

# Subdivision and Land Development Ordinance of the City of Charles Town, West Virginia

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Part 13, Articles 1331 – 1336, of the Charles  
Town Code

ENACTED: JUNE 23, 2012  
EFFECTIVE: SEPTEMBER 26, 2012  
AMENDED: JULY 1, 2019



# **SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF THE CITY OF CHARLES TOWN, WEST VIRGINIA**

## **ACKNOWLEDGEMENTS**

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**PART 13, ARTICLE 1331, SUBDIVISION AND LAND DEVELOPMENT ORDINANCE**

**Article 1331, GENERAL PROVISIONS**

**Section 1331.01, 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 Charles Town, West Virginia" and hereinafter referred to as this "Ordinance."

ENACTED: June 18, 2012

EFFECTIVE: September 26, 2012

**Section 1331.02, Purpose**

The Charles Town Subdivision and Land Development Ordinance is intended to guide future growth and development by regulating the Subdivision and physical Development of land within the jurisdiction of the City of Charles Town for the improvement of the health, safety, comfort, morals, and general public welfare of Charles Town 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 Charles Town Zoning Ordinance, and is in accordance with the Charles Town Comprehensive Plan.

**Section 1331.03, Authority**

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

**Section 1331.04, Jurisdiction**

This Ordinance shall apply to all properties within the corporate limits of the City of Charles Town, West Virginia, hereinafter referred to as the "City."

**Section 1331.05, Applicability**

- (A) No Lot, tract or parcel of land within the City of Charles Town shall be subdivided and no such land may be developed, and no Street, sanitary sewer, storm sewer, water main, or concomitant 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 Subdivision Administrator) 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 Jefferson 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

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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 Charles Town Zoning Ordinance.
- (D) The scope of this Ordinance shall include all matters over which, by law, the City of Charles Town 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 an S/LD Application, whether for a Minor or Major Subdivision/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 an S/LD 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 Charles Town Comprehensive Plan.
- (H) *Exclusions.* The sale or other transfer of one or more parcels or Lots from Subdivisions for which plats or deeds were recorded with the Clerk of the Jefferson 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

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or addition; *provided that*, any resurvey or amended, modified, or corrective plat shall be subject to the requirements of this Ordinance.

**Section 1331.06, 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 Charles Town and its citizens. Stricter requirements in any other applicable rule, regulation, statute, ordinance, or other law shall prevail.
- (B) The Subdivision Administrator 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 City's Zoning Ordinance, and/ or any other Codified Ordinance of the City, the conflicting provisions shall be given precedence in the following order: (1st) the provisions of the City's Zoning Ordinance; (2nd) the provisions of this Ordinance; and (3rd) the provisions of the City's other Codified Ordinances with precedence among them given to the provision bearing the latest date of passage.

**Section 1331.07, 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 1331.08, 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 Charles Town Zoning Ordinance. It is the expressed intent that the Charles Town Subdivision and Land Development Ordinance and Charles Town Zoning Ordinance be compatibly enforced and together foster the stated planning goals and objectives of the City.
- (B) Where any inconsistencies between the Charles Town Subdivision and Land Development Ordinance and Charles Town Zoning Ordinance may exist, the provisions of the Charles Town Zoning Ordinance shall be deemed to control.
- (C) The various bulk and area regulations specified in Article 1322 of the Charles Town 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 1323 Supplemental Regulations of the Zoning Ordinance.
- (D) The various provisions of the Supplemental Regulations in Article 1323 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.



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**Section 1331.09, Administration and Enforcement**

- (A) The provisions of this Ordinance shall be administered by the Charles Town Planning Commission. Within a reasonable time after the enactment of this Ordinance, and from time to time thereafter as determined appropriate, City Council shall appoint a Subdivision Administrator. The Subdivision Administrator 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 Charles Town 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 Subdivision Administrator to:
1. Receive and examine all applications and submissions related to any proposed Subdivision or Land Development, including, without limitation, Sketch Plans, Preliminary S/LD Applications, Final S/LD Applications (whether for Minor Subdivisions/Land Developments or Major Subdivisions/Land Developments), Erosion and Sediment Control Plans, applications for Improvement Location/Land Disturbance Permits, and applications for Development Completion Permits. All applications, plans, and documents submitted shall be considered a public record provided that the Subdivision Administrator 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 Minor Subdivisions/Land Developments to (a) discuss the proposed Minor Subdivision/Land Development and the criteria for its classification as minor, and (b) understand, discuss, and attempt to resolve issues. The Subdivision Administrator may make site inspections of properties when determined appropriate;
  4. Determine whether a proposed Minor Subdivision/Land Development is properly classified as minor, and issue a written notice of such determination;
  5. Approve, approve with conditions, or deny a Final S/LD Application for a properly classified Minor Subdivision/Land Development;
  6. Review Sketch Plans, Preliminary and Final S/LD Applications for Major Subdivisions/Land Developments for completeness and make recommendations to the Planning Commission regarding completeness;
  7. Review Sketch Plans, Preliminary and Final S/LD Applications for Major Subdivisions/Land Developments, and conduct inspections and surveys, to determine compliance with the requirements of this Ordinance, and make recommendations to the Planning Commission regarding compliance;

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8. Receive applications for waivers and promptly forward these applications to the Planning Commission;
9. 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 Subdivision Administrator to be violating the requirements and standards of this Ordinance;
10. 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;
11. Bring any matter to the Planning Commission for its action or information;
12. Upon the request of the Planning Commission, or the Board of Appeals, present to such bodies facts, records, or reports which they may request to assist them in making decisions or assist them in any other way as requested; and
13. 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 Subdivision Administrator.

- (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 one dollars (\$100.00) 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 Subdivision Administrator 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 Subdivision Administrator may institute action in the Circuit Court of Jefferson 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 Subdivision Administrator becomes aware that any Person is in violation of any provision of this Ordinance, the Subdivision Administrator 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 Subdivision Administrator or

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Planning Commission when correction of such violation is being pursued in good faith to the satisfaction of the Subdivision Administrator 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 1331.10, Permits, Fees, and Inspections**

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

1. *Improvement Location/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 an Improvement Location/Land Disturbance Permit is obtained from the Planning Commission or Subdivision Administrator, except as expressly exempted under Section 1331.10(A)(1)(c).

- a. *Application.* An applicant for an Improvement Location/Land Disturbance Permit shall submit to the Subdivision Administrator an application consisting of the following items:

- (1) A completed application form for such permit, in the form prescribed by the Subdivision Administrator, together with applicable fees;
- (2) The Final Record 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 3,000 square feet of land, an Erosion and Sediment Control Plan approved by the Subdivision Administrator in accordance with the provisions of Section 1334.02. Alternatively, the applicant may submit an application for approval of the Erosion and Sediment Control Plan together with the application for the Improvement Location/Land Disturbance Permit, in which case approval of the Erosion and Sediment Control Plan shall be a prerequisite for approval of the Improvement Location/Land Disturbance Permit, and the application for approval of the Improvement Location/Land Disturbance Permit shall not be deemed complete, and its review shall not commence, until the Erosion and Sediment Control Plan is duly approved;

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- (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 1335 hereof for the proposed activities upon the subject land.
- b. *Review and Approval Process.* The Subdivision Administrator shall review each application for an Improvement Location/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 an Improvement Location/Land Disturbance Permit, the Subdivision Administrator 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 Improvement Location/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 S/LD Application is not required under this Ordinance.
- d. *Multiple Permits.* An Improvement Location/Land Disturbance Permit will pertain to and authorize only the specific activities covered in the underlying application. One or more additional Improvement Location/Land Disturbance Permits will be required for other activities. For example, if an initial Improvement Location/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.
- (1) *Development Fees.* All development fees required as a condition of annexation or proffer that were voluntarily agreed upon by the Landowner shall be required per Lot upon issuance of a building

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permit for the subject Lot, unless specified otherwise in such condition of annexation or proffer.

- f. *Revocation of Permit.* An Improvement Location/Land Disturbance Permit may be revoked by the Subdivision Administrator for failure to comply with the land disturbance plan or requirements or conditions of the Improvement Location/Land Disturbance Permit.
  2. *Development Completion Permit.* Prior to the release of bonding or Dedication of Streets to the City, a Development Completion Permit shall be required. Application for such permits shall be made to the Subdivision Administrator on forms prescribed by the Subdivision Administrator, together with applicable fees. An as-built plan of the Development shall be submitted with an application for a Development Completion Permit. All As-Built Drawings shall be prepared as required under Section 1332.10 of this Ordinance.
- (B) *Fees.* All S/LD Applications and other applications and submissions made under this ordinance shall be accompanied by the prevailing fees. The provisions of Section 148.06, Planning and Zoning Services, of the Codified Ordinances of the City of Charles Town specify the various fees applicable to such applications, submissions and related matters, which provisions, as they may be amended from time to time, are incorporated into this Ordinance by reference.
- (C) *Inspections.* All Stormwater Management Facilities on land subject to an Improvement Location/Land Disturbance Permit shall be inspected periodically by the City Engineer during construction. Prior to the issuance of a Development Completion Permit, all Stormwater Management Facilities shall be inspected by the City Engineer.

**Section 1331.11, Reserved**

**Section 1331.12, Appeals; Waivers; Amendments**

- (A) *Appeals.*
1. Appeals from orders, requirements, decisions or determinations made by the Subdivision Administrator or Planning Commission under this Ordinance, or any rule or regulation adopted pursuant thereto, may be made to the Jefferson County Circuit Court.
- (B) *Waivers.*
1. 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. The Planning Commission shall have the authority to grant a waiver to allow a modification, change, or an alternative solution to a requirement of this Ordinance. Please note that economic hardship alone is not sufficient reason to grant an exception from the requirements.
  2. Waivers from the minimum standards in this Ordinance may be granted by the Planning Commission only when the Planning Commission finds that granting a

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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, parkland consistent with the City parks plan, 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.

No process or procedural waivers will be granted.

3. 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.
4. An application for a waiver shall be filed with the Planning Commission. An application for the waiver shall be submitted, along with the required fee, on the appropriate form. In addition to that basic information, the following information shall be submitted to support the application:
  - a. Plat or plan of the property depicting parcel information, proposed layout, and, where applicable, all proposed modifications.
  - b. A description of the physical features of the property, total acreage, present use, the use of the property at the time of the adoption of this Ordinance, and any known prior uses.
  - c. A description of the specific portions of this Ordinance for which relief is being sought.
  - d. A narrative describing how the proposed waiver will improve the public benefits; and
  - e. An accurate list of all properties and owners' addresses adjoining the subject property.
5. The applicant shall post the property fifteen (15) days prior to the scheduled meeting. The adjoining property owners shall be noticed by staff via mailed letter fifteen (15) days prior to the scheduled meeting. Adjacent Property owners are identified as properties within 100 feet of the proposed development or activity. The failure of any party to actually receive such notice shall not invalidate any subsequent action taken. At least fifteen (15) days prior to the date set for the hearing on the application, publish a notice of the date, time and place of the hearing on the application or Appeal as a Class I legal advertisement.

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6. The Planning Commission shall make a decision within 45 days of the receipt of the request for waiver.
  7. In granting a waiver, the Planning Commission may prescribe any conditions and safeguards that it finds are appropriate and in conformity with this Ordinance.
  8. All waivers and/or conditions of approval associated with the waiver shall be documented on all subsequent plats or plans.
  9. Waivers run with the specific project for which the reduction is requested and shall be vested with the project. If the project is not vested, the waivers expire with that project.
- (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 1332, SUBDIVISION AND LAND DEVELOPMENT APPLICATION & APPROVAL REQUIREMENTS**

**Section 1332.01, 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 1332.01(A)(3)(a) and (3)(c).
2. Minor Subdivision or Land Development
  - a. Does not require a Preliminary Plan and Plat Approval, only a Final Plan and Plat Approval.
3. Major Subdivision or Land Development
  - a. Major Subdivision Development – A Preliminary Plan and Plat Approval and a Final Plan and Plat Approval is required. For a Major Subdivision Development, the applicant can either process only the Preliminary Plan and Plat for initial approval and then submit Final Plan and Plat for approval at a later date or combine the process into one step. Phasing is permitted in this scenario. A Sketch Plan is required.
  - b. 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. In the event that the development has multiple building to be built in phases on one lot, a Preliminary Plan and Plat Approval will be required for each building. A Sketch Plan is required.
  - 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. In the event that the development has multiple buildings to be built in phases, a Preliminary Plan and Plat Approval will be required for each building and a Final Plan and Plat Approval will be required for each merger, adjustment or subdivision of land. A Sketch Plan is required.

**Section 1332.02, Applicability**

(A) *Major and Minor Subdivisions/Land Developments*. The procedures set forth in this article apply to Minor and Major Subdivisions/Land Developments, which are defined as follows:

1. *Minor Subdivision/Land Development*. A Minor Subdivision/Land Development is a Subdivision or Land Development that will not require the development or extension of off-tract infrastructure or Improvements, municipal or other local



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governmental facilities or Improvements, or Public Streets or Roads. Only the following shall be considered Minor Subdivisions/Land Developments:

- a. *Division of One Parcel into Two Parcels.* The division of one (1) new parcel from an existing parent tract if, and only if, the new parcel and the residue parent tract will each (i) adjoin an existing Public Street or Road, and (ii) satisfy the minimum lot size requirements for the Zoning District in which the land is located. Only one (1) new parcel 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/Land Development. Any further Subdivision or Development of the new parcel or the residue parent tract will not be a Minor Subdivision/Land Development and must be processed under the Major Subdivision/Land Development provisions of this Ordinance. Such division shall meet the standards of Section 1332.06.
- b. *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. Adjustment of a boundary line in excess of twenty-five feet (25') will not be considered a Minor Subdivision/Land Development under this Subsection 1332.02(A)(1)(b) except upon waiver of such limit by the Planning Commission.
- c. *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.
- d. *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 an Improvement Location/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 S/LD Application for a Subdivision/Land Development containing said Lot.
- e. *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.
- f. *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.
- g. *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 or Land Development in any manner.
- h. *Utility Lots.* Utility Lots or areas created for the purpose of facilitation, metering or transmission of a legal utility such as water, sewer, electric,

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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/LAND DEVELOPMENT UNDER THE CHARLES TOWN 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.”

