land Development Application and/or Final Plat, including any offers agreed to at time of Preliminary Plat approval.
 - (1) If the Planning Commission approves the application, then the Planning Commission shall notify the Applicant in writing.
 - (2) If the Planning Commission approves the application with conditions, then the Planning Commission or agent must specify those conditions in writing.
 - (3) If the Planning Commission denies the application, then the Planning Commission shall notify the Applicant in writing of the reasons for the denial and set a deadline for the Applicant to remedy the deficiencies that caused the denial.
- h. If the City Engineer/Planning Director or designee fails to determine whether an application is complete within the forty-five (45) day time period set forth in Section 3.03(C)4.f above, the request of the Applicant shall be deemed to be approved by the Planning Commission and a surety release shall be granted to the Applicant.



Section 3.04 Preliminary Subdivision and/or Land Development Application Requirements

Preliminary Subdivision and/or Land Development Applications are applicable only for Major Subdivision and/or Land Development. Preliminary Subdivision and/or Land Development Applications shall contain the following items, all of which shall be compliant with the requirements of this Ordinance:

- (A) Application Form. A written application for preliminary approval of a Major Subdivision and/or Land Development, in the standard form developed by the City Planning Department and completed and signed by the Applicant.

- (B) Preliminary/Site Plan.
 - 1. The Preliminary Plat and/or Site Plan shall be drawn on paper at a scale of one inch (1") equals one hundred feet (100') or larger. The Plat or Plan shall be twenty-four inches (24") by thirty-six (36") in size. More than one sheet may be used provided all sheets are referenced by a sheet index on the Cover Sheet. The Plat or Plan shall be signed and sealed by a Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor.
 - 2. One (1) electronic copy of the Preliminary Plan shall be submitted compatible with the City's current software.
 - 3. Plat or Plans are required to include Stormwater Management Plan as required and described in the City of Martinsburg Stormwater Management Ordinance.
 - 4. The Preliminary Plat or the Site Plan is essentially the construction drawings for the Subdivision or site Development project. The Preliminary Plat or Site Plan shall show or be accompanied by:
 - a. A one half (1/2) inch border along all sides except the left side (24" side) which shall have a one and three quarter (1-3/4)-inch border to allow for a binder. All text and symbols shall be minimum one tenth (1/10) of an inch tall on paper.
 - b. A title Block to include:
 - (1) The Official name of the Subdivision or site Development;
 - (2) The name "Martinsburg, West Virginia";
 - (3) Tax District, Tax Map Number and Parcel Number;
 - (4) Deed book number and page number;
 - (5) Property Owner's name, address and telephone number;
 - (6) Developer's name, address and telephone number;



- (7) Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor signature, seal, name, address and telephone number; and
- (8) Sheet index on cover sheet if more than one sheet.
- c. Tic Marks/SPCS WV North NAD83.
- d. North arrow, graphic scale and date.
- e. A small scale inset map showing the location of the Subdivision section relative to other sections of the same Subdivision.
- f. For Preliminary Plats, the Subdivision perimeter boundary shall be described by bearings and distances. The perimeter boundary shall be established by a network of traverse control having a relative error of closure of 1:7,500 or better. For Site Plans, the Lot boundary shall be described by bearings and distances. The source of said boundary description shall be noted on the site Plan and either a copy of the recorded Plat that created the Lot or a Certification by a licensed Surveyor that a traverse meeting error of closure of 1:7,500 or better is provided. If the survey is based on global positioning system measurements, the relative positional accuracy of the survey measurements shall not be less than that which is specified.
- g. Lot boundary lines drawn to scale and dimensioned.
- h. A number to identify each Lot and numbered in logical order.
- i. A key to all symbols (Identify Monuments and markers according to type and whether "found", "set", or "to be set").
- j. Existing Easements and Rights-Of-Way accurately identified, located, dimensioned and drawn to scale. Provide reference to deed book and page and/or Plat book and page whichever applies.
- k. Proposed Easements and Rights-Of-Way (Roads, sidewalk, Drainage, utilities, etc.) identified, located, dimensioned and drawn to scale. Roads shall be named. Road names shall be approved by the Berkeley County Central Dispatch.
- l. Future Easements and Rights-Of-Way that may serve at a future date to connect with adjoining properties.
- m. Identification of all current adjoining properties by ownership, tax district, tax map number, and parcel number, deed book reference, Zoning District, and use. Departure lines of adjoining properties shall be shown on the Plat or Plan.
- n. Contour lines with minimum vertical intervals of two (2) feet shall be required. Source of contour line information shall be stated on the Plat or



- Plan reflecting the conditions at time of submission. Greater contour intervals may be acceptable by the City Engineer/Planning Director or designee, if compatible with surface topography (Interpolation of USGS contour information is not acceptable.).
- o. The location and elevation of benchmarks used in the survey, if applicable.
 - p. Show existing conditions on its own separate sheet.
 - q. Show existing physical features including woods, Watercourses, prominent rock outcroppings, sink holes, quarries, culverts, bridges, drains, Buildings, sewer lines, water mains, fire hydrants, power lines, and telephone lines. Show locations and associated topography of any off-site man-made Structure which is located up to two hundred (200) feet downstream from any Drainage pipe or storm water management facility outfall. Where access to off-site property is not allowed, then show the general location of any man-made Structure on the Plan. Show the limits of the one hundred (100) year Floodplain and any delineated Wetlands.
 - r. Show adjoining Roads including the Right-of-Way widths, Road pavement widths, Road names and route numbers.
 - s. A tentative list of restrictive covenants (not required for site Plans).
 - t. Reservations of land for public or semi-public use.
 - u. Surface Drainage Plan and erosion control methods, including flow computations, direction of flow, culverts, bulkheads, inlets, and other related Improvements to be installed. Materials and dimensions of all Improvements and description of vegetative or other stabilizing materials intended for all exposed areas.
 - v. Complete design and construction Plans, profiles and engineering specifications for proposed water treatment and distribution facilities and proposed sewage collection and treatment facilities to be installed.
 - w. Note on the Plat or Plan, the West Virginia DOH entrance permit number and provide a copy of the entrance permit.
 - x. Note on the Plat or Plan, the West Virginia Bureau of Health and/or Berkeley County Health Department permit numbers for water and sanitary sewer systems; and provide a copy of the approved Plans and permits.
 - y. Note on the Plat or Plan, the West Virginia Department of Environmental Protection (DEP) permit numbers for all DEP approvals required for the project.
 - z. Complete design and construction Plans, profiles, cross sections and engineering specifications for Roads, sidewalks, curbs and gutters to be installed.



- aa. Description of soils and subsurface geology and hydrology.
- bb. Show Building setback lines and note the minimum Building setbacks on the Plat or Plan.
- cc. A Construction Certification placed on the Preliminary Plat or site Plan cover sheet, signed and dated by the owner/Developer. The Statement shall read:

"I _____, DO HEREBY CERTIFY THAT:

- (1) ALL CLEARING, GRADING, CONSTRUCTION AND DEVELOPMENT SHALL BE CONSTRUCTED IN STRICT ACCORDANCE WITH THE APPROVED PLAN.
- (2) STORM WATER MANAGEMENT FACILITIES SHALL BE CONSTRUCTED IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS FOR THESE FACILITIES.
- (3) THE INSTALLATION AND MAINTENANCE OF THE SEDIMENT CONTROL MEASURES SHALL BE IN STRICT ACCORDANCE WITH THE APPROVED PLAN AND SEQUENCE OF CONSTRUCTION; THAT A COPY OF THE APPROVED PLAN SHALL BE AVAILABLE, ON SITE AT ALL TIMES, AND SHALL BE MADE AWARE OF THESE REQUIREMENTS.
- (4) THE CITY ENGINEER/PLANNING DIRECTOR OR DESIGNEE RESERVES THE RIGHT TO ADD OR MODIFY THE PROVISIONS SHOWN ON THE PLANS SHOULD ACTUAL FIELD CONDITIONS WARRANT SUCH CHANGES."

- dd. Provide a Signature Block for the City Planning Commission and City Engineer/Planning Director or designee.
- ee. The Preliminary Plat and/or Site Plan shall be sealed, signed and dated by the Engineer of Record and Surveyor of Record, as may be applicable, in accordance with state law.

(C) The Preliminary Plan shall contain and illustrate the following information:

1. Cover Sheet.

- a. Name of the proposed Subdivision and/or Land Development, which shall not duplicate or closely approximate the name of any other Subdivision in Berkeley County, and the words "Preliminary Subdivision and/or Land Development Plan."
- b. The district or municipality, county and state, Tax Map/Parcel, and Deed Book/Page Reference where the subject property is located.
- c. Title Block.



- d. Overall Subdivision Map with phases labeled.
- e. The names, addresses and telephone numbers of the Property Owner or owners, the Applicant/Developer, and the Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor who prepared the Preliminary Plan, along with the professional's seal and signature.
 - (1) Certificate by such Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor to the effect that the Plan represents a survey made by the professional; all Monuments and Improvements indicated thereon actually exist, and that their location, size and material are correctly shown; the professional is familiar with all requirements of this Ordinance; and, to the professional's best knowledge and belief, all requirements of this Ordinance have been fully complied therewith.
- f. A vicinity map with north arrow at a scale of approximately one (1) inch equals six hundred feet (1" = 600'), showing the boundary lines of the tracts and Streets immediately adjoining the parcel(s) subject to the proposed Subdivision and/or Land Development, and between the proposed Subdivision and/or Land Development and the nearest highways or thoroughfares.
- g. North arrow.
- h. The date of the Preliminary Plan.
- i. Sheet index.
- j. Preliminary Plan Number assigned by the Planning Department.
- k. Revisions table.
- l. Designation of Zoning District(s).
- m. Computational breakdown:
 - (1) Total area (acreage to the thousandths).
 - (2) Open space.
 - (3) Conservation Easements or other restrictive Easements.
 - (4) Stormwater Management areas.
 - (5) Remaining acreage.
 - (6) Table of Lot area(s) in square feet.



- (7) Gross and net density per acre.
- (8) Rights-Of-Way and Easements.
- (9) Existing and proposed Impervious Area.

n. Signature Block and statement for Preliminary Plan and Plat approval by the Planning Commission. The statement shall read:

PLANNING COMMISSION CERTIFICATION	
<p>“This Preliminary Plan and Plat was approved by the City of Martinsburg, on the _____ day of _____, 20_____, subject to any conditions specified hereon. All expenses incurred with respect to Improvements for all utility services, paving, grading, Landscaping, curbs, gutters, sidewalks, Road lighting, Road signs, Flood protection devices, Drainage Structures and all other Improvements that may be required shall be the responsibility of the Owner/Developer and not the City.</p>	
_____	_____
President of the Planning Commission	Date

o. Signature Block for Engineer and/or Surveyor. A Statement of Accuracy shall be placed on the Preliminary Plat and Plan and the Final Plan and Plat cover sheet, signed and dated by the Engineer and/or Surveyor. The Statement shall read:

PROFESSIONAL ENGINEER, PROFESSIONAL GEOLOGIST, LICENSED LANDSCAPE ARCHITECT, OR PROFESSIONAL LAND SURVEYOR CERTIFICATION	
<p>I, _____, hereby certify that these sealed Plans reasonably meet or exceed minimum acceptable engineering standards and those state and City Code provisions applicable on said date.</p>	
_____	_____
Professional / Licensee	Date

p. Signature of Owner/Developer. A Statement of Acceptance shall be placed on the Preliminary Plat and Plan and the Final Plan and Plat cover sheet, signed and dated by the Owner/Developer. The Statement shall read:



OWNER/DEVELOPER CERTIFICATION

I, _____, Owner/Developer of the property shown hereon and described in the Engineer's Certificate, hereby adopt this Plan of Subdivision and/or Land Development; establish the minimum Building restriction lines; and dedicate the Streets, Alleys, walks, trails, and Open Space for public use.
There are no suits, actions at law, leases, liens, mortgages, trusts, Easements, or Rights-Of-Way affecting the property other than those shown hereon and all parties in the interest thereto have hereunder affixed their signatures indicating their assent to this Plan of Subdivision.

Owner/Developer

Date

- q. Signature of City Engineering/Planning Department. A Statement for construction approval shall be placed on the Final Plan cover sheet, signed and dated by the City Engineer/Planning Director or designee. The Statement shall read:

CITY ENGINEER/PLANNING DIRECTOR CERTIFICATION

City Plan review is provided only for general conformance with the City's engineering and design criteria. The City is not responsible for the accuracy and adequacy of the design, dimensions, and/or elevations which shall be confirmed at the job site. The City through the approval of these construction documents assumes no responsibility for their completeness and/or accuracy.

Filed in accordance with the requirements of the City of Martinsburg Subdivision and Land Development Ordinance.

In accordance with West Virginia Code §8A-5-12(c), the vesting period for an approved Land Development Plan and Plat which creates the vested property right is five (5) years from the approval of the Land Development Plan and Plat by the Planning Commission. If construction has not started within those five (5) years, the Plans will need to be resubmitted for approval with applicable ordinances and regulations, and payment of applicable review fees.

City Engineer/Planning Director

Date

- r. Note on the Plan or Plat, "This property is not (is) in an area designated as a special Flood area, as shown on Community Map/Panel Number ____/Effective date ____."
- s. Note on the Plat or Plan, the West Virginia DOH entrance permit number and provide a copy of the entrance permit.



- t. Note on the Plat or Plan, the West Virginia Department of Environmental Protection (DEP) permit numbers for all DEP approvals required for the project.
- u. Source of Topography and date.
- v. Note regarding any known Sinkholes, steep Slopes, rock outcroppings, Wetlands and streams.
- w. Parking calculations – required and provided.
- x. As-Built certificate.
- y. Construction including grading certificate.
- z. SESC and SWM certificate.
- aa. Table 3.02, listing Waivers approved by the Martinsburg Planning Commission and Variances and Special Exceptions approved by the Martinsburg Board of Zoning Appeals shall be placed on the Preliminary Plan, Site Plan or Final Plat cover sheet, as applicable. If no Waivers or variances are granted, then a statement of “None granted,” shall be placed in the table:

Table 3.02, Complete List of Waivers, Variances, or Special Exceptions

Martinsburg – Complete List of Waivers, Variances, or Special Exceptions			
Ordinance	Section of Ordinance	Description of Waiver, Variance, or Special Exception	Date Granted

- 2. Existing Conditions (Scale 1” = 100’ or less).
 - a. Title Block, North arrow and scale (both numerical and graphic).
 - b. The boundary lines of the parcel(s) subject to the Subdivision and/or Land Development, accurate in scale and bearing, together with a legal description of such parcel(s).
 - c. The Berkeley County district tax map and parcel numbers, and deed book and page numbers of the recorded deed into the current owner(s), of each parcel subject to the Subdivision and/or Land Development.
 - d. The location and names of adjoining Subdivisions, and the locations and tax map and parcel numbers of adjoining parcels of land, deed book reference, Zoning District and use, together with the names of the owners of record of such parcels. This shall be shown on all applicable sheets.



- e. The layout of existing Lots and dimensions and area in square feet.
- f. The location (by lines and bearings), widths (or other relevant dimensions), and names of all existing or platted Streets, Alleys, public ways, pavement and Easements/Rights-Of-Way, within and adjacent to the parcel subject to the Subdivision and/or Land Development, and other important features such as existing permanent Buildings, large trees, railroad lines, Watercourses, etc. The general purpose of Easements and Rights-Of-Way shall be indicated.
- g. Existing contours, normally with intervals of two (2) feet, referenced to a permanent benchmark. For areas with Slopes greater than twenty-five percent (25%), five (5) feet contour interval may be used.
- h. Show and note the existing front, side, and rear yard Setbacks as set forth in the City of Martinsburg Zoning Ordinance and incorporated herein by reference under Section 1.08, or at a greater depth established by restrictions, covenants and/or conditions in deeds, declarations, or other documents of record (or to be recorded).
- i. Delineation and location of any significant environmental features, including without limitation:
 - (1) Streams.
 - (2) Wetlands.
 - (3) Floodplains.
 - (4) Soils and soils information.
 - (5) Highly erodible soils.
 - (6) Riparian areas and tree lines.
 - (7) Sinkholes or depressions.
- j. Location of municipal boundary lines, if applicable.
- k. Location of Zoning District boundary lines if they border upon or cross any part of a parcel subject to the proposed Subdivision and/or Land Development.
- l. All survey Monuments, Lot corners, Block markers, and benchmarks, together with their description, including location and description of all USGS survey control Monuments, or equivalent.
- m. Built Structures.
- n. Power transmission towers or power lines; cable; and telephone lines.



- o. Historic area and/or features.
 - p. Existing restrictive Easements, other Easements, and Rights-Of-Way and use.
 - q. Parks and/or public open space.
 - r. Forested areas and tree groves.
 - s. Outstanding topographic features, including prominent rock outcroppings.
 - t. Location, width, and names of all existing Streets or Alleys within one hundred (100) feet of the project site, including State Route numbers, if applicable.
 - u. All existing Easements and Rights-Of-Way shall be accurately identified, located, dimensioned and drawn to scale. Provide reference to deed book and page and/or Plat book and page, whichever applies.
3. *Preliminary Plat.* If the proposed Subdivision or Land Development contemplates Structures or other Improvements upon the land, supplemental construction/Development Plans and drawings that include and illustrate the following information shall constitute, and be submitted as, part of the Preliminary Subdivision Land Development Application, to the extent such information is applicable to the proposed Subdivision Land Development:
- a. Title Block, North Arrow and Scale.
 - b. Site Map (scale of 1" = 50' or less).
 - c. Proposed Lots with dimensions, area, front, side and rear yard Setbacks. Lot numbers shall be in consecutive order.
 - d. Locations of existing and proposed water, sanitary sewer, gas, electric and all other underground utilities, including locations, size and composition of all main lines, valves, utility holes, fire hydrants and other equipment and fixtures. A note on the Plan shall state: "All proposed utilities shall be located underground."
 - e. Location of all Street signs and traffic control signs required pursuant to Section 4.02(M) of this Ordinance.
 - f. Proposed Streets that 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 be duplicated or be phonetically similar to an existing street name, irrespective of the suffix: Street, avenue, court, place, boulevard, land, drive, or other. All proposed Street names shall be submitted to the Berkeley County Central Dispatch for approval.
 - g. Location and widths of sidewalks and pedestrian/bike trails, if applicable.



- h. The location, size and materials of all existing and proposed sanitary sewers and sewerage facilities, equipment, fixtures and Structures within and immediately adjacent to the parcel subject to the Subdivision and/or Land Development, including: utility holes (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 utility holes; service lateral pipe size and type; clean-outs; valve pits, and force mains; all together with grades and other specifications designated as “existing” or “proposed.”
- i. The location, size and materials of all existing and proposed storm sewers, catch basins, culverts and other Drainage and Stormwater Management Facilities, equipment, fixtures and Structures within and immediately adjacent to the parcel subject to the Subdivision and/or Land Development, including without limitation pipes, channels, and inlets/outlets; all together with grades and other specifications designated as “existing” or “proposed.”
- j. The location, size and materials of all existing and proposed combined sewer facilities, equipment, fixtures and Structures within and immediately adjacent to the parcel subject to the Subdivision and/or Land Development, including utility holes 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 utility holes and drop inlets; service lateral pipe size and type; clean-outs; and Stormwater Detention system piping and appurtenances; all together with grades and other specifications designated as “existing” or “proposed.”
- k. The location of all vehicular ingress and egress to the parcel(s) subject to the Subdivision and/or Land Development, and all parking areas proposed thereon.
- l. The locations and dimensions of all Buildings and Structures intended to be constructed on the parcel(s) subject to the Subdivision and/or Land Development.
- m. Adjacent Property Owners, Deed book, Page and Zoning
- n. Proposed and existing Easements.
- o. Property corners.
- p. Existing and proposed Streets.
- q. Parking Lots with space calculations
- r. FEMA Floodplain boundaries labeled and delineated.



4. Grading Plan.
 - a. Two-foot topography – existing and proposed contours.
 - b. All Drainage features.
 - c. Rip-rap aprons to scale and labeled.
 - d. Proposed Streets, pads – indicate curb, gutter, edge of pavement.
 - e. Spot Elevations for all pertinent features.
 - f. Location of benchmarks.
 - g. Lot grading to include first floor elevations, garage floor elevations, basement floor elevations, and Driveway Slopes.
 - h. Permanent Erosion control features.
 - i. Accessible parking spaces to meet ADA requirements.
 - j. FEMA Floodplain delineated and labeled.
5. Utility Plan.
 - a. All existing and proposed water lines, fire hydrants, valves, components, and force mains. Connection locations, pressure and flows at connection points.
 - (1) All existing and proposed sewer lines, force mains, manholes, etc. Inverts at connection points and capacities of system receiving flow along with flow direction.
 - (2) Pumping station and any other Improvements.
 - b. Storm sewer size, type, material, Slopes, inverts, inlet and manhole tops, etc. labeled for all features – pipes, inlets, end sections, etc.
 - (1) All proposed and existing utility Easements.
6. Road Plan and Profiles (may be shown on the same sheet).
 - a. Road Plan (scale of 1" = 50' or less).
 - (1) Stations and profiles of all existing, platted and proposed Streets and Roads at minimum fifty-foot intervals.
 - (2) Crossings.
 - (3) Existing and proposed grade and approach grades labeled.



- (4) Turning flare radii labeled at Intersections.
 - (5) Horizontal curve radii and geometric data.
 - (6) Drainage features.
 - (7) Guardrail locations.
 - b. Road Design Profile (scale of 1" = 50' horizontal and 1" = 5' vertical).
 - (1) Proposed grade and existing grade of all proposed Streets and Roads.
 - (2) Vertical curve data and all changes in grade, in accordance with Section 4.02.
 - (3) Waterlines.
7. Public Street Cross Sections (Scale of 1" = 5' on 50 foot intervals).
 - a. Original grade and Cut and Fill limits.
 - b. Typical cross section showing Road/shoulder width, thickness, type of pavement and base.
 - c. Location, width and thickness of sidewalks.
 - d. Location, composition and size of utility main lines.
 - e. For embankment Slopes exceeding a 3:1 horizontal to vertical Slope, provide Street cross-sections at twenty-five-foot intervals.
8. Sewer Plan Profile.
 - a. Existing and proposed grades.
 - b. Stationing every fifty (50) feet minimum.
 - c. Stationing of pertinent features.
 - d. Labeling of all inverts, top of manholes, crossings, etc.
 - e. Size, types, material, length, Slopes, tops, labeled for all appurtenances.
9. Storm Sewer Profiles.
 - a. Existing and proposed grades.
 - b. Size, types, material, length, Slopes, tops, labeled for all appurtenances.
 - c. Inverts, top of inlets, etc. shown and labeled.



- d. Schedule of inlets and manholes to include Structure number, size, types, etc.
 - e. Driveway culvert chart.
 - f. Q25 and V25 labeled on all charts.
 - g. Design Tables.
 - h. Rip Rap aprons shown and labeled with sizing data on all outlets.
 - i. Twenty-five (25)-year Hydraulic Grade Line (HGL) shown on all storm sewer runs.
10. Soil and Sediment Control Plan.
- a. Existing and proposed grades.
 - b. Soil areas delineated and labeled.
 - c. Drainage areas delineated and provided for Sediment Control features.
 - d. Silt fence, super silt fence, diversion dikes and ditches, inlet/outlet protection, rip rap aprons, stone check dams, etc. shown clearly.
 - e. Silt traps and basins shown with details, sizing calculations, dewatering devices and profile view.
 - f. Stabilization measures of all Slopes, channels and concentrated flow areas clearly shown.
 - g. Stockpile areas with silt fence downgrade.
 - h. Total disturbed areas delineated and labeled.
11. Soil and Sediment Control Plan Details.
- a. Details of all soil and Sediment Controls.
 - b. Permanent and temporary seeding notes.
 - c. Maintenance schedule and instructions.
12. Storm Water Management Plan, Profiles and Notes.
- a. Profiles through ponds and embankments showing proposed and finished grades.
 - b. Basic pond or water quality Structure dimensions.



- c. Show top of Berm with top of settled Berm, spot elevations, core trench, impervious core, anti-seep collars, low flow orifice protections, and emergency spillway.
 - d. Structural details for all storm water management features.
 - e. Landscaping Plans, storm water management plantings and aquatic vegetation schedule.
 - f. Maintenance schedule and instructions.
 - g. Outlet dissipation devices shown to scale with details.
 - h. Any required Easements.
13. Notes and Details.
- a. General project notes.
 - b. Construction notes.
 - c. Grading and Drainage notes.
 - d. Road notes and typical Road cross sections.
 - e. Water and sewer notes and details.
 - f. Sequence of construction.
 - g. Sediment Control notes.
 - h. Symbols legend.
 - i. All Street and traffic control signage.
 - j. Sidewalk and curb and gutter details.
 - k. Drainage details.
 - l. Parking details including ADA accessibility ramps.
14. Landscaping Plan.
- a. Delineate buffers and planting screen Easements.
 - b. Type of plantings and how many of each.
15. Additional Items. The following items shall be submitted as part of a Preliminary Subdivision and/or Land Development Application, to the extent such items are applicable to the proposed Subdivision and/or Land Development.



- a. Stormwater Management Report. A written report to meet the requirements of the Stormwater Management Ordinance.
- b. Covenants, Conditions & Restrictions. Two (2) copies of any private restrictions, covenants and/or conditions to which any portion of the parcel(s) subject to the Subdivision and/or Land Development is subject or will be made subject, whether by deed, declaration or other instrument.
- c. Agency Reviews. Review comments from relevant local, state, and federal agencies with jurisdiction with respect to the land and activities thereon, and approvals thereby or permits issued thereby, to the extent the same are required. Relevant agencies may include, but are not limited to:
 - (1) City of Martinsburg.
 - (2) Berkeley County Central Dispatch.
 - (3) Berkeley County Health Department.
 - (4) West Virginia Department of Environmental Protection, hereinafter referred to as West Virginia DEP.
 - (5) West Virginia Department of Transportation, Division of Highways, hereinafter referred to as West Virginia DOH.
 - (6) U.S. Army Corps of Engineers.
 - (7) Federal Aviation Administration.
- d. Traffic Impact Study. A West Virginia DOH approved Traffic Impact Study as required under Section 4.07(B), Traffic Management Standards of this Ordinance or by the West Virginia DOH.
- e. Lighting Plan. A lighting Plan containing the information and items required under Section 4.13.