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

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

(B) *Review Fees.*

1. Review fees for the reasonable and necessary charges for professional consultants (e.g., Professional Engineer, professional geologist, certified planner, etc.) retained by the City as necessary to review and report on a S/LD Application for a Minor or Major Subdivision/Land Development shall be paid by the applicant. Such review fees, as provided under Section 148.06 of the Codified Ordinance of the City of Charles Town Codified Ordinance, 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. The City shall

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provide notice to the applicant each time a payment is made from the escrow account for review fees, which shall include the amount of the payment and the services for which the payment was made. 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 S/LD 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 S/LD Application for the subject Minor or Major Subdivision/Land Development by the Professional Consultants; and/or
  - b. The Planning Commission shall act to deny the S/LD Application for the subject Minor or Major Subdivision/Land Development.
5. Subsequent to a decision on the S/LD Application for the subject Minor or Major Subdivision/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 1332.03, Subdivision and Land Development Application Submission and Review Procedures**

- (A) *General.* The following Table 1332.03 indicates the required procedures for Minor and Major Subdivisions/Land Developments.

**Table 1332.03 – Application and Review Procedures**

Stage	Minor Subdivisions/ Land Developments	Major Subdivisions/ Land Developments	Party Authorized To Approve	Public Hearing?
Pre-submission Consultation Meeting	Required	Required	Not Applicable	No
Sketch Plan Submission	Not Applicable	Required	Planning Commission	Yes
Preliminary Plan & Plat Approval	Not Applicable	Required <sup>1</sup>	Planning Commission	NO. PC Workshop
Final Plan & Plat Approval	Required	Required	Staff	No
Guarantee of Surety	Not Applicable	Required	Planning Commission	Yes

<sup>1</sup> Preliminary Plan & Plat approval may be combined with Final Plan & Plat approval as specified in Section 1332.01(A)(3)(a) and (3)(c).

(B) *Minor Subdivision/Land Development.*

1. *Pre-submission Consultation Meeting.*

The applicant shall arrange for a pre-submission consultation meeting with the Subdivision Administrator to discuss the general concept, use, and design of the proposed Minor Subdivision/Land Development. While a Sketch Plan is not required for the pre-submission consultation meeting, enough detail shall be provided so as to depict the proposed Minor Subdivision/Land Development.

2. *Application Submission and Classification.*

- a. The applicant shall submit to the Subdivision Administrator (1) a Final S/LD Application containing the items set forth in Section 1332.06, and (2) the required fees.
- b. Within seven (7) days of receipt of a Final S/LD Application, the Subdivision Administrator shall meet with the applicant to discuss the proposed Subdivision/Land Development and the criteria proposed for its classification as a Minor Subdivision/Land Development. The Pre-Submission Consultation Meeting shall satisfy this requirement, unless the

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applicant request for a meeting in writing after the submission of the application.

- c. Within ten (10) days of receipt of the Final S/LD Application, the Subdivision Administrator shall notify the applicant in writing whether the proposed Subdivision/Land Development has been classified as a Minor Subdivision/Land Development. If the proposed Subdivision/Land Development is not classified as a Minor Subdivision/Land Development, the applicant may only proceed under the Major Subdivision/Land Development process.

- (1) When time permits and prior to the expiration of the ten (10) day period following receipt of the Final S/LD Application, the Subdivision Administrator may notify the applicant of factors that make the proposed Subdivision/Land Development unlikely to be classified as a Minor Subdivision/Land Development. In such a case, the applicant may, prior to the expiration of such ten (10) day period: (a) notify the Subdivision Administrator in writing that the applicant intends to submit a revised Final S/LD 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 Subdivision Administrator has full authority to approve Minor Subdivisions/Land Developments without Planning Commission review; however, the Subdivision Administrator may, when he or she deems it appropriate, submit a Final S/LD 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. Revision of Application. When time permits and prior to the expiration of the ten (10) day period following classification of the proposed Subdivision/Land Development as a Minor Subdivision/Land Development, the Subdivision Administrator may notify the applicant of deficiencies in the Final S/LD Application that render it unlikely to be approved. In such a case, the applicant may, prior to the expiration of such ten (10) day period: (a) notify the Subdivision Administrator in writing that the applicant intends to submit a revised Final S/LD 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.
- c. Any revisions made to a Final S/LD Application subsequent to its initial submittal shall contain a transmittal letter listing the revisions and the

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agency to which the revisions pertain. The revisions will be used by the Subdivision Administrator (or Planning Commission as may be required) when considering the application.

- d. Within ten (10) days after classification of the proposed Subdivision/Land Development as a Minor Subdivision/Land Development, the Subdivision Administrator shall approve or deny the Final S/LD Application and duly notify the applicant in writing of the decision. A Final S/LD Application will be approved if it is complete and satisfies all applicable requirements of this Ordinance.
- (1) *Approval.* If the Subdivision Administrator approves the Final S/LD Application, then the final version of the Plat submitted as part of the Final S/LD Application is approved and shall be stamped and signed on behalf of the Planning Commission by the Subdivision Administrator. Once so stamped and signed, such Plat will be the Final Record Plat.
  - (2) *Approval with Conditions.* If the Subdivision Administrator approves the Final S/LD Application with conditions, then the conditions of approval shall be duly communicated to the applicant in writing.
    - (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 S/LD Application is deemed approved and shall be stamped and signed on behalf of the Planning Commission by the Subdivision Administrator.
    - (b) If all the conditions are not timely satisfied within the specified period or any extensions thereof granted by the Subdivision Administrator, the Final S/LD Application shall be considered denied and a new application shall be required for further consideration.
  - (3) *Denial.* If the Subdivision Administrator denies the Final S/LD Application, then the Subdivision Administrator shall notify the applicant in writing of the reasons for denial. If the Final S/LD Application is denied, the applicant may request, one-time, a reevaluation of the denied Final S/LD Application if a written request to do so is filed with the Planning Commission within ten (10) days from receiving the Subdivision Administrator's written decision of denial. A resubmission of a denied Final S/LD Application after the initial ten (10) day period shall be deemed a new application submission and the required fee shall apply.
  - (4) *Application Review Divergence.* In the event that 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

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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.

- e. *Recording of the Final Record Plat.* Within 120 days after approval of the Final S/LD Application for a Minor Subdivision/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 Jefferson County. The applicant shall promptly notify the Subdivision Administrator 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/Land Development.*

- 1. *Pre-submission Consultation Meeting.* The applicant shall arrange for a pre-submission consultation with the Subdivision Administrator to discuss the general concept, use, and design of the proposed Major Subdivision/Land Development. A Sketch Plan of the proposal shall be submitted in accordance with Section 1332.04. This meeting is an opportunity for the applicant to explain to the Subdivision Administrator the proposed concept and for the Subdivision Administrator to inform the applicant of the process and general Zoning Ordinance and Subdivision Ordinance requirements. There is no binding actions. A Pre-submission Consultation Meeting is an informal meeting with no binding agreements and is not the same as a Sketch Plan approval.

2. *Sketch Plan*

- a. For a Major Subdivision/Land Development application and process, only a Sketch Plan and Guarantee of Public Improvements will be reviewed by the Planning Commission. The Preliminary Plan and Plat and Final Plan and Plat will be reviewed by Staff.

A Sketch Plan is a conceptual design for a proposed development. The Sketch Plan application gives the applicant an opportunity to present the project to the Planning Commission and public prior to the applicant making further investments into the project. Review of the Sketch Plan is to provide for preliminary input in the formative stages of the proposed development which could result in possible changes that might affect layout of the proposed development.

The applicant shall submit a Sketch Plan to the Planning Commission prior to the submission of a Preliminary Plan and Plat and/or Final Plan and Plat.

- b. *Application Submission and Review for Completeness.*

(1). The applicant shall submit to the Subdivision Administrator:

- (a) A Sketch Plan Application Plan of the proposal shall be submitted in accordance with Section 1332.04. Applicant shall note in the application the type of Major

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Subdivision/Land Development processing alternatives found in Section 1332.01(A)(3) and listed below:

1. Major Subdivision Development – Preliminary S/LD Application containing the items set forth in Section 1332.05 and if applicable Final S/LD Application containing the items set forth Section 1332.06.
2. Major Land Development – Preliminary S/LD Application containing the items set forth in Section 1332.05.
3. Major Subdivision and Development – Preliminary S/LD Application containing the items set forth in Section 1332.05 and Final S/LD Application containing the items set forth Section 1332.06.

(2) The required fees.

- c. A complete application shall be submitted to the City's Department of Community Development. By complete, all the necessary information required from Section 1332.04 shall be in the application. Any application that does not have the minimum required information from Section 1332.04 will be considered an incomplete application, returned and unreviewed for content of the application.

Within forty-five (45) days after receipt of a complete Sketch Plan Application, the Planning Commission shall review the Sketch Plan Application for completeness and determine by vote at the next regular meeting (provided that the Subdivision Administrator has had a reasonable opportunity to review the application and make a recommendation thereon) or at a special meeting whether the subject Sketch Plan Application is complete, in which case the application is accepted for further review, or whether it is incomplete and denied.

- (1) *Complete.* An Sketch Plan 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 an Sketch Plan Application is complete, the Subdivision Administrator shall duly notify the applicant in writing that the Sketch Plan Application has been accepted as complete and that it is being acted upon pursuant to Section 1332.03(C)(2)(d) Hearing and Approval Process. (Note: No Sketch Plan Application shall be deemed complete until all related fees and costs are paid in full).
- (2) *Incomplete.* An Sketch Plan 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 Sketch Plan Application is incomplete, the Subdivision Administrator shall



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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 Sketch Plan Application for the same project.

- (3) *Revision of Application.* When time permits and prior to the Planning Commission's determination whether an Sketch Plan Application is complete, the Subdivision Administrator may notify the applicant of deficiencies in the subject Sketch Plan Application that render it likely to be determined incomplete. In such a case, the applicant may, prior to the expiration of the 45-day period following receipt of the application: (a) notify the Subdivision Administrator in writing that the applicant intends to submit a revised Sketch Plan Application, which notice will serve as the applicant's request to extend the review and determination period until 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.

d. *Hearing and Approval Process.*

- (1). At the meeting at which a Sketch Plan 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 subject application. The public hearing must be held within forty-five (45) days of the Planning Commission meeting at which the subject Sketch Plan Application is determined 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.

- (a) 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 Charles Town at least 21 calendar days prior to the scheduled public hearing, a notice posted on the property (by the applicant), and letters sent to the adjacent property owners. Adjacent Property owners are identified as properties within 100 feet of the proposed development. Adjacent Property owners include properties across a right-of-way or easement.

e. The review of the Sketch Plan at the Public Hearing shall consider the following:

- (1) The Planning Commission shall conduct a Public Hearing on the Sketch Plan 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.

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- (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 a changes to the Sketch Plan. 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 14 days of the public hearing, the Planning Commission shall take one of the following actions with respect to the subject Sketch Plan Application and the Subdivision Administrator shall duly notify the applicant in writing of the Planning Commission's decision:
- (1) *Approval without Changes to the Sketch Plan.* Approve the subject Sketch Plan 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. After approval has been granted by the Planning Commission, the applicant shall work with Staff to meet the detailed standards for the Subdivision and/or Land Development Plan and/or Plat.
  - (2) *Approval with Changes Agreed to by Applicant.* Approve the subject Sketch Plan Application with changes or offers by the applicant shall be applicable and shown on the Preliminary Plan and Plat and/or Final Plan and Plat. The changes agreed to by the applicant shall be duly communicated to the applicant in writing. 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. After approval has been granted by the Planning Commission, the applicant shall work with Staff to meet the detailed standards for the Subdivision and/or Land Development Plan and/or Plat, including any agreed upon changes to the Sketch Plan.
  - (3) *Table.* Table for up to 45 calendar days for additional information the Planning Commission determines necessary to its determination whether to approve or deny the subject Sketch Plan Application; or
  - (4) *Denial.* Deny the subject Sketch Plan Application, in which case the Subdivision Administrator shall notify the applicant in writing of the reasons for denial.
    - (a) If the subject Sketch Plan Application is denied, the applicant may request, one time, reconsideration of the

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decision if a written request to do so is filed with the Planning Commission within ten (10) 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 S/LD Application submission and the required review fee shall apply.
- (5) *Vested Property Rights.* Approval of the Sketch Plan shall remain valid for one (1) year. Thereafter, approval of the Sketch Plan shall expire, unless the time of approval is extended by the Planning Commission. If a project starts within the one-year time frame and steady progress is continuous, the Sketch Plan shall be valid for the project. Starting construction shall mean that a Final S/LD Plan has been approved and infrastructure improvements are being install. A Erosion and Sediment Plan and associated surety shall not constitute construction.

3. *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 West Virginia registered civil engineer, land surveyor, landscape architect, architect, or land planner.
- b. *Application Submission.*
  - (1) The applicant shall submit to the Subdivision Administrator:
    - (a) An S/D Application in accordance with the processing alternatives found in Section 1332.01(A)(3)(a) and (3)(c) and listed below:
      - 1. Major Subdivision Development – Preliminary S/LD Application containing the items set forth in Section 1332.05 and if applicable, Final S/LD Application containing the items set forth Section 1332.06.
      - 2. Major Land Development – Preliminary S/LD Application containing the items set forth in Section 1332.05.
      - 3. Major Subdivision and Land Development – Preliminary S/LD Application containing the items set forth in Section 1332.05 and Final S/LD Application containing the items set forth Section 1332.06.
    - (b) The required fees.

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- (2) A complete application shall be submitted to the City's Department of Community Development. By complete, all the necessary information required from Section 1332.05 and if applicable 1333.06 shall be in the application. Any application that does not have the minimum required information from Section 1332.05, and if applicable 1333.06, will be considered an incomplete application, returned and unreviewed for content of the application.

c. *Application Review.*

- (1) Upon the receipt of an application that has been determined to be complete, Staff shall have 20 business days to complete the first review of the application with the standards of the Zoning Ordinance, Subdivision and Land Development Ordinance, and other land development standards approved by the City of Charles Town.
- (2) The reviewed application shall be returned to the applicant, whereas the applicant shall have 20 days to return the application to Staff. If the applicant needs additional time, applicant shall notify staff in writing.
- (3) Upon receipt of the first review with corrections from the applicant, Staff shall have up to 10 business days to review the application for compliance with the standards of the Zoning Ordinance, Subdivision and Land Development Ordinance, and other land development standards approved by the City of Charles Town. Applicant shall provide a transmittal letter with resubmission.
- (4) If additional changes are necessary, the application shall be returned to the applicant, whereas the applicant shall have 10 days to make any necessary changes.
- (5) If additional reviews are necessary of the plan, such changes shall follow steps 3 and 4 above until the Preliminary Plan and Plat is complete.

d. *Application Review Divergence.*

- (1) In the event that there is a discrepancy between Staff and the applicant regarding the required standards or the requirements of the approved Sketch Plan, 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.

e. *Application Approval.*

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- (1) Once a Preliminary Plan and Plat Application meets the requirements and is not deficient of any information required by this Ordinance, Zoning Ordinance, or other land development standards approved by the City of Charles Town, shall be deemed Complete by Staff. Upon a determination that a Preliminary Plan and Plat Application is Complete, the Subdivision Administrator shall duly notify the applicant and Planning Commission in writing that the Preliminary Plan and Plat Submission Application is Complete and, if applicable, Guarantee of Public Improvements is required. (Note: No Preliminary Plan and Plat Application shall be deemed complete until all related fees, invoices and costs are paid in full).
  - (2) At the next available Planning Commission agenda for the Planning Commission, the Preliminary Plan and Plat Application shall be scheduled before the Planning Commission for a workshop approval. No notice requirements shall apply, other than standard agenda notice period. Approval by the Planning Commission is not a Public Hearing and is for the benefit of the Planning Commission to ensure the Preliminary Plat and Plan is in substantial compliance with the Sketch Plan.
  - (3) From the date at which the Planning Commission approves the Sketch Plan, the applicant shall have up to 1 year to obtain approval of a Preliminary Plan and Plat Application.
- 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 Preliminary Plan and Plat Application is approved by the Subdivision Administrator. 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 S/LD Application is five (5) years from the time said Preliminary Plan and Plat Application was approved by the Subdivision Administrator. An approved Preliminary S/LD Application shall become null and void and of no effect if a Final S/LD 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 S/LD Application.
- g. *Effect of Preliminary S/LD Application Approval.* Notwithstanding the provisions of Section 1331.05(B), upon approval of a Preliminary S/LD 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: (i) the Improvements are expressly specified as authorized by the Subdivision Administrator; (ii) the specified Improvements will conform with the approved Preliminary S/LD Application; (iii) the applicant obtains an Improvement Location/Land

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Disturbance Permit for the Improvements as required under Section 1331.10(A)(1); and (iv) the applicant has furnished any performance guarantee for the Improvements required under Article 1335.

- 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 S/LD Applications, each of which pertains to only a portion of the land subject to an approved Preliminary S/LD Application. Each phase will require approval of the Subdivision Administrator and, if applicable, Guarantee of Public Improvements as outlined in Article 1335.
  - i. *Zoning Ordinance Compliance.* Notwithstanding anything to the contrary herein, no S/LD Application shall be approved unless and until the Charles Town Zoning Administrator 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 Section 1322.05 of the Zoning Ordinance, parcels in the Urban Reserve (UR) 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 Section 1332.03(C)(5), Article 1335 and Guarantee of Public Improvements policy.
  - k. *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.
  - l. *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.
4. *Final Plan and Plat Submission*
- a. The Final Plan and 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 Jefferson County Commission and prepared by, as necessary, a West Virginia registered civil engineer, land surveyor, landscape architect, architect, or land planner.
  - b. *Application Submission.*
    - (1) The applicant shall submit to the Subdivision Administrator:

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- (a) An Final Plan and Plat Application in accordance with the processing alternatives found in Section 1332.01(A)(3)(a), (3)(c), and listed below:
  - 1. Major Subdivision Development – Preliminary S/LD Application containing the items set forth in Section 1332.05 and if applicable, Final S/LD Application containing the items set forth Section 1332.06.
  - 2. Major Subdivision and Land Development – Preliminary S/LD Application containing the items set forth in Section 1332.05 and Final S/LD Application containing the items set forth Section 1332.06.
- (b) The required fees.
- (2) A complete application shall be submitted to the City's Department of Community Development. By complete, all the necessary information required from Section 1332.05, if applicable, and 1333.06 shall be in the application. Any application that does not have the minimum required information from Section 1332.05, as may be applicable, and 1333.06 will be considered an incomplete application, returned and unreviewed for content of the application.
- c. *Application Review.*
  - (1) Upon the receipt of an application that has been determined to be complete, Staff shall have 20 business days to complete the first review of the application with the approved Preliminary Plan and Plat, standards of the Zoning Ordinance, Subdivision and Land Development Ordinance, and other land development standards approved by the City of Charles Town.
  - (2) The reviewed application shall be returned to the applicant, whereas the applicant shall have 20 days to return the application to Staff. If the applicant needs additional time, applicant shall notify staff in writing.
  - (3) Upon receipt of the first review with corrections from the applicant, Staff shall have up to 10 business days to review the application for compliance with the approved Preliminary Plan and Plat, standards of the Zoning Ordinance, Subdivision and Land Development Ordinance, and other land development standards approved by the City of Charles Town. Applicant shall provide a transmittal letter with resubmission.
  - (4) If additional changes are necessary, the application shall be returned to the applicant, whereas the applicant shall have 10 days to make any necessary changes.

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- (5) If additional reviews are necessary of the plan, such changes shall follow steps 3 and 4 above until the Preliminary Plan and Plat is complete.
- d. *Application Review Divergence.*
- (1) In the event that there is a discrepancy between Staff and the applicant regarding the required standards or the requirements of the approved Sketch Plan, 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.
- e. *Application Approval.*
- (1) Once a Final Plan and Plat Application meets the requirements and is not deficient of any information required by this Ordinance, Zoning Ordinance, or other land development standards approved by the City of Charles Town, shall be deemed approved by Staff. Upon a determination that a Final Plan and Plat Application is approved, the Subdivision Administrator shall duly notify the applicant and Planning Commission in writing that the Final Plan and Plat Submission Application is approved and that Guarantee of Public Improvements is required. (Note: No Final Plan and Plat Application shall be deemed complete until all related fees, invoices and costs are paid in full).
  - (2) From the date at which the Final Plan and Plat was submitted, the applicant shall have up to 12 months to obtain approval of a Final Plan and Plat Application.
- f. *Recording of the Final Record Plat.* Within 120 days after approval of the Final S/LD Application for a Major Subdivision/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 Jefferson County. Before recordation can occur, Guarantee of Public Improvements per Section 1335 is required. The applicant shall promptly notify the Subdivision Administrator 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 (pursuant to Section 1332.05(D)(5)) as part of the S/LD Application approved by the Subdivision Administrator, 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 Jefferson County at the time of filing the Final Record Plat.



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- (2) A proof of recordation, the applicant shall provide to the Subdivision Administrator a copy of the recordation label(s).
- 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 Final Plan and Plat is recorded. The right is only applicable when the Final Plan and 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 Plan and Plat will result in forfeiture of the right. The vesting period for an approved Final Plat and Plan S/LD is a 120 days from the time said Final Plan and Plat S/LD was approved by the Subdivision Administrator. An approved Final Plan and Plat S/LD shall become null and void and of no effect if a Final S/LD Application for the same Subdivision or Land Development is not recorded within a 120 days of approved Final Plan and Plat.
- h. *Effect of Final Plan and Plat S/LD Application Approval.* Notwithstanding the provisions of Section 1331.05(B), upon approval of a Final Plan and Plat S/LD 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: (i) the Improvements are expressly specified as authorized by the Subdivision Administrator; (ii) the specified Improvements will conform with the approved Preliminary S/LD Application; (iii) the applicant obtains an Improvement Location/Land Disturbance Permit for the Improvements as required under Section 1331.10(a)(1); and (iv) the applicant has furnished any performance guarantee for the Improvements required by the Planning Commission under Article 1335.
- i. *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 S/LD Applications, each of which pertains to only a portion of the land subject to an approved Preliminary S/LD Application. Each phase will require approval of the Subdivision Administrator and Guarantee of Public Improvements as outlined in Article 1335.
- j. *Zoning Ordinance Compliance.* Notwithstanding anything to the contrary herein, no S/LD Application shall be approved unless and until the Charles Town Zoning Administrator 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 Section 1322.05 of the Zoning Ordinance, parcels in the Urban Reserve (UR) 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 Section 1332.03(C)(5), Article 1335 and Guarantee of Public Improvements policy.

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- I. *Signing of Final Plan and Plat.* The Final Plan and Plat shall be signed by the President of the Planning Commission, Property Owner and Engineer and/or Surveyor.

5. *Guarantee of Improvements Submission*

- a. This subsection details the process before the Planning Commission and City Council for the release of the guarantee of Improvements. Only the release of any guarantee of Improvements shall require a Public Hearing. In addition to the following, Article 1335 and the Guarantee of Public Improvement policy shall apply.
- b. The Planning Commission is the only body required to hold a Public Hearing and provide a recommendation to the City Council to approve, amend, or deny of the release of the guarantee of Improvements. The City Council shall vote to approve, amend, or deny the release of the surety.
- c. The establishment of and reductions in the guarantee of Improvements do not require any public notice or hearing, but do need Planning Commission and City Council approval before a bond can be established or reduced. Said establishment and reductions proceed before the Planning Commission and City Council as regular agenda items. The establishment of and reductions shall be in accordance with Article 1335 and the Guarantee of Public Improvement policy. All applicable fees shall be paid.
- d. Once the Subdivision Administrator has approved a Preliminary Plan and Plat, and/or Final Plan and Plat and/or Erosion, and/or Sediment Control plan in accordance with Section 1334.02 of this Ordinance, the applicant shall establish the guarantee of Improvements in accordance with Article 1335 and the Guarantee of Public Improvements policy before any site work can begin.
- e. Section 1332.03(C)(5) (g-l) is only the procedural steps by which the Planning Commission and City Council shall releases a guarantee of Improvements. The criteria outlined below in 1332.03(C)(5) (g-l) is not intended to override Article 1335 or the release standards detailed 1335.07(E).
- g. *Application Submission and Review for Completeness.*
  - (1) The applicant shall submit a request for a bond estimate to the Subdivision Administrator, 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. The Subdivision Administrator shall submit the information to the City's Engineer for review.
  - (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 land surveyor retained by applicant.

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(3) The required fees.

h. A complete application shall be submitted to the City's Department of Community Development. By complete, all the necessary information required from Article 1335 and the Guarantee of Public Improvement policy shall be in the application. Any application that does not have the minimum required information from Article 1335 and the Guarantee of Public Improvement policy will be considered an incomplete application, returned and unreviewed for content of the application.

i. Within forty-five (45) days after receipt of a complete application for the release of the guarantee of public Improvement, the Planning Commission shall review the application for completeness and determine by vote at the next regular meeting (provided that the Subdivision Administrator 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 public Improvement 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 an guarantee of public Improvement application is complete, the Subdivision Administrator shall duly notify the applicant in writing that the guarantee of public Improvement application has been accepted as complete and that it is being acted upon pursuant to Section 1332.03(C)(5)(j) Hearing and Approval Process. (Note: No guarantee of public Improvement application shall be deemed complete until all related fees and costs are paid in full, including an unpaid costs associated with an reviews by the City's contractual engineering firm).

(2) *Incomplete.* An guarantee of public 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 Subdivision Administrator 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 public 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 Subdivision Administrator may notify the applicant of deficiencies in the subject guarantee of public Improvement application that render it likely to be determined incomplete. In such a case, the applicant may, prior

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to the expiration of the 45-day period following receipt of the application: (a) notify the Subdivision Administrator 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 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.

j. *Hearing and Approval Process.*

(1) At the meeting at which a guarantee of public Improvement 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 subject application. The public hearing must be held within forty-five (45) days of the Planning Commission meeting at which the subject guarantee of public Improvement application is determined 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.

(a) 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 Charles Town at least 15 calendar days prior to the scheduled public hearing. The property shall be posted in a visible location or locations (by property owner or designee).

k. The Planning Commission shall consider the comments and opinions expressed at the public hearing, but the Planning Commission shall be responsible for reaching its own conclusions on the merits of release of the bond. The Planning Commission shall review the application in accordance with the requirements of the subdivision ordinance, zoning ordinance, approved land development plan, approved construction drawings and conditions of Preliminary S/LD Application and/or Final Plat, including any offers agreed to at time of Sketch 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. The Planning Commission shall have the discretion of whether to hold a subsequent public

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hearing once the deficiencies are corrected prior to releasing the surety.