Section 3.05 Final Subdivision and/or Land Development Application Requirements

Final Subdivision and/or Land Development Applications are applicable to both Minor Subdivision and Major Subdivision and/or Land Developments. Final Subdivision and/or Land Development Applications shall contain the following items, all of which shall be compliant with the requirements of this Ordinance:

- (A) Application Form. An application for final approval of a Minor Subdivision or Major Subdivision and/or Land Development, as the case may be, shall be submitted via compatible with the City's current electronic application submission system.
- (B) Final Plat. A Final Plat prepared by a registered Professional Engineer or Land Surveyor licensed to practice in the State of West Virginia and meeting the following requirements:



1. **Size and Scale.** The scale of the Final Plat shall be not smaller than one-inch equals one hundred 100 feet (1" = 100') and the sheet size shall be a minimum of 8.5" x 14" for Minor Subdivision and/or Land Developments and 24" x 36" for Major Subdivision and/or Land Developments with a one and one-half inch (1-1/2") 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 parcel(s) subject to the Subdivision and/or Land Development drawn to scale.
2. **Submission Requirements.** One (1) electronic copy of the Final Plat shall be submitted compatible with the City's current electronic application submission system. Following approval of the Final Subdivision and/or Land Development Application and stamping and signature of the Final Plat by the Planning Commission, one (1) electronic copy and one (1) paper/mylar copy (for Major Subdivision and/or Land Developments only) shall be returned to the Applicant as the Final Record Plat for recordation in the Office of the Clerk of Berkeley County.
3. **Survey Items and Courses.** The courses, boundaries, lines, and curves shown on the Final Plat, other items related thereto, and the survey by which such items are located, shall meet the following requirements:
 - a. All boundaries and property corners on the Final Plat shall be referenced to magnetic meridian and show declination from true north.
 - b. All boundaries and property corners shown on the Final Plat shall be tied to state plane coordinates or shall be referenced to magnetic meridian and show declination from true north. If the Subdivision and/or Land Development is referenced to the state grid, northing and easting coordinates shall be shown for a minimum of three key boundary points.
 - c. For all boundary lines (including those of Lots created by Subdivision), lengths of courses shall be shown to the hundredths of a foot and all bearings to at least minutes. Such boundary lines shall have been determined by an accurate survey in the field, balanced and closed with an error of closure not to exceed 1:20,000.
 - d. True bearings and distances shall be shown 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 Final Plat.
 - f. The accurate location and material of all permanent Monuments shall be shown. Identify Monuments and markers according to type and whether "found", "set", or "to be set."
 - g. Show the location and description Lot markers and permanent concrete control Monuments. The Lot markers and permanent concrete control Monuments shall be in accordance with state law. Where possible, permanent concrete Monuments should be intervisible; at least seven



hundred fifty (750) feet apart; away from future roadwork; and at least two (2) per section or Block.

h. The lengths and bearings of all chords, radii, points of curvature and tangent bearings shall be accurately reflected.

4. Contents. The Final Plat shall contain and illustrate the following information:

a. Cover Sheet.

(1) Name of the proposed Subdivision and/or Land Development, which shall not duplicate or closely approximate the name of any other Subdivision in Berkeley County, and the words "Final Subdivision."

(2) The district or municipality, county and state where the subject property is located.

(3) The names, addresses and telephone of the Property Owner or owners, the Owner/Developer, and the Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor who prepared the Final Plat, along with the professional's seal.

(a) A Certificate by such Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor to the effect that: the Plat represents a survey made by the professional; all Monuments and Improvements indicated thereon actually exist, and that their location, size and material are correctly shown; the professional is familiar with all requirements of this Ordinance; and, to professional's best knowledge and belief, all requirements of this Ordinance have been fully complied therewith.

(4) A vicinity map with North arrow at a scale of approximately one (1) inch equals six hundred (600) feet (1" = 600'), showing the boundary lines of the tracts and Streets immediately adjoining the parcel(s) subject to the proposed Subdivision and/or Land Development, and between the proposed Subdivision and/or Land Development and the nearest highways or thoroughfares.

(5) The date of the Final Plat.

(6) Sheet index.

(7) Final Project Number assigned by the City Engineer/Planning Director or designee.

(8) Revisions table.



- (9) Designation of Zoning District(s).
- (10) Show Building Setback lines and note the Building Setbacks on the Plat.
- (11) Signature Block for final approval by the Planning.

CITY PLANNING COMMISSION CERTIFICATION	
This Plat was approved for recordation by the City of Martinsburg, on the _____ day of _____, 20_____, subject to any conditions specified hereon.	
All expenses incurred with respect to Improvements for all utility services, paving, grading, Landscaping, curbs, gutters, sidewalks, Road lighting, Road signs, Flood protection devices, Drainage Structures and all other Improvements that may be required shall be the responsibility of the Owner/Developer and not the City.	
_____ President of the Planning Commission	_____ Date

- (12) Owners Signature. For Minor and Major Subdivisions, a Statement of Acceptance placed on the Plat cover sheet, signed and dated by the Owner/Developer. The Statement shall read:

OWNER/DEVELOPER CERTIFICATION	
I, _____ Owner/Developer of the property shown hereon and described in the Surveyor's Certificate, hereby adopt this Plan of Subdivision; establish the minimum Building restriction lines; and dedicate the Streets, alleys, walks, trails, and Open Space for public use.	
There are no suits, actions at law, leases, liens, mortgages, trusts, Easements, or Rights-Of-Way affecting the property other than those shown hereon and all parties in the interest thereto have hereunder affixed their signatures indicating their assent to this Plan of Subdivision.	
_____ Owner/Developer	_____ Date

- (13) Surveyors Signature. Certification of the Professional Land Surveyor as to the preparation and accuracy of the Plat, along with the Professional Land Surveyor's seal and signature. The Statement shall read:

PROFESSIONAL LAND SURVEYOR'S CERTIFICATION	
I _____ a duly registered Professional Land Surveyor in the State of West Virginia, do hereby certify that I have carefully surveyed the property delineated by this Plat and that it is correct to the best of my knowledge and belief, that it is all of the same land in the name of.	



I further certify that the Lots properly and accurately describe and are within the bounds of said land; that the Monuments and markers have been placed as shown hereon and are in compliance with the Subdivision and Land Development Ordinance of the City of Martinsburg. Given under my hand this _____ day of _____.

Professional Land Surveyor Date

- (14) A computation of the total tract area and a computation of the land area included in, Lots, Rights-Of-Way and Easements.
- (15) Location, dimensions and area of property for public use or to be conveyed to an owner's association. Location, dimensions and area of proposed conservation, Open Space, or restrictive Easements.
- (16) Note on the Plat stating:

"THIS PROPERTY IS NOT (IS) IN AN AREA DESIGNATED AS A SPECIAL FLOOD AREA, AS SHOWN ON COMMUNITY MAP/PANEL NUMBER [NUMBER], EFFECTIVE DATE [DATE]."
- (17) Note on the Plat stating the West Virginia DOH entrance permit number and provide a copy of the entrance permit.
- (18) Such other conditions, certificates, affidavits, endorsements, Dedications or agreements as may be deemed necessary by the Planning Commission.
- (19) Provide a list of variances/Waivers on the Final Plat cover sheet in accordance with Table 3.02.
- (20) Confirm soil types and basement construction suitability.

b. Property Map (scale 100' = 1" or less):

- (1) North arrow and scale (both numerical and graphic).
- (2) The boundary lines of the parcel(s) subject to the Subdivision and/or Land Development, accurate in scale and bearing, together with a legal description of such parcel(s).
- (3) The Berkeley County district tax map and parcel numbers, and deed book and page numbers of the recorded deed into the current owner(s), of each parcel subject to the Subdivision and/or Land Development.



- (4) The location and names of adjoining Subdivisions, and the locations and tax map and parcel numbers of adjoining parcels of land, deed book reference, Zoning District and use, together with the names of the owners of record of such parcels. Departure lines for adjoining properties shall be shown on the Plat. This shall be shown on all applicable sheets.
- (5) The layout, Lot numbers (matching Preliminary Plan and in sequence) and dimensions of proposed Lots.
- (6) Existing Easements and Rights-Of-Way accurately identified, located, dimensioned and drawn to scale. Provide reference to deed book and page and/or Plat book and page whichever applies.
- (7) Proposed Easements and Rights-Of-Way (Roads, sidewalks, Drainage, utilities, etc.) identified, located, dimensioned and drawn to scale. Roads shall be named.
- (8) Show and identify reservations of land for public or semi-public use.
- (9) Location, width, and names of all existing Streets or Alleys within one hundred (100) feet of the project site, including State Route numbers if applicable.
- (10) Descriptive lines inside the tract boundary:
 - (a) Tract boundary - heavy dashed and two dotted lines.
 - (b) Lot boundaries - medium solid lines.
 - (c) Rights-Of-Way - heavy solid lines.
 - (d) Restriction lines - medium dashed lines.
 - (e) Easements and other reserved areas - medium dotted lines
- (11) Descriptive lines outside the tract boundary:
 - (a) Property lines of adjacent tracts - medium dashed and two dotted lines.
 - (b) Lot boundaries - light solid lines.
 - (c) Rights-Of-Way - medium solid lines.
 - (d) Restriction lines - light dashed lines.
 - (e) Easements and other reserved areas - light dotted lines.



(NOTE: Descriptive lines outside the tract boundary are useful for purposes of tract location and orientation. However, such outside lines are not within the scope of the Subdivision being platted and should not be given dimensions which might confuse existing descriptions on record).

- (12) The location (by lines and bearings), widths (or other relevant dimensions), and names of all existing or platted Streets, Alleys, public ways, pavement and Easements/Rights-Of-Way, within and adjacent to the parcel subject to the Subdivision and/or Land Development, and other important features such as existing permanent Buildings, large trees, railroad lines, Watercourses, etc. The general purpose of Easements and Rights-Of-Way shall be indicated.
- (13) The location (by lines and bearings) and widths (or other relevant dimensions) of proposed Streets (together with the proposed names of such Streets, as to which the Applicant must obtain the approval of the Berkeley County Central Dispatch), public ways, pavement and Easements/Rights-Of-Way for sanitary sewers, Stormwater Management Facilities, other utilities, and other purposes, with respect to which the pavement width of Streets shall 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 Rights-of-Way and at least five (5) feet of Easement shall be provided on each side of the center of any such utility line. Where the adjoining State Road has a Right-of-Way of less than fifty (50) feet wide, a Road improvement Easement will be provided that is a minimum of twenty-five (25) feet wide measured from the existing centerline of the State Road Rights-Of-Way. All Setbacks shall be measured from the newly designated Right-of-Way.
- (14) The required front, side, and rear yard Setbacks as set forth in the Zoning Ordinance and incorporated herein by reference under Section 1.08, or at a greater depth established by restrictions, covenants and/or conditions in deeds, declarations, or other documents of record (or to be recorded).
- (15) The accurate layout of all property intended to be dedicated for public use, together with a clear statement or designation of the public use for which any property is to be dedicated; and the accurate layout of all property intended to be reserved for the common use of the Property Owners in the Subdivision and/or Land Development, together with a clear statement or designation of such common use for which any property is to be reserved, including all private restrictions, covenants and/or conditions to which the property will be subject; *provided that*, all such statements, designations, 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 Berkeley County or to be recorded in such office together with the Final Record Plat.

- (16) Delineation and location of any stream within or adjoining the subject parcel and the Floodplain.
- (17) Location of municipal boundary lines, if applicable.
- (18) Location of Zoning District boundary lines if they border upon or cross any part of a parcel subject to the proposed Subdivision and/or Land Development.
- (19) All survey Monuments, Lot corners, Block markers, and benchmarks, together with their description, including location and description of all USGS survey control Monuments, or equivalent.

Section 3.06 Boundary Line Adjustments, Merger, and Vacations

- (A) The Planning Commission may approve the vacation or alteration of the boundary of any Lot or parcel of land established as part of an otherwise valid and properly recorded Final Record Plat provided the following conditions are met:
 - 1. Such vacation or alteration shall not result in the creation of additional buildable Lots;
 - 2. The Replat shall represent the same general Lot relationships as shown in the original Final Record Plat approved prior to the boundary line adjustment or involve only the relocation or alteration of Streets, Alleys, Easements for public passage, or other public areas with no direct impact to any privately-owned Lot (except Lots owned by the Applicant for vacation or alteration); and
 - 3. No Easements or utility Right-of-Way shall be relocated or altered without the express consent of all Persons holding interest therein.
- (B) The City Engineer/Planning Director or designee may approve a Boundary Line Adjustment or Merger as defined in Section 3.02(A)1.c. Such approval may be granted provided the conditions of this section is met.
- (C) A boundary line adjustment, merger, or vacation shall result in Lots which conform to the requirements of this Ordinance and the Zoning Ordinance, or in the case of existing non-conforming Lots, does not increase the extent of non-conformance. The revised Final Record Plat properly delineating the boundary line adjustment or vacation shall be in a form approved by the City Engineer/Planning Director or designee and shall, in addition to the required approval signatures and seal and signature of a certified Professional Engineer or Professional Land Surveyor, contain a statement as follows:

“THE PLATTING OR DEDICATION OF THE FOLLOWING DESCRIBED LAND (HERE INSERT A CORRECT DESCRIPTION OF THE LAND SUBDIVIDED) IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.”



The statement shall be signed and duly acknowledged before an officer authorized to acknowledge deeds. The Applicant shall record the revised Final Record Plat reflecting the boundary line adjustment or vacation in the Office of the Berkeley County Clerk within one hundred twenty (120) days of approval by the Planning Commission, as evidenced by stamp and signature thereon.

- (D) A boundary line adjustment, merger, or vacation shall note the following information:
1. A note stating: “This change to the Lot line(s) does not create a Setback violation or increase the non-conformity of any existing Setback violation.”
 2. The Zoning District and depicts the Setbacks.
 3. The district or municipality, county and state where the subject property is located.
 4. The date of the Final Plat.
 5. Surveyors Signature. Certification of the Surveyor of Record as to the preparation and accuracy of the Plat, along with the Surveyor of Record’s professional seal and signature.
 6. The Berkeley County tax map and parcel numbers, and deed book and page numbers of the recorded deed into the current owner(s).
 7. A note on the Plat stating “This property is not (is) in an area designated as a special Flood area, as shown on Community Map/Panel Number [NUMBER], Effective date [DATE].”
 8. A computation of the total tract area and a computation of the land area included in the Rights-Of-Way and Easements.
 9. Existing Easements and Rights-Of-Way accurately identified, located, dimensioned and drawn to scale. Provide reference to deed book and page and/or Plat book and page whichever applies.

Section 3.07 Vacating a Plat

- (A) Where no Lot has been sold, the Final Record Plat, or part thereof, may be vacated according to either of the following methods:
1. By Instrument.
Through the written consent of the City Planning Commission and all the owners, proprietors, and trustees, if any, of the property subject to the Final Record Plat. Such written consent must be duly executed, acknowledged, or proved, and recorded in the Office of the Clerk of Berkeley County; or
 2. By Ordinance.
By ordinance, provided that no facility for which bonding is required pursuant to Article 5 of this Ordinance has been constructed on the property and no facilities



have been constructed on any related section of the property located in the Subdivision and/or Land Development within five (5) years of the date on which the Final Record Plat was first recorded.

3. The City's execution and Berkeley County's recordation of such written instrument or ordinance of vacation shall operate to destroy the force and effect of the recording of the Final Record Plat so vacated and to divest all public rights in and to the property, and to reinvest the owners, proprietors, and trustees, if any, with the title to the Streets, Alleys, Easements for public passage, and other public areas laid out or described in the Final Record Plat.

(B) Where any Lot has been sold, the Final Record Plat, or part thereof, may be vacated according to either of the following methods:

2. *By Instrument.*

In writing agreeing to the vacation signed by all the Owners of Lots shown on the Final Record Plat and approved and signed on behalf of City of Martinsburg. In cases involving Drainage Easements or Street Rights-of-Way where the vacation does not impede or alter Drainage access for any Lot Owners other than those Lot Owners immediately adjoining or contiguous to the vacated area, the only signatures required are those of the Owners of the Lots within the Subdivision and/or Land Development and the Owners of the Lots immediately adjoining or contiguous to the vacated area. "Owners," for the purposes of this Subsection (B), shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the Office of the Clerk of Berkeley County; or

2. *By Ordinance.*

The execution and recordation of such written instrument or ordinance shall operate to destroy the force and effect of the recording of the Final Record Plat or part thereof so vacated, and to vest fee simple title to the centerline of any Streets, Alleys, or Easements for public passage so vacated in the owners of abutting Lots free and clear of any rights of the public or other owners of Lots shown on the Final Record Plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein. If any Street, Alley, or Easement for public passage is located on the periphery of the Final Record Plat, the title for the entire width thereof shall vest in the owners of abutting Lots within the Subdivision and/or Land Development. The fee simple title to any portion of the land subject to the Final Record Plat so vacated as was set apart for other public use shall be revested in the owners, proprietors, and trustees free and clear of any rights of public use in the same.

Section 3.08 Amendment of Approved Final Plans and Plats

- (A) *Application.* An owner or Developer of a parcel of land subject to an approved Final Plan & Plat may submit to the Planning Commission an application to amend the Final Plan & Plat. The application shall contain a list detailing each and every amendment and change proposed to the previously approved Final Subdivision and/or Land Development



Application, and a revised Final Plat accurately reflecting the proposed amendments and changes. The Planning Commission may require the submission of such other additional items as it determines necessary in light of the amendments and changes proposed (for example, if the proposed changes may significantly impact Runoff or Stormwater Management, a revised and updated Stormwater Management Plan may be required; if the proposed changes involve relocation of utilities, revised Supplemental construction/development Plans and drawings may be required).

(B) Approval Process.

1. An application to amend an original approved Final Plat shall be reviewed by the City Engineer/Planning Director or designee. The City Engineer/Planning Director or designee may approve, approve with conditions, or deny the proposed amendment. The proposed amendment will be approved if it meets all requirements of this Ordinance. Upon such approval, the revised Final Plat shall be stamped and signed on behalf of the Planning Commission and thereafter recorded as the Final Record Plat.

Section 3.09 As-Built Drawings

(A) Filing Requirements.

1. Upon satisfactory completion of the installation of the required Improvements shown in the approved Preliminary and/or Final Subdivision and/or Land Development Application, the Applicant shall submit to the City Engineer/Planning Director or designee one (1) electronic copy via the City's current electronic application submission system and a CAD/GIS file compatible with the City's current software of the completed As-Built Drawings, prepared, signed and sealed by a Professional Engineer or Professional Land Surveyor.
2. Such As-Built Drawings shall accompany the request for bond release in accordance with Article 5 of this Ordinance or be submitted prior to Final Subdivision and/or Land Development Application approval if such is made a condition of approval, whichever is applicable.

(B) As-Built Drawings. The following items shall be surveyed to determine actual field conditions, and the approved Preliminary Plat, as revised and annotated to reflect such actual field conditions, shall constitute the As-Built Drawings.

1. Streets (Public and Private).
 - a. Horizontal alignment with radii, (lengths, (P)(C) and (P)T. stations, tangents, and all other curve information).
 - b. Vertical alignment with centerline grades, vertical curve lengths, station and elevation of all PVC's and PVT's, and centerline profile.
 - c. Copies of Maintenance Agreements or covenants addressing maintenance of any Private Streets, Alleys, streetscaping, private Easements, etc.



- d. Areas where Road stabilization fabrics or heavier pavement Structures are used.

2. Potable Water.

- a. The location of all fire hydrants, water meter boxes, casings and points of connection to the existing system shall be referenced in two perpendicular directions. The Applicant's Professional Land Surveyor or Professional Engineer may use other forms of as-built locations, such as providing coordinates referenced to state plane for noting the horizontal locations of this utility.
- b. The location of mains located within the public Right-of-Way.
- c. Horizontal dimensions shall be to the nearest tenth of a foot and vertical dimensions shall be to the nearest hundredth of a foot.
- d. Horizontal locations will be required perpendicular to the Right-of-Way at 100' intervals.
- e. Elevations on the main and finished grade will also be required at all pipe dead ends, Intersections, size changes, points of connection to existing system, at Intersections of pipe, at 500' intervals, and where the standard depth of cover is not provided. Elevations shall be measured from the pipe invert elevation.

3. Gravity Sewer.

- a. The location of all piping, wyes, tees, utility holes, cleanouts and points of connection to the existing system shall be referenced in two perpendicular directions. The Applicant's Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor may use other forms of as-built locations, such as providing coordinates referenced to state plane for noting the horizontal locations of this utility.
- b. The location of mains located within the public Right-of-Way.
- c. Horizontal dimensions shall be to the nearest tenth of a foot and vertical dimensions shall be to the nearest hundredth of a foot.
- d. Runs of gravity sewers shall be identified.
- e. Elevations shall be given for the north rim of the top of all utility hole covers and all utility hole inverts.
- f. Elevations on the service piping and finished grade will be required at the property line for only those sewer service laterals which result in more than 60 inches of cover or less than thirty (30) inches of cover.
- g. For sewer service laterals which are totally perpendicular to the main, the location of the end of sewer services shall be given to the plug and be



located from the side property line or by station and offset. For sewer service laterals, which include bends and offsets which result in a service which is not totally perpendicular to the main, for these cases, the location of all fittings between the sanitary tee and the plug (at the property line) shall be provided.

h. Utility hole types shall be identified.

4. Force Mains.

a. The location of valves, fittings, casings and points of connection to the existing system shall be referenced in two perpendicular directions. The Applicant's Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor may use other forms of as-built locations, such as providing coordinates referenced to state plane for noting the horizontal locations of this utility.

b. The location of mains located within the public Right-of-Way.

c. Horizontal dimensions shall be to the nearest tenth of a foot and vertical dimensions shall be to the nearest hundredth of a foot.

d. Horizontal locations will be required perpendicular to the Right-of-Way at one hundred (100) foot intervals.

e. Elevations on the main and finished grade will be required at points of connection to the existing system, five hundred (500) foot intervals, at high points, and where the standard depth of cover is not provided. Elevations shall be measured from the pipe invert elevation.

5. Pumping Stations.

a. Wet well size and location shall be indicated and located to property lines and/or Right-of-Way lines.

b. All lines within the pump station site shall be located to property lines and/or Right-of-Way lines.

c. Elevations shall be indicated at inverts, wet well top and bottom, and at ground adjacent to wet well. All types and sizes of lines and fittings shall be indicated.

d. All schedules that show pump, motor and electrical data shall be corrected to show the as-built condition and submitted with the pump station drawings.

e. As-built information should be provided for the pump station site Plan. Within the pump station boundaries, the following shall be located horizontally: pump-out, water spigot and cross-connection control device, wet well, control panel, bends, fittings, utility holes, generator and fuel tank



(if applicable), transformer, fence, and auxiliary electrical enclosures, as applicable.

- f. The Applicant or Developer shall provide a boundary survey of the pump station site showing above and below ground Improvements. The boundary survey shall be certified by a Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor.
- g. All buried electrical conduit shall be labeled and located to property lines and/or Right-of-Way lines including electrical service from utility transformer to station meter and to control panel.
- h. If the pump station is privately owned, provide owner's name and phone number for future coordination tasks and emergency events.

6. Storm Drain.

- a. The location of all piping, wyes, tees, utility holes, inlets, cleanouts and points of connection to the existing system shall be referenced in two perpendicular directions. The Applicant's Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor may use other forms of as-built locations, such as providing coordinates referenced to state plane for noting the horizontal locations of this utility.
- b. The location of mains located within the public Right-of-Way.
- c. Horizontal dimensions shall be to the nearest tenth of a foot and vertical dimensions shall be to the nearest hundredth of a foot.
- d. Runs of storm sewers shall be identified.
- e. Elevations shall be given for the north rim of the top of all utility hole covers and inlets and catch basins and all utility hole, inlet and catch basin inverts.
- f. Storm Drain, utility hole, inlet and catch basin types shall be identified.

7. Buildings. As-Built Drawings for Buildings constituting part of the Improvements (e.g., pump-station Buildings) shall be marked to indicate any and all changes made. As-Built Drawings shall also include the installed size, elevation and location of all exterior equipment, and Structures.

8. Stormwater Management Facilities.

(C) Checklist. A Professional Engineer, Professional Geologist, Licensed Landscape Architect, or Professional Land Surveyor submitting the As-Built Drawings shall also submit a statement in the As-Built Drawings certifying that the following items have been inspected and found to be in substantial conformance with the approved construction Plans and profiles or site Plans, as applicable.



1. *Curb and Gutter.* Confirm that the curbs are the proper type.
2. *Sidewalk/Trail.* Confirm that the sidewalk/trail is correctly situated with relation to the Rights-Of-Way or Easement. Verify that the construction material used is as approved.
3. *Drainage.* Confirm that the Drainage patterns have been established in conformance with the grading Plans. Confirm that Slopes and Swales are properly located and graded. Confirm that positive Drainage exists.
4. *Pavement.* Provide a copy of the approved pavement design. Confirm that all pavement was placed in accordance with the approved pavement design. Confirm that all material was compacted to required standards. Provide a copy of the approved striping and signage Plan.
5. *Sight triangle and clear zones.* Confirm that there are no encroachments.
6. *Utility placement within Roads.* Provide a statement that all utilities located within Roads are within recorded Easements, or if in public Right-of-Way, located as approved and per the West Virginia DOH permit requirements.
7. *Landscaping and Buffering.* Confirm the Landscaping is in general conformance as to location with an approved landscape Plan. Confirm plantings conform to correct category (canopy, understory, shrub, or evergreen) in, at a minimum, the required quantities. Plantings in excess of the required quantities are acceptable and do not constitute the need for a redline revision. If the Landscaping does not meet the minimum requirements as set forth in the approved site Plan, then a redline landscape Plan shall be submitted for review and approval.



ARTICLE 4 SITE PLANNING & DESIGN SPECIFICATIONS

Section 4.01 General Site Planning and Design Specifications

(A) General Requirements.

These requirements and standards are considered minimums and are not intended to discourage the use of higher standards by Owners/Developers who wish to achieve more desirable results. The Planning Commission may specify additional requirements where, owing to unique or unusual characteristics, the purposes of these Regulations can be better served.

1. In designing and developing a Subdivision or Land Development, the Applicant shall comply with the principles and requirements of this Ordinance and the Zoning Ordinance. The standards and requirements contained herein shall be considered the minimum for the promotion of the public health, safety, convenience, and general welfare.
2. The Planning Department, in considering an application for the Subdivision or Development of land, shall be directed by the provisions of this Ordinance, the Zoning Ordinance, the Stormwater Management Ordinance, the Flood Plain Ordinance and the Martinsburg Comprehensive Plan.
3. Land to be subdivided or developed for Building purposes 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. Individual Building Lots laid out on areas characterized by steep Slopes, poor soils, rock formations, Flood conditions, high water table, sewage disposal, excessive grade or similar circumstances, or other unsuitable physical features shall not be subdivided or developed unless safeguards acceptable to the Planning Department are provided. It shall be the burden of the Applicant proposing such a Lot, to prove to the Planning Department why the proposed Lot would be acceptable. The Planning Department may require the Applicant to provide appropriate safeguards as recommended by a professional geologist.
5. All Subdivision and Land Development shall be designed to promote the following:
 - a. Walkability and connectivity when compatible with adjoining and compatible properties located within the City.
 - b. Protection of environmental resources as feasible.
 - c. Future transportation needs as defined in the City's Comprehensive Plan, including approved long-range transportation planning objectives of the Planning Commission.
 - d. Active and passive Recreation needs.
 - e. Maximize use of natural topography.