- I. If the Planning Commission fails to determine whether an application is complete within the 45-day time period set forth in subsection (2) 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 1332.04, Sketch Plan Requirements**

- (A) There are **two types of Sketch Plan submissions**:
  1. For Zoning Use Permit, Special Exception Use and Sketch Plan requirements found in the Supplemental Regulations of the Zoning Ordinance. Submission standards are found in Section 1332.04(D).
  2. For a Sketch Plan for a Major S/LD application, submission standards are found in Section 1332.04(E)
- (B) A Sketch Plan shall be submitted to the Subdivision Administrator as the first step in the Major S/LD application process. A Sketch Plan shall be submitted to the in accordance with Section 1332.03. Submission of Sketch Plans affords applicants the opportunity for meaningful discussion with City officials, Planning Commission and the public prior to incurring the expense of preparing an S/LD Application.
- (C) The submission and review of a Sketch Plan shall constitute an official submission of a plan to the City that requires action by the City pursuant to Article 5, Chapter 8A of the West Virginia Code.
- (D) *Sketch Plan Information for Zoning Use Permit, Special Exception Use and Sketch Plan requirements found in the Supplemental Regulations of the Zoning Ordinance.*

The following information shall be provided for Sketch Plan review:

1. Three (3) 11" x 17" copies of the Sketch Plan shall be submitted and in Adobe PDF format.
2. The Sketch Plan shall be drawn to a 1"=50' scale and must illustrate the following elements in such a way that the Subdivision Administrator or authorized designee can determine if the proposed Subdivision or Land Development meets the criteria of this Ordinance, **as applicable**:
  - a. Existing conditions, including boundary lines of the property
  - b. A land use plan, showing the location, arrangement and approximate boundaries of all proposed land uses
  - c. Vicinity map, north arrow, scale (written and graphic) and date

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- d. Name of proposed project or other identifying title and date plan was prepared. Name and address of the Engineer, Surveyor, Architect, Landscape Architect, Land Planner or Property Owner who prepared the plan
- e. Current zoning and total area of the property
- f. Maximum and proposed density
- g. Available utilities
- h. All existing sanitary sewer facilities and combined sewer facilities
- i. Depict location or statement of proposed water and sewer supply and other utility improvements
- j. Existing covenants
- k. General layout of any proposed number of Lots, average Lot sizes and any proposed commercial uses, including any associated parking. Include proposed height of structures
- l. Statement of total acreage of the tract being subdivided or developed
- m. Location of proposed Street layout, including connections to adjoining streets or vacant lots
- n. The location of sidewalks, trails and crosswalks
- o. Proposed open space and/or recreation areas, including notes on the plan describing the proposed use, activity area and/or improvement
- p. Any other information requested by the Subdivision Administrator in order for the Subdivision Administrator to make an accurate determination.

(E) *Sketch Plan Information for a Major S/LD Application.*

The following information shall be provided for Sketch Plan review:

- 1. Three (3) 18" x 24" copies of the Sketch Plan shall be submitted and in Adobe PDF format.
- 2. The Sketch Plan shall be drawn to a 1"=50' scale and must illustrate the following elements in such a way that the Subdivision Administrator or authorized designee can determine if the proposed Subdivision or Land Development meets the criteria of this Ordinance:
  - a. Existing conditions, including boundary lines of the property
  - b. A land use plan, showing the location, arrangement and approximate boundaries of all proposed land uses

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- c. Vicinity Map, North arrow, scale (written and graphic) and date
- d. Names of the abutting owners, adjoining lot lines and structures on abutting lots within 100 feet of the property
- e. Title of the proposed project; the date, month and year the plan was prepared or revised; the name of the applicant(s), owner(s), and contract owner(s) and the name and address of the Engineer, Surveyor, Architect, Landscape Architect, or Land Planner who prepared the plan, including firm name
- f. Current zoning and total area of the property
- g. Maximum and proposed density based on the Net Buildable Land Area
- h. Available utilities
- i. All existing sanitary sewer facilities and combined sewer facilities
- j. Depict location or statement of proposed water and sewer supply and other utility improvements
- k. Existing covenants
- l. General layout of any proposed number of Lots, average Lot sizes and any proposed commercial uses, including any associated parking. Include proposed height of structures
- m. Statement of total acreage of the tract being subdivided or developed, including the Net Buildable Land Area
- n. The approximate acreage in common open space, in each use and housing type and in roads, streets or rights-of-way for the total development
- o. The proposed number of dwelling units of each type in each in the total development
- p. Location of proposed Street layout, including connections to adjoining streets or vacant lots,
- q. The location of sidewalks, trails and crosswalks, as may be applicable
- r. Proposed open space and/or recreation areas, including notes on the plan describing the proposed use, activity area and/or improvement. The amount, approximate boundaries and location of common open space, with the percentage of the total acreage of the site to be placed in common open space
- s. The location of environmental sensitive land to be included in common open space

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- t. Notes indicating any modifications, waivers, variances, special exceptions and/or conditional uses that are required
- u. The location and extent of proposed buffers
- v. The proposed location, arrangement, and right-of-way widths of roads and streets, including roads and streets providing access to adjoining parcels. The location and arrangement of street entrances, driveways and parking areas
- w. Calculations describing all proposed bonus factors with the location of and specifications for bonus improvements, when proposed
- x. Any other information requested by the Subdivision Administrator in order for the Subdivision Administrator to make an accurate determination
- y. Commercial Design Review Standards as required in Section 1333.29, of this article

**Section 1332.05, Preliminary S/LD Application Requirements**

Preliminary S/LD Applications are applicable only for Major Subdivisions/Land Developments. Preliminary S/LD 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/Land Development, in the standard form developed by the Subdivision Administrator, and completed and signed by the applicant.
- (B) *Preliminary Plat.* A Preliminary 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 Preliminary Plat shall be not smaller than one inch equals 100 feet (1" = 100') and the sheet size shall be 24" x 36" 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/Land Development drawn to scale.
  - 2. *Submission Requirements.* Three (3) copies of the Preliminary Plat shall be submitted. The Preliminary Plat also shall be submitted in Adobe PDF format. Five (5) additional 11" x 17" photocopies of the Preliminary Plat shall be submitted to the Planning Commission prior to the public workshop on the Preliminary S/LD Application.
  - 3. *Survey Items and Courses.* The courses, boundaries, lines, and curves shown on the Preliminary 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 Preliminary Plat shall be referenced to magnetic meridian and show declination from true north.



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- b. All boundaries and property corners shown on the Preliminary Plat shall be tied to state plane coordinates or shall be referenced to magnetic meridian and show declination from true north. If the Subdivision/Land Development is referenced to the state grid, northing and easting coordinates shall be shown for a minimum of three key boundary points. The Preliminary Plat shall specify the average grid factor and reflect all distances as geodetic.
  - 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 one (1) to twenty thousand (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 Preliminary Plat.
  - f. The accurate location and material of all permanent Monuments shall be shown. A key to all symbols. (Identify monuments and markers according to type and whether “found”, “set”, or “to be set”).
  - g. The lengths and bearings of all chords, radii, points of curvature and tangent bearings shall be accurately reflected.
4. *Contents.* The Preliminary Plat shall contain and illustrate the following information:
- a. *Cover Sheet.*
    - (1) Name of the proposed Subdivision/Land Development, which shall not duplicate or closely approximate the name of any other Subdivision in Jefferson County, and the words “Preliminary Subdivision/Land Development Plat.”
    - (2) The district or municipality, county and state where the subject property is located.
    - (3) The names, addresses and telephone numbers of the property owner or owners, the subdivider/Developer, and the registered Professional Engineer or Land Surveyor licensed to practice in the State of West Virginia who prepared the Preliminary Plat, along with the professional’s seal.
      - (a) A Certificate by such Professional Engineer or Land Surveyor to the effect that: the plat represents a survey made by him/her; all Monuments and improvements indicated thereon actually exist, and that their location, size and material are correctly shown; he/she is familiar with all

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requirements of this Ordinance; and, to his/her best knowledge and belief, all requirements of this Ordinance have been fully complied therewith.

- (4) A vicinity map at a scale of approximately one (1) inch equals 400 feet (1" = 400'), showing the boundary lines of the tracts and Streets immediately adjoining the parcel(s) subject to the proposed Subdivision/Land Development, and between the proposed Subdivision/Land Development and the nearest highways or thoroughfares.
- (5) The date of the Preliminary Plat.
- (6) A sheet index.
- (7) Preliminary Plat Number assigned by the Subdivision Administrator.
- (8) Revisions table.
- (9) Designation of Zoning District(s).
- (10) Computational Breakdown:
  - (a) Total area (acreage – to the thousandths)
  - (b) Open space
  - (c) Conservation Easements or other restrictive easements
  - (d) Stormwater Management Areas
  - (e) Remaining acreage
  - (f) Table of lot area(s) in square feet
  - (g) Gross and net density per acre
  - (h) Rights-of-ways and easements

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- (11) Signature block and statement for Preliminary Plan and Plat approval by the Planning Commission. The statement shall read:

“This Preliminary Plan and Plat was approved by the City of Charles Town, 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 subdivider and not the City.

\_\_\_\_\_  
Secretary of the Planning Commission

\_\_\_\_\_  
Date

- (12) 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:

“The Engineer and/or Surveyor, in signing this plat/plan, attests to the best of his or her knowledge, is plan is complete and accurate.”

- (13) Signature of Owner. 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 developer/subdivider. The Statement shall read:

“The developer, in signing this plat/plan, agrees to abide by all conditions, terms and specifications provided hereon; and to complete all the improvements required by the Preliminary Plat and Plan or site plan.”

- (14) “This property is not (is) in an area designated as a special flood area, as shown on Community Map/Panel Number \_\_\_\_ / \_\_\_\_\_, Effective date \_\_\_\_\_.”

- (15) Note on the plat or plan, the West Virginia Division of Highways entrance permit number and provide a copy of the entrance permit.

- (16) Note on the plat or plan, the West Virginia Department of Environmental Protection (DEP) permit numbers for all DEP approvals required for the project.

- (17) The following table listing waivers approved by the Charles Town Planning Commission and variances approved by the Charles Town Board of Zoning Appeals shall be placed on the Preliminary Plat, Site Plan or Final Plat cover sheet, as applicable. If no waivers

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or variances are granted, then a statement of “None granted,” shall be placed in the table:

Charles Town – Complete List of Waivers/Variances			
Ordinance	Section of Ordinance	Description of Waiver or Variance	Date Granted

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/Land Development, accurate in scale and bearing, together with a legal description of such parcel(s).
- (3) The Jefferson County 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/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 or plans. This shall be shown on all applicable sheets.
- (5) The layout of existing and proposed lots, lot numbers and dimensions and area in square feet for each of the proposed Lots.
- (6) 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/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.
- (7) 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 Jefferson County Addressing Office), public ways,

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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 Right-of-Way unless otherwise approved by the City of Charles Town Utility Board, and at least five (5) feet of Easement shall be provided on each side of the center of any such utility line.

- (8) Where the adjoining State Road has a right-of-way of less than 50 feet wide, either a fee simple dedication or a road improvement easement shall be provided which is a minimum of 25 feet wide measured from the existing centerline of the State road right-of-way. Future easements and right-of-way's that may serve at a future date to connect with adjoining properties. The general purpose of Easements and rights-of-way shall be indicated. All setbacks shall be measured from the newly designated right-of-way.
- (9) Contours, normally with intervals of two (2) feet, referenced to a permanent benchmark, or as may otherwise be required by the Planning Commission for good cause in appropriate circumstances, including such projection of such contours onto adjoining lands as may be necessary to indicate the desirability or likelihood of extension of Streets and other Improvements to or from adjoining lands.
- (10) Show and note the required front, side, and rear yard Setbacks as set forth in the City of Charles Town Zoning Ordinance and incorporated herein by reference under Section 1331.08, or at a greater depth established by restrictions, covenants and/or conditions in deeds, declarations, or other documents of record (or to be recorded). See Section 1332.05(D)(6).
- (11) 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/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 Jefferson County or to be recorded in such office together with the Final Record Plat.

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- (12) Delineation and location of any significant environmental features, including without limitation:
    - (a) Streams
    - (b) Wetlands
    - (c) Floodplains
    - (d) Soils
    - (e) Highly Erodible Soils
    - (f) Riparian areas and tree lines
  - (13) Location of municipal boundary lines, if applicable.
  - (14) Location of Zoning District boundary lines if they border upon or cross any part of a parcel subject to the proposed Subdivision/Land Development.
  - (15) All survey Monuments, lot corners, block markers, and benchmarks, together with their description, including location and description of all U.S.G.S. survey control Monuments, or equivalent.
- (C) *Supplemental Construction/Development Plans and Drawings.* 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 S/LD Application, to the extent such information is applicable to the proposed Subdivision/Land Development:
- 1. *Site Map (scale of 1" = 50' or less).*
    - a. 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, manholes, fire hydrants and other equipment and fixtures. A note on the plan shall state: "All proposed utilities shall be located underground."
    - b. Location of all street signs and traffic control signs required pursuant to Section 1333.04 of this Ordinance.
    - c. 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 Jefferson County Addressing Office for approval.

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- d. Existing conditions sheet noting:
  - (1) Built structures.
  - (2) Power transmission towers or power lines and cable and telephone lines.
  - (3) Historic areas or features.
  - (4) Existing restrictive easements, other easements, and rights-of-ways and use.
  - (5) Parks and/or public open space.
  - (6) Forested areas and tree groves.
  - (7) Wetlands, water features and swamps, including floodplains. Show the limits of the 100-year floodplain and any delineated wetlands. Show culverts, bridges, and drains.
  - (8) Outstanding topographic features, including prominent rock outcroppings.
  - (9) Sinkholes or depressions.
  - (10) Location, width, and names of all existing streets or alleys within 100 feet of the project site, including State Route numbers if applicable.
  - (11) All existing easements and right-of-way's 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.
- e. Location and widths of sidewalks and pedestrian/bike trails, if applicable.
- f. 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/Land Development, including: manholes (including the top of casting elevations and invert elevations and materials of construction and diameters of all pipes entering and exiting); sewer main pipe diameters, type, length and slope between all manholes; service lateral pipe size and type; clean-outs; valve pits, and force mains; all together with grades and other specifications designated as "existing" or "proposed."
- g. 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/Land Development,

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including without limitation pipes, channels, and inlets/outlets; all together with grades and other specifications designated as “existing” or “proposed.”

- h. 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/Land Development, including manholes and drop inlets (including the top of casting elevations and invert elevations and materials of construction and diameters of all pipes entering and exiting); combined sewer main pipe diameters, type, length and slope between all manholes and drop inlets; service lateral pipe size and type; clean-outs; and stormwater detention system piping and appurtenances; all together with grades and other specifications designated as “existing” or “proposed.”
  - i. The location of all vehicular ingress and egress to the parcel(s) subject to the Subdivision/Land Development, and all parking areas proposed thereon.
  - j. The locations and dimensions, to the extent known, of all Buildings and Structures intended to be constructed on the parcel(s) subject to the Subdivision/Land Development.
2. *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) 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 1333.02.
3. *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.



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- e. For embankment slopes exceeding a 3:1 horizontal to vertical slope, provide street cross-sections at twenty-five-foot intervals.

All supplemental construction/development plans and drawings shall contain such other information as typically contained on professionally-prepared plans and drawings of the same type or otherwise reasonably necessary to understand and interpret the subject drawing, such as title, scale, boundaries, lot locations, date, etc. Proposed easements and right-of-way's (roads, sidewalks, drainage, utilities, etc.) shall identified, located, dimensioned and drawn to scale.

Complete design and construction plans, profiles, cross-sections and engineering specifications for roads, sidewalks, curbs and gutters to be installed.

- D. *Additional Items.* The following items shall be submitted as part of a Preliminary S/LD Application, to the extent such items are applicable to the proposed Subdivision/Land Development.

- 1. *Stormwater Management Plan.* A Stormwater Management Plan prepared in accordance with Section 1334.01. Approval of the Stormwater Management Plan is a pre-requisite for approval of the Preliminary S/LD Application pursuant to Section 1334.01(E).

- 2. *Written Report.* A written report specifying the following items:

- a. The names and addresses of the owners of record of the parcels adjoining the parcel(s) subject to the Subdivision/Land Development, based upon information available in the Offices of the Clerk and Assessor of Jefferson County.
- b. The proposed uses to be conducted upon any portion of the parcel(s) subject to the Subdivision/Land Development.
- c. A description of the actual or intended uses, to the extent known, of all parcels adjoining the parcel(s) subject to the Subdivision/Land Development.

- 3. *Detail Sheet.* A detail sheet showing all applicable details of Improvements to be constructed on the subject parcel(s), together with an infrastructure inventory chart (inlets, culvert, asphalt, concrete, headwall, cleanouts, valves, curbs, gutters, manholes, outfalls, erosion control measures, etc.), and detail of all required street signs and other traffic control devices in compliance with the Federal Highway Administration's Manual on Uniform Traffic Control Devices. Cleanout pipes shall be covered by a valve box and cover to protect against damage of the cleanout pipes.

- 4. *Water and Sewer Plans, Profiles and Details.* Plans, profiles and details of all proposed water and sewer facilities, equipment, fixtures and Structures, all of which shall be compliant with the requirements of Section 1333.13, including without limitation the following items:

- a. Pipe size diameter and classification of pipe

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- b. Location of valves and fittings
- c. Location of all fire hydrants in the proposed water distribution system
- 5. *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/Land Development is subject or will be made subject, whether by deed, declaration or other instrument.
- 6. *Setback Table.* A chart or table reflecting the required front, side, and rear yard Setbacks as set forth in the City of Charles Town Zoning Ordinance and incorporated herein by reference under Section 1331.08, or at a greater depth established by restrictions, covenants and/or conditions in deeds, declarations, or other documents of record (or to be recorded), for the subject parcel(s). The applicant shall show Setbacks by such a chart or table and/or by illustration on the Preliminary Plat, as is most suitable and appropriate to the particular Subdivision or Land Development.
- 7. *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:
  - a. City of Charles Town
  - b. City of Charles Town Utility Board
  - c. Jefferson County Planning and Zoning Department
  - d. Jefferson County Addressing Office
  - e. Jefferson County Board of Education
  - f. West Virginia Department of Environmental Protection, hereinafter referred to as West Virginia DEP.
  - g. West Virginia Department of Transportation, Division of Highways, hereinafter referred to as West Virginia DOH.
  - h. West Virginia State Historic Preservation Office, hereinafter referred to as SHPO.
  - i. West Virginia Office of Environmental Health Services, hereinafter referred to as OEHS.
  - j. U.S. Army Corps of Engineers
- 8. *Traffic Impact Study.* A Traffic Impact Study as required under Section 1333.06(B), Traffic Management Standards, of this Ordinance.

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9. *Landscaping Plan.* A plan indicating proposed Landscaping consistent with the standards in Section 1333.16, Landscaping Standards.
10. *Lighting Plan.* A lighting plan containing the information and items required under Section 1333.14(B)(5).
11. Required vs Provided Table for the following:
  - a. Maximum Density – Net Buildable Area
  - b. Minimum Lot Size
  - c. Setbacks
  - d. Maximum Height or Number of Stories
  - e. Landscaping
  - f. Parking Spaces
  - g. Maximum Lot Coverage
  - h. Open Space Requirements
    - (1) As required in the Zoning Ordinance and/or the Subdivision Regulations
    - (2) Section 1333.17 Park, Recreation and Open Space Amenity Standards

**Section 1332.06, Final S/LD Application Requirements**

Final S/LD Applications are applicable to both Minor Subdivisions/Land Developments and Major Subdivisions/Land Developments. Final S/LD 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 final approval of a Minor Subdivision/Land Development or Major Subdivision/Land Development, as the case may be, in the standard form developed by the Subdivision Administrator, and completed and signed by the applicant.
- (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 100 feet (1" = 100') and the sheet size shall be 18" x 24" 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/Land Development drawn to scale.

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2. *Submission Requirements.* Two (2) original paper copies, and one (1) original mylar copy, of the Final Plat shall be submitted. The Final Plat also shall be submitted in Adobe PDF format, or such other software formats as are acceptable to the Planning Commission and CAD/GIS compatible with the City's current software. Following approval of the Final S/LD Application and stamping and signature of the Final Plat by the Planning Commission, one (1) paper copy and the one (1) mylar copy shall be returned to the applicant as the Final Record Plat for recordation in the Office of the Clerk of Jefferson County. Notwithstanding the foregoing, when the applicant elects to seek Final Plan & Plat approval as the initial and only step as outlined in Section 1332.01(A)(3)(a) above, three (3) original paper copies shall be submitted rather than two (2) copies, and five (5) additional 11" x 17" photocopies of the Final Plat shall be submitted to the Planning Commission prior to the public workshop on the Final S/LD Application.
  
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/Land Development is referenced to the state grid, northing and easting coordinates shall be shown for a minimum of three key boundary points. The Final Plat shall specify the average grid factor and reflect all distances as geodetic.
  - 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 750 feet apart; away from future roadwork; and at least 2 per section or block.

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- 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/Land Development, which shall not duplicate or closely approximate the name of any other Subdivision in Jefferson County, and the words "Final Subdivision/Land Development Plat."
    - (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 subdivider/Developer, and the registered Professional Engineer or Land Surveyor licensed to practice in the State of West Virginia who prepared the Final Plat, along with the professional's seal.
      - (a) A Certificate by such Professional Engineer or Land Surveyor to the effect that: the plat represents a survey made by him/her; all Monuments and improvements indicated thereon actually exist, and that their location, size and material are correctly shown; he/she is familiar with all requirements of this Ordinance; and, to his/her best knowledge and belief, all requirements of this Ordinance have been fully complied therewith.
    - (4) A vicinity map at a scale of approximately one (1) inch equals 400 feet (1" = 400'), showing the boundary lines of the tracts and Streets immediately adjoining the parcel(s) subject to the proposed Subdivision/Land Development, and between the proposed Subdivision/Land Development and the nearest highways or thoroughfares.
    - (5) The date of the Final Plat.
    - (6) A sheet index.
    - (7) Final Plat Number assigned by the Subdivision Administrator.
    - (8) Revisions table.
    - (9) Designation of Zoning District(s).
    - (10) Show building setback lines and note the building setbacks on the plat.

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- (11) Signature block for final approval by the Planning Commission and the affixing of the Planning Commission's seal.

This plat was approved for recordation by the City of Charles Town, 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 subdivider and not the City.

\_\_\_\_\_  
Secretary of the Planning Commission

\_\_\_\_\_  
Date

- (12) Owners Signature. For major subdivisions, a Statement of Acceptance placed on the plat cover sheet, signed and dated by the developer/subdivider. The Statement shall read:

"The developer, in signing this plat, agrees to abide by all conditions, terms and specifications provided hereon; and to complete all the improvements required by the preliminary plat."

For minor subdivisions, a Statement of Acceptance placed on the plat cover sheet, signed and dated by the developer/subdivider. The Statement shall read:

"The developer, in signing this plat, agrees to abide by all conditions, terms and specifications provided hereon."

- (13) 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. The Statement shall read:

"I hereby certify that the plan shown and described hereon is a true and correct survey to the accuracy required by the City of Charles Town and that the monuments have been placed as shown hereon."

- (14) A computation of the total tract area and a computation of the land area included in, lots, right-of-ways 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

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- (16) "This property is not (is) in an area designated as a special flood area, as shown on Community Map/Panel Number \_\_\_\_ / \_\_\_\_\_, Effective date \_\_\_\_\_."
- (17) Note on the plat, the West Virginia Division of Highways 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 Section 1332.05(B)(4)(a)(17).

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/Land Development, accurate in scale and bearing, together with a legal description of such parcel(s).
- (3) The Jefferson County 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/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 and dimensions of proposed Lots.
- (6) Existing easements and right-of-way's 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 right-of-way's (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 100 feet of the project site, including State Route numbers if applicable.
- (10) Descriptive lines inside the tract boundary:

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Tract boundary - heavy dashed and two dotted lines

Lot boundaries - medium solid lines

Right-of-ways - heavy solid lines

Restriction lines - medium dashed lines

Easements and other reserved areas - medium dotted lines

(11) Descriptive lines outside the tract boundary:

Property lines of adjacent tracts - medium dashed and two dotted lines

Lot boundaries - light solid lines

Right-of-ways - medium solid lines

Restriction lines - light dashed lines

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/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 Jefferson County Addressing Office), 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 Right-of-Way unless otherwise approved by the City of Charles Town Utility Board, 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



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has a right-of-way of less than 50 feet wide, either a fee simple dedication or a road improvement easement will be provided which is a minimum of 25 feet wide measured from the existing centerline of the State road right-of-way. Future easements and right-of-way's that may serve at a future date to connect with adjoining properties. The general purpose of Easements and rights-of-way shall be indicated. 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 City of Charles Town Zoning Ordinance and incorporated herein by reference under Section 1331.08, or at a greater depth established by restrictions, covenants and/or conditions in deeds, declarations, or other documents of record (or to be recorded). See Section 1332.04(D)(6).
- (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/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 Jefferson 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/Land Development.
- (19) All survey Monuments, lot corners, block markers, and benchmarks, together with their description, including location and description of all U.S.G.S. survey control Monuments, or equivalent.

C. *Additional Items.* The following items shall be submitted as part of a Final S/LD Application with respect to a Minor Subdivision/Land Development, to the extent such items are applicable to the proposed Minor Subdivision/Land Development. Such items are instead required as part of the Preliminary S/LD Application for a Major Subdivision/Land Development.

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1. *Stormwater Management Plan.* A Stormwater Management Plan prepared in accordance with Section 1334.01. Approval of the Stormwater Management Plan is a pre-requisite for approval of the Final S/LD Application pursuant to Section 1334.01(E).
2. *Written Report.* A written report specifying the following items:
  - a. The names and addresses of the owners of record of the parcels adjoining the parcel(s) subject to the Subdivision/Land Development, based upon information available in the Offices of the Clerk and Assessor of Jefferson County.
  - b. The proposed uses to be conducted upon any portion of the parcel(s) subject to the Subdivision/Land Development.
  - c. A description of the actual or intended uses, to the extent known, of all parcels adjoining the parcel(s) subject to the Subdivision/Land Development.
3. A final list of restrictive covenants and/or the declaration in accordance with the West Virginia Uniform Common Interest Ownership Act shall be submitted with the Final Plat. However, they shall not become part of the Final Plat.

**Section 1332.07, 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 revised Final Record Plat 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 Zoning Administrator may approve a minor boundary line adjustment or merger as defined in Section 1332.02(A)(1)(b) and (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 Charles Town 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 Subdivision Administrator and shall, in addition to the

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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 Jefferson County Clerk within 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 Jefferson County tax map and parcel numbers, and deed book and page numbers of the recorded deed into the current owner(s).
  7. “This property is not (is) in an area designated as a special flood area, as shown on Community Map/Panel Number \_\_\_ / \_\_\_, Effective date \_\_\_\_\_.”
  8. A computation of the total tract area and a computation of the land area included in the right-of-ways and easements.
  9. Existing easements and right-of-ways accurately identified, located, dimensioned and drawn to scale. Provide reference to deed book and page and/or plat book and page whichever applies.