- f. Where suitable, a distribution of uses to enhance commercial viability and to create a livable and safe residential neighborhood.
 - g. Utility and Stormwater Management Planning.
6. All Subdivision and Land Development shall be designed to include any design considerations as specified in applicable conditions of annexation.
 7. The Applicant shall describe, in text and drawing, how cemeteries, historic landmarks, gravesites, and historic Structures will be treated, preserved, and/or accommodated within the design of the Subdivision and/or Land Development.
 8. The various bulk and area regulations specified in the Zoning Ordinance are incorporated herein by reference as standards applicable to the Subdivision and Development of land located in the indicated Zoning Districts.
 9. The various provisions of the Supplemental Regulations in Article 5 of the Zoning Ordinance are incorporated herein by reference as standards applicable to the Subdivision and Development of land, to the extent said provisions contain such standards.
- (B) Lots.
1. Minimum Lot Frontages as established in the Zoning Ordinance.
 2. Each Lot created shall have access to a public right of way unless waived by the Planning Commission. If this requirement is waived each Lot shall have adequate access to public right of way via access Easements or Private Streets.
 3. Commercial Centers, Townhouse and multi-family Lots having access to a Private Street or common parking area along a pedestrian way may be allowed by the Planning Department if all other applicable design requirements of the City are met. In such circumstances, Public Streets shall be easily accessible by residents and the primary access route(s) into the Subdivision and/or Land Development may be required by the Planning Department to be Public Streets.
 4. Side Lot lines shall be substantially at right angles or radial to Street Lines, unless variation from this rule will give a better Street Plan.
 5. Where land has been dedicated for the widening of existing Streets, Lots shall begin at such new Street Line as may be established and all Setbacks shall be measured from such line.
 6. The minimum Building Frontage along a Cul-de-sac shall be twenty-five (25) feet, measured at the front property line.
 7. Residential Lots shall not have direct access from a Primary Street.



8. Corner Lots and Double Frontage Lots.
 - a. Corner Lots shall have sufficient extra width to allow Building Setbacks from all Streets as specified by the Zoning Ordinance.
 - b. Where both the front and rear yards abut Streets, the minimum front yard requirement of the Zoning District shall apply to any Frontage which has access to a Street. The Frontage, if any, which has no access permitted shall be subject to the rear yard requirements for the District.
9. Lots created for essential public utilities, open space, public parks, or public facilities shall be exempt from these requirements.
10. Any Lot annexed into the City of Martinsburg with dimensional requirements less than required shall be considered vested with the existing dimensions at the time of annexation, provided that future Subdivision and/or Land Development shall comply with all current regulations.

(C) Blocks.

1. Block length and width shall be able to accommodate the required Lot sizes as specified for the appropriate Zoning Districts in the Zoning Ordinance.
2. Blocks shall have a maximum perimeter boundary length of 2,050 feet and the block layout should uphold the pattern of existing Blocks where applicable.
3. Blocks shall be of sufficient depth to permit two (2) tiers of Lots, except in the following cases:
 - a. Where reverse Frontage Lots are necessary;
 - b. Where Access Drive Units are planned; or
 - c. Other site-specific limitations as may be recognized by the Planning Department.
4. Blocks shall be of size and shape as topography and Street layout dictate, but the Planning Department shall not approve Blocks that are unreasonably large or small.
5. The corners of Blocks at Street Intersections shall be Cut back on an arc concentric with the arc of the curb line or by chord that connects the points of tangency of such an arc.
6. The corners of Blocks shall curve at radius as determined by the City Engineer/Planning Director or designee or other agency having jurisdiction over the roadway design.
7. Dedicated pedestrian ingress/egress shall be required where necessary to help circulation or provide access to community facilities. Such access shall have a



minimum width of six (6) feet and shall comply with the other design requirements as specified in this Article 4.

(D) **Phasing.**

Applications for Subdivision and/or Land Development Plan approval which propose to complete the required infrastructure Improvements in phases shall include a corresponding preliminary phasing Plan. A final phasing Plan which incorporates all required conditions of approval and details infrastructure Improvements and sequencing of the phases shall be submitted prior to any ground disturbing activities.

1. All Phasing shall be sequentially ordered. Phasing shall only be numerically numbered as noted below:
 - a. Phase 1, Phase 2, Phase 3, Phase 4, etc.
 - b. The following is not permitted: Phase 1, Section 1 or Section 1, Phase 1, or any derivative of a similar nature.
 - c. In the unavoidable event that phase needs to be sub-sectioned once the phase has begun, Phase 1 can be labeled as Phase 1A and 1B if necessary.
2. A Preliminary Plan and Plat for a Subdivision to be developed in phases shall indicate Improvements to be completed with each phase and that each phase shall be capable of operating independently.
3. The Improvements in each phase shall be adequate to serve the Lots to be developed in that phase. Rights-Of-Way or Easements may need to be dedicated on land intended for future phases to ensure that infrastructure can be completed to function independently of future phases.

Section 4.02 Street Design Standards

(A) **General Requirements.** All new Subdivision and/or Land Development with new public or Private Streets shall comply with the design standards specified in this section.

(B) **Conformance.** The arrangement, character, extent, width and location of all Streets shall be considered in their relation to existing and planned Streets, to topographical conditions, to public convenience and safety and to the proposed use of the land to be served by such Streets. In designing a Street system, a Developer shall be guided by the following principals:

1. Provide safe vehicular and pedestrian access.
2. Local Street systems shall be designed to minimize through traffic movement.
3. Local Street systems shall provide for the safe, efficient movement of emergency vehicles.



4. The arrangement of local Streets shall allow economical and practical patterns, shapes and sizes of Development parcels.
5. Subdivision and/or Land Development shall be designed to promote connectivity of Streets and discourage the use of Cul-de-sacs and restrict stub Streets, except when the Street is planned to be extended.
6. The Street network should be designed consistent with Street type objectives, which encourage a hierarchical pattern of Streets within a City grid pattern.
7. Commercial drive-thru uses shall be clearly marked and shall be designed with adequate capacity for waiting vehicles to avoid conflicts with traffic onto, around and off of the site. (See Section 4.17(G), Table 4.05, Queue Spaces for Drive-Thru Types).
8. Specifications for Road Improvements shall be the latest edition of the West Virginia division of Highways "Standard Specifications for Roads & Bridges."
9. Roadway storm sewers and culverts shall be designed in accordance with the storm water management regulations.

(C) Street Functional Classifications.

1. Streets shall be functionally classified based on the most recent edition of the American Association of State Highway and Transportation Officials' (AASHTO) *Green Book: A Policy on Geometric Design of Highways and Streets*. The functional Street classification is applied to the entire network of Streets in the City of Martinsburg.
2. The hierarchy of Street functional classification in the City shall be as follows:
 - a. Primary Street. Primary Streets carry the principal portion of the vehicular trips entering and leaving urban areas as well as the majority of through movements desiring to bypass the central areas of the City. Significant intra-area travel and important intra-urban travel may be served by this class of facility. It is intended that Primary Streets shall become state maintained highways. Service to abutting land is subordinate to the priority of travel service and major traffic movements for all Primary Streets. Direct access to abutting Lots is restricted on Primary Streets. Street parking is not permitted.
 - b. Major Collector Street. The Major Collector Streets interconnect and expand from Primary Streets and provide service to vehicular trips of moderate length at a somewhat lower level of travel mobility. Major Collector Streets serve intra-urban vehicular trips between smaller geographic areas than those associated with Primary Streets.



- c. Minor Collector Street. Minor Collector Streets differ from Primary and Major Collector Streets in that facilities penetrate neighborhoods. Minor Collector Streets distribute vehicular trips from the major collectors.
 - d. Neighborhood Center Street. Neighborhood Center Streets link neighborhoods with collector Streets. They are similar to Minor Collector Streets, but with greater emphasis on traffic calming measures and lower speeds. Direct access to abutting Lots is permitted.
 - e. Neighborhood Street. Neighborhood Streets serve the same purpose as Neighborhood Center Streets but with a greater emphasis on traffic calming measures, lower speeds, and Low Impact Design.
- (D) Street Design. Streets shall be designed and constructed to the specifications of their respective functional classification as shown in Table 4.01 Minimum Street Design Standards and the typical sections of each functional Street classification as provided in Appendix A. Items not covered in the standards and details shall be in accordance with West Virginia DOH standards or the latest edition of AASHTO's *Policy on Geometric Design of Highways and Streets*, as deemed applicable by the City Engineer/Planning Director or designee.
- (E) Cut and Fill Slopes.
- 1. Fill Slopes shall not exceed (3:1) 3' horizontal to 1' vertical Slope. Fill sections need not have ditches unless the Fill Slopes exceed six feet in height.
 - 2. Cut Slopes shall not exceed (2:1) 2' horizontal to 1' vertical Slope.
 - 3. Open ditches shall not be flatter than 1.5%; however, a minimum of 0.5% vertical grade may be used for trapezoidal roadway ditch lines with minimum bottom width of two (2) feet.
- (F) Ditch Line Stabilization.
- 1. Roadway Drainage ditch lines shall be stabilized (i.e., rip-rap, sod, erosion control matting, etc.) in accordance with the Stormwater Management Regulations.
- (G) Drainage Culvert Pipes.
- 1. Driveway culvert pipes or paved Driveway Swales (where allowed in lieu of Driveway culvert pipes) shall be sized to carry the ten (10) year twenty-four (24)-hour storm event ditch flows. However, the minimum size shall be a fifteen (15) inch diameter or an equivalent elliptical pipe size. The pipe shall be corrugated metal or concrete pipe. A table of Lot numbers and Driveway culvert sizes shall be specified on the Preliminary Plat and the Final Plat.



Table 4.01, Minimum Street Design Standards

Street Design Element	Neighborhood Street	Neighborhood Center Street	Minor Collector Street	Major Collector Street	Primary Street
Average Daily Traffic (ADT)	0-500	501-1,000	1,001-2,000	2,000+	<i>Where called for in consultation with WVDOH</i>
Minimum Design Speed	25 mph	30 mph	35 mph	40 mph	
Minimum Turning Flare Radius at Pavement	25'	25'	25'	25'	
Minimum Road Grade	1%	1%	1%	1%	
Maximum Road Grade	9%	8%	8%	7%	
Pavement Cross Slope	2.08%	2.08%	2.08%	2.08%	
Pavement Surface Type					
<i>Subgrade</i>	<i>6" Class 1, Dense Graded Aggregate*</i>	<i>8" Class 1, Dense Graded Aggregate*</i>	<i>8" Class 1, Dense Graded Aggregate*</i>	<i>12" Class 1, Dense Graded Aggregate*</i>	<i>Per WVDOH Requirements</i>
<i>Base Course</i>	<i>3" Hot Mix Asphalt Base Course*</i>	<i>3" Hot Mix Asphalt Base Course*</i>	<i>4" Hot Mix Asphalt Base Course*</i>	<i>6" Hot Mix Asphalt Base Course*</i>	<i>Per WVDOH Requirements</i>
<i>Surface Course</i>	<i>1.5" Hot Mix Asphalt Wearing Course*</i>	<i>1.5" Hot Mix Asphalt Wearing Course*</i>	<i>2.0" Hot Mix Asphalt Wearing Course*</i>	<i>2.0" Hot Mix Asphalt Wearing Course*</i>	<i>Per WVDOH Requirements</i>
Shoulder Width	N/A	4'	N/A	N/A	N/A
Shoulder Cross Slope	N/A	6%	N/A	N/A	N/A
Ditch Depth	N/A	2'	N/A	N/A	N/A
Minimum Right-of-Way Width	50'	50'	60'	75'	<i>Per WVDOH Requirements</i>
Minimum Cul-de-Sac Radius (at R.O.W)**	50'	50'	50'	50'	N/A
Street Parking Required	Yes, one side	Yes, both sides	Yes, both sides	Not permitted	Not permitted

Note (*) Shall be in accordance with West Virginia DOH Specifications.

- Note (**)
- Greater Right-of-Way widths may be required by the City Engineer/Planning Director or designee where deemed necessary to contain roadway, Drainage ditched, ditch line return Slope, fill embankment, Street trees and roadway appurtenances within Road Right-of-Way.
 - Cut and Fill Slopes may extend beyond the Right-of-Way if a revertible Slope Easement is provided.
 - The centerline of the roadway section shall be congruous with the Right-of-Way unless an off-set of the centerline is approved by the City Engineer/Planning Director or designee.



2. Roadway culvert pipes shall be sized for the ten (10) year, twenty-four (24) hour storm event in accordance with the storm water management regulations. However, Road culvert pipes shall be a minimum fifteen (15) inch diameter corrugated metal or concrete pipe.
3. Roadway culvert pipes and storm drain outfalls shall have outfall protection designed in accordance with the storm water management regulations.

(H) Dead-end Streets and Cul-de-sacs.

1. Dead-end Streets.

- a. Dead-end Streets shall be prohibited except as stubs to permit future extensions to adjoining land or where in the opinion of the Planning Department interconnectivity is not desirable or feasible for the proposed type of Subdivision and/or Land Development. In such instances that dead-end Streets are allowed, they shall be designed as Cul-de-sacs. If the phase boundary occurs at an Intersection, a tee/hammerhead turnaround may be installed in lieu of a temporary Cul-de-sac turnaround. The tee/hammerhead shall have a minimum Right-of-Way length of eighty (80) feet across the top of the "T", a minimum Cartway length of sixty (60) feet across the top of the "T", a minimum Right-of-Way width of sixty (60) feet across the side of the "T", and a minimum Cartway width of twenty-two (22) feet across the side of the "T".
- b. Unless future extension is clearly impractical or undesirable, the Planning Commission may require that the turnaround Right-of-Way be placed adjacent to a property line and a Right-of-Way of the same width as the Street shall be carried to the property line in such a way as to permit future extension of the Street into the adjoining tract. At such time as such a Street may be extended, the coverage created by the turnaround outside the boundaries of the extended Street shall revert in ownership to the Property Owners fronting on the Cul-de-sac turnaround. The small triangles of land beyond the Cul-de-sac to the tract boundary shall be deeded so that until the Street is continued maintenance of these corners of land will be the responsibility of the adjoining owners.

2. Permanent Cul-de-sacs.

- a. The total number of dwelling Units served by a permanent Cul-de-sac Street shall not exceed twenty (20).
- b. Permanent Cul-de-sac Streets shall not exceed a centerline distance of six hundred (600) feet in length nor be less than two-hundred fifty (250) feet in length, measured from the centerline Intersection of a Street which is not a Cul-de-sac to the center of the Cul-de-sac turnaround.
- c. Cul-de-sac Streets in residential Subdivisions/Land Developments shall be provided at the closed-end with a paved turnaround having a minimum radius to the outer pavement edge or curb line of not less than fifty (50) feet and a Right-of-Way line radius of not less than sixty (60) feet.



- d. Cul-de-sac Streets in commercial and industrial Subdivisions/Land Developments shall be provided with a paved turnaround having a minimum radius to the outer pavement edge of sixty (60) feet and a Right-of-Way line radius of not less than seventy (70) feet.
- e. Drainage of Cul-de-sacs shall, wherever possible, be in the direction of the open end of the Cul-de-sac.
- f. No Cul-de-sac turnaround shall have a centerline grade exceeding four (4) percent.

4. Temporary Turnaround Streets.

- a. Temporary turnaround Streets shall not exceed one thousand (1,000) feet in length, measured from the centerline Intersection with a Street that is not a Cul-de-sac to the center of the Cul-de-sac turnaround. Any Street that is terminated for access to an adjoining property or because of authorized stage or phased Development shall be provided with a temporary, all-weather turnaround paved in accordance with the provisions of this Ordinance. The use of such turnaround shall be guaranteed until such time as the Street is extended. All Cul-de-sac Streets, whether permanently or temporarily designed, shall be provided at the closed end with a fully paved turnaround constructed to the specifications of this Ordinance. The Developer who extends a Street that has been provided with a temporary turnaround shall remove the temporary turnaround and restore the area of the temporary turnaround. A sign in accordance with Section 4.02(l) shall be required at the end of all temporary turnaround Streets.

- (l) Where the Planning Commission finds it is desirable to provide for Street access to adjoining property, proposed Streets shall be extended by Right-of-Way Dedication to the boundary of such property. Such dead end Streets shall be provided with a temporary turnaround Easement as permitted within this Section. At all temporary turnarounds, a sign shall be placed stating, “**Street to be extended by authority of the City of Martinsburg**”. The sign shall be similar in size to a speed limit sign. The Developer who extends a Street that has been provided with a temporary turnaround shall remove the temporary turnaround and restore the area of the temporary turnaround.

(J) Intersection Design.

- 1. Sight Distances at Intersections. Sight distances at Intersections should be regulated to allow approaching drivers’ sufficient time to stop. Each vehicle should be visible to the other driver when each vehicle is located on the Street centerline and at a specified distance from the point of Intersection of the Street centerlines. Clear Sight Triangles should be provided at all Intersections and no Building, Structure, grade, or planting higher than two and one-half (2 ½) feet above the centerline of the Street should be permitted within such sight triangles. For Intersections of either residential or non-residential Subdivision Roads with state highways, Sight Distances shall be required by the West Virginia DOH.



Otherwise, Sight Distance triangles shall be provided in accordance with the latest edition of AASHTO's *A Policy on Geometric Design of Highways and Streets*.

2. Horizontal Alignment at Intersections.

- a. The preferred angle of Intersection for intersecting Streets is ninety (90) degrees. The minimum angle is sixty (60) degrees. Any change in Street alignment on the side Street to meet this requirement should occur no less than one hundred (100) feet from the Intersection of the two streets. The point of curve for a horizontal curve on the side Street shall be no closer than fifty (50) feet from the Intersection of the two Streets.
- b. Multiple Intersections involving junctions of more than two (2) Streets, is not allowed.
- c. Two (2) Streets intersecting the same Street from opposite sides should intersect this same Street directly opposite one another; or the Streets shall be off-set a minimum of one hundred fifty (150) feet between their centerlines.
- d. Minimum curb radii at Street Intersections should be:
 - (1) Residential Subdivision 30 feet.
 - (2) Non-residential Subdivision 35 feet.

(K) Traffic Barriers. Guardrail is not used extensively on Subdivision Streets except where there is a significant risk to motorists or pedestrians, such as along sections of roadway with steep Slopes. Guardrails and other traffic barriers should be designed in accordance with, and installed where warranted by, the latest edition of AASHTO's *Roadside Design Guide*, or other acceptable policy.

(L) Curbs, Gutters and Sidewalks.

1. Where Required.

- a. Roadway curbs, gutters and sidewalks shall be required in residential conventional Subdivision where net residential density is greater than four (4) Lots/acre.
- b. Roadway curbs, gutters, and sidewalks shall be required in non-residential (i.e., commercial, industrial, etc.) conventional Subdivision unless exempt by the Planning Commission because of low traffic and pedestrian flows.

2. Roadway Curbs & Gutter.

- a. Road curbs shall be constructed of Grade A (3,000 lb.) concrete to a height of no less than six (6) inches above the finished Road surface. The base of curbs shall be a minimum of 7-3/8 inches measured in cross-section. Curb sides may be sloped inward to join a rounded edge having



a radius of one and one-half (1-1/2) inches or more. Alternative designs may be approved by the City Engineer/Planning Director or designee.

- b. Drainage gutters shall be provided at the curb and Road surface interface. Gutters shall be designed to carry peak water flows expected from a ten (10) year frequency storm occurring over the entire contributing Drainage Watershed. Storm drain inlets in residential closed-section Roads shall have bicycle-safe grates.

3. Sidewalks and Paths.

- a. Sidewalks shall be constructed of Portland cement concrete with a minimum depth of four (4) inches except under Driveways a minimum depth of six (6) inches shall be used. Sidewalks shall be five (5) feet wide and placed on a suitable base approved by the City Engineer/Planning Director or designee. Sidewalks shall be constructed with equally spaced crack control joints and expansion joints.; and the sidewalk surface shall have a light broom finish. Sidewalks shall have a 1/4" per foot cross Slope. Grades on sidewalks shall not exceed (20:1) 20' horizontal to 1' vertical.
- b. Handicapped accessible Walkways, stairs and ramps shall be designed and constructed in accordance with the requirements of the Americans with Disabilities Act, *ADA Standards for Accessible Design* (28 CFR, Part 36).
- c. Hiking and biking paths are not required; however, if the Developer proposed to install a path, the Engineer of record shall show the location of the path and Easement on the Plan and shall provide construction details and material specifications. Where the path crosses a roadway ditch line, a minimum fifteen (15) inch diameter Drainage culvert shall be installed in the ditch line.

(M) Street Name and Traffic Control Devices.

- 1. All Subdivision Roads shall be clearly identified by permanent Road name signs, in accordance with the City of Martinsburg's Addressing Ordinance.
- 2. Stop signs shall be provided at all Intersections and where a Subdivision Road meets a state highway.
- 3. Speed limit signs (preferably with speed limits of twenty-five (25) miles per hour or less) shall also be provided at each Subdivision entrance Road and other locations where deemed appropriate by the City Engineer/Planning Director or designee.
- 4. Pavement markings for traffic control (i.e., centerline stripes, stop bars, speed hump delineation, directional arrows, Crosswalks, etc.) shall be provided where deemed by the City Engineer/Planning Director or designee.
- 5. Traffic control signs (i.e., "No Left Turn", "One Way Only", etc.) shall be provided where necessary to provide safe traffic control for Subdivision and site



Development projects as determined appropriate by the City Engineer/Planning Director or designee.

6. All traffic control signs and pavement markings shall be installed in accordance with the latest editions of the U.S. Department of Transportation *Manual of Uniform Traffic Control Devices* (MUTCD) and the *Standard Highway Signs* (SHS) manual. Traffic control sign and pavement marking details and specifications shall be provided on the Preliminary Plat and/or Site Plan.
- (N) Half Streets shall be prohibited, except where the Planning Department finds it will be practical to require the Dedication of the other portion of the Right-of-Way and/or the full construction of the future planned Street when the adjoining property is developed. When required by the Planning Department, curb, gutter, and sidewalks shall only be installed on the improved side of the public Right-of-Way. A minimum pavement width of thirteen (13) feet will be required and shall be measured from the face of the curb to the edge of the pavement.
- (O) New Subdivision and/or Land Development that include existing Streets that do not conform to the Street design standards specified under this Ordinance shall be required to dedicate additional width to allow the existing Streets to be widened to meet the requirement. Unless waived by the Planning Commission, the Applicant shall construct the nonconforming Streets to meet the applicable design standards.
- (P) Where a Subdivision and/or Land Development abuts or contains existing or proposed Primary Street or railroad Right-of-Way, the Planning Department may require the separation of local and through traffic. This shall be achieved by one of the means listed below.
1. Another Street type, separated from the Primary Street by a planting strip;
 2. Reverse Frontage Lots, with the Lots fronting on an interior local Street and having a non-access reservation along the rear property line; or
 3. A local Street may be provided along the rear Lot line providing vehicular access to the Lots abutting the Primary Street.

Where any of these means are used, the statement "vehicular ingress and egress restricted" shall be shown with limits on the Preliminary and Final Plats and no Driveways or Access Drives shall have direct access to the Primary Street.

- (Q) The Street system layout shall be so designed to preserve, wherever possible, natural features such as trees, Watercourses, hilltops and scenic views.
- (R) Proposed Streets that 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 be duplicated or be phonetically similar to an existing Street name, irrespective of the suffix: Street, avenue, court, place, boulevard, land, drive, or other. All proposed Street names shall be submitted to the Berkeley County Central Dispatch for approval.



Section 4.03 Subdivision and Site Development Access

(A) Subdivision Access to Public Roads.

1. Subdivision Roads shall be coordinated with existing or proposed public Roads. Lots must be served by internal Subdivision Roads unless otherwise approved by the Planning Commission. Subdivision Road entrances onto public Roads must be acceptable to the Planning Commission and to the West Virginia DOH as to location, number of entrances, Drainage provisions, traffic safety, traffic control devices, and general entrance design.
2. Non-residential Subdivision entrances access to public Roads shall be designed to minimize traffic conflicts in accordance with guidelines of the latest edition of the Transportation Research Board's *Access Management Manual*; or as determined by the City Engineer/Planning Director or designee. Generally, a Subdivision entrance shall be spaced a minimum of two hundred (200) feet from the Intersection of two public Roads.
3. For emergency ingress and egress purposes, a Subdivision shall be served by two entrances. The entrances shall be offset a minimum of three hundred (300) foot centerline to centerline. For a residential Subdivision, a single entrance may be used under the following conditions:

Maximum Number of Lots	Single Entrance Road Width
12	22' entire length
13 to 30	24' entire length

Residential Subdivision with more than thirty (30) Lots shall have two entrances.

4. Where a Subdivision Road Slopes toward a public highway, the entrance Slope may not exceed a three (3) percent grade for at least one hundred (100) linear feet into the Subdivision.
5. Where a Subdivision entrance Slopes away from a public highway, the entrance Slope may not exceed a five (5) percent Slope for at least one hundred (100) linear feet into the Subdivision.
6. Residential and non-residential Subdivision boulevard type entrances used at the point of connection of a Subdivision Road to the public highway shall be designed as follows:
 - a. Raised median minimum four (4) feet wide with concrete curb.
 - b. Single lane width of a minimum of thirteen (13) feet and maximum of seventeen (17) feet.
 - c. The single lane width shall extend a minimum of fifty (50) feet beyond the termination of the median; at which point a pavement edge transition taper of 10:1 to a two-way Street pavement width shall begin.



- 7. Non-Residential Subdivision shall have a concrete entrance apron, as follows:

[Full width of the Subdivision Road pavement] x [25' long] x [6" depth] with welded wire fabric reinforced 3,000 psi Portland cement concrete. The apron shall be designed to carry the loads imposed by the anticipated vehicular traffic.

(B) Site Development Access to Public Roads.

- 1. Site Development site entrance drives and site access shall be designed to minimize traffic conflicts in accordance with guidelines of the latest edition of the Transportation Research Board's Access Management Manual; or as determined by the City Engineer/Planning Director or designee.

- 2. Entrance width limits are as follows:

- a. Minimum one-way 13 feet
- b. Maximum one-way 17 feet
- c. Minimum two-way 24 feet
- d. Maximum two-way 35 feet
- e. Length of entrance shall be a minimum of fifty (50) feet long from the existing edge of pavement of the access Road before beginning a 1:15 taper from the edge of pavement to desired width.

- 3. Site development entrance Access Drives shall be spaced as follows:

- a. A minimum of seventy-five (75) feet centerline to centerline;
- b. A minimum of seventy-five (75) feet from the centerline of an internal Subdivision Road Intersection; and
- c. A minimum of one hundred (150) feet from the Intersection of a non-residential Subdivision entrance Road or public highway with another public highway.

- 4. Site Development Access Drives to Subdivision Streets and public Roads shall have a concrete entrance apron, as follows:

[Full width of the Driveway] x [25' long] x [6" depth] with welded wire fabric reinforced 3,000 psi Portland Cement Concrete and four (4) inches of base stone. The apron shall be designed to carry the loads imposed by the anticipated vehicular traffic.