**Section 1332.08, 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. Through the written consent of City Council and all the owners, proprietors, and trustees, if any, of the property subject to the Final Record Plat. Such written

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consent must be duly executed, acknowledged, or proved, and recorded in the Office of the Clerk of Jefferson County; or

2. By ordinance, provided that no facility for which bonding is required pursuant to Article 1335 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/Land Development within five (5) years of the date on which the Final Record Plat was first recorded.

The City's execution and Jefferson 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:

1. 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 Charles Town. 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/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 Jefferson 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/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 1332.09, Amendment of Approved Final Plans & 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 S/LD 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. If the amendments and changes proposed in an application to amend would, if proposed in an original S/LD Application to be made to land existing in the condition reflected in the approved Final Plat, constitute a Minor Subdivision/Land Development (such as creation of a Utility Lot or a merger of lots), then the Subdivision Administrator 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.
  2. If the amendments and changes proposed in an application do not qualify for approval by the Subdivision Administrator under the test in Section 1332.09(B)(1), then the Planning Commission shall consider the application to amend after a publicly-noticed public hearing. The Planning Commission 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.
  3. To the extent an application to amend involves an adjustment or vacation of one or more boundary lines, approval of the application to amend shall require compliance with any additional requirements or conditions imposed under Section 1332.07.

**Section 1332.10, 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 S/LD Application, the applicant shall submit to the Subdivision Administrator two (2) paper copies, a digital version, such as Adobe, and a CAD/GIS 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.

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2. Such As-Built Drawings shall be submitted at least two (2) weeks prior to the anticipated date of occupancy of any Building on the subject land. No Certificate of Occupancy will be issued until the As-Built plans have been approved by the City of Charles Town. In the case of construction plans and profiles, the As-Built Drawings shall accompany the request for bond release in accordance with Article 1335 of this Ordinance or be submitted prior to Final S/LD 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 Final 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.

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3. *Gravity Sewer.*

- a. The location of all piping, wyes, tees, manholes, cleanouts 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. Runs of gravity sewers shall be identified.
- e. Elevations shall be given for the north rim of the top of all manhole covers and all manhole 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 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 off-sets 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. Manhole 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 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.

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- e. Elevations on the main and finished grade will be required at points of connection to the existing system, 500' 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, manholes, 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 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, manholes, inlets, cleanouts 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.



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- 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 manhole covers and inlets and catch basins and all manhole, inlet and catch basin inverts.
  - f. Storm Drain, manhole, 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.
- (C) *Checklist.* A Professional Engineer 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-ways 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 1333, SITE PLANNING AND DESIGN SPECIFICATIONS**

**Section 1333.01, General Site Planning and Design Specifications**

(A) *General Requirements.*

1. In designing and developing a Subdivision or Land Development, the applicant shall comply with the principles and requirements of this Ordinance and the Charles Town 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 Commission, in considering an application for the Subdivision or Development of land, shall be directed by the provisions of this Ordinance, the Charles Town Zoning Ordinance, and the Charles Town 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 Commission are provided. It shall be the burden of the applicant proposing such a Lot, to prove to the Planning Commission why the proposed Lot would be acceptable. The Planning Commission may require the applicant to provide appropriate safeguards as recommended by a professional geologist.
5. All Subdivisions and Land Developments 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 Recreational needs.
  - e. The best utilization 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.

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6. All Subdivisions and Land Developments 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/Land Development.
8. The various bulk and area regulations specified in Article 1322 of the Charles Town 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 1323 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 are established by the City of Charles Town 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 Commission 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/Land Development may be required by the Planning Commission 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 off of 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 Charles Town Zoning Ordinance.

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- 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 Charles Town with dimensional requirements less than required shall be considered vested with the existing dimensions at the time of annexation, provided that future Subdivisions/Land Developments 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 Charles Town 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. In the case of Cluster Developments;
    - c. Where Access Drive units are planned; or
    - d. Other site specific limitations as may be recognized by the Planning Commission.
  4. Blocks shall be of size and shape as topography and street layout dictate, but the Planning Commission 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 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 (Article 1333), and as illustrated in Appendix B, Standard Detail SW-2.

D. *Phasing*

Applications for subdivision 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 subsectioned once the phase has begun, Phase 1 can be labeled as Phase 1A and 1B if necessary.
  - d. There is no requirement that a Sketch Plan or Preliminary Plat show phasing.
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. Right-of-ways 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 1333.02, Street Design Standards***

- (A) *General Requirements.* All new Subdivisions and Land Developments 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 conform to the Charles Town Comprehensive Plan and 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.

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4. The arrangement of local Streets shall allow economical and practical patterns, shapes and sizes of development parcels.
5. Subdivisions/Land Developments 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 Table 1333.23(K), Queue Spaces for Drive-Thru Types.

(C) *Street Types.*

1. Functional street classification is the process by which Streets and highways are grouped into systems according to the character of service they provide or are intended to provide. It is a method of organizing the network of Streets into hierarchies of travel movement for comprehensive transportation planning.
2. The functional street classification is applied to the entire network of Streets in the City of Charles Town.
3. 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 are intended to either be state maintained highways or City Streets. Major Collector Streets serve intra-urban vehicular trips between smaller geographic areas than those associated with Primary Streets. Direct access to abutting Lots is restricted on Major Collector Streets, with the exception of commercial uses. Street parking is only permitted on City 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. Street parking is permitted.

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- 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. Street parking 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. Direct access to abutting Lots is permitted. Street parking is permitted.
- (D) *Method of Street Classifications.* Streets within the City of Charles Town shall be functionally classified based on the most recent edition of the AASHTO Green Book: *A Policy on Geometric Design of Highways and Streets*. This method of classification shall be utilized for all Streets unless specified differently by the City of Charles Town Comprehensive Plan. In such instances, the City of Charles Town Comprehensive Plan shall be the method of classification and its relevant provisions shall be deemed incorporated herein by reference.
- (E) *Street Design.* Streets shall be designed and constructed to the specifications of their respective functional classification. Typical sections of each functional street classification are provided in Appendix A. The Planning Commission may allow segments of a Street to vary between different functional classifications where appropriate. Table 1333.02 summarizes the minimum street design standards.

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**Table 1333.02 – Minimum Street Design Standards**

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

Street Design Element	Neighborhood Street	Neighborhood Center Street	Minor Collector Street	Major Collector Street	Primary Street
Average Daily Traffic (ADT)	0-500	501-1000	1001-2000	2001+	Where called for in the Comprehensive Plan
Minimum Design Speed	25 mph	30 mph	35 mph	40 mph	
Minimum Turning Flare Radius at Pavement <sup>1</sup>	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 Requirement</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 Requirement</i>
<i>Surface 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>2.0" Hot Mix Asphalt Wearing Course*</i>	<i>Per WVDOH Requirement</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'	56'	61'	75'	93'
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	No, not permitted	No, not permitted

<sup>1</sup> To strengthen pedestrian walkability, the Planning Commission will accept a reduced turning radius provided the Applicant can demonstrate to the satisfaction of the City's Engineer that large vehicles can operate safely and efficiently.



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- (F) *Pavement Design Requirements.* Minimum road pavement sections in the City of Charles Town shall conform to the requirements specified in Table 1333.02. As an alternative method for determining the minimum pavement sections, pavement design in accordance with the most recent published edition of the Virginia Department of Transportation's "Pavement Design Guide for Subdivision and Secondary Roads" may be used. If required by this design guide, additional material shall be provided to increase the pavement thickness beyond the minimum. Note, the applicant's Engineer may request an alternative pavement design if a detailed pavement design is submitted and signed by a Professional Engineer. The City Engineer must separately approve the pavement design prior to Subdivision/Land Development Application approval.
1. Access Drives serving more than five (5) residential units shall meet the pavement design requirements for Neighborhood Streets for the entire width and length.
  2. When the Virginia Department of Transportation's "Pavement Design Guide for Subdivision and Secondary Roads" method is used, the following conditions apply:
    - a. Pavement design in accordance with the Virginia Department of Transportation's "Pavement Design Guide for Subdivision and Secondary Roads" is required. Increase the thickness equivalency value of the asphalt concrete from 1.67 to 2.25 where its total thickness is 4.50 inches or more as required by the design guide. The monograph of the Thickness Index (T.I.) and Soil Support Value (SSV) are found in the aforementioned design guide.
    - b. When the projected traffic requires a four-lane facility, 90 percent of the projected traffic (ADT) shall be the basis for determining the applicable class for the pavement structure design.
    - c. Representative California Bearing Ratio (CBR) samples taken at subgrade elevation, should be used as the basis for evaluating the Soil Support Value (SSV). The CBR test is described in ASTM Standards D1883-05 (for laboratory-prepared samples) and D4429 (for soils in place in field), and AASHTO T193.
    - d. Each Street should have continuity of design throughout. Therefore, multiple and/or variable pavement structure designs will not be acceptable except in unusual situations, with the approval of the Planning Commission.
    - e. Cement treated aggregate (CTA) or full depth asphalt concrete may be substituted for any aggregate, subgrade stabilization, or select material on the basis of one (1) inch of CTA or asphalt concrete for two (2) inches of the other materials. Neither CTA nor asphalt concrete should be placed directly on a resilient soil (as defined in the Virginia Department of Transportation's "Pavement Design Guide for Subdivision and Secondary Roads" design guide) unless the soil is stabilized with cement or other approved stabilizing media. Cement treated aggregate should have a minimum of four (4) inches of aggregate base material under it when less than four (4) inches of asphalt concrete is to be applied over the CTA.

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- f. All materials and construction controls shall be in accordance with current West Virginia DOH specifications and special provisions, except as modified herein.
  - g. Asphalt concrete with a total thickness greater than four and one-half (4½) inches is considered base and surface. All aggregate materials under same are considered subbase. Appropriate structure values should be assigned these materials when using the Virginia Department of Transportation's method of design.
  - h. Soil Stabilization with cement (low plasticity soils) at a minimum of ten (10) percent by volume or lime (high plasticity soils) at a minimum of five (5) percent by weight will be accepted, as per the City Engineer, only on Streets classified as minor collector or greater. A variance to the minimum cement or lime requirements may be granted by the Planning Commission provided the applicant specifies alternatives acceptable by the City Engineer.
  - i. For preliminary pavement designs which are required as a part of the site plan submittal, CBRs shall be estimated per local guidelines or the Virginia Department of Transportation's pavement design guidelines. For actual pavement section design, laboratory CBR tests shall be conducted. Tests shall be taken whenever subgrade soil types change. Tests shall be made at a maximum of 600-foot intervals where the subgrade soils remain constant.
  - j. In determining the soils CBR, at least two samples shall be taken per proposed Street and at least one sample at each proposed intersection. Samples must be taken of the compacted subgrade and pavement design adjusted and approved prior to placement of asphalt.
- (G) Whenever a proposed Subdivision/Land Development contains any part of a Street designated on the Comprehensive Plan, the Street shall be designed, landscaped, and constructed by the Developer in accordance with the right-of-way and pavement width as determined by the Planning Commission under the provisions of this Ordinance.
- (H) Where appropriate to the design, new Streets shall be continuous in alignment with existing Streets to ensure connectivity.
- (I) Proposed Streets shall be extended to the boundary lines of the proposed Subdivision/Land Development unless such extension is not feasible because of topography or other physical conditions.
- (J) As a condition of approval of an S/LD Application, the applicant shall dedicate or make an irrevocable offer of Dedication in fee simple of all land within the Subdivision/Land Development that is determined by the City's Comprehensive Plan and necessary for access rights, and any other necessary public and private Easements.
- (K) Dead-end Streets shall be prohibited except as stubs to permit future extensions to adjoining land or where in the opinion of the Planning Commission interconnectivity is not

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desirable or feasible for the proposed type of Subdivision/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".

- (L) Half Streets shall be prohibited, except where the Planning Commission 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 Road when the adjoining property is developed. When required by the Planning Commission, curb, gutter, and sidewalks shall only be installed on the improved side of the public right-of-way. A minimum pavement width of 13 feet will be required and shall be measured from the face of the curb to the edge of the pavement.
- (M) New Subdivisions/Land Developments 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.
- (N) Where a Subdivision/Land Development abuts or contains existing or proposed Primary Street or railroad right-of-way, the Planning Commission 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, or;
  - 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.

- (O) The street system layout shall be so designed to preserve, wherever possible, natural features such as trees, Watercourses, hilltops and scenic views.
- (P) 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 Jefferson County Addressing Office for approval.
- (Q) *Street Grades.* Except as otherwise specified in this Ordinance all Streets shall comply with the street grade requirements of this Subsection.

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1. Grades of Streets shall conform as closely as possible to the original topography and shall be designed to produce usable Lots and reasonable grades.
  2. Street grades shall not exceed requirements specified in Table 1333.02.
  3. No street profile grades shall be less than 0.75 percent (0.75%). Cross slope shall be one quarter inch per foot (1/4"/ft).
  4. Sight Distances shall conform to the minimum design criteria of the American Association of State Highway and Transportation Officials (AASHTO) shall be used.
  5. Grades at street intersections shall be held to a maximum of four percent (4%) for a distance of 100 feet in any direction from the point of intersection of the street centerline.
- (R) *Horizontal Alignment at Intersections.* Horizontal alignment at intersections shall be designed in accordance with the Street Intersection Design Standards, Section 1333.03, of this Ordinance.
- (S) *Cul-de-sacs.*
1. The total number of dwelling units served by a permanent Cul-de-sac Street shall not exceed 20.
  2. Permanent Cul-de-sac Streets shall not exceed a centerline distance of 600 feet in length nor be less than 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.
  3. Temporary turnaround Streets shall not exceed 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 1333.02(V) shall be required at the end of all temporary turnaround streets.
  4. 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

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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.