- 5. Minimum fillet radii at the site Development Access Drive Intersection with the Subdivision Street or public highway should be thirty-five (35) feet.



Section 4.04 Subdivision Road & Common Area Ownership Maintenance

- (A) A Homeowner’s Association or Business Owner’s Association must be established without delay as soon as fifty (50) percent of properties are sold. Membership in the association is mandatory for all Property Owners within the Subdivision. The Developers shall dedicate all common lands (Stormwater Management Facilities, Roads, Rights-Of-Way, etc.) to the Association. A note to this effect is required on the Site Plan or Final Plat.
- (B) A Common Interest Ownership Agreement must be established to provide for the maintenance of commonly owned land, including, but not limited to the private Road system within the Subdivision. The Common Interest Ownership Agreement must be developed in accordance with the Uniform Common Interest Ownership Act of West Virginia.

Section 4.05 Off-Street Parking Standards

- (A) Off-Street parking facilities may be parking Lots, parking bays, or other types approved by the City Engineer/Planning Director or designee. Parking facilities shall be designed in accordance with the design standards and details established by the City Engineer/Planning Director or designee.
- (B) All parking Lots and parking bays (except for parallel parking along a townhouse/condominium complex Street) shall be physically separated from the Street and confined by curbing, unless other suitable design is approved by the City Engineer/Planning Director or designee.
- (C) All curb lines in parking areas shall have a minimum radius of curvature of five (5) feet.
- (D) The layout of parking areas shall permit safe and efficient internal circulation in accordance with generally accepted engineering principles and practices.
- (E) All dead-end parking areas shall be designed to provide sufficient back-up area for the end stalls of the parking area; and to allow turn-around of cars without having to back out of parking bays.
- (F) Handicapped parking spaces and access ramps shall be provided, designed, located and delineated in accordance with the latest edition of the American with Disabilities Act, ADA Standards for Accessible Design (28 CFR, Part 36). Calculations showing the required number of handicapped parking spaces shall be provided on the site Plan; and details and dimensions shall be provided for the access ramps, parking spaces, pavement markings and signs, etc.
- (G) Parking area and drive aisle grades shall be as follows:
 - 1. Maximum 6.5%.
 - 2. Minimum 0.5%.



- (H) Parking area Access Driveways and entrances leading from the public Road or Subdivision Street, and also the parking area internal Access Drives connecting physically separated parking bays, shall not exceed an eight (8) percent grade.
- (I) The maximum embankment Cut or Fill-grade inside and/or adjacent to parking areas shall not exceed (3:1) three (3) feet horizontal to one (1) foot vertical Slope. The City Engineer/Planning Director or designee may accept steeper embankment Slopes up to (2:1) two (2) feet horizontal to one (1) foot vertical upon review and approved by a geotechnical engineer.
 - 1. A minimum three-foot-wide strip, not to exceed five (5) percent Slope, shall be provided between parking areas, sidewalks, and parking area Access Drives, and the toe or top of any embankment Slope.
 - 2. When retaining walls are used, they shall be designed and certified by a Professional Engineer licensed in the state of West Virginia. The construction details and specifications shall be shown on the site Plan.
- (J) There shall be a minimum ten (10) foot median between the end of a row of parking spaces and any parking area Access Drive in order to provide for adequate Sight Distance.
- (K) All cart storage areas, parking area internal pedestrian pathways, parking spaces, directional arrows, fire lanes, and handicapped parking symbols, etc., shall be shown on the Preliminary Plan and delineated on the pavement with traffic grade paint.
- (L) All parking areas shall be bituminous asphalt, paved concrete, or pervious pavers per Section 4.17.E.4. Paving sections shall be established by the City Engineer/Planning Director or designee.
- (M) Parking area dimensions shall be no less than those listed in Table 4.02, as follows:

Table 4.02, Parking Area Dimensions

Parking Angle	Stall Width	Stall Depth	Drive Aisle One-Way	Drive Aisle Two-Way
90	9'	20'	24'	24'
60	9'	22'	18'	24'
45	9'	21'	14'	24'
Parallel	9'	22'	12'	24'

- (N) The City Engineer/Planning Director or designee may establish standard details as deemed necessary to depict and convey the parking requirements.



Section 4.06 Speed Humps

In Subdivision and site Development projects, if roadway or access traffic calming speed humps are proposed, they shall be designed, installed and delineated in accordance with the latest edition of the Institute of Transportation Engineers' *Guidelines for the Design and Application of Speed Humps*. Construction details shall be provided on the Preliminary Plat and/or Site Plan.

Section 4.07 Traffic Management Standards

- (A) Internal Circulation. A complete system of internal traffic circulation shall be provided to serve all uses in any shopping center or other integrated-use Development included in a Subdivision and/or Land Development Application. In such Subdivision and/or Land Development, internal access shall be provided in a fashion so that all uses can be mutually accessed without entering onto Primary or Major Collector Streets.
- (B) Traffic Impact Study (TIS).
1. West Virginia DOH Traffic Engineering Directive 106-2, Procedures for Conducting Traffic Impact Studies (or the most recent published version), shall be followed to conduct traffic impact studies, which are required under any of the following conditions:
 - a. When the proposed Subdivision and/or Land Development is projected to generate one hundred (100) or more trips per hour during the peak generating time for the Subdivision and/or Land Development.
 - b. For smaller Subdivision and/or Land Development, under one of the following three conditions:
 - (1) When the proposed new approach is to an Intersection already operating at level of service (LOS) "D" or worse.
 - (2) When the Applicant or Developer is requesting a new traffic signal.
 - (3) When modification of an existing traffic signal is being requested.
 - c. An older TIS may need to be updated when the data is more than two (2) years old.
 2. A traffic impact study may not be required in situations where the West Virginia DOH is agreeable to the proposed mitigation measures without conducting a TIS.

Section 4.08 Driveway Standards

- (A) Driveways may be used to provide a place and access for vehicular movement only between a parking area for a single residential Unit of occupancy or agricultural use (farm) and a Street, Alley, or Access Drive. Driveways may be used for off-street parking. Driveways shall conform to the following:



1. Residential Driveway entrances shall be provided from any roadway to all single-family residences in accordance with Standard Detail DE-1 or Standard Detail DE-2 in Appendix B (depending upon the curb and gutter requirements).
2. There shall be no more than one (1) vehicular entrance per individual Lot on a Public Street, unless the entrances are separated by a minimum of one hundred-fifty (150) feet.
3. No Driveway shall be constructed closer than forty (40) feet to the nearest Street Intersection.
4. Driveways shall be located more than five (5) feet from an adjoining property unless used as a shared Driveway between the two abutting properties. Recorded Maintenance Agreements shall be required before approval of Preliminary Plan.
5. Driveway grades shall not exceed three (3) percent from the edge of the intersecting Street pavement to the property line, nor exceed ten (10) percent from the property line to the garage, carport, or other off-street parking space.
6. The maximum Slope of embankments adjacent to Driveways shall not exceed 1V:3H unless a retaining wall is used to ensure that the earth is stabilized.
7. Driveways shall be constructed of bituminous asphalt, paved concrete, or pervious pavers per Section 4.17.E.4

Section 4.09 Utilities and Water & Sanitary Sewer Systems

- (A) A centralized water system shall be required for all Subdivisions and shall be equipped with the requisite number of fire hydrants. Fire hydrants shall meet the following requirements specified for fire hydrant installation and operation. Non-residential Subdivision shall be served by central water systems with fire hydrants sufficient to meet all requirements of the West Virginia State Fire Marshal's regulations.
1. Fire hydrants shall be installed in Subdivisions served by municipal water systems. The hydrant shall have a minimum flow rate of five hundred (500) gallons per minute (gpm) at a residual pressure of two (2) pounds per square inch (psi).
 2. Fire hydrants shall be installed at each Street Intersection with additional hydrants installed where necessary to provide fire hydrants at a maximum spacing interval of five hundred (500) feet or ISO standards, whichever is less. Fire hydrants shall be connected to water lines that are at least six (6) inches in diameter. Fire hydrants shall have isolation valves and be designed to drain and prevent freezing.
 3. Fire hydrant specifications and thread sizes shall be acceptable to the City and the West Virginia State Fire Marshal.



- (B) Water and sanitary sewer systems, water treatment plants, wastewater treatment plants, storage tanks, etc., shall be designed and constructed according to the regulations of the West Virginia Bureau of Health, the West Virginia DEP and federal regulations, as applicable.
 - 1. A copy of the approved West Virginia Bureau of Health permit and a complete set of the approved Plans shall be submitted prior to approval of the Preliminary Plat. The Plans shall include the utility system Plan, profiles, details and specifications necessary for construction of the system.
 - 2. For wastewater treatment plants, a copy of the West Virginia Department of Environmental Protection’s waste load allocation and discharge permit shall be provided prior to approval of the Preliminary Plat.
 - 3. Private wells and/or private septic systems for domestic use are prohibited when central water and/or sanitary sewer is available.

- (C) Where possible, water and sewer lines that are installed parallel to Subdivision Roads shall be laid within the Road Right-of-Way. Otherwise, utility Easements shall be provided as deemed necessary to provide for access and maintenance. A note shall be placed on the Final Plat stating:

A BLANKET EASEMENT IS GRANTED TO THE CITY OF MARTINSBURG IN ALL ROAD RIGHTS-OF-WAY FOR CONSTRUCTION AND MAINTENANCE OF WATER AND SANITARY SEWER LINES.

- (D) A note shall be placed on the Preliminary Plat and Final Plat stating that:

SERVICE LATERALS TO INDIVIDUAL LOTS OR SITES SHALL BE INSTALLED PRIOR TO CONSTRUCTION OF THE FINISHED ROAD PAVEMENT SURFACE.

- (E) The installation of water and sanitary sewer utility lines appurtenances shall be inspected and certified by the City that will own and operate the system.

- (I) All utility transmission lines (e.g., electric, phone, cable, water, sewer, etc.) and service lines within the Subdivision or site Development project shall be underground.

Section 4.10 Stormwater Management and Erosion & Sediment Control

All requirements and processes for storm water management and erosion & Sediment Control for the City are contained within the Stormwater Management Ordinance of the City of Martinsburg (Ordinance No. 2013-17). Development within the City meeting the criteria described in said ordinance must conform to the standards set forth therein.

Section 4.11 Buffer and Screening Standards

- (A) For new Developments and new uses in existing Developments, an opaque buffer and screen from the ground to a minimum height of six (6) feet, shall be provided between all adjoining residential and non-residential uses.



- (B) Opaque Screening to a minimum height of six (6) feet and a minimum width of five (5) feet shall be required around the perimeter of all mini-storage warehousing facilities, Recreational and commercial vehicle parking areas, and loading areas, and also between single-family detached and multi-family, and where elsewhere specified in this Ordinance.
- (C) Opaque Screening to a minimum height of six (6) feet shall be required around the perimeter of all exterior trash dumpsters; material, product and equipment storage areas; tanks, and similar facilities. Dumpster Screening shall consist of a solid wall at least six (6) feet tall and landscape area along all sides (except the area where the door is located). The walls shall be of the same general character and compatible with the materials used for the principle Building and shall not be sheet metal. The gate at the entrance to the dumpster shall be on a metal frame. The landscape area around the dumpster Screening shall be at least five (5) feet in depth and be planted with shrubs and/or trees.
- (D) A twenty-five (25) foot opaque buffer and screen composed of intermittent visual obstructions from the ground to a minimum height of ten (10) feet is required along existing or planned primary Streets and state-maintained Roads where new residential Developments about them. For new mixed-use Developments, residential Structures shall be buffered from commercial Structures and adjoining parking Lots by use of vegetation, Landscaping, fencing, walls, Berms or other similar methods which are deemed under the circumstances to create effective and aesthetically pleasing screens or buffers between such diverse land uses. At least fifty (50) percent of any vegetative material shall be coniferous or other non-deciduous plant material.
- (E) Buffering shall consist of a land area not less than twenty (20) feet in width for Developments between all adjoining residential and non-residential uses, except as provided below.
- (F) The twenty (20) foot Screening shall be in conformance with Appendix C – Buffering Standard Detail and planted according to the species' planting requirements. All natural Screening shall be intended to reduce visibility, pollution, and noise.
- (G) Buffer width may be reduced to ten (10) feet, provided that an opaque Screening is provided, such as a fence, Berm, Landscaping or a combination thereof. The ten (10) foot buffer and Screening shall be in conformance with Appendix C – Buffering Standard Detail and planted according to the species' planting requirements. All natural Screening shall be intended to reduce visibility, pollution, and noise.
- (H) Opaque Screening shall consist of a wall, fence, landscaped earth Berm, planted vegetation, existing vegetation, or a combination thereof and shall be intended to prevent visibility and reduce noise. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation.
- (I) The requirements of Section 4.12 Landscaping Standards shall be in addition to the requirements of this Section. However, where duplication of plant material would occur, plantings from Section 4.12 is not required. Duplication in this Subsection shall mean excessive crowding, based on anticipated full growth at maturity of the selected plant material, that would result in premature mortality.



Section 4.12 Landscaping Standards

- (A) The requirements specified henceforth establish minimum standards for required Landscaping, buffering, and Screening for Major Subdivision and/or Land Development. The purpose of this Section is to enhance the appearance, environment, wildlife, and value of property in the City of Martinsburg for the general benefit of all citizens. All Major Subdivision and/or Land Development within the City of Martinsburg shall be subject to the requirements as specified herein.
1. General Landscaping. All Subdivision and/or Land Developments shall plant all disturbed ground with plant material to provide ground stabilization, aesthetic, visual and environmental enhancement to sites and Buildings. No more than 40% of any one type or species of tree shall be permitted.
 2. Street Trees. All Subdivision and/or Land Development that propose new Streets or Development along existing Streets shall provide Landscaping along Street Frontages in accordance with the following regulations:
 - a. A minimum of one (1) tree shall be required along every fifty (50) feet of Street Frontage on both sides of Street. The minimum spacing of trees shall be according to the requirements of the specific species.
 - b. Up to ten (10) percent of the total number of trees required in Section 4.12(A)2.a may be planted in designated Open Space areas.
 - c. For the purpose of calculating the required number of Street trees required in Section 4.12(A)2.a, both sides of a Street, and the length around Cul-de-sacs, shall be included in the total length of street Frontage.
 - d. Where a buffer and/or screen is required along a Street, Street trees shall not be required along that particular Street Frontage.
 - e. Street trees will be reviewed to ensure that trees do not create nuisance conditions from fruit, nuts, seeds or the like on vehicles and Stormwater systems beyond what is generally accepted when trees are located along the roadway.
 3. Parking Lot Landscaping. All parking Lots shall be landscaped to reduce the visual impact of glare and headlights on adjoining residential and non-residential properties and Rights-Of-Way. Parking Lots shall be adequately shaded to reduce reflected heat. Landscaping shall also be provided to reduce the visual expansiveness of parking Lots. Landscaping shall be provided in such parking Lots as follows:
 - a. Perimeter Landscaping. The perimeter of all Impervious Areas shall be landscaped with shade trees and other Landscaping. One tree shall be provided for every 2,000 square feet of Impervious Area for the first 100,000 square feet of the total site area. Thereafter, one (1) tree shall be provided for every 5,000 square feet of Impervious Area over 100,000 square feet. The majority of these trees shall be located around parking Lots. All perimeter Landscaping shall comply with the requirements of this



Ordinance, including, but not limited to plant selection, planting procedure, and maintenance.

- b. Interior Landscaping. In any parking Lot containing twenty-five (25) or more parking spaces, a minimum of five (5) percent of the total area of the Lot shall be devoted to interior Landscaping for the purpose of providing shade trees and reducing Impervious Areas. No less than one (1) shade tree shall be provided in the interior of the parking Lot for each ten (10) parking spaces and two (2) shrubs. Planting area shall not be less than six (6) feet in length and width. All Landscaping shall comply with the requirements of this Ordinance, including, but not limited to plant selection, planting procedure, and maintenance. Recessed parking Lot islands are encouraged, which could function as a bio-Swale.
 - c. The area between the parking Lot and the Street shall be planted with a continuous row of shrubs that will screen the parking from the Street. Plantings shall be a minimum of eighteen (18) inches at time of planting. All shrub material shall be a minimum of three (3) feet at maturity. So long as to not obstruct sight triangles.
- (B) Plant Selection. Required trees and shrubs shall be of an acceptable species. In addition, the size of the plant, excluding ground cover, shall be of the following minimum sizes when planted:
- 1. All deciduous trees shall be at least two (2) inch caliper when planted.
 - 2. All evergreen trees shall be at least six (6) feet tall when planted.
 - 3. All shrubs shall be at least three (3) gallon container size when planted.
 - 4. Landscaping should be tolerant to the climate, location and space constrains, and include a variety of plants including shrubs and trees to create interest, color, fragrance and texture.
- (C) Planting Procedure. All required trees and shrubs shall be planted in accordance with the specifications of the ANSI (American National Standards Institute) *A300 Best Management Practices*. All trees shall be planted no closer than three (3) feet to the edge of sidewalks, curb, or other pavement.
- (D) Maintenance. The owner, Developer, and/or builder who is responsible for planting required Landscaping shall be responsible for maintaining the Landscaping in a state of good health for one (1) year after the installed and completed Landscaping is approved by the City Engineer/Planning Director or designee following inspection. Landscaping will be inspected at the time of bond release and, in the case of materials that have not been planted and established in good condition, the responsible Person will be required to post a maintenance bond for one (1) year to guarantee the survival of the materials. Approved Landscaping shall be maintained in a healthy condition with adequate watering, fertilization, and grooming in accordance with industry standards



(E) Prohibited Species. Certain plant material species is prohibited due to invasiveness, hardiness, maintenance or other nuisance features. The following is a list of prohibited species that are not permitted to be planted:

- Autumn-olive *Elaeagnus umbellata*
- Bush Honeysuckles *Lonicera maackii*, *L. tatarica*, *L. morrowii*, *Amur*, *Tatarian*, and *Morrow honeysuckle*
- European Privet *Ligustrum vulgare*
- Garlic Mustard *Alliaria petiolate*
- Japanese Barberry *Berberis thunbergia*
- Japanese Knotweed *Polygonum cuspidatum*
- Japanese Stiltgrass *Microstegium vimineum*
- Kudzu *Pueraria montana*
- Mile-A-Minute *Persicaria perfoliate*
- Multiflora Rose *Rosa multiflora*
- Oriental Bittersweet *Celastrus orbiculatus*
- Purple Loosestrife *Lythrum salicaria*
- Russian Olive *Elaeagnus angustifolia*
- Tree of Heaven *Ailanthus altissima*

(F) Existing Plant Material, Tree Credits and Woodland Preservation Bonuses.

1. Existing Plant Material. Existing trees, shrubs, and other plant materials shall be retained to the greatest extent feasible. Plans shall indicate how existing trees, shrubs and other plant materials are to be protected and provided moisture and how soils are to be aerated and drained.
2. Tree Credits. If the intent of this Section is satisfied, as determined by the City Engineer/Planning Director or designee, including the tree location, species and health, existing trees that are preserved may be given tree credits that will reduce the total number of required trees in a Subdivision and/or Land Development equal to the number of credits received. Trees that are preserved for a tree credit must include the protection of at least 2/3 of the tree drip line from Land Disturbance as shown on the Preliminary Plans. Table 4.03 shows the amount of tree credits existing trees may receive based on the existing tree size (caliper).

Table 4.03, Tree Credits

Tree Category	Tree Credit
Existing Tree 1" to 6" Diameter Breast Height (DBH)	1 tree Unit per tree retained
Existing Tree 7" to 19" DBH	2 tree Unit per tree retained
Existing Tree > 20" DBH	3 tree Unit per tree retained
New or Replacement Tree, Large Species (At maturity more than 40 feet tall)	1 tree Unit per tree planted



Section 4.13 Outdoor Lighting

- (A) Illumination Levels. Lighting, where required by this Ordinance or otherwise required by the City shall have intensities and uniformity ratios in accordance with the recommended practices of the Illuminating Engineering Society of North America (IESNA) *Lighting Handbook*, 9th edition, Chapters 21 & 22. (i.e., Minimum Average = 0.5 fc; Minimum = 0.1 fc; Uniformity = 6:1) 2. Future editions to said Lighting Handbook and Recommended Practices shall become a part of this Ordinance without further action by the City.
- (B) Lighting Fixture Design.
1. Street lighting supplied with unmetered electric service shall meet the specifications of the electric utility.
 2. Lighting fixtures for Building entrances, sidewalks, paths, site entrances, and parking areas shall be aimed straight down and shall be full cutoff or fully shielded. For the use of reflector lamps, a maximum of 14,000 center-beam-candlepower (CBCP) shall be permitted.
 3. For the lighting of non-horizontal surfaces such as, but not limited to, facades, Landscaping, signs, fountains, displays, flags and statuary, the use of lighting fixtures that are not full cutoff or fully shielded, shall be permitted only with the approval of City Engineer/Planning Director or designee, based upon acceptable shielding and other glare control. At a minimum, shielding shall render the light source not visible from neighboring properties.
 4. Barn lights (i.e., fixtures which are not full-cutoff, or cutoff, but which have a diffuser which transmits the light at angles above full-cutoff or cutoff angles) shall not be permitted where they are visible from other uses unless fitted with a reflector or other device to render them fully shielded or full cutoff.
- (C) Control of Nuisance and Disabling Glare (Excessive Brightness in the Field of View).
1. All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
 2. Floodlights and spotlights that are not full-cutoff or fully shielded, where specifically approved by the municipality, shall be so installed and aimed that they do not project their output into the windows of neighboring properties, adjacent uses, past the object being illuminated, skyward or onto a public roadway. Authorities having jurisdiction shall take specific care to ensure this criterion by requiring submission of photometric plots of the illuminated surface and its surroundings.
 3. Unless otherwise permitted by the City (e.g., for safety or security or all-night commercial operations) lighting for commercial, public Recreational and institutional applications shall be controlled by programmable timers that accommodate seasonal and annual variations and battery or mechanical (e.g., spring-wound) backup, to permit extinguishing sources between 11 p.m. and



dawn or within 1-hour of the close of business, whichever is earlier, to conserve energy and to mitigate nuisance glare and sky-lighting consequences.

4. Security lighting proposed for use after 11:00 p.m. or after the normal hours of operation for commercial, industrial, institutional or municipal applications, shall be accomplished using no more than twenty-five (25) percent of the number of fixtures used during normal business hours, from then until the start of business in the morning. Alternatively, where reduced but continued activity requires even illumination, the use of dimming circuitry to reduce illumination levels by seventy-five (75) percent after 11:00 p.m. or after normal business hours, shall be permitted.
5. Glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement. Vegetation screens shall not be employed to serve as the primary means for controlling glare, except that the use of dense evergreen hedges, such as yew or juniper, to shield ground-mounted Floodlights may be used with signs up to fifteen (15) feet in height, provided such planting is maintained in a manner that shields the fixture from view of traffic and pedestrians at an angle below forty-five (45) degrees above horizontal.
6. The level of illumination projected onto a residential use from another property shall not exceed 0.1 initial horizontal footcandle, at the property line. The level of illumination projected onto a non-residential use shall not exceed 1.0 initial horizontal footcandle at the property line.
7. Directional fixtures for such applications as façade, fountain, feature, and landscape illumination shall be aimed so as not to project their output beyond the objects intended to be illuminated, shall meet requirements stated above with respect to light trespass, shall be extinguished between the hours of 11:00 p.m. and dawn and shall not be in conflict with the principles stated throughout this Ordinance.
8. Only the United States Flag and the West Virginia State Flag shall be permitted to be illuminated from dusk till dawn and each flag shall be illuminated by a source or sources with a beam spread no greater than necessary to illuminate the flag. Flag lighting sources shall not exceed 7,000 lumens per flagpole.
9. The use of white strobe lighting for tall Structures such as smokestacks, chimneys and radio/communications/television towers is prohibited during hours of darkness, except as specifically required by FAA.
10. Canopy lighting, for such applications as gas/service stations, bank, drugstore and fast-food drive-thru, shall be accomplished using flat-lens full-cutoff fixtures aimed straight down and shielded in such a manner that the lowest opaque edge of the fixture shall be level with or below the light source.
11. Temporary residential holiday lighting is exempt from the requirements of this Section except as it creates a hazard or nuisance.



(D) Recreational Uses.

1. When facilities for such outdoor Recreational activities as baseball, tennis, football, miniature golf or any other Recreational use permitted under the City's Zoning Ordinance, are specifically permitted by the municipality for operation during hours of darkness, the following requirements shall apply:
 - a. Lighting shall be accomplished only through the use of fixtures conforming to IESNA criteria, or as otherwise approved by the municipality based on suitable control of glare and light trespass. Flood-lighting for sports or Recreational facilities shall not be aimed above a beam-center angle of forty-five (45) degrees from vertical, nor shall the level of illumination on neighboring properties exceed the limits specified in Section 4.13(C)6 above.
 - b. For new Recreational facilities and existing Recreational facilities wishing to change their hours of operation during hours of darkness, sporting events shall be timed so that all lighting in the sports facility, other than lighting for safe exit of patrons, shall be extinguished by 11:00 p.m., regardless of such occurrences as extra innings or overtimes.
 - c. Trap shooting facilities, golf driving ranges and racetracks shall not be illuminated unless it can be demonstrated that such lighting will not create a nuisance, shine on or into any nearby residential properties or be visible to traffic on any nearby Streets, roadways, or institutional or commercial parking Lots. In any case, if lighting is permitted at these facilities, it shall not be accomplished by using any horizontally aimed fixtures or Floodlights nor shall these fixtures be aimed at a beam-center angle greater than forty-five (45) degrees from vertical.
 - d. The outdoor Recreational activities listed in subparagraph e., below shall not be illuminated if located within any residential district or sited on a nonresidential property located within 1,200 feet of a residential use.
 - e. Maximum mounting heights for Recreational lighting shall be in accordance with the following (Note, regulations apply to non-tournament Recreational uses. Tournament and high school facilities may require increased heights. For tournament and high school level applications use the standards contained in the IESNA *Lighting Handbook*, 9th edition, Chapters 21 & 22, and relevant IESNA recommended practices.):
 - (1) Basketball: 30' 10 fc.
 - (2) Football: 70' 20 fc.
 - (3) Soccer: 70' 20 fc.
 - (4) Baseball: 70' 20 fc infield; 15 fc outfield.
 - (5) Youth Baseball:



- (a) 200' Radius 60' 20 fc infield; 15 fc outfield.
- (b) 300' Radius 70' 20 fc infield; 15 fc outfield.
- (6) Miniature Golf: 15' 10 fc.
- (7) Tennis: 30' 20 fc.
- (8) Track: 30' 15 fc.
- (9) Swimming Pool :20' 10 fc.

(E) Street and Parking Lot Lighting for Residential Applications

1. For residential Developments where Lot sizes are or average less than 20,000 square feet, Street lighting shall be provided as follows:
 - a. At the Intersection of public Roads with entrance Roads to the Development.
 - b. At the Intersection of Roads within the Development.
 - c. At Cul-de-sac bulb radii.
 - d. At terminal ends of center median islands having concrete Structure curbing, trees, signs or other fixed objects, and at Cul-de-sac center islands with curbing.
 - e. At defined pedestrian crossings located within the Development.
 - f. At other locations along the Street as deemed necessary by City Engineer/Planning Director or designee.
 - g. Where Lot sizes permit the parking of less than two (2) vehicles on the Lot, thereby necessitating on-Street parking, Street lighting shall be provided along the length of the Street, in accordance with the illuminance requirements contained in Section 4.13(A) above.
 - h. In multi-family Developments, common parking areas shall be illuminated in accordance with the luminance requirements contained in Section 4.13 (A) above.
2. In residential Developments with Lots of less than 20,000 square feet, where six (6) or more contiguous parking spaces are proposed, such spaces shall be illuminated in accordance with the luminance requirements contained in Section 4.13(A), above.
3. Lighting fixtures for parking Lots and roadways in residential Developments shall be mounted not more than fourteen (14) feet above finished grade.



(F) Installation.

1. Pole-mounted fixtures for roadways, pedestrian Walkways, parking Lots, and similar uses shall be aimed straight down.
2. Mounting Heights. The following maximum fixture mounting heights shall prevail:
 - a. Full-cutoff fixtures with 44,000 lumen lamps maximum, in parking Lots: twenty (20) foot AFG.
 - b. Full-cutoff fixtures with 115,000 lumen lamps maximum, shall be permitted only in large (100 spaces or more) commercial, institutional and industrial parking Lots except when the facility is adjacent to a residential district or use or an environmentally sensitive area: not less than twenty-five (25) feet or more than thirty (30) feet AFG. Mounting heights of twenty-five to thirty (25 – 30) feet shall not be permitted when located less than one hundred (100) feet from a residential district or use.
 - c. Decorative–cutoff or fully shielded fixtures with 17,500 lumen lamps maximum: 16’ AFG.
 - d. Fully-shielded bollard fixtures with 6,200 lumen lamps maximum: 42” AFG.
 - e. Recreational Use. See Section 4.13(D) above.

(G) Post-Installation Inspection.

1. The City reserves the right to conduct post-installation nighttime inspections to verify compliance with the requirements of this Ordinance and approved plans, and if appropriate, to require remedial action at no expense to the City.

Section 4.14 Park, Recreation, and Open Space Amenity Standards

(A) Standards for Dedication. All land dedicated for Recreation and park Development shall substantially meet the following standards:

1. Unity. The dedicated land shall form a single parcel of land except where the Planning Commission, in consultation with the Martinsburg-Berkeley County Parks and Recreation Board, determines that two (2) parcels or more would be in the public interest and determines that a connecting path or strip of land is in the public interest, and in which case the path shall not be less than twenty (20) feet wide.
2. Shape. The shape of the dedicated parcel of land shall be of a sufficient shape to be usable for Active Recreational activities such as softball, tennis, basketball, soccer, walking and bike trails, etc.
3. Location. The dedicated land shall be located so as to reasonably serve the Recreation and Open Space needs of the Subdivision and/or Land Development for which the Dedication was made and shall bear a reasonable relationship to



the use of the area by the future inhabitants of the Subdivision and/or Land Development.

4. Access. Public access to the dedicated land shall be provided either by adjoining Street Frontage or public Easement at least twenty (20) feet in width.
 5. Topography. Generally, areas dedicated for Recreation shall not exceed Slopes of five (5) percent.
 6. Usability. The dedicated land shall be usable for Recreation; surface water bodies may not be included in computing dedicated land area. Where the Planning Commission, in consultation with the Martinsburg-Berkeley County Parks and Recreation Board, determines that recreational needs are being adequately met, either by other dedicated parcels of land or existing recreational facilities, then land that is not usable for recreation may be dedicated as open space.
- (B) Prerequisites for Approval of Subdivision and/or Land Development Application. Where Dedication is required, such Dedication shall be shown upon each Plat submitted.
- (C) Calculation of Mandatory Land Dedication. Land Dedication required by dwelling Units shall be 0.024 acres per dwelling Unit.
- (D) Use of Dedicated Land. The dedicated land shall only be used only for the purpose of providing open space, park and Recreational areas.
- (E) Dispute Settlement. In the event that the City and the Applicant cannot agree upon the location, terrain, size or shape of the land necessary to be dedicated for a neighborhood Recreation area or cannot agree upon the details of provisions for an equitable amount of land in another location, such disagreement shall be determined by the Planning Commission.
- (F) Privately Owned Park and Recreational Areas. Private parks and Recreational facilities are encouraged; however, such facilities cannot be credited toward the requirement of Dedication for public park and Recreation purposes if such areas are restricted to residents of the Development only, as noted on the Final Plat and/or Plan.
- (G) Greenways. Greenways may be credited against the requirements of this Section provided that such greenways are: (1) a part of the City's Comprehensive Plan and/or Capital Improvements Plan; and/or Martinsburg-Berkeley County Parks and Recreation Master Plan; and (2) dedicated to public use.

Section 4.15 Trail Standards

- (A) All pedestrian and bicycle trails shall be designed and constructed in accordance with the specifications shown in Standard Detail ST-1.
- (B) Erosion and Sediment Control. Erosion and Sediment Control methods shall be implemented as required by Section 4.10 Stormwater Management and Erosion & Sediment Control of this Ordinance.



Section 4.16 Homeowners Associations

- (A) All cooperatives and common interest communities, as the same are defined by West Virginia Code §36B-1-103, et. seq., shall comply with the provisions thereof, including, but not limited to, provision for a homeowners' association or "Unit owners' association" to be duly established in a declaration for same, to be executed by the Developer/Declarant, and which shall be fully compliant with said West Virginia Code provision known as the "Uniform Common Interest Ownership Act."¹
- (B) Said declaration shall be submitted with the Subdivision and/or Land Development Application as a requirement for its approval.
- (C) Neither the City of Martinsburg nor its Planning Commission shall have any jurisdiction over private restrictive covenants that may apply to Units or Subdivision and/or Land Development Lots to the extent those agreements meet the requirements of this Ordinance and the Zoning Ordinance. Such covenants shall not conflict with, supersede, or dispel any ordinances or regulations enacted by the City of Martinsburg. Restrictive covenants constitute private agreements between owners of Units that are enforceable by the owners of the Units and/or their homeowners association as set forth in said restrictive covenants. Therefore, approval given by the City of Martinsburg for any activity or improvement to any Unit or Lot within any Subdivision and/or Land Development, whether by permit, Waiver or variance shall not constitute an indication that said activity or improvement is in compliance with any applicable restrictive covenants. Likewise, architectural review and approval by a "Declarant" or homeowners association of an activity or improvement to a Unit or Lot shall not be misconstrued by any Unit owner as a sanction of the City of Martinsburg.

Section 4.17 Parking and Loading Standards

- (A) Purpose. In order to decrease congestion in the Streets, permanent off-street automobile parking spaces shall be provided for the following:
 - 1. All new Structures or uses of land;
 - 2. Existing Structures or uses of land that are increased in size by twenty (20) percent or more after the adoption of this Ordinance; and
 - 3. A change of use of land after the adoption of this Ordinance.
- (B) Structures and uses of land in existence or under construction on the date this Ordinance becomes effective shall not be subject to these parking requirements; *provided that*, any parking facilities existing at the time of adoption of this Ordinance shall not, in the future, be reduced, diminished, or modified to a lesser standard that is not fully compliant with these standards.
- (B) Application Procedure. No Subdivision and/or Land Development Application shall be approved unless there is included with the application a Plat showing adequate space to comply with these standards and criteria indicating and designating off-street parking

¹ West Virginia Code §36B Uniform Common Interest Ownership Act



and/or loading compliant with these standards. The Plat shall clearly show the size and location of parking and loading spaces, the width and arrangement of Access Drives, and arrangement of walls, fences, and screen planting as they apply to parking areas and adjacent Streets Alleys and highways.

(C) Impervious Surface Reduction. The amount of Impervious Cover shall be minimized when possible. This can be done with the following parking arrangements:

1. Shared Parking. Shared parking shall be used when possible. Adjacent businesses with different business hours may coordinate with one another and the City to share parking spaces.
2. Compact Car Parking Spaces. Compact car parking spaces shall be provided for compact vehicles. A minimum of five (5) percent and maximum of fifteen (15) percent of the required parking spaces shall be for compact cars.
3. Street Parking. Where Street parking is readily available, Street parking may account for up to ten (10) percent of required off-street parking.

(D) Off-Street Parking and Design Requirements.

1. No off-street public parking area shall be designed to permit direct parking space ingress and egress to a Street.
2. All off-street parking areas must be physically separated from a Public or Private Street (as specified above) by a buffer area of at least five (5) feet from the Right-of-Way or Street Line. The parking area shall be accessible only by access lane(s).
3. Design Standards. Every off-street parking area shall be developed and maintained in accordance with the following requirements:
 - a. ADA Accessibility. The design and construction of off-street parking facilities shall incorporate the requirements of the Americans with Disabilities Act (hereinafter referred to as ADA) Accessibility Guidelines, July 1991 and as amended.
 - b. Landscaping. Off-street parking areas shall be landscaped to meet the Landscaping requirements set forth in Section 4.12 of this Ordinance. To the greatest extent possible, Low Impact Development (LID) Stormwater design techniques should be incorporated into the design.
 - c. Outdoor Lighting. Outdoor lighting shall meet the lighting standards specified in Section 4.13 of this Ordinance.
 - d. Screening. The periphery of an off-street parking area that is within one hundred (100) feet of any Lot in a Residential District, any Lot occupied by a dwelling, school, church, or institution for human care not located on the same Lot as the parking area, or any Lot which is part of a duly recorded Subdivision and/or Land Development shall be adequately buffered from such Lot by either an opaque fence of a height between four (4) and six



(6) feet constructed of either wood, stone, brick or similar material, or a Landscaping screen of six (6) foot trees and shrubs of species and spacing which will result in an acceptable screen when plants mature. Trees used for Screening may be credited towards the required Landscaping standards specified in Section 4.12 of this Ordinance.

- e. Parking Lot Placement. Parking Lots and Buildings shall be placed pursuant to the Building Form Regulations specified in Article 3 of the City's Zoning Ordinance.
- f. Parking Lot Marking. All off-street parking areas shall be so arranged and marked as to provide for orderly safe loading, unloading, and parking of vehicles with individual parking spaces clearly defined, and directional arrows and traffic signs provided as necessary for traffic control.

(E) Interior Design Standards.

- 1. Landscape Islands. Planted Landscaping islands or peninsulas shall be utilized to break up rows of parking spaces and shall be designed according to the following requirements:
 - a. Parking Lots having less than one hundred (100) spaces shall be designed as follows:
 - (1) Islands at both ends of each row of parking.
 - (2) One island or peninsula for every ten (10) contiguous spaces.
 - (3) No more than two (2) contiguous parking bays (60' width) with a ten (10) foot wide island separating the two (2) bays from additional parking bays or drive aisles.
 - (4) Landscaping islands or peninsulas shall have a minimum width of nine (9) feet and length of eighteen (18) feet including curbing
 - b. Parking Lots having one hundred (100) spaces or more shall be designed as follows:
 - (1) Islands at both ends of each row of parking.
 - (2) One island or peninsula for every fifteen (15) contiguous spaces.
- 2. No more than three (3) contiguous parking bays (60' width) with ten (10) feet minimum wide planting strip separating the three (3) bays from additional parking bays or drive aisles.
- 3. Pedestrian Walkways. Walkways shall provide a connection to Building entrances from sidewalks and areas of concentrated parking (Standard Detail SW-1).



4. The use of permeable pavement is encouraged by the City of Martinsburg. Such methods shall be reviewed and approved by the City Engineer/Planning Director or designee.
 5. Access Ramps. All access ramps shall be designed in accordance with the 2010 ADA Standards for Accessible Design, as amended.
- (F) In all districts except Downtown (DT) District of the Zoning Ordinance, space for parking and storage of vehicles shall be provided in accordance with Table 4.04. The Planning Commission will consider the Applicant's Waiver request for the proposed alternative parking program requirements as a substitute to the requirements specified in Table 4.04. The Applicant's proposed parking program requirements must be reviewed by the City's Engineer and a determination be made that the alternative parking program sufficiently meets the Land Development's parking needs.

Table 4.04, Minimum Off-Street Parking Space Requirements

ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
PORT AND TERMINAL USES (ITE CODES 000 – 009)		
090	Park-and-Ride Lot	Applicant shall submit a parking study to show the park-and-ride facility is adequately sized to meet parking needs.
RESIDENTIAL USES (ITE CODES 200 - 299)		
210	Single-Family Housing	2.0 spaces per dwelling unit
*	Two-Family Housing	2.0 spaces per dwelling unit
220 – 222	Multi-Family Housing (Low-Rise)	1.2 spaces per dwelling unit
223	Affordable Housing	0.8 spaces per dwelling unit
252	Senior Adult Housing – Attached	0.9 spaces per dwelling unit
253	Congregate Care Facility	0.5 spaces per dwelling unit
254	Assisted Living	0.5 spaces per dwelling unit
255	Continuing Care Retirement Community	1.3 spaces per dwelling unit
LODGING USES (ITE CODES 300 – 399)		
310	Hotel	1.1 spaces per room
311	All Suites Hotel	1.1 spaces per room
312	Business Hotel	1.1 spaces per room
320	Motel	1.1 spaces per room
330	Resort Hotel	1.4 spaces per room
RECREATIONAL USES (ITE CODES 400 – 499)		
411	Public Park	0.8 spaces per acre
430	Golf Course	11.0 spaces per hole
433	Batting Cages	1.5 per batting cage



ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
435	Multipurpose Recreational Facility	16 spaces per 1,000 sq. ft. GFA, 2.7 spaces per hole, and 12.8 spaces per acre
437	Bowling Alley	4.9 spaces per lane
438	Billiard Hall	6.9 spaces per 1,000 sq. ft. GFA and 3.0 spaces per billiard table
440	Adult Cabaret (Adult Uses)	5.2 spaces per 1,000 sq. ft. GFA
441	Live Theater	0.3 spaces per seat
444	Movie Theater	0.2 spaces per seat
445	Multiplex Movie Theater	0.3 spaces per seat
465	Ice Skating Rink	1.5 spaces per 1,000 sq. ft. GFA
466	Snow Ski Area	1.0 spaces per acre of ski trails
473	Casino/Video Lottery Establishment	36 spaces per 1,000 sq. ft. GFA and 1.6 spaces per gaming position
481	Zoo	12 spaces per acre
482	Water Slide Park	45 vehicles per acre
488	Soccer Complex	41 spaces per soccer field
490	Tennis Courts	6.2 spaces per court
491	Racquet/Tennis Club	1.3 spaces per 1,000 sq. ft. GFA and 4.3 spaces per court
492	Health/Fitness Club	4.3 spaces per 1,000 sq. ft. GFA and 0.1 spaces per member
493	Athletic Club	3.4 spaces per 1,000 sq. ft. GFA and 0.8 spaces per 10 members
495	Recreational Community Center	2.7 spaces per 1,000 sq. ft. GFA
INSTITUTIONAL USES (ITE CODE 500 – 599)		
520	Elementary School	0.1 spaces per student
522	Middle School/Junior High School	0.1 spaces per student
530	High School	0.4 spaces per student
536	Private School (K-12)	0.4 spaces per student
538	School District Office	2.4 spaces per 1,000 sq. ft. GFA and 7.0 spaces per 1,000 students
540	Junior/Community College	0.2 spaces per student
550	University/College	0.3 spaces per student
560	Church	11 spaces per 1,000 sq. ft. GFA and 0.3 spaces per seat
561	Synagogue	0.4 spaces per attendee
562	Mosque	12 spaces per 1,000 sq. ft. GFA
565	Day Care Center	3.3 spaces per 1,000 sq. ft. GFA and 0.2 vehicles per student
580	Museum	3.3 spaces per 1,000 sq. ft. GFA
590	Library	2.5 spaces per 1,000 sq. ft. GFA
595	Convention Center	0.4 spaces per attendee
MEDICAL USES (ITE CODES 600 – 699)		
610	Hospital	2.4 spaces per 1,000 sq. ft. GFA, 3.7 spaces per bed and 0.7 spaces per employee



ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
612	(Outpatient) Surgery Center	8.5 spaces per operating room
620	Nursing Home	1.1 spaces per 1,000 sq. ft. GFA, 0.8 spaces per dwelling Unit and 0.5 spaces per bed
630	Clinic	5.3 spaces per 1,000 sq. ft. GFA
640	Animal Hospital/Veterinary Clinic	2.8 spaces per 1,000 sq. ft. GFA
650	Free-Standing Emergency Room	4.9 spaces per 1,000 sq. ft. GFA
OFFICE USES (ITE CODES 700 – 799)		
710	General Office Building	3.1 spaces per 1,000 sq. ft. GFA and 1.0 spaces per employee
712	Small Office Building	3.9 spaces per 1,000 sq. ft. GFA
714	Corporate Headquarters Building	3.3 spaces per 1,000 sq. ft. GFA and 1.2 spaces per employee
715	Single Tenant Office Building	3.7 spaces per 1,000 sq. ft. GFA and 0.9 spaces per employee
720	Medical-Dental Office Building	4.3 spaces per 1,000 sq. ft. GFA
730	Government Office Building	4.9 spaces per 1,000 sq. ft. GFA for municipal Buildings and 3.7 spaces per 1,000 sq. ft. GFA for state or federal Buildings
732	United States Post Office	33 spaces per 1,000 sq. ft. GFA, and sufficient stacking for any drive-through lane(s)
735	Judicial Complex	4.1 spaces per 1,000 sq. ft. GFA and 0.8 spaces per employee
750	Office Park	4.4 spaces per 1,000 sq. ft. GFA and 1.5 spaces per employee
760	Research and Development Center	3.5 spaces per 1,000 sq. ft. GFA and 1.0 spaces per employee
RETAIL USES (ITE CODES 800 – 899)		
812	Building Materials and Lumber Store	0.6 spaces per 1,000 sq. ft. GFA and 1.3 spaces per employee
813	Free-Standing Discount Superstore	4.8 spaces per 1,000 sq. ft. GFA
814	Variety Store	1.7 spaces per 1,000 sq. ft. GFA and 2.1 spaces per employee
815	Free-Standing Discount Store	5.0 spaces per 1,000 sq. ft. GFA
816	Hardware/Paint Store	6.7 spaces per 1,000 sq. ft. GFA
820	Shopping Center	4.9 spaces per 1,000 sq. ft. GFA
840	New Car Sales	2.3 spaces per 1,000 sq. ft. GFA, plus adequate space for vehicle display and storage
841	Used Car Sales	3.1 spaces per 1,000 sq. ft. GFA, plus adequate space for vehicle display and storage
842	Recreational Vehicle Sales	0.78 spaces per 1,000 sq. ft. GFA, plus adequate space for vehicle display and storage
843	Automobile Parts Sales	5.3 spaces per 1,000 sq. ft. GFA
845	Motorcycle Dealership	5.9 spaces per 1,000 sq. ft. GFA
848	Tire Store	5.0 spaces per 1,000 sq. ft. GFA
850	Supermarket	4.6 spaces per 1,000 sq. ft. GFA



ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
851	Convenience Market	4.6 spaces per 1,000 sq. ft. GFA
857	Discount Club	4.8 spaces per 1,000 sq. ft. GFA
860	Wholesale Market	2.2 spaces per 1,000 sq. ft. GFA
861	Sporting Goods Superstore	4.3 spaces per 1,000 sq. ft. GFA
862	Home Improvement Superstore	4.9 spaces per 1,000 sq. ft. GFA
863	Electronics Superstore	2.3 spaces per 1,000 sq. ft. GFA
864	Toy/Children's Superstore	1.9 spaces per 1,000 sq. ft. GFA
866	Pet Supply Superstore	4.0 spaces per 1,000 sq. ft. GFA
867	Office Supply Superstore	1.3 spaces per 1,000 sq. ft. GFA
868	Book Superstore	1.1 spaces per 1,000 sq. ft. GFA
869	Discount Home Furnishings Superstore	4.3 spaces per 1,000 sq. ft. GFA
876	Apparel Store	8.2 spaces per 1,000 sq. ft. GFA
880	Pharmacy/Drugstore w/o Drive-Through Window	5.0 spaces per 1,000 sq. ft. GFA
881	Pharmacy/Drugstore with Drive-Through Window	4.2 spaces per 1,000 sq. ft. GFA
882	Marijuana Dispensary	7.2 spaces per 1,000 sq. ft. GFA
890	Furniture Store	1.9 spaces per 1,000 sq. ft. GFA
892	Carpet Store	2.9 spaces per 1,000 sq. ft. GFA
899	Liquor Store	5.1 spaces per 1,000 sq. ft. GFA
SERVICE USES (ITE CODES 900 – 999)		
912	Drive-in Bank	7.2 space per 1,000 sq. ft. GFA, plus sufficient stacking area to accommodate drive-through lane(s)
920	Copy, Print, and Express Ship Store	8.1 spaces per 1,000 sq. ft. GFA
930	Fast Casual Restaurant	11 spaces per 1,000 sq. ft. GFA
931	Quality Restaurant	17.5 spaces per 1,000 sq. ft. GFA and 0.5 spaces per seat
932	High-Turnover (Sit-Down) Restaurant	11 spaces per 1,000 sq. ft. GFA and 0.5 spaces per seat
933	Fast-Food Restaurant w/o Drive-Through Window	13 spaces per 1,000 sq. ft. GFA
934	Fast-Food Restaurant with Drive-Through Window	11.9 spaces per 1,000 sq. ft. GFA and 0.5 space per seat, plus sufficient stacking area to accommodate drive-through lane
936	Coffee/Donut Shop w/o Drive-Through Window	7.1 spaces per 1,000 sq. ft. GFA
937	Coffee/Donut Shop with Drive-Through Window	8.8 spaces per 1,000 sq. ft. GFA, plus sufficient stacking area to accommodate drive-through lane
939	Bread/Donut/Bagel Shop w/o Drive-Through Window	8.9 spaces per 1,000 sq. ft. GFA
940	Bread/Donut/Bagel Shop with Drive-Through Window	5.5 spaces per 1,000 sq. ft. GFA, plus sufficient staking area to accommodate drive-through lanes
941	Quick Lube Vehicle Shop	5.1 spaces per 1,000 sq. ft. GFA and 1.2 spaces per employee
943	Automobile Parts and Service Center	1.4 spaces per 1,000 sq. ft. GFA, plus adequate space for vehicle storage
960	Dry Cleaners	3.6 spaces per 1,000 sq. ft. GFA



ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
960	Super Convenience Market/Gas Station	13 spaces per 1,000 sq. ft. GFA
970	Winery	43 spaces per 1,000 sq. ft. GFA

(G) Drive-Thru Standards. Drive-Thru requirements shall be as follows:

1. Drive-thru lanes shall be required for all drive-thru facilities and shall have a minimum width of ten (10) feet along straight segments.
2. The minimum number of required queue spaces specific to business type is listed in Table 4.05.

Table 4.05, Queue Spaces for Drive-Thru Types

Type of Facility	Inbound Vehicles	Outbound Vehicles
Drive-in bank	2 spaces per service position	1 space per service position
Drive-in beverage, food sales /pharmacies	4 spaces per service position	1 space per service position
Laundry / Cleaners	3 spaces per service position	1 space per service position
Attendant car wash	10 spaces per service to wash line	6 spaces between end of wash stall and other circulation lane
Automatic car wash	3 spaces per service position	1 space per service position
Automatic car wash as an accessory use	2 spaces per service position	1 space per service position
Service station	4 spaces per aisle	1 space per aisle



3. Canopy supports and raised concrete pads designed to support pneumatic tubes, automatic teller machines and other Structures shall not be located within the area required for minimum drive-in lane widths.
4. All drive-thru lanes shall be clearly separated from parking spaces, travel aisles, maneuvering areas, and Access Drives.
5. The Planning Department may reduce the minimum stacking distance of drive-thru lanes for uses if it can be demonstrated that the vehicular frequency for the use does not warrant multiple vehicle stacking.

(H) Loading Standards. Adequate loading spaces and maneuvering areas shall be provided for all businesses that will send and receive materials.

1. Loading dock(s) shall not be located on the front of a Building. Where located, the loading dock(s) shall be hidden from pedestrian and vehicular activity. This area shall be concealed by a wall with material to match the primary Structure or Landscaping.

2. Dumpster Pad Specifications.

- a. A dumpster pad shall be constructed of concrete (3,500 PSI minimum) and shall be sized pursuant to industry standards for the dumpster size utilized. Steel bollards set in 16 inch x 16 inch x 16 inch concrete footers shall be provided to guide dumpster placement. Bollard placement shall also be according to industry standards for the dumpster size utilized. Where front wheels sit during the dumping cycle, concrete must be able to withstand up to a 32,000 pound load that bounces. Note on the Plans this requirement.
 - b. To the extent possible, dumpster pads shall be hidden from view by Screening as prescribed in Section 4.11 of this Ordinance.
 - c. Trash dumpsters shall be treated as the equivalent of a loading dock and shall have minimum Setbacks as set forth in the Zoning Ordinance.
 - d. Placement, container size, and other restrictions pertaining to trash collection and containment are subject to Article 951 of the Codified Ordinance and/or the International Property Maintenance Code. Zoning restrictions may also apply.
3. Screening, as prescribed in Section 4.11 of this Ordinance.
 4. Loading spaces shall be located in the rear of the property of the business to be served.
 5. Loading spaces shall not be placed in the front, rear, or side yard minimum Setbacks, as defined in the Zoning Ordinance.



- a. Loading spaces shall provide ample maneuvering space for vehicles for loading spaces shall be as specified in Table 4.06.

Table 4.06, Minimum Dimensions for Loading Spaces

Height Clearance	Width	Depth
14 feet	10 feet	50 feet

- 6. Maneuvering areas shall not be located so as to require vehicles to back into an Alley or Street when unloading materials.
- 7. A loading space shall not be considered a parking space, and therefore shall not be considered a credit to the number of required parking spaces.
- 8. Required Loading Docks. Loading docks shall be provided in addition to necessary loading spaces for large Buildings as shown in Table 4.07.

Table 4.07, Minimum Required Loading Docks

Gross Floor Area (in Square Feet)	Required Loading Docks
Less than 100,000	0
100,001 – 200,000	1
200,001 – and over	2 plus 1 for each additional 150,000 square feet

- (l) Accessibility Standards. ADA parking space requirements shall be provided and designed in accordance with the *ADA Accessibility Guidelines*, July 1991 edition and later supplements, and as amended.