5. 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 50 feet and a Right-of-Way line radius of not less than 60 feet.
  6. 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 60 feet and a right-of-way line radius of not less than 70 feet.
  7. Drainage of Cul-de-sacs shall, wherever possible, be in the direction of the open end of the Cul-de-sac.
  8. No Cul-de-sac turnaround shall have a centerline grade exceeding four percent (4%).
- (T) *Street Signs.* See Section 1333.04.
- (U) *Bike Lanes.* Bike lanes may be used in lieu of roadside trails on all Roads except Primary and Major Collector Roads. All bike lanes shall be a minimum of five (5) feet in width and shall comply with the standards of the West Virginia Department of Highways.
- (V) 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 Charles Town”**. 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.

**Section 1333.03, Street Intersection Design Standards**

- (A) All intersections with a state maintained Road and Primary Street shall be subject to the approval of the West Virginia Department of Highways. Copies of the approved access permit from West Virginia DOH shall be submitted for all proposed intersections with a state maintained Road prior to approval of a Final S/LD Application.
- (B) Streets should be laid out to intersect as nearly as possible at right angles, and no Street shall intersect with any other Street at less than 75 degrees or more than 105 degrees (measured on the centerlines of the Streets). Any change in street alignment to meet this requirement shall occur at least 100 feet from the intersection.
- (C) No more than two (2) Streets shall meet or intersect at any one (1) point.
- (D) *Clear Sight Triangles.*

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1. Except as noted in Section 1333.03(D)(2) below, Clear Sight Triangles of 150 feet, measured along Street Right-of-Way Lines from their points of intersection, shall be provided at all intersections. No Building, Structure, or other physical feature higher than 30 inches (2'-6") above the centerline of the Street shall be allowed within such sight triangles. The Sight Distance shall be shown as a triangular Sight Distance on Preliminary and Final Plats submitted to the Planning Commission. Such triangle shall serve as a permanent Setback line for all such visual obstructions and shall be binding upon present and future owners of the land.
  2. Sight Distances over grades shall not be less than 200 feet. Sight Distances around curves shall not be less than 200 feet. A combination of steep grades and sharp curves shall be avoided.
- (E) Streets intersecting a common Street shall have their centerlines in alignment or be offset a minimum of 125 feet.
- (F) Where a proposed Subdivision/Land Development abuts or contains an existing or proposed Primary Street, the number of intersections with the Primary Street shall be kept to a minimum. To the fullest extent possible, Streets that intersect Primary Streets shall be located not less than 800 feet apart, with 1,200 feet of separation between other primary Roads.
- (G) Street entrances, excluding those on the opposing side of the Street, shall be separated by a distance of at least 100 feet where possible.
- (H) Street entrances shall be aligned with other entrances on the opposing side of the Street where possible.
- (I) The use of roundabouts is permitted with design approval by the Planning Commission. Roundabout design shall be performed based on the most recent edition of the Federal Highway Administration's *Roundabouts: An Informational Guide* publication. The Planning Commission's design approval will be based on the City's Professional Engineer's review of the roundabout design submission.
- (J) The Standard Detail for Intersection Landings (L-1 and L-2) shall be used for designing landings for grades less than seven percent (7%) and for grades greater than or equal to seven percent (7%).

**Section 1333.04, Street Sign Standards**

- (A) New Streets in the City of Charles Town are required to have street signs.
- (B) The owner of any Subdivision or other Land Development where a street sign is required shall erect or cause to be erected street and traffic control signs in conformance with the exact standards specified in this Ordinance.
- (C) All new street and traffic control signs erected within the City of Charles Town shall be in conformance with the required and appropriate design and installation specifications of the following standards:

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1. Manual on Uniform Traffic Control Devices (MUTCD), as published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart F, as amended;
  2. West Virginia Department of Highways, “Standards for the Design and Installation of Road Name Signing” published March 1999, as amended; and
  3. Jefferson County Addressing Ordinance, as amended.
- (D) Any street signs not in conformance with the specifications of this Ordinance shall be removed and street signs that are in conformance shall be erected, all at the expense of the owner or party responsible for the Subdivision, property, or other Land Development.
- (E) The applicant shall obtain approval for all proposed street names from the Jefferson County Addressing Office, which shall coordinate and oversee the naming of the proposed Street(s).
- (F) Except as approved by the City Council, no other sign of any type shall be attached, permanently or temporarily, to any road name signpost. At no time shall a stop sign be mounted to a road name signpost. Each stop sign on a state-maintained or private Subdivision/Land Development roadway shall be individually mounted to its own post.
- (G) Signage which is damaged or destroyed shall be the responsibility of the individual(s) causing such damage or destruction, whether by negligence or otherwise. The agency or individual(s) responsible for maintenance of the damaged sign shall have the authority to recover the costs of replacing the sign from the individual(s) causing such damage or destruction.
- (H) Any such Person found to be responsible for damage or destruction of any street or traffic control sign shall pay to the City all of the costs for such damage or destruction, including but not limited to, costs for sign removal and replacement. Failure to pay for damage or destruction may result in legal action against the responsible party for all such costs, plus reasonable costs of such action such as court costs and reasonable attorney fees.

***Section 1333.05, Pavement Marking Standards***

- (A) The applicant shall provide with the S/LD Application a design for installation of striping and pavement markings, which design shall be in accordance with the most current standards of MUTCD and in accordance with the West Virginia DOH Traffic Engineering Directives 301-3 and 302, or most current versions.
- (B) Removal of existing pavement markings shall be accomplished by a method that does not materially damage the surface or texture of the pavement. The pavement markings shall be removed to the extent that they will not be visible under day or night conditions. Under no circumstances shall black paint be used to cover existing markings or mistakes in striping.

**Section 1333.06, Traffic Management Standards**

- (A) *Internal circulation.* A complete system of internal traffic circulation shall be provided to serve all uses in any shopping center, industrial park or other integrated-use development included in an S/LD Application. In such Subdivisions/Land Developments, 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 106-1, Procedures for 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/Land Development is projected to generate 100 or more trips per hour during the peak generating time for the Subdivision/Land Development.
    - b. For smaller Subdivisions/Land Developments, 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 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 1333.07, Driveway Standards**

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:

- (A) 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 (depending upon the curb and gutter requirements).
- (B) 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 150 feet.
- (C) No Driveway shall be constructed closer than 40 feet to the nearest street intersection.



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- (D) Driveways shall not be located less than five (5) feet from an adjoining property unless used as a shared Driveway between the two abutting properties.
- (E) Driveway grades shall not exceed three percent (3%) from the edge of the intersecting street pavement to the property line, nor exceed ten percent (10%) from the property line to the garage, carport, or other off-street parking space.
- (F) The maximum slope of embankments adjacent to Driveways shall not exceed 1V:3H unless a retaining wall is used to insure that the earth is stabilized.
- (G) Driveways shall be constructed at least 12 feet in width and of at least six (6) inches of compacted stone for a distance of at least twelve (12) feet beyond the right-of-way line.

**Section 1333.08, Access Drive Standards**

Access Drives provide a place and access for vehicular movement between a Street or Alley and a parking area for any use other than a single residential unit of occupancy or agricultural use (farm), or between a Street or Alley and one or more Driveways. Access Drives shall conform to the following:

- (A) The horizontal alignment of Access Drives shall conform to the requirement for Streets, as stated in Section 1333.02 of this Ordinance.
- (B) The horizontal alignment of Access Drives shall be measured along the centerline. Horizontal curves shall be used at all angle changes in excess of two (2) degrees. All curves shall be tangential arcs. The minimum horizontal curve radius shall be seventy-five (75) feet.
- (C) There shall be no more than two (2) entrances to the same property. Two (2) entrances to the same property must be located a minimum of 150 feet apart, measured from centerline to centerline.
- (D) No Access Drive shall be constructed closer than 100 feet to the nearest intersection.
- (E) Access Drives shall not be located less than fifteen (15) feet from an adjoining property unless used as a shared Access Drive between the two abutting properties. Property owners must record an easement allowing cross access to and from the properties served by the shared Access Drive. The easement must include a joint maintenance agreement defining the responsibilities of the property owners.
- (F) Access Drives travel lanes shall have a minimum width of twenty-four (24) feet; however, sufficient design information must be submitted to indicate that the number of travel lanes and width proposed have been designed to accommodate the anticipated traffic to and from the development.
- (G) The maximum slope of embankments adjacent to Access Drives shall not exceed 1V:3H unless a retaining wall is used to ensure that the earth is stabilized.

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**Section 1333.09, Sidewalk & On-Street Parking Design Standards**

Sidewalk and on-street parking design standards for the City of Charles Town shall be as follows:

- (A) Sidewalks and on-street parking shall be provided in accordance with the requirements specified in Table 1333.09.
- (B) Sidewalks shall be constructed of concrete. The minimum width shall be five (5) feet with weakened plane traverse joints at four (4) foot intervals, and no more than forty (40) feet between expansion joints. Concrete shall have a minimum depth of four (4) inches, and have a minimum PSI of 3,500.
- (C) All utility poles, traffic posts, water hydrants, fire hydrants, sign posts and any other object positioned with the sidewalk must be separated with a one-half inch expansion joint providing a clearance of six (6) inches.
- (D) Sidewalks shall be constructed in accordance with Standard Detail SW – 1.
- (E) Sidewalks shall not be constructed with a curb as a single integral unit.
- (F) Sidewalks and curbs shall be separated by at least six (6) feet. This shall be measured from the back of curb to the closest edge of the sidewalk.
- (G) Where sidewalks are a part of the Driveway or Access Drive, the sidewalk shall maintain grade, with no depression, except where necessary to tie into the entrance.
- (H) Handicap ramps constructed in accordance with West Virginia DOH Standard Detail Book Volume #1, Standard Detail Sheet PVT7, shall be provided at all street intersections and sidewalks.

**Table 1333.09 – Sidewalk and Parking Requirements**

Land Use	Average Lot Size	Density du/acre	Sidewalk Requirement Street Frontage	On-street Parking Requirement
Residential	> 30,000 ft <sup>2</sup>	1.46 or more	None	None
Residential	15,001 ft <sup>2</sup> – 30,000 ft <sup>2</sup>	2.90 – 1.45	One side of Street	One side of Street
Residential	12,001 – 15,000 ft <sup>2</sup>	3 – 5.5	Both sides of Street	Both sides of Street
Residential	< 12,001 ft <sup>2</sup>	> 5.51	Both sides	Both sides
Commercial	N/A	N/A	Yes	Yes

\*Planning Commission may require sidewalks or on-street parking to ensure continuity of an existing pedestrian access or street pattern.

**Section 1333.10, Curb and Gutter Standards**

Curb and gutter design standards for the City of Charles Town shall be as follows:

- (A) Curbs shall be constructed of concrete (3,500 PSI minimum) or granite only.

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- (B) Vertical curbs shall be used in all required instances except in residential Subdivisions/Land Developments, where mountable curb may be used.
- (C) Vertical curbs shall be designed in accordance with Standard Detail CG - 1.
- (D) Mountable curbs shall be designed in accordance with Standard Detail CG - 2.
- (E) Plain concrete curbing (header curb) may be used for private parking lots, provided that the following concrete curb specifications are used: Concrete Curbing and Sidewalk, Combination Concrete Curb and Gutter, Type 1, of the West Virginia DOH standards, Sheet PVT6.
- (F) All City Streets shall utilize curb types appropriate for each type of Street, as shown in Section 1333.02(C)(3). Standard Details CG-1 and CG-2 shall be used as required.
- (G) Unless permitted by the Planning Commission, curb types, designs, and styles other than as described herein are prohibited in the City.
- (H) A waiver may be granted by the Planning Commission in accordance with Section 1331.12 to allow alternative curb types. Design modifications may be allowed, such as, but not limited to replacing gutters for curb cuts, to promote low impact design principals. In such cases, all design modifications shall meet the recommended guidelines of the *Virginia Stormwater Management Handbook* as specifically referenced in Article 1334, Water Control Standards, of this Ordinance.

**Section 1333.11, Easements & Rights-of-Way**

Easements for sanitary sewer facilities, stormwater Drainage Facilities, public utilities, or pedestrian access shall meet the following standards for Major Subdivisions/Land Developments:

- (A) To the extent possible, Easements shall be adjacent to property lines, except where permitted by the Planning Commission such easements may be offset from property lines to accommodate a required buffer.
- (B) Nothing shall be built, placed, planted, set, or put within the area of an Easement that would adversely affect the function of the Easement or conflict with the Easement agreement.
- (C) The Final Record Plat and easement agreement shall clearly identify the entity having the right-of-access and responsibility for maintenance of the Easement area.
- (D) All new Lots shall provide utility and/or public access Easements and rights-of-way to a width, size, and/or location determined necessary by the Planning Commission for the intended purpose of the Easement.
- (E) Sanitary sewer and water supply Easements shall have a minimum width of fifteen (15) feet for a single utility, and a minimum width of twenty (20) feet for shared utilities. In the case of a shared utility Easement, a ten (10) foot horizontal separation between sanitary sewer and water lines shall be maintained; and sufficient area shall be provided to allow

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a minimum of five (5) feet between the centerline of each utility and the edge of the right-of-way.