Section 4.18 Monuments

- (A) As a requisite for completion of the work product, each land boundary survey of a tract or parcel of land shall be monumented with objects made of permanent material at all corners and changes of direction on the land boundary with the exceptions of meanders, such as meanders of streams, lakes, swamps and prescriptive Street Right-of-way; and each such Monument, other than a natural monument, shall, when feasible, be identified by a temporary witness stake (which may be wooden).
- (B) Where it is not feasible to set actual corners, appropriate reference Monuments shall be set, preferably online, and the location shall be shown on the Plat of the land boundary.
- (C) Permanent Monuments shall be placed in all Subdivision and/or Land Development in accordance with the following standards:
 - 1. Two permanent Monuments shall be placed in the ground within each Block of a Subdivision and/or Land Development as will enable any skilled Surveyor to lay out correctly any Lot in the Subdivision and/or Land Development.



- a. Permanent Monuments shall be composed of concrete not less than four (4) inches square or four (4) inches in diameter and at least thirty (30) inches long.
 - b. The top of permanent Monuments shall be set flush with the finished grade at their respective locations.
 - c. All required Monuments shall be clearly visible.
 - d. Such Monuments shall be inspected and approved by the City Engineer/Planning Director or designee before any Improvements are accepted by the City of Martinsburg.
2. Preliminary and Final Plats shall show the location of required permanent Monuments.
 3. Lot corner pins shall be placed at all Lot corners in Subdivision and at all corners of a Land Development.
 - a. Lot corner pins shall be iron or steel pipe or bar not less than one-half inch nor more than one inch in diameter and at least twenty-four (24) inches long.
 - b. The top of all corner pins shall be set flush to one inch below the finished grade at their respective locations.
 4. All points of angles and curves in Street Rights-Of-Way Lines shall be identified as required for Lot corners.



Section 4.19 Geotechnical Observation and Materials Testing Requirements

(A) Inspection.

1. All roadway embankment construction must be performed under the inspection of a qualified geotechnical engineer or engineering geologist.
2. The geotechnical engineer shall furnish a written opinion to the City Engineer/Planning Director or designee as to whether or not work has been performed in accordance with the approved Plans and recommendations.

(B) Minimum Standards Required for Site Density Testing.

1. The minimum frequency of field density testing shall be as listed in Table 4.08, unless otherwise approved by the City Engineer/Planning Director or designee.
3. The testing frequencies are the minimums considered to provide effective quality control of soil and aggregate material compaction effort under normal conditions. Additional testing other than that specified should be performed if deemed necessary by a qualified Inspection and Testing Agency, the Geotechnical Engineer of Record, or the City Engineer/Planning Director or designee.
4. All testing shall be in conformance with approved ASTM test methods.

Table 4.08, Minimum Standards Required for Site Density Testing

Test Locations	Testing Frequency
Embankments Fill sections for Streets, travel ways, and pipestem Driveways.	One density test shall be performed per 5,000 ft ² per 8-inch compacted lift. Under curb and gutter, one density test shall be performed per 300 ft. on alternating sides.
Subgrade Cut in existing Fill for Streets, travel ways, and pipestem Driveways.	Proof rolling, and evaluation and approval by the geotechnical engineer of record (undercut and stabilization may be necessary as determined by the geotechnical engineer of record).
Subgrade Cut in natural soils.	Proof rolling, and evaluation and approval by the geotechnical engineer of record.
Subbase Material For Streets, travel ways, and pipestem Driveways.	One density test shall be performed per 5,000 ft ² per 8-inch compacted lift. When the subbase aggregate is placed in layers or lifts, each lift shall be tested. Under curb and gutter, when placed before the subbase material in the Street, perform one density test per 300 ft. on alternating sides.



Test Locations	Testing Frequency
Base Material	One density test shall be performed per 5,000 ft ² at the finished base grade. When the base aggregate is placed in layers or lifts, each 8-inch compacted lift shall be tested at the required frequency.
Storm Drainage System – Backfill *	One density test shall be performed per 300 ft. and at vertical intervals not to exceed 12 inches when within current, or future, City of Martinsburg Right-of-Way.
Sanitary Sewer, Water and Gas Mains – Backfill * (Note: Field density test reports must be provided to the City of Martinsburg Site Inspector before field approval is given for issuance of tap permits.)	One test shall be performed per 300 ft. or between utility holes if less than 300 ft. apart and at vertical intervals not to exceed 12 inches when within current, or future, City of Martinsburg Right-of-Way.
Sanitary Sewer, Water and Gas Laterals – Backfill for Stub Constructed in Conjunction with Utility Main *	One test shall be performed per 5 laterals and at vertical intervals not to exceed 12 inches where within current, or future, City of Martinsburg Right-of-Way.
Sidewalks and Driveway Aprons	<p>Sidewalk subgrade: One test shall be performed per 500 ft. on alternating sides at the subgrade elevation. A minimum of two tests per Street is required.</p> <p>Driveway apron: One test per apron shall be performed.</p>
Asphalt Concrete Pavement (Note: The thin lift nuclear density test can be used for any surface course placed directly over an aggregate pavement or on a lift of 135 lbs/yd ² (or greater) that is placed on an asphalt pavement course.)	<p>Saw Cuts or Cores Two Cuts or cores represent one test. A minimum of two tests per Street are required regardless of the Street length.</p> <p>One test shall be performed per 500 ft. of roadway or 1,000 ft. of any pass made by a paving train.</p> <p>OR Conventional Nuclear Density Gauge One test shall be performed per 500 ft. of roadway.</p> <p>Five tests shall be performed in each test section. A minimum of two test sections per Street is required regardless of the length of the Street.</p> <p>Thin Lift Nuclear Density Gauge</p> <p>Test areas are defined as Lots and sublots. A Lot consists of 5,000 ft. of a pass made by a paving train. Each Lot is divided into five</p>



Test Locations	Testing Frequency
	sublots of equal size. Two tests will be performed on each subplot. Each separate Street shall consist of at least one Lot. Streets less than 500 ft. in length shall be tested a minimum of twice.

*Testing required beneath Structures only, including but not limited to sidewalks, Driveways, Streets, and stoops.

Section 4.20 Floodplain Standards

- (A) General. The City of Martinsburg has adopted the separate City of Martinsburg Floodplain Ordinance the provisions of which are incorporated by reference into this Ordinance. To the extent the Floodplain Ordinance, as it may be amended (or any subsequent ordinance of similar subject matter) identifies areas prone to or otherwise at risk of Flood, including without limitation by reference to a Flood Insurance Rate Map or FEMA Flood Insurance Study, such areas shall be deemed identified as Flood-Prone Areas for purposes of this Ordinance.
- (B) Subdivision and/or Land Development Applications and Approvals. Any Subdivision and/or Land Development Application with respect to land within a Flood-Prone Area shall, in addition to the contents specified in this Ordinance, also include all items and information reflected in the Floodplain Ordinance to be submitted with respect to an application for approval of a Subdivision and/or Land Development or Plans and Plats associated therewith. No Subdivision and/or Land Development Application shall be approved with respect to land within a Flood-Prone Area unless the Application reflects compliance with all requirements and standards of the Floodplain Ordinance.
- (C) Development. All Subdivision or Development of land within a Flood-Prone Area, including without limitation the construction or alteration of any Building or Structure, shall comply with the applicable requirements and standards of the Floodplain Ordinance, including without limitation its design and construction standards and Flood-proofing requirements.

Section 4.21 Karst Geology Standards

Martinsburg lies over carbonate (Limestone and Dolomite) bedrock that contains solution channels. These solution channels are the primary way precipitation gets into the water table. Water percolating into and through the carbonate rock dissolves rock materials and enlarges minute fractures in the rock. This has produced a “Karst” geology formation containing caves, Sinkholes, springs, disappearing or “losing” streams, and underground streams.

- (A) Statement of Purpose. The purpose of these standards is to reduce the frequency of structural damage in private Improvements by Sinkhole collapse or subsidence and to protect, preserve and enhance sensitive and valuable potable ground water resource areas of Karst geology, thus protecting the public health, safety and welfare and ensuring orderly Development within the City.



- (B) No Person shall place or cause to be placed any substance or object (including, without limitation, trash, garbage, or refuse material), other than approved by the City Engineer/Planning Director or designee, in any Sinkhole. If an accidental spill of a toxic, petroleum, or hazardous material occurs, the responsible Person shall immediately dial 911 and ensure that the appropriate City, county, and state authorities having jurisdiction are notified.
- (C) No Building permit, Zoning Permit, or Land Development Permit shall be issued, and no Subdivision and/or Land Development Application shall be approved, with respect to any property having a Sinkhole that has been used as a site for dumping trash, garbage, or refuse, or which has been otherwise improperly filled, until the Sinkhole has been lawfully remediated, cleaned out, and approved as such by the City Engineer/Planning Director or designee.
- (D) No filing, grading, Excavation or Building construction will be permitted in a Sinkhole unless an Erosion Control Site Plan is first approved by the City Engineer/Planning Director or designee. If after review of the Erosion Control Site Plan, the City Engineer/Planning Director or designee determines that more detailed information is needed, a Sinkhole evaluation may be required. A Sinkhole evaluation which addresses geologic, engineering, and environmental factors for the proposed Development is to be performed by a professional with experience and expertise in Karst geology (which may include a consulting engineer and/or a consulting hydrogeologist to make recommendations based upon field studies and evaluations of the specific Sinkhole system, if required by the City Engineer/Planning Director or designee).
 - 1. The evaluation shall determine the proposed Development's effect on ground water and the effect, relative to the Sinkhole and Karst geology, on surrounding property.
 - 2. After review of this evaluation and with the consultation of the West Virginia DEP, the City Engineer/Planning Director or designee will either approve or disapprove the Erosion Control Site Plan as submitted.
 - 3. If disapproved, the City Engineer/Planning Director or designee will indicate in writing the reasons for disapproval and what, if anything, would be required in order to obtain approval of the Erosion Control Site Plan.
 - 4. Nothing in this Subsection (D) eliminates or modifies the requirements elsewhere in this Ordinance for a Stormwater Management Plan and/or Erosion and Sediment Control Plan, and such Plans shall be required as so specified elsewhere in this Ordinance.
- (E) All Buildings, Structures, Impervious Surfaces and utilities shall be situated, designed and constructed so as to minimize the risk of new Sinkhole formation.
- (F) Stormwater Drainage into Sinkholes. Sinkholes shall be protected from damaging modifications and adverse changes in Stormwater Runoff quantity and quality associated with Land Developments. In addition to the other requirements of this Ordinance, the following requirements shall be met for any Land Development from which Drainage flows into a Sinkhole:



1. *Sediment Control.* The existing Sinkhole storage areas shall be protected during construction and shall not be filled, or sediment allowed to deposit therein;
 2. *Alteration of Drainage Patterns.* Site Drainage patterns shall not be altered to substantially decrease or increase the existing area tributary to a Sinkhole;
 3. *Detention/Sedimentation.* If a Detention/Sedimentation basin is required for Development of the site, it shall be designed to capture the critical storm event and hold it for a minimum of twenty-four (24) hours. This basin shall be maintained throughout the construction process;
 4. *Vegetated Buffer Strip.* A buffer strip of at least twenty-five (25) feet in width, preferably vegetated with native plant species, shall be maintained or restored around the periphery of a Sinkhole;
 5. *Loessal Soils.* Care should be taken to avoid open flow discharges of Stormwater over silt (loessal) soils due to high potential for erosion; and
 6. *Sinkholes in Karsts Areas.* Sinkholes in Karst areas should be considered as receiving Waterways and all pre-detention and erosion requirements shall apply. Whenever a new Sinkhole appears it shall be reported to the Eastern Panhandle Conservation District for the county in which the Sinkhole is located and the City Engineer/Planning Director or designee. The City Engineer/Planning Director or designee, and agents or officers and employees of the City designated by them, or any of them, shall have authority to enter upon privately owned land for the purpose of performing the assigned duties and responsibilities of the City Engineer/Planning Director or designee under this Chapter and may take or cause to be made such examinations, surveys or sampling as they deem necessary in cooperation with the Division of Environmental Protection.
- (G) The City may require a bond with surety and conditions to secure compliance with this Section prior to issuing a Building permit, Zoning Permit, or Land Development Permit, or approving a Subdivision and/or Land Development Application, for property involving a Sinkhole. The particular amount and the conditions of the bond will be consistent with the purposes of this Section. In the event of a breach of any condition of such bond, the City may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution. In lieu of a performance bond, the City may accept a letter of credit or cash escrow with conditions sufficient to secure compliance with the conditions set forth in this Ordinance.
- (H) All enforcement powers generally provided for in this Ordinance are applicable to violations of this Section.
- (I) If, thirty (30) days after the mailing of a stop, cease, and desist order to a violator, offending substances and/or objects have not been removed from a Sinkhole, and/or the entry of pollutants into surface water through the Sinkhole has not been eliminated, the City (by and through the City Engineer/Planning Director or designee) may utilize City employees, or engage a contractor or contractors, to remove the offending substances and/or objects, and/or take other corrective and protective action the City Engineer/Planning Director or designee deems necessary to minimize, and if possible eliminate, the entry of pollutants into subsurface water through the Sinkhole.



Notwithstanding the foregoing, in the event of an emergency where the contamination of ground water endangers the health and safety of the public, the City need give only such prior notice as the City Engineer/Planning Director or designee determines the circumstances allow (including no prior notice whatsoever), and the City may thereafter act to remedy the emergency immediately. The costs of remediation and any costs, including reasonable attorney fees and expenses incurred in the collection thereof, shall be recoverable by the City from the violator(s) and shall constitute a lien against the real estate upon which the violation occurred.

- (J) When removal of vegetative cover, Excavation, or Fill has taken place in violation of this Section, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable.

Section 4.22 Bus Shelters

Public transportation bus shelters are encouraged in Developments where thirty (30) or more residential Units are proposed and in commercial and institutional Developments. Bus shelter design and locations must be coordinated with and approved by the Eastern Panhandle Transit Authority (EPTA). A written letter of approval for the design and location of all proposed shelters must be obtained from EPTA and submitted with the Subdivision/Land Development application.

Section 4.23 Bicycle Parking

- (A) Bicycle Parking Ratio:
 - 1. For total vehicle parking of up to one hundred (100) spaces, the required bicycle parking shall be ten (10) percent. From one hundred (100) to two hundred (200) required vehicle parking spaces, bicycle parking ratio shall be five (5) percent. Beyond two hundred (200) required vehicle parking spaces, two and one-half (2.5) percent bicycle parking shall be required. In no instance shall there be less than four (4) bicycle parking spaces provided.
- (B) For plazas with multiple Buildings or a length greater than five-hundred (500) feet long, two bicycle racks are required.
 - 1. Where a bicycle rack allows bicycles to be locked on both sides of the rack without conflict, each side may be counted as one required space.
 - 2. Bicycle racks should be of architectural character to compliment that of the Buildings and other site features such as lighting and pedestrian amenities.
 - 3. Residential bicycle parking should be located indoors or sheltered if feasible to prevent damage to bicycles parked for long periods of time.
 - 4. Bicycle racks shall be located in well-lighted area. Care shall be taken to ensure that bikes and bike racks do not obstruct pedestrian movement. Racks shall be finished in the enamel or powder coat finish.



Section 4.24 Manufactured Home Park Standards

(A) Design Standards.

1. Size of the Manufactured Home Park. A tract proposed for Development as a Manufactured Home Park shall have a minimum area of five (5) acres and a minimum width of three hundred (300) feet. In a case where a Manufactured Home Park does not have direct access to a public highway, an access Road with a minimum Right-of-Way of forty (40) feet shall be provided.
2. Design of Manufactured Home Park Spaces.
 - a. In a Manufactured Home Park, a separate Manufactured Home Space shall be provided for each Manufactured Home and shall include a patio area and connections for public or community water supply and sewerage disposal and electrical service.
 - b. Manufactured Home spaces in different sections of the Manufactured Home Park may vary in size, but no space shall be less than 4,500 square feet in area and there shall not be more than eight (8) Manufactured Home Spaces per net acre.
 - c. In no case may Manufactured Homes be located closer than twenty (20) feet apart.
 - d. Each Manufactured Home space shall be permanently marked by a number.
 - e. All Manufactured Homes shall be located at least seventy-five (75) feet from any Street Right-of-Way which abuts a Manufactured Home Park boundary and at least fifty (50) feet from any other boundary line.
 - f. Each Manufactured Home space shall have a concrete stand or pad at least fifty (50) feet long and twenty-four (24) feet wide.
 - g. There shall be a minimum distance of twenty-five (25) feet between an individual Manufactured Home and the pavement of an adjoining park Street, or common parking area or other common areas within the Manufactured Home Park.
 - h. The Subdivision and/or Land Development Application & Approval Requirements specified in Article 3 of this Ordinance shall apply to all proposed Manufactured Home Parks.

(B) Parking and Street Standards.

1. Access to Manufactured Home Parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent Public Streets. Each Manufactured Home Park exceeding 1,000 vehicles per day shall be provided with at least two (2) points of access to a Public Street or Streets.



2. All Manufactured Home Parks shall be provided with safe and convenient paved access Streets serving every Manufactured Home space. Alignment and gradient shall be properly adapted to topography in accordance with design standards specified in this Ordinance.
3. All two-way Streets within the Manufactured Home Park shall have a minimum Right-of-Way of forty (40) feet and a minimum paved Cartway of thirty-two (32) feet if parallel parking on one side of the Street is planned. The paved Cartway shall be a minimum of twenty-two (22) feet if no parallel parking is planned. One-way Streets shall have a minimum Right-of-Way of thirty (30) feet and a minimum paved Cartway of twenty-one (21) feet if parallel parking is planned on one side of the Street. The paved Cartway shall be a minimum of eleven (11) feet if no parallel parking is planned.
4. All Streets shall be paved in accordance with the design specifications of this Ordinance as well as other transportation standards of this Ordinance.
5. One (1) parking space shall be provided as part of each Manufactured Home Space.
6. One (1) additional parking space shall be provided for each four (4) Manufactured Home Spaces to provide for two-car families.
7. Common parking areas shall be provided for every Manufactured Home Park at the community center, administration Building, laundry, and at any other accessory Structure designed to serve the Manufactured Home Park at a rate of one (1) off-street parking place for every three-hundred (300) square feet of floor area. Recreation facilities including all outdoor sports, such as swimming pools, tennis courts, and shuffleboard courts shall provide off-street parking spaces at the rate of one (1) per eighty (80) square feet of floor space and/or as determined by extent of outdoor use.
8. All parking areas shall meet the design requirements set forth in this Ordinance.
9. No space within a Manufactured Home Park shall have direct vehicular access to a public Road abutting the Manufactured Home Park.

(C) Other Site Improvements.

1. Individual tenants at the Manufactured Home Park may construct attached enclosures to individual Manufactured Homes, provided that they meet the requirements of this Ordinance. Attachments not meeting the requirements of this Ordinance may be constructed only if authorized by Waiver granted by the Planning Commission. In all cases, these attachments must meet all City Building code requirements.
2. All parks shall be provided with safe, convenient, all-season pedestrian walks of adequate width for intended use, durable and convenient to maintain, between individual Manufactured Home Spaces, the park's Streets, and all community service, administration, and Recreation facilities provided for park residents.



3. Skirting shall be of a vinyl or metal material, safely secured as approved by the City of Martinsburg's Code Enforcement Officer, hereinafter referred to as the Code Enforcement Officer.
4. All other requirement of this Ordinance, the Zoning Ordinance, and the City of Martinsburg Codified Ordinances shall apply.

(D) Recreation and Open Space.

1. All Manufactured Home Parks shall provide, and so indicate on the Plat of the Manufactured Home Park, suitable areas for Recreation and Open Space uses of at least twenty (20) percent of the total area of the Manufactured Home Park, of which one-half (0.5) of the area shall be in one place. The remainder may be used to provide pedestrian connecting links to the Recreation areas.
2. The Recreation and Open Space shall be located as centrally as possible within the Manufactured Home Park to be easily accessible to the residents of the Manufactured Home Park.
3. The Recreation and Open Space must be maintained by the Manufactured Home association, which may be the operator.

(E) Responsibilities of the Park Management.

1. The Person to whom a permit for a Manufactured Home Park is issued shall operate the park in compliance with this Ordinance and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
2. The Manufactured Home Park management shall supervise the placement of each Manufactured Home on its Manufactured Home stand that includes securing its stability and installing all utility connections.
3. The Manufactured Home Park management shall give the City Engineer/Planning Director or designee and Code Enforcement Officer, or designees free access to all Manufactured Home Spaces, service Buildings, and other community service facilities for the purpose of inspection.
4. The Manufactured Home Park management shall maintain a register containing the names and addresses of all park occupants. Such register shall be available to any authorized City official inspecting the park.
5. The Manufactured Home Park management shall notify the local office of the West Virginia DEP and Department of Health and Human Resources immediately of any suspected communicable or contagious disease within the park.



ARTICLE 5 GUARANTEE OF IMPROVEMENTS

Section 5.01 Purpose and Authorization

The purpose of this Article is to provide for acceptable guarantees of performance to assure timely construction and completion of Improvements in accordance with approved Final Subdivision and/or Land Development Applications and/or Erosion and Sediment Plans.

- (A) The Planning Commission is authorized to require performance bonds in conjunction with the approval of a Final Subdivision and/or Land Development Applications and/or Erosion and Sediment Plans, in accordance with this Ordinance and pursuant to West Virginia Code Chapter 8A, Article 6 Methods of Security.
- (B) Performance bonds shall be required for public and other physical Improvements to be constructed under an approved Final Subdivision and/or Land Development Application. Such Improvements shall include, without limitation, Road, curb, gutter, sidewalk, trails, storm Drainage, traffic signalization and control, water and sanitary sewer infrastructure, Landscaping, and any other site-related Improvements required by the City for vehicular and pedestrian ingress and egress, for public access roadways, for Structures necessary to insure stability of critical Slopes, for necessary utilities, and for Stormwater Management Facilities. Notwithstanding the foregoing, the Planning Commission may waive the requirement for a performance bond for a Final Subdivision and/or Land Development Application that does not provide for construction of any Improvements eligible for public maintenance if the Planning Commission agrees with a determination of the City Engineer/Planning Director or designee that the satisfactory completion of Improvements to be constructed under the Final Subdivision and/or Land Development Application can be enforced pursuant to ordinances regulating Building permits and occupancy permits.
- (C) For a Major Subdivision and/or Land Development, surety, as detailed in Article 3 of this Ordinance, shall be required for Erosion and Sediment Plans, as stipulated under Section 4.10 Stormwater Management and Erosion & Sediment Control of this Ordinance. Where Article 3 affirms that surety is required for “Final Subdivision and/or Land Development Applications”, it shall be as if the statement is transposable with “approved Erosion and Sediment Plans.” No Waiver from the Erosion and Sediment Plans surety is permitted.

Section 5.02 Bonding Arrangements

- (A) Bonding arrangements cannot be made prior to Planning Commission approval of the project.
- (B) The Owner/Developer’s Engineer of record shall provide a complete and accurate bond estimate in a format acceptable to the City Engineer/Planning Director or designee. The bond estimate shall be based on the estimated costs of the site Improvements utilizing current market rates. However, in no event shall the estimated cost be less than the Unit costs provided by the City of Martinsburg Planning Department. The Unit costs are subject to change from time to time as deemed necessary by the City Engineer/Planning Director or designee.



- (C) A fifteen (15) percent contingency amount shall be added to the bond estimate. However, for projects with an estimated constructions costs under \$100,000.00, the minimum bond contingency amount shall be \$15,000.00.
- (D) After the City Engineer/Planning Director or designee approves the construction bond amount, the Developer shall submit the bond surety to the City Engineer/Planning Director or designee.

Section 5.03 Bond Submission Requirements

- (A) A Performance Agreement between the Planning Commission and the owner/Developer.
- (B) A surety in an amount equal to the approved bond estimate, or in such lesser amount as is provided for in Section 5.07 of this Ordinance, guaranteeing completion of the Performance Agreement.
- (C) Release of liens from the contractor(s), if applicable.

Section 5.04 Term of Performance Agreement

The maximum period for completion of a Performance Agreement shall be two (2) years, or such other period as specified in the Performance Agreement and determined appropriate for the subject project by the City Engineer/Planning Director or designee. If the subject project is not completed within the specified timeframe, City Council may require adjustment of the bond amount, after consideration and review by the City Engineer/Planning Director or designee, as a condition to extension of the Performance Agreement.

Section 5.05 Time Extensions of Construction Bonds

Upon written request by the Developer, the staff may grant two additional one and one-half (1-1/2) year time extensions for completion of all site Improvements, for a total of five (5) years provided that:

- (A) All occupied dwelling Units are served by a Road that is totally improved with the exception of the top/finish coat of asphalt;
- (B) All Erosion and Sediment Control measures are in place in accordance with the approved Sediment Control Plan and functioning properly;
- (C) The storm water management facilities are in place and functioning as either temporary sediment traps per sediment and erosion control Plan or as permanent storm water management basins that are protected from discharging sediment from undisturbed area on the project site. In either case, the storm water management facility shall itself be stabilized;
- (D) Existing infrastructure that has failed is satisfactorily reconstructed; or redesigned if necessary and additional surety is provided;
- (E) Elements of the Preliminary Plat or Site Plan that are not constructed, are reviewed for compliance with current design standards; and the Preliminary Plat or Site Plan elements



not meeting current standards, at the direction of the City Engineer/Planning Director or designee and where practical, are redesigned or modified to meet current standards;

- (F) The bond amount is re-evaluated to determine if the amount is still adequate;
- (G) The bond amount is increased, and additional surety provided if the bond amount is determined to be inadequate;
- (H) The Owner/Developer paid the non-refundable processing fee for the bond time extension request, in accordance with the prevailing fee schedule; and
- (I) Time extensions beyond the five (5) year time period may only be considered by the City Council and may be granted for justifiable reasons on a case-by-case basis.

Section 5.06 Acceptable Forms of Surety or Security

- (A) Corporate Surety Bond. This surety shall be furnished by an insurance company licensed to transact fidelity and surety insurance in West Virginia and will guarantee the full amount of the bond estimate. The ability of the insurance company to provide satisfactory performance guarantee will be assessed by City Council in accordance with criteria reported in the most recent edition of the *Best's Key Rating Guide* (Best's) and the most recent annual revision of the U.S. Department of Treasury Fiscal Service Circular 570 (the Treasury Circular). Performance Bonds will be accepted only from sureties listed in Best's:
 - 1. With a rating of Level A or better; and
 - 2. In a financial size category of Class VIII, or higher, unless otherwise agreed by the Planning Commission, and such bonds shall be in amounts not exceeding:
 - a. Those limitations identified in the Treasury Circular; or
 - b. One and one-half (1.5) percent of the minimum Adjusted Policyholders' Surplus for the financial size category as listed in Best's.

Such ratings and other qualifications must be maintained for the life of the Bond or the Bond must be replaced by adequate replacement surety at the request of City Council.

- (B) Cash Escrow.
 - 1. An amount equal to the approved bond estimate in the form of a cashier's check or certified check, accompanied by a W-9 or Substitute W-9 form, shall be submitted to the City Engineer/Planning Director or designee, to be deposited with the City Financial Officer, in an interest bearing account with full financial accountability provided by the City Financial Officer through a separate Performance Bond Fund.
 - 2. All cash escrows held shall be maintained by individual bond as to principal and accumulated interest but may be pooled for investment purposes with accrued interest allocated to each bond in accordance with City allocation policies. The City Financial Officer shall be entitled to retain a reasonable amount, not



exceeding five (5) percent of the interest accrued, to cover the cost of administering the account. Upon approval for release of the bond as provided herein, the City Financial Officer shall be authorized to release the cash escrow (principal plus accrued interest less allowable cost of administration) and disburse the funds.

- (C) Letter of Credit. A letter of credit meeting the following minimum conditions will be accepted:
1. The lending institution must be insured by the Federal Deposit Insurance Corporation (FDIC) and shall have offices and license to practice banking in West Virginia with a Sheshunoff National rating of at least thirty-five (35) and with total letter of credit exposure of the City at the lending institution limited to no more than fifty (50) percent of the institution's equity capital, unless otherwise agreed to by City Council. City Council may, accept a letter of credit from an institution whose rating is lower than thirty-five (35) provided that such rating shall be no less than 30 and shall be maintained at or above such lower level until such letter of credit has been completely released. Such ratings and other qualifications must be maintained for the life of the letter of credit, as amended, or the letter of credit must be replaced by adequate replacement surety at the request of City Council.
 2. The expiration date in the letter of credit shall be at least six (6) months after the date by which the Performance Agreement must be performed. For example, a twelve (12) month Performance Agreement requires an eighteen (18) month Letter of Credit. This six (6) month requirement is in addition to the six (6) month automatic extension that is required below.
 3. The letter of credit shall contain the conditions of automatic renewal providing that the letter of credit will automatically be extended for additional periods of six (6) months unless the City Engineer/Planning Director or designee is notified in writing, by certified mail, with return receipt requested, at least ninety (90) days in advance of the present or future expiration date, that the issuing bank does not intend to extend such letter of credit.
 4. All extensions of time of the Performance Agreement completion date will be granted only upon corresponding extension of the letter of credit expiration date.
 5. Any new letter of credit or letter of credit amendment is subject to all the minimum requirements outlined in this Section (C).
- (D) Multiple Sureties. Where two or more sureties are provided in conjunction with one Performance Agreement, the agreement shall identify and incorporate each surety separately.
- (E) Additions to Previously Bonded Improvements. When Improvements to be constructed under a proposed Final Subdivision and/or Land Development Application are extensions of Improvements to be constructed under a previously approved Final Subdivision and/or Land Development Application for which a Performance Agreement and surety have already been accepted, the construction of such proposed extension Improvements may be guaranteed under the previously existing surety in accordance with the following conditions:



1. The surety instrument must be capable of being modified, and any modifications must be accepted as satisfactory by City Council upon recommendation of the City Engineer/Planning Director or designee before they shall become effective.
 2. Modifications to the surety must be in writing and must indicate that such surety covers both the Improvements to be constructed under the proposed Final Subdivision and/or Land Development Application and the Improvements to be constructed under the previously approved Final Subdivision and/or Land Development Application.
 3. A separate Performance Agreement covering such proposed extension Improvements and referencing the modified surety must be submitted.
 4. The City Engineer/Planning Director or designee may recommend an extension of the completion date under the Performance Agreement covering the previously approved Final Subdivision and/or Land Development Application in conjunction with the approval of the proposed Final Subdivision and/or Land Development Application, if requested by the owner/Developer, in order to establish a common date of completion under the Performance Agreements secured by the same surety; *provided that*, such extension of completion date shall not be for more than one (1) year and provided that the appropriate bond extension fee shall have been paid if such extension is for more than five (5) months.
 5. Such separate Performance Agreement and modified surety shall not be approved or accepted until the bonded Improvements have been inspected and found satisfactory and City Council has determined, in writing, that the amount of such surety, as modified, is adequate to guarantee completion of the Improvements to be constructed under both the previously approved Final Subdivision and/or Land Development Application and the proposed Final Subdivision and/or Land Development Application.
- (F) Due to the varying ease or difficulty of collection and reliability of the various types of security, the City deems certain types of security as being more or less preferred for the protection of the public. Cash is deemed to be the most preferred security because of the ease of collection and immediate availability. Letters of credit are less preferred than cash, and surety bonds are less preferred than letters of credit. Once a bond, letter of credit or cash security has been approved and accepted by the City, only a more preferred or equally preferred form of security may thereafter be substituted in place of the current form of security.

Section 5.07 Bond Estimate

- (A) The bond estimate shall be based on the estimated cost of construction of all items to be constructed under the Final Subdivision and/or Land Development Application, plus a fifteen (15) percent contingency factor to cover administrative and engineering costs in the event of default and potential damage to existing Roads or utilities. The cost estimates shall reflect the current Unit costs as published and distributed by the City and shall be increased by an inflation factor equal to the annual percentage change in the Construction Index Code, as published weekly in the Engineering News Record. This inflation factor is to be applied over the life of the bond, using the equation $C = (P)(I)(E)$



+ E; where P = the period of the bond (years); I = annual inflation factor; and E = the estimated cost of construction [including the fifteen (15) percent contingency factor]; C = total Bond Estimate.

- (B) The bond estimate shall be prepared and sealed by a Professional Engineer or Professional Land Surveyor and submitted to and approval by the Planning Commission.
- (C) Where partial construction has already occurred, the amount of the surety may be less than the bond estimate to allow for work completed prior to establishing the original bond, subject to Planning Commission’s approval, *provided that*, after such original surety has been accepted by the Commission, any bond reduction requested shall be based upon the original bond estimate and not upon the original amount of such surety.

Section 5.08 Bond Procedures and Requirements

(A) Performance Agreement.

- 1. A Performance Agreement, which shall be supported by an acceptable form of surety or security, shall be required on projects that obligate the owner/Developer to construct required Improvements pursuant to approved Final Subdivision and/or Land Development Applications in a timely manner.
- 2. Such agreement shall specify the manner and date by which the required Improvements shall be completed.
- 3. An agreement format will be provided by the City Engineer/Planning Director or designee to all Developers requesting same for use in preparation of the Performance Agreement.
- 4. If the owner/Developer acts, or fails to act, in a manner which would constitute a breach of the Performance Agreement, or all the noted Improvements are not completed within the specified time period and no extension has been obtained or replacement agreement and bond submitted and approved with a new expiration date, the Performance Agreement shall be in default.

(B) Effects of Bond Default.

- 1. It shall be the sole responsibility of the owner/Developer to keep the Performance Agreement current and remain in full compliance with its terms.
- 2. While the Performance Agreement is in default, the owner/Developer shall not be entitled to any bond reduction, bond release, permits or inspections for the project covered by that Performance Agreement. If default can be cured by the approval of an extension of the agreement, then, upon fulfilling the bond extension submission requirements set forth above, including payment of the appropriate fees for bond extension and, if applicable, bond reduction, the inspections necessary for such bond extension and, if applicable, bond reduction, will be performed. The denial of permits and inspections by the City shall be in addition to any other remedy available to the City under the Performance Agreement.



(C) Bond Reductions.

1. Bond Reduction Requirements. As installation of the site Improvements progresses, the owner/Developer may make written requests for periodic bond reductions. Bond reduction requests shall be for a minimum of \$100,000.00 of work but not more than three (3) requests may be submitted per calendar year. The Developer's Engineer shall submit an itemized bond reduction request in a format acceptable to the City Engineer/Planning Director or designee and shall be subject to the following limitations:
 - a. No bond shall be reduced until completion of at least thirty (30) percent of the physical Improvements secured by such bond.
 - b. The Planning Commission shall not be required to consider more than three (3) bond reductions within any twelve (12) month period during the life of the bond.
 - c. No bond shall be reduced to an amount less than ten (10) percent of the original bond estimate.
 - d. For the purposes of this Subsection (C), Bond Reductions, "completion" shall mean construction of any identifiable section of a specified Improvement or facility in accordance with the approved Final Subdivision and/or Land Development Application, construction Plans, profiles and specifications, and the provisions of this Ordinance. For example, for a specific section of public roadways to be eligible to be considered for bond reduction, the grading, subbase, base paving, curb and gutter, including all compaction and lab tests, and all other aspects of construction, with exceptions as defined herein, shall be completed and all work in place must be in good condition. The "good condition" requirement shall not be deemed satisfied for any such section where there exists any failing pavement.
 - e. Exceptions to the completion requirement may include final surface pavement and any other ancillary, uncompleted Improvements such as sidewalks, Driveway aprons and Lot grading which the City Engineer/Planning Director or designee determines would probably suffer excessive damage during construction upon the property abutting the bonded Improvement or facility.
 - f. The reduction of any bond shall not be considered acceptance of the Improvements for which such reduction has been requested, and the owner/Developer shall have a continuing responsibility for maintaining such Improvements in good condition, including without limitation the repair of deterioration and damage, until they have been formally accepted by the City, West Virginia DOH, or any other appropriate agency. Failure to perform such maintenance within sixty (60) days of being so directed by the City Engineer/Planning Director or designee shall constitute default of the Performance Agreement.



- d. The applicable processing fee; and
 - e. Inspection reports in accordance with this Ordinance.
3. The Planning Commission may approve a Bond Extension upon a determination of completion of the subject Improvements; provided that, Planning Commission shall determine the amount and sufficiency of the remaining surety.
 4. After a Bond Reduction is approved, an amendment to the surety instrument shall be submitted to reflect the reduced amount.

(D) Bond Release Procedures.

1. A request for final and complete release of a bond and Performance Agreement shall be deemed to have been made when the Applicant/Developer has provided notice to the City Engineer/Planning Director or designee. Such notice must include:
 - a. A written request for final release from the bond and Performance Agreement, signed and acknowledged by the Applicant/Developer who executed the Performance Agreement.
 - b. To the extent not previously submitted pursuant to bond reduction request, copies of inspection and test reports if work was inspected and tested by a third-party inspector.
 - c. Certification that all bonded Improvements have been completed in accordance with the approved Plans, profiles, and specifications and the requirements of any applicable manual. For Improvements to be accepted for maintenance by the City of Martinsburg, such Certification shall state that the Improvements have been installed and inspected in accordance with the City of Martinsburg's requirements.
 - d. The applicable processing fee(s).
 - e. A copy of the City-approved As-Built Drawings as required for facilities within public Rights-Of-Way or Easements submitted pursuant to Section 3.09 of this Ordinance.
 - f. A letter from a Professional Engineer or Professional Land Surveyor certifying that property corners and Monuments have been set as required under this Ordinance.
 - g. Documentation of acceptance by West Virginia DOH for public roadways and Rights-Of-Way, or a maintenance and indemnification agreement and bond approved by the Planning Commission for public roadways that have been completed in accordance with West Virginia DOH standards but which, due to factors other than their quality of construction, are not eligible for acceptance by West Virginia DOH.



for a period of two (2) years following the date of performance bond release and must be in an amount equal to no less than five (5) percent of the original performance bond estimate. Such guarantee must provide that the Applicant/Developer will be responsible for pavement, concrete or Stormwater Management system repairs arising from construction deficiencies as determined by the City Engineer/Planning Director or designee for a period of two (2) years after performance bond release, with such repairs to be made within sixty (60) days after notification by the City Engineer/Planning Director or designee, or designated agent, that such repairs are needed. If repairs are not accomplished within that time, the Applicant/Developer shall be deemed to be in default of the Agreement and Bond, and the City Engineer/Planning Director or designee may take any appropriate action provided for in such Agreement, including calling upon the bond securing such Agreement to perform the repairs.

(F) Vacation of Plats.

1. Portions or sections of the Subdivision and/or Land Development in which construction has commenced or in which Lots have been occupied or house construction has begun may not be vacated and must be completed and Improvements therein accepted by the City Engineer/Planning Director or designee. Under appropriate circumstances, as determined by the Planning Commission, and in accordance with the policy stated herein relating to Maintenance Agreements and bonds, such completed Improvements may be placed under security of a maintenance bond pending acceptance.
2. Failure by the Applicant/Developer to perform its obligations under a Performance Agreement constitutes a default.

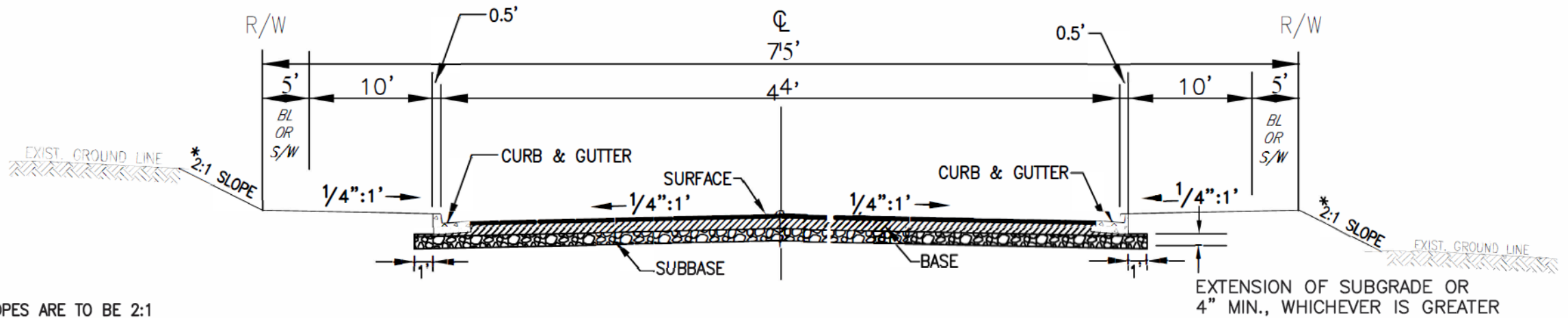
Appendix A

Typical Street Sections

City of Martinsburg

Subdivision and Land Development Ordinance



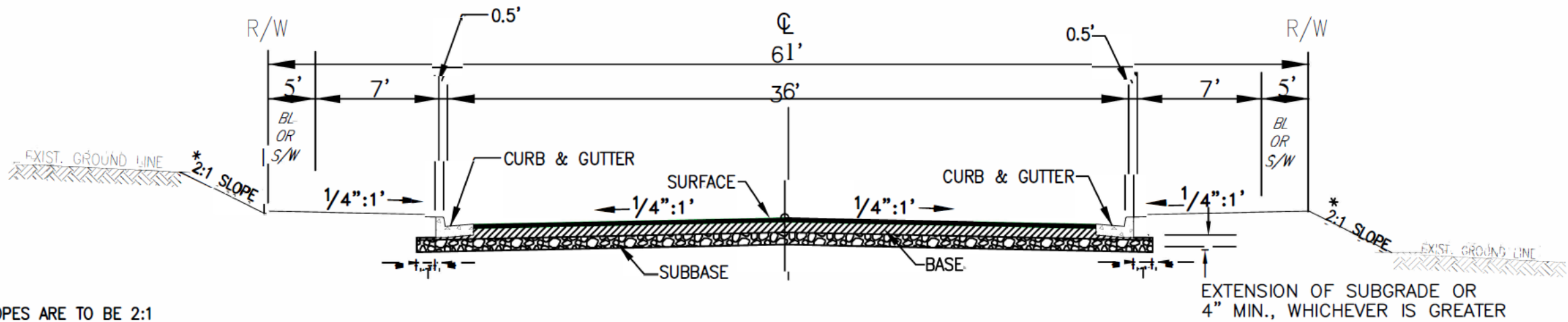


* ALL SLOPES ARE TO BE 2:1 OR FLATTER UNLESS SPECIFICALLY APPROVED BY THE CITY ENGINEERING/PLANNING DIRECTOR.

TYPICAL ROADWAY SECTION WITH CURB AND GUTTER



TYPICAL SECTION - MAJOR COLLECTOR
(2001+ VPD)
City of Martinsburg



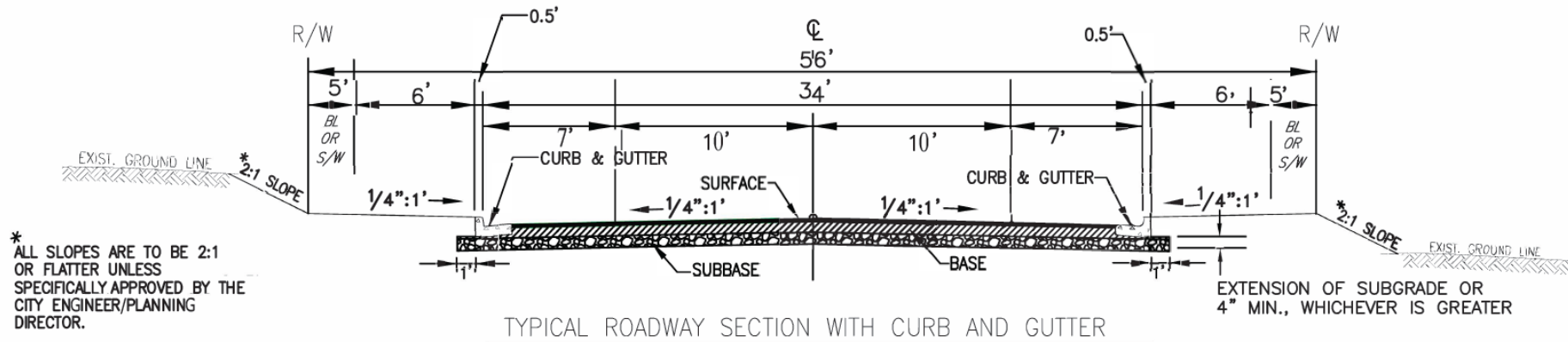
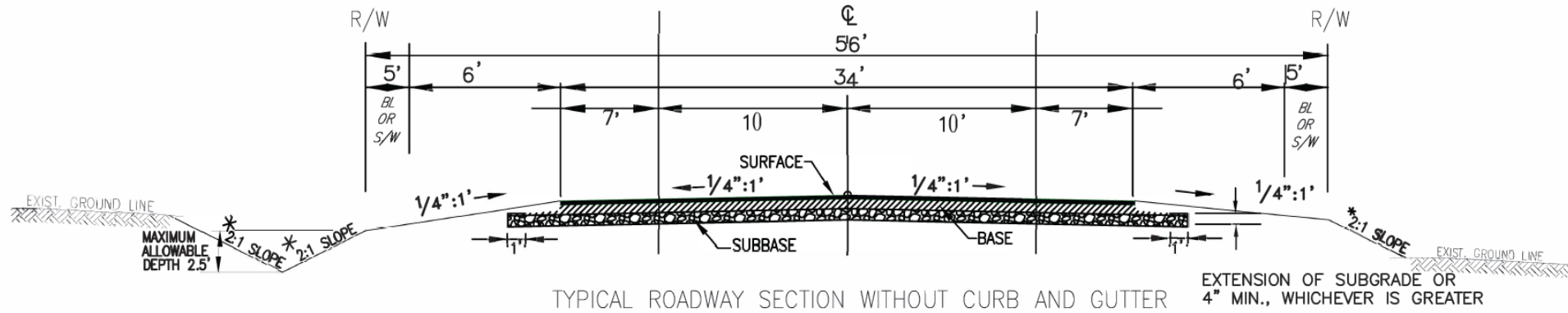
* ALL SLOPES ARE TO BE 2:1 OR FLATTER UNLESS SPECIFICALLY APPROVED BY THE CITY ENGINEER/PLANNING DIRECTOR.

TYPICAL ROADWAY SECTION WITH CURB AND GUTTER



TYPICAL SECTION - MINOR COLLECTOR (1000-2001 VPD)

City of Martinsburg



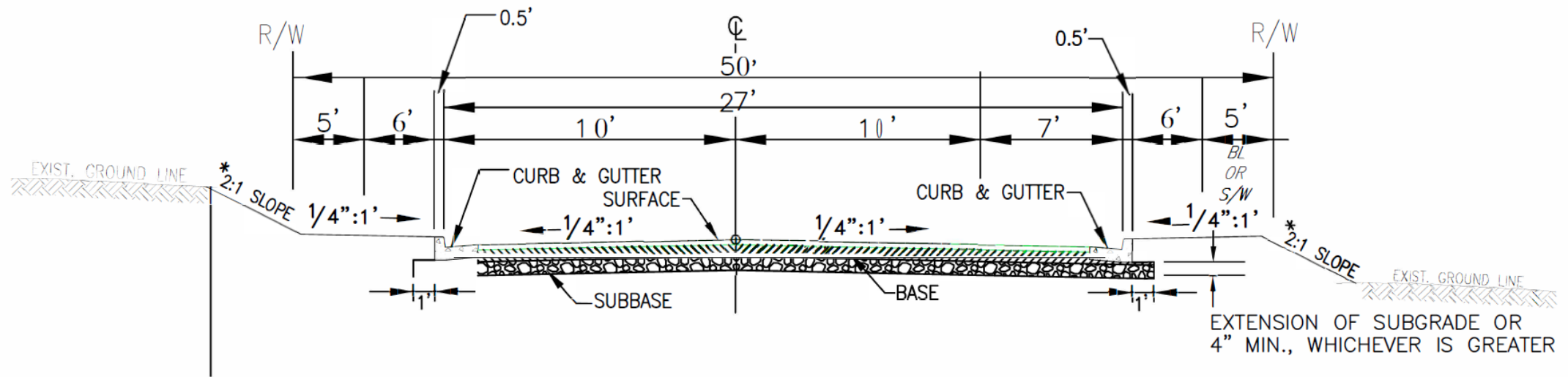
* ALL SLOPES ARE TO BE 2:1 OR FLATTER UNLESS SPECIFICALLY APPROVED BY THE CITY ENGINEER/PLANNING DIRECTOR.



TYPICAL SECTION - NEIGHBORHOOD CENTER STREET

(501-1000 VPD)

City of Martinsburg



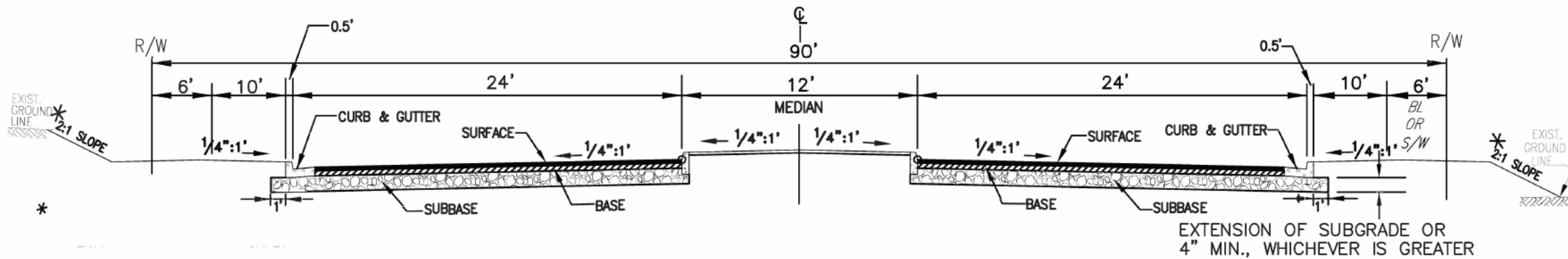
TYPICAL ROADWAY SECTION WITH CURB AND GUTTER

* ALL SLOPES ARE TO BE 2:1 OR FLATTER UNLESS SPECIFICALLY APPROVED BY THE CITY ENGINEER/PLANNING DIRECTOR.



TYPICAL SECTION - NEIGHBORHOOD STREET (0-500 VPD)

City of Martinsburg



ALL SLOPES ARE TO BE 2:1
OR FLATTER UNLESS SPECIFICALLY
APPROVED BY THE CITY
ENGINEER/PLANNING DIRECTOR.

TYPICAL ROADWAY SECTION WITH CURB AND GUTTER

TYPICAL SECTION - PRIMARY STREET

City of Martinsburg



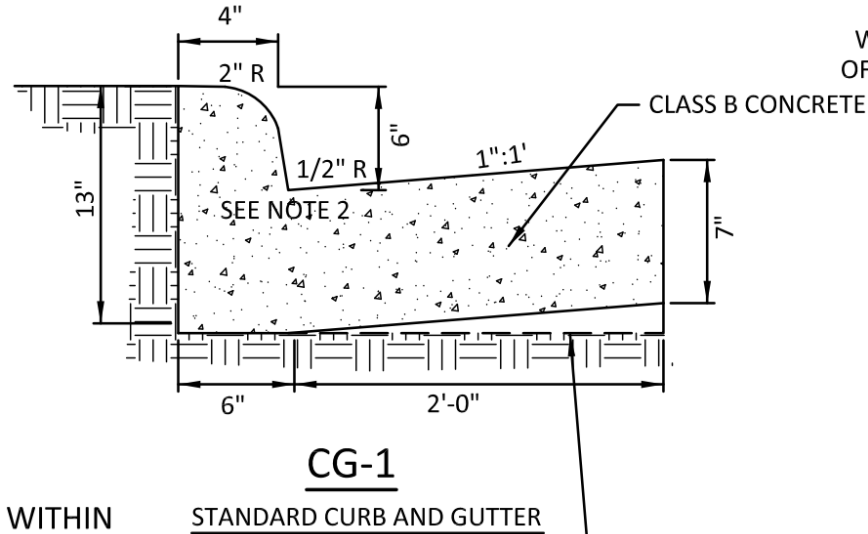
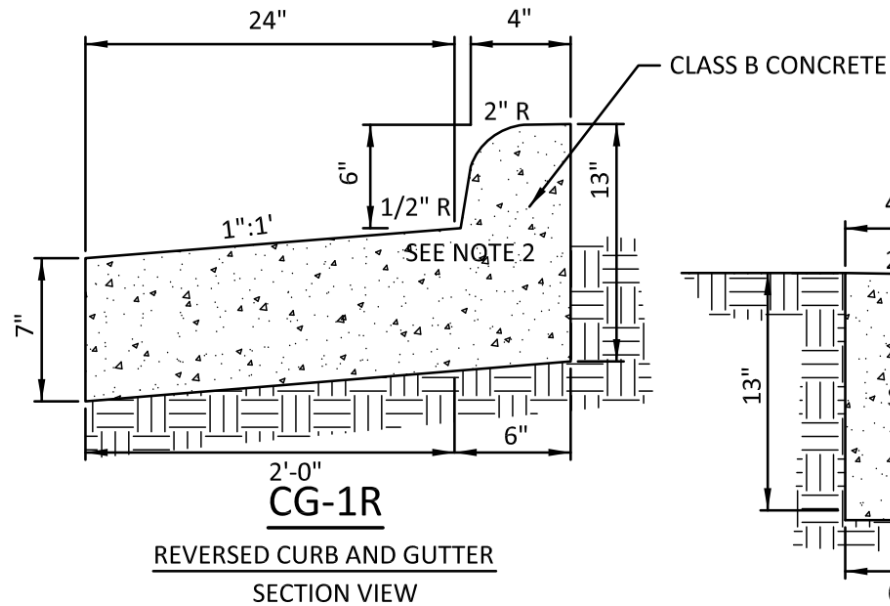
Appendix B

Standard Details

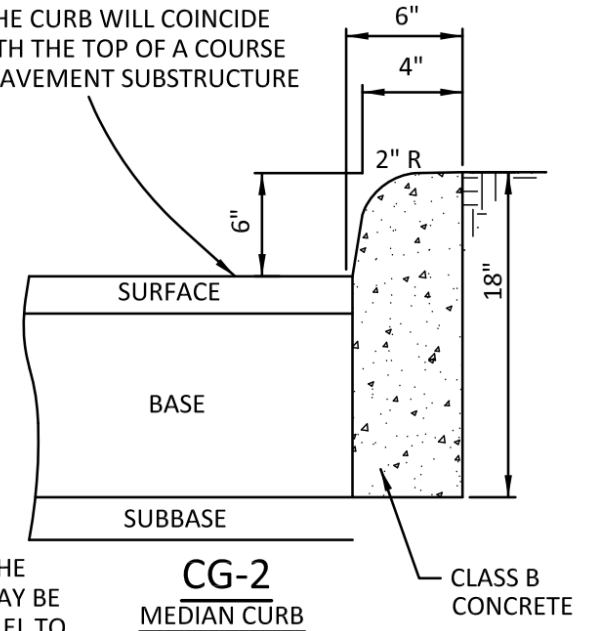
City of Martinsburg

Subdivision and Land Development Ordinance





THE DEPTH OF CURB MAY BE REDUCED AS MUCH AS THREE INCHES OR INCREASED AS MUCH AS THREE INCHES IN ORDER THAT THE BOTTOM OF THE CURB WILL COINCIDE WITH THE TOP OF A COURSE OF PAVEMENT SUBSTRUCTURE



THE BOTTOM OF THE CURB AND GUTTER MAY BE CONSTRUCTED PARALLEL TO THE SLOPE OF THE SUBSURFACE COURSES PROVIDED A MINIMUM OF 7" IS MAINTAINED.

NOTES:

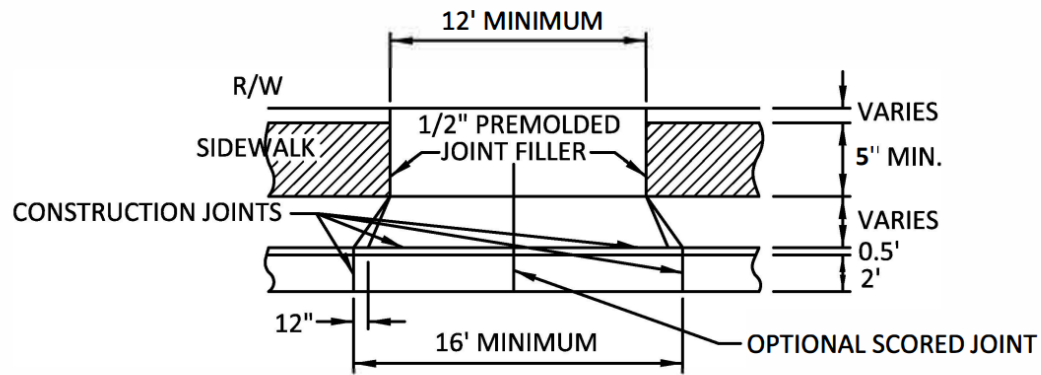
1. THE USE OF CG-1R SHALL NOT BE UTILIZED WITHIN THE LIMITS OF PUBLIC RIGHT OF WAY.
2. A MAXIMUM OF A 2" RADIUS IS ACCEPTABLE WITH CURB AND GUTTER.
3. SUBGRADE FOR ALL CURB AND GUTTER SHALL BE COMPACTED TO 95 PERCENT DENSITY AT OPTIMUM MOISTURE TO THE FULL WIDTH OF RIGHT OF WAY IN ACCORDANCE WITH AASHTO, T99.

NOT TO SCALE

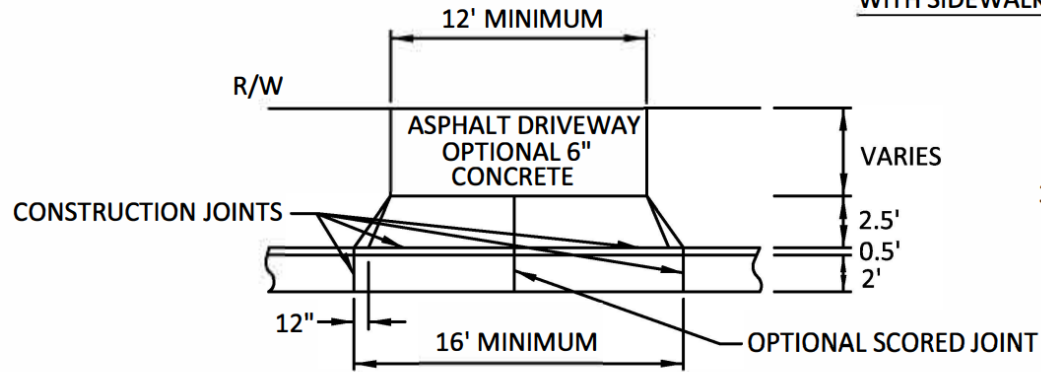
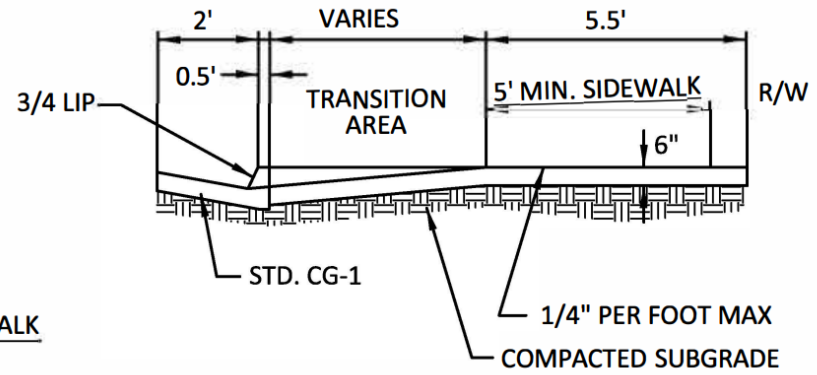


TYPICAL COMBINATION CURB AND GUTTER
City of Martinsburg

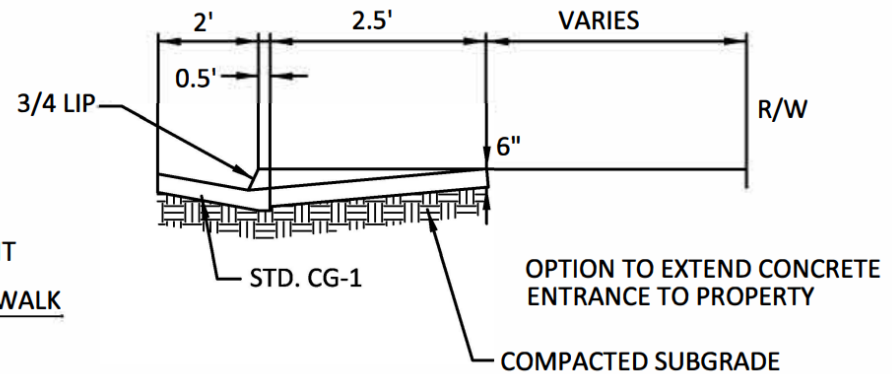
CG-1
CG-1R
CG-2



WITH SIDEWALK



WITHOUT SIDEWALK



NOTES:

1. GRADING PLANS MUST PROVIDE FOR ADEQUATE VEHICULAR CLEARANCE FOR DRIVEWAY APPROACH, DEPARTURE, AND BREAKOVER TRANSITIONS.

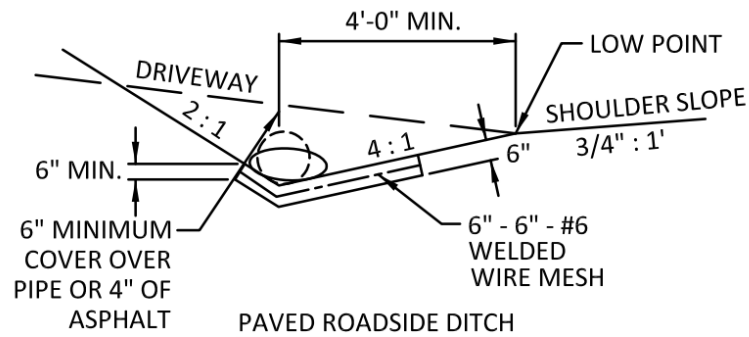
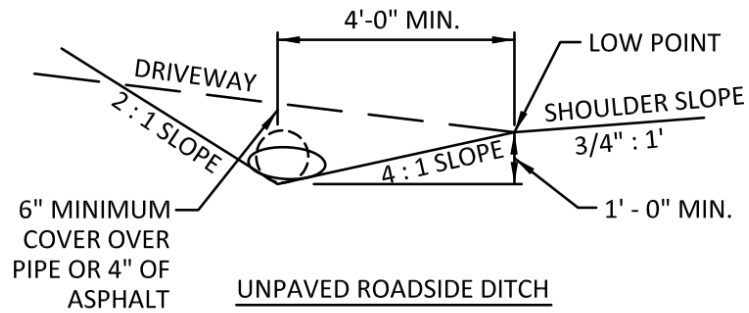
NOT TO SCALE



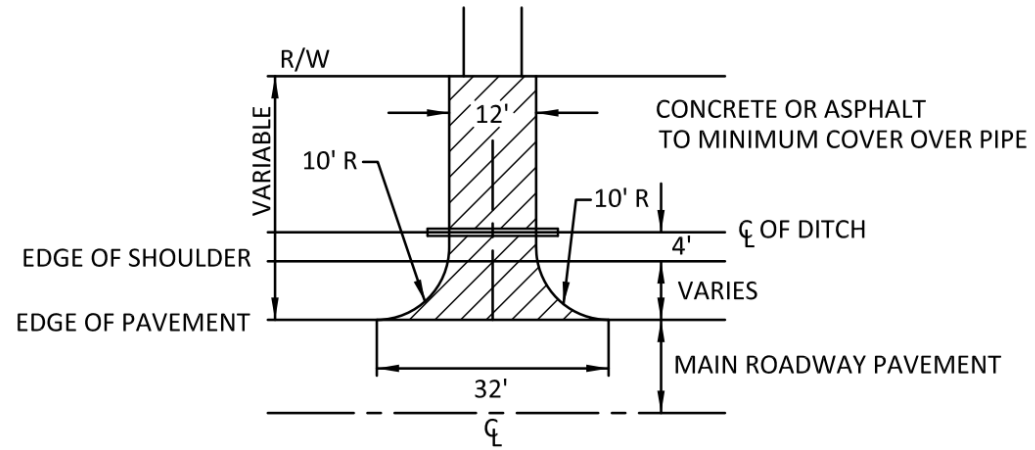
DRIVEWAY ENTRANCE WITH CURB AND GUTTER

City of Martinsburg

DE-1



A PAVED DITCH IS REQUIRED WHERE SOIL CONDITIONS AND RUNOFF VELOCITIES WILL CAUSE EROSION.



NOTES:

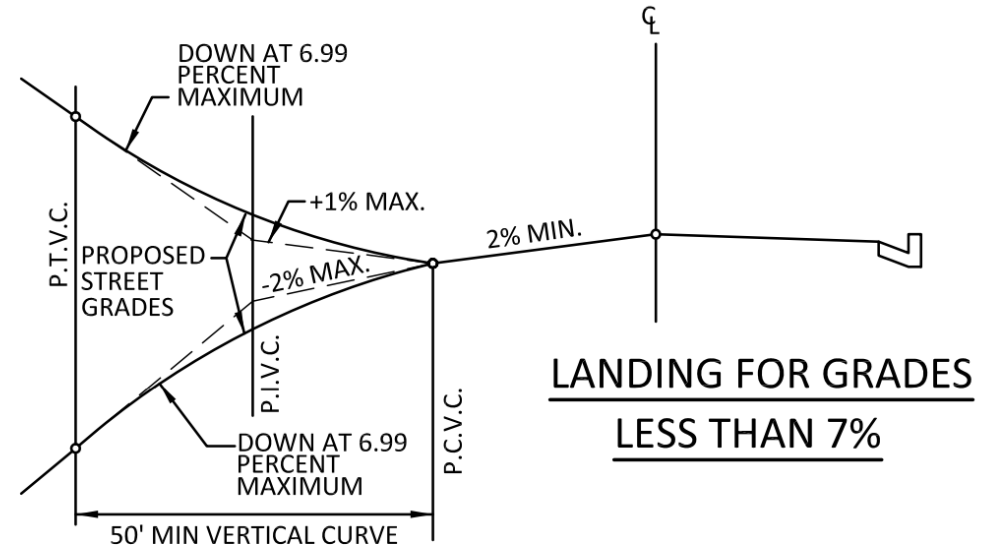
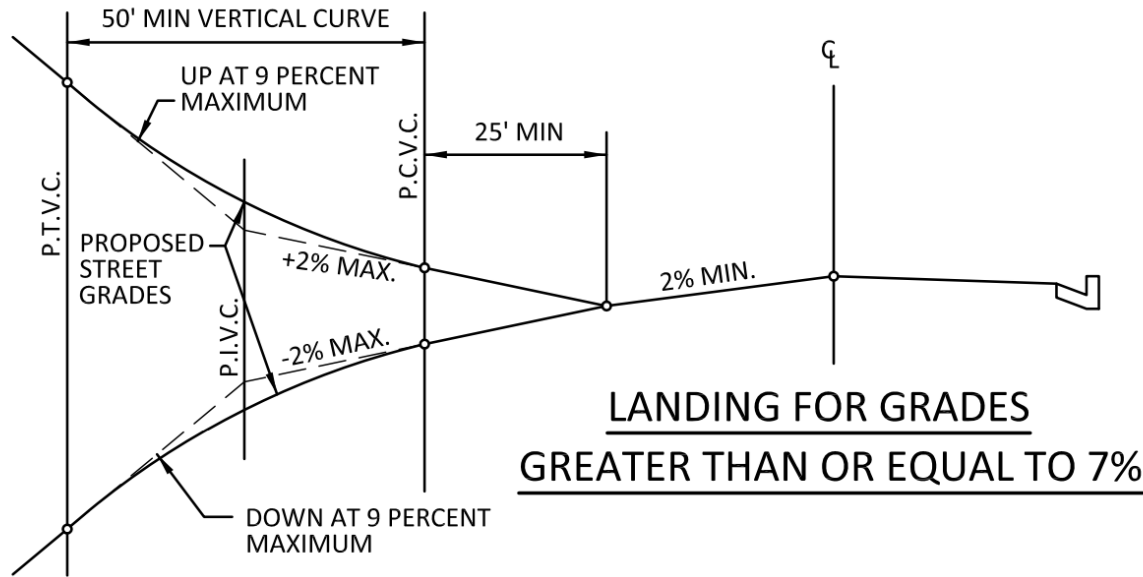
1. ALL CULVERTS SHALL BE SIZED IN ACCORDANCE WITH THE WVDOH DRAINAGE MANUAL - CURRENT EDITION.
2. DRIVEWAYS SHALL BE SURFACED FROM THE EDGE OF PAVEMENT TO THE PROPERTY LINE WITH THE SAME TYPE OF SURFACING USED ON THE STREET.
3. ALL DRIVEWAY GRADES SHALL START BACK OF THE SHOULDER LINE.
4. IN CUT SECTIONS, SIDES OF THE DRIVEWAY SHALL BE GRADED TO A MAXIMUM 3:1 SLOPE.
5. THE DITCH LINE MAY BE MOVED BACK TO PROVIDE REQUIRED COVER. THE TRANSITION OF THE DITCH LINE SHALL BE SMOOTH WITH A MINIMUM TRANSITION LENGTH OF 10 FEET.

NOT TO SCALE



DRIVEWAY ENTRANCE WITH NO CURB AND GUTTER
City of Martinsburg

DE-2



NOTES:

1. THE P.C.V.C. AS SHOWN ON THE DETAIL FOR LANDINGS WITH GRADES LESS THAN 7% SHALL BEGIN AT THE FACE OF CURB ON A CURB AND GUTTER SECTION OR AT THE EDGE OF PAVEMENT ON A SECTION WITHOUT CURB AND GUTTER.
2. THE 25' MINIMUM VERTICAL CURVE AS SHOWN ON THE DETAIL FOR LANDINGS WITH GRADES EQUAL TO OR GREATER THAN 7% SHALL BEGIN AT THE FACE OF CURB ON A CURB AND GUTTER SECTION OR AT THE EDGE OF PAVEMENT ON A SECTION WITHOUT CURB AND GUTTER.

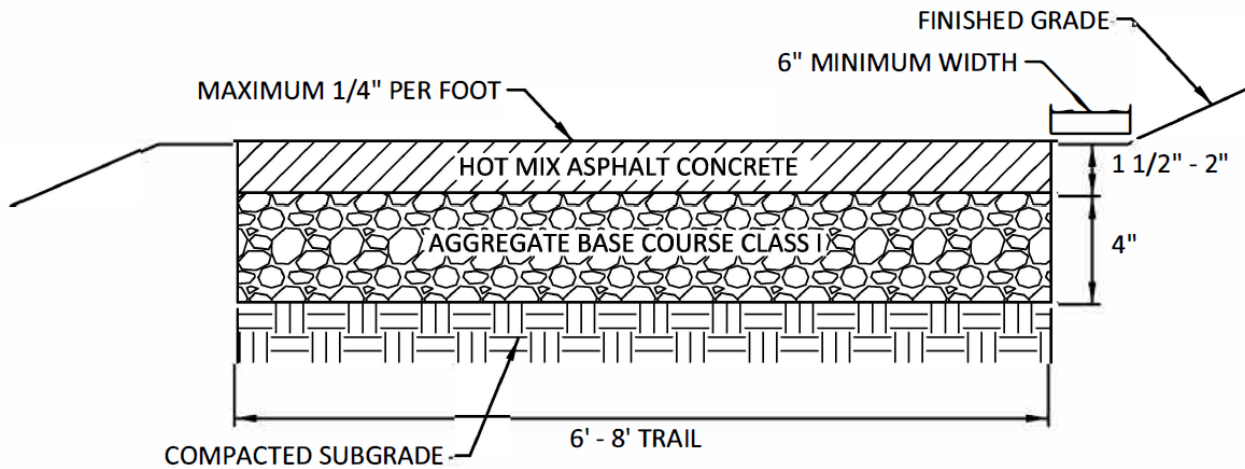
NOT TO SCALE



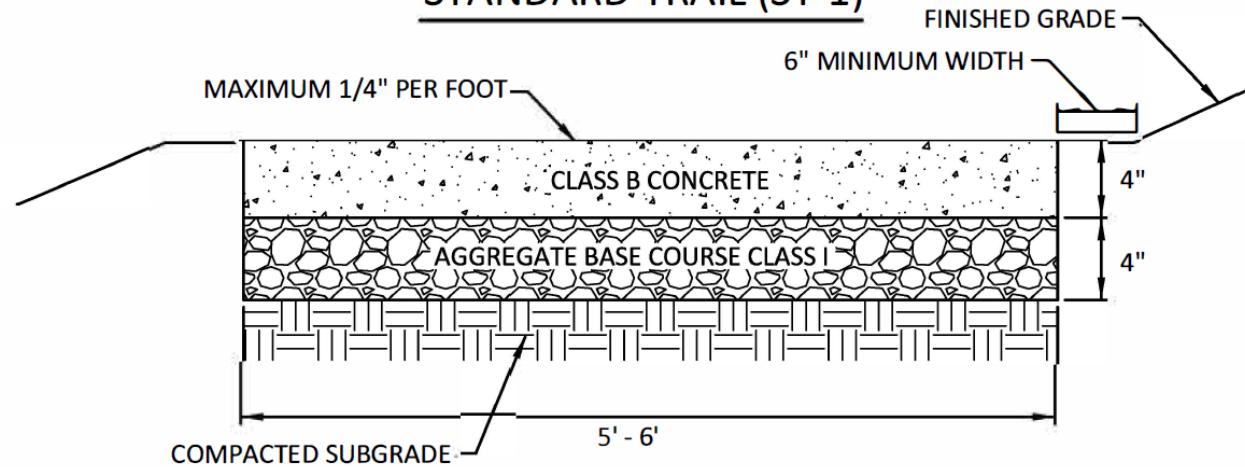
INTERSECTION LANDING REQUIREMENTS

City of Martinsburg

IL - 1



STANDARD TRAIL (ST-1)



STANDARD SIDEWALK (SW-1)

NOTES:

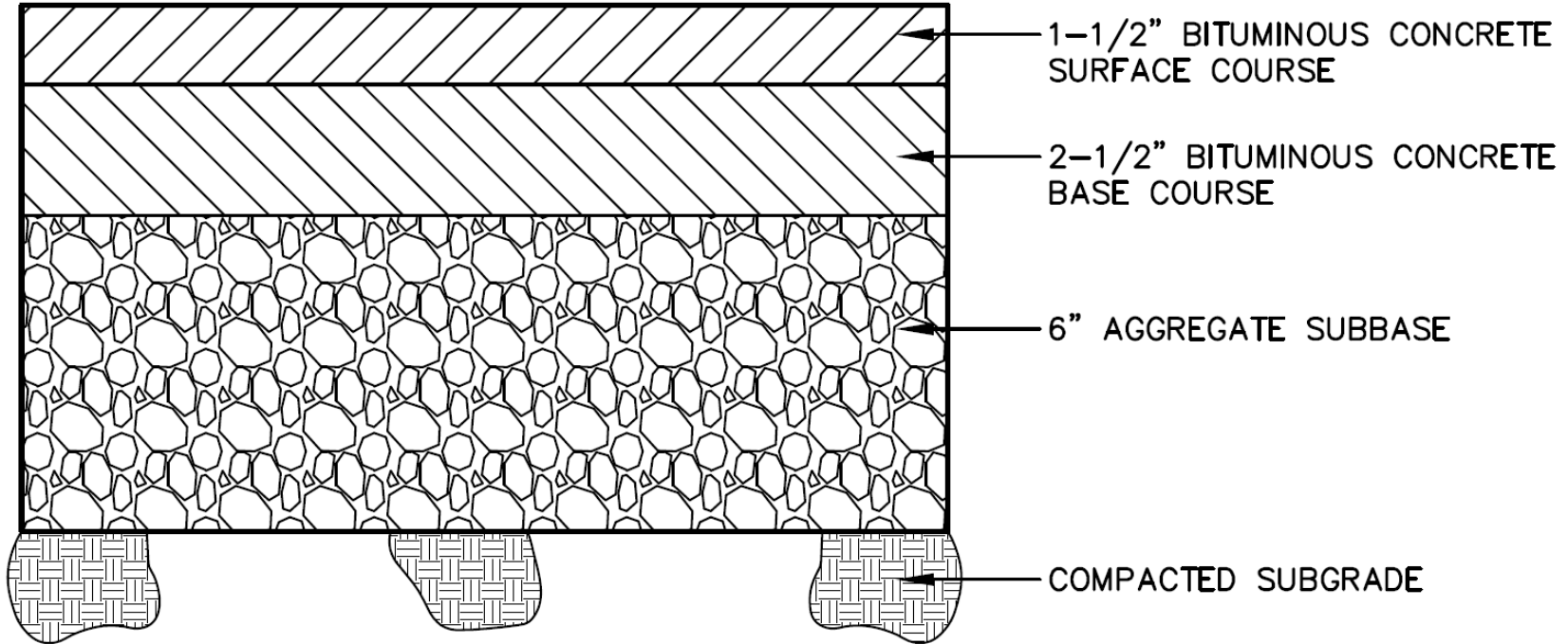
1. ALL PEDESTRIAN AND BIKE TRAILS LOCATED OUTSIDE OF CITY OF MARTINSBURG RIGHT OF WAY SHALL BE A MINIMUM OF 5' IN WIDTH FOR SIDEWALKS, 6' FOR ALL PEDESTRIAN TRAILS, AND 8' FOR ALL BIKE TRAILS.
2. A PRIVATE ACCESS EASEMENT SHALL BE PROVIDED FOR ALL SIDEWALKS AND TRAILS OUTSIDE OF CITY OF MARTINSBURG RIGHT OF WAY AND SHALL INCLUDE A MINIMUM OF 3' OF WIDTH ON BOTH SIDES OF THE TRAIL OR SIDEWALK.
3. THE MAXIMUM GRADE FOR ALL PEDESTRIAN TRAILS SHALL BE 10%.
4. THE MAXIMUM GRADE FOR ALL BIKE TRAILS SHALL BE 8%, EXCEPT UP TO 15% IS ALLOWED FOR DISTANCES OF LESS THAN 150 FEET.
5. APPROPRIATE LIGHTING AND SIGNAGE, LANDSCAPING, BUFFERING AND DRAINAGE MEASURES, ALONG WITH CONSIDERATIONS FOR SECURITY SHALL BE INCORPORATED IN THE DESIGN OF THESE FACILITIES.

NOT TO SCALE



TRAIL AND TYPICAL SIDEWALK
City of Martinsburg

ST-1
SW-1



NOTES:

1. ALL BASE AND SUBGRADE MATERIAL SHALL BE COMPACTED TO 95% THEORETICAL MAXIMUM DENSITY AS DETERMINED BY AASHTO T-99 METHOD A, WITHIN A $\pm 2\%$ OF OPTIMUM MOISTURE.



STANDARD DETAIL

STANDARD NUMBER

TYPICAL DRIVEWAY/PARKING PAVING SECTION

K-1

Appendix C

Buffering Detail

City of Martinsburg

Subdivision and Land Development Ordinance

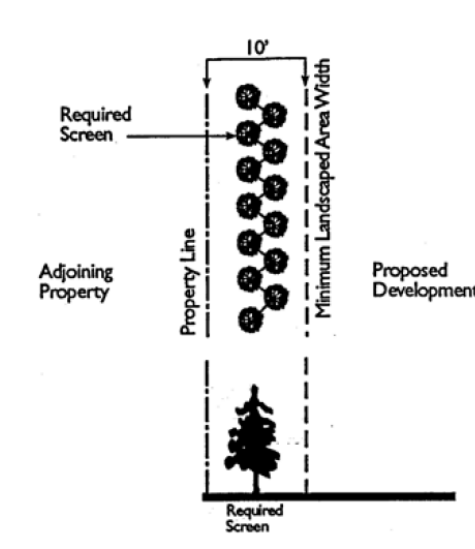




Buffering Standard Detail

10-foot-wide buffer standard

- ✓ Coniferous trees spaced a maximum of 10 feet on-center and two staggered rows (spaced a maximum of 7 feet apart).
- ✓ Coniferous trees may be required to be planted closer than specified above if the species planting specifications indicate the chosen planting material will not grow large enough to form a contiguous screen.



20-foot-wide buffer standard

- ✓ A minimum of one continuous row of coniferous trees spaced a maximum of 12 feet on-center and two staggered rows (spaced a maximum of 8 feet apart). One row can consist of deciduous trees.
- ✓ Coniferous trees may be required to be planted closer than specified above if the species planting specifications indicate the chosen planting material will not grow large enough to form an intermittent screen.