- (F) Stormwater Easements shall have a minimum width of twenty (20) feet and shall be adequately designed to provide area for (a) the collection and discharge of water, (b) the maintenance, repair, and reconstruction of the Drainage Facilities, and (c) the passage of machinery for such work.
- (G) Where any electric or telephone transmission or petroleum product transmission line traverses a property, the applicant shall confer with the applicable transmission or distribution company to determine the minimum distance which shall be required between each Structure and the centerline of such petroleum or petroleum product transmission line. At a minimum, a one hundred (100) foot Easement shall be required for petroleum and HV electric lines. All applications shall include a copy of the recorded agreement or a letter from the owner of the transmission line stating any conditions on the use of the tract and the right-of-way width.
- (H) Where a Major Subdivision/Land Development is traversed by a water course, Drainage Way, channel or stream, there shall be provided a Drainage Easement conforming substantially with the line of such water course, Drainage Way, channel or stream, and of such width as will be adequate to preserve the unimpeded flow of natural Drainage as required by the stormwater management and/or floodplain provisions contained herein (whichever governs), or for the purpose of widening, deepening, relocating, improving or protecting such Drainage Facilities, or for the purpose of installing a stormwater sewer.
- (I) Restrictions shall be placed in each deed for properties affected by Easements. These restrictions shall be worded in deeds so as to contain the requirements of this Section.

**Section 1333.12, Storm Drainage**

- (A) *General.* The City of Charles Town has adopted the West Virginia DOH Drainage Manual dated December, 2007, including all amendments thereto, for the design of all storm drainage systems, unless otherwise noted within this Ordinance. These systems shall include all open channels and/or closed storm sewer appurtenances and conduit drainage systems such as inlets, manholes, street gutters, roadside ditches, Swales, underground pipe and channels from the point of interception to the point of discharge in all Major Subdivisions/Land Developments. All such systems shall be constructed in accordance with the West Virginia DOH Standard Details Book and the West Virginia DOH Standard Specifications for Road and Bridges.
- (B) *Easements.*
  - 1. All storm sewer pipes or channels located outside of the City of Charles Town Right of Way shall be maintained by the Home Owners Association (HOA) (or other relevant association or Person that owns the land in which the pipes or channels are installed) and shall be within storm Drainage Easements conveyed to the HOA (or such other association or Person) as well as the City of Charles Town. Easement widths as determined below shall be in one foot increments and shall be provided for all facilities that contain more than 2 cfs.

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2. The minimum easement width for any storm sewer shall be 15 feet or as otherwise permitted by waiver granted by the Planning Commission. The maximum easement width shall be 30 feet for single pipes or 15 feet each side for multiple pipes.
  3. *Pipes.*
    - a. For single pipes, the minimum easement width shall be twenty (20) feet.
    - b. For multiple pipes, the minimum easement width shall equal to twenty (20) feet plus the diameters of the two outermost pipes plus the distance between such pipes.
- (C) *Channels.*
1. The minimum easement width shall be ten (10) feet for channels with a designed top width of the channel bank of five feet or less.
  2. The easement width shall be equal to the top width plus a 10 foot access strip immediately adjacent to the channel for channels with a designed top width of the channel bank between five (5) and 10 feet.
  3. The easement width shall be equal to the top width plus a 10 foot access strip immediately adjacent to each side of the channel for channels with a designed top width greater than 10 feet. Where the channel is designed with side slopes not exceeding 3:1 and a bottom width no greater than 10 feet, or for paved channels, one 10 foot access strip immediately adjacent to either side of the channel is required.
- (D) *Yard Inlets and End Sections.* The minimum easement width at all yard inlets and end sections (of head walls) shall be the limits of the 10 year water surface elevation.
- (E) *Natural water courses and Drainage Ways.* The minimum easement width shall be the limits of the 100-year water surface.
- (F) *Storm Sewer.* All storm sewer pipes located within the limits of the City of Charles Town Right of Way shall be in conformance with criteria as set forth in DD 502 and DD 503 of the West Virginia Department of Highways Design Directives Manual – current edition.
- (G) *Karst Geology.* The City of Charles Town is located in an area known to have Karst geology and as such warrants that a Karst reduction factor as defined in the West Virginia DOH Drainage Manual be utilized, if applicable, in computing pre-developed Runoff rates.

**Section 1333.13, Utility Standards; Fire Hydrant Standards**

- (A) *Utilities – General.* All utilities and components thereof shall be designed, constructed and installed in accordance with the applicable provisions and specifications under Article 926, Underground Utilities, of Charles Town’s Codified Ordinance.

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- (B) *Water Systems; Fire Hydrants.* All water systems and components thereof, including without limitation fire hydrants, shall be designed, constructed and installed in accordance with the applicable provisions and specifications under Article 925, Water Rates, of Charles Town's Codified Ordinance.
- (C) *Sewer Systems.* All sewer systems and components thereof shall be designed, constructed and installed in accordance with the applicable provisions and specifications under Article 921, Sewers, of Charles Town's Codified Ordinance.

**Section 1333.14, Lighting Standards**

- (A) *Public Street Lighting.* Street lights are required for all new Public Streets in accordance with the following standards:
  - 1. Lights shall be provided along all City Streets and shall conform to Article 926, Underground Utilities, of the Charles Town Codified Ordinance.
  - 2. Lights shall be provided at all entrances, intersections, and Cul-de-sacs.
  - 3. Lights shall be spaced no more than two hundred (200) feet apart in residential areas, and no more than three hundred (300) feet apart in non-residential areas.
  - 4. Lights shall use a white metal halide lighting system.
  - 5. Lights shall conform to the power provider's requirements pertaining to watts, lumens, downlight reflectors and residential shields.
  - 6. Lights shall be mounted on flat black poles with acorn style tops, unless otherwise specified by the Planning Commission.
  - 7. Lights proposed within Land Developments and Subdivisions shall be provided without any installation or equipment costs incurred by the City of Charles Town.
- (B) *Parking Lot Lighting.*
  - 1. Parking lot lighting shall conform to the Underground Utility standards specified in Article 926 of the Charles Town Codified Ordinance.
  - 2. Lights shall be mounted on flat black poles that match in detail and design the lights in the downtown of Charles Town with acorn style tops, unless otherwise specified by the Planning Commission
  - 3. The mounting height for luminaire fixtures shall not exceed 33 feet as measured to the top of the fixture from grade.
  - 4. All fixtures shall be non-adjustable and shall have a cutoff that shields the light source at an angle of 90 degrees from vertical. Floodlights are not permitted.
  - 5. The maximum average maintained footcandles for all parking lighting shall be three (3) footcandles and the minimum average maintained footcandles shall be

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one (1) footcandle. For the purposes of this Ordinance the average maintained footcandles shall be calculated at 0.8 of initial footcandles at the property line. A photometric plan shall be submitted as part of any Major S/LD.

6. Luminaire fixtures shall be arranged in order to provide uniform illumination throughout the parking lot of not more than a 6:1 ratio of average to minimum illumination and not more than 20:1 ratio of maximum to minimum illumination.
  7. *S/LD Application Requirements.* A point by point calculation showing compliance with the lighting standards is required with all Preliminary S/LD Applications. The calculations shall be measured at grade for lighting levels within the parking lot. A cut sheet of the proposed fixtures, including a candlepower distribution curve, shall also be submitted. A vertical plan foot-candle calculation shall be submitted for property lines abutting residential properties. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at five (5) feet above grade.
- (C) *Canopy and Gas Service Station Lighting.* Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy or shielded by the fixture or the edge of the canopy so that light is restrained to 85 degrees or less from vertical.
- (D) *Other Lighting.* Lighting for Private Streets, public and private parks, and businesses shall be shielded and/or directed away from adjoining uses and Streets to reduce glare. Lighting shall be of a design similar to the standards for street lights found in Section 1333.14(A) or for parking lot lighting found in Section 1333.14(B) as deemed appropriate by the Planning Commission.

**Section 1333.15, 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 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 or townhouse dwelling units, 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 or chain-link with slats. 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. Every effort shall be made to orient the dumpster and related screening so that the gate does not face a street or public right-of-way.

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- (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 abut 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 50% 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. Section 1333.16(B), (C), (D) and (E) also apply. All natural screening and shall be intended to reduce visibility, pollution, and noise.
- (G) Buffer width may be reduced to 10 feet, provide that an opaque screening is provided, such as a fence, berm, landscaping or a combination thereof. The 10-foot buffer and screening shall be in conformance with Appendix C – Buffering Standard Detail and planted according to the species' planting requirements. Section 1333.16(B), (C), (D), and (E) also apply. All natural screening and 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 on the average mature height and density of foliage of the subject species, or field observation of existing vegetation.
- (I) The requirements of Section 1333.16 shall be in addition to the requirements of this Section. However, where duplication of plant material would occur, plantings from Section 1333.16 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.
- (J) Not more than 40% of any one type or specie of tree shall be permitted.

***Section 1333.16, Landscaping Standards***

- (A) The requirements specified henceforth establish minimum standards for required Landscaping, buffering, and screening for Major Subdivisions/Land Developments. The purpose of this Section is to enhance the appearance, environment, wildlife, and value of property in the City of Charles Town for the general benefit of all citizens. All Major Subdivisions/Land Developments within the City of Charles Town shall be subject to the requirements as specified herein.



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1. *General Landscaping.* All Subdivisions/Land Developments shall plant all disturbed ground with plant material so as to provide ground stabilization, aesthetic, visual and environmental enhancement to sites and Buildings. No more than 40% of any one type or specie of tree shall be permitted.
2. *Street Trees.* All Subdivisions/Land Developments 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 50 feet of street frontage. 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 1333.16(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 1333.16(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

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and 2 shrubs. Planting area shall not be less than 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 18 inches at time of planting. All shrub material shall be a minimum of 3 feet at maturity.

(B) *Plant Selection.* Required trees and shrubs shall be of a species acceptable for the proposed function by the City of Charles Town Tree Board, or designee. 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. Deciduous trees shall be a minimum of two (2) inch caliper at the time of planting. Evergreen trees shall be a minimum of six (6) feet in height at the time of planting. Shrubs shall be a minimum three (3) gallon container at the time of planting.

(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 a Development Completion Permit is issued or, if such a permit is not applicable, one (1) year after the installed and completed Landscaping is approved by the Subdivision Administrator 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 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. Appendix C contains a list of prohibited species that are not permitted to be planted.

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

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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. The area required to be reserved for the existing plant shall be determined by the City Arborist (on behalf of the Tree Board).
  
2. *Tree Credits.* If the intent of this Section is satisfied, as determined by the Subdivision Administrator or Planning Commission, 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/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. Table 1333.16 shows the amount of tree credits existing trees may receive based on the existing tree size (caliper).

**Table 1333.16 – 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 units per tree retained
Existing Tree > 20" DBH	3 tree units per tree retained
New or Replacement Tree, Large Species (At maturity more than 40 feet tall)	1 tree unit per tree planted

**Section 1333.17, Park, Recreation and Open Space Amenity Standards**

(A) *Dedication and Fee-in-Lieu of Dedication.*

1. An applicant for approval of a Major Subdivision/Land Development for residential purposes shall, at the time of approval of the Final S/LD Application, agree to dedicate a portion of such land, as prescribed under Subsection (C) below, for the purpose of providing park, recreation or open space sites to serve the future residents of the neighborhood within which the Major Subdivision/Land Development is located.
  
2. As an alternative to the Dedication of a portion of such land by the applicant, or where it is determined by the Planning Commission, in consultation with the Board of Parks and Recreation Commissioners, that a Dedication of land is not feasible in a given Major Subdivision/Land Development, the applicant may make provisions for an equitable amount of land in another location or pay to the City a fee in-lieu of Dedication as provided herein.

(B) *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 Board of Parks and Recreation

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Commissioners, 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 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/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/Land Development.
4. *Access.* Public access to the dedicated land shall be provided either by adjoining street frontage or public Easement at least 20 feet in width.
5. *Topography.* Generally, areas dedicated for recreation shall not exceed slopes of five percent (5%).
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 Board of Parks and Recreation Commissioners, 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.

(C) *Dedication and Fee-in-Lieu of Standards.*

1. Whether the Planning Commission accepts the land Dedication or elects to require payment of a fee-in-lieu thereof or a combination of both shall be determined by consideration of the following:
  - a. Charles Town Comprehensive Plan;
  - b. Charles Town Capital Improvements Plan;
  - c. The recommendations of the Planning Commission and the Board of Parks and Recreation Commissioners;
  - d. Topography, geology, access and location of land in the Subdivision/Land Development available for Dedication; and
  - e. Size and shape of the Subdivision/Land Development and land available for Dedication.
2. The determination of the Planning Commission, in consultation with the Board of Parks and Recreation Commissioners, as to whether land shall be dedicated or whether a fee should be exacted or a combination of both shall be final and conclusive. In the following circumstances:

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- a. For Development under 5 acres:  
Applicant can either choose to provide private on-site open space or pay a 500.00 per unit for fee-in-lieu of open space.
  - b. For Developments between 5 and 10 acres:  
Applicant shall provide public open-space. However, there is an option for private on-site open space or 500.00 per unit fee-in-lieu of open space or a combination of thereof. If the applicant would like to provide either the private on-site open space or a fee-in-lieu, consideration and recommendation of the Planning Commission, and in consultation with the Board of Parks and Recreation Commissioners shall be required to provide a private on-site open space or a fee-in-lieu of open space.
  - c. For Developments over 10 acres:  
Section 1333.17, Parks, Recreation and Open Space Amenity Standards shall apply.
3. The procedure for determining whether the applicant is to dedicate land, pay a fee, or both, shall be as follows:
- a. *Applicant.* At the time of filing an S/LD Application, the applicant shall, as part of such submission, indicate whether Dedication of the property for park and recreational purposes is proposed, or whether the applicant proposes to pay a fee in-lieu thereof. If the applicant proposes to dedicate land for this purpose the applicant shall designate the area thereof on each Plat submitted.
  - b. *Action of City.* At the time of review of the S/LD Application, the Board of Parks and Recreation Commissioners shall recommend and the Planning Commission shall determine as a part of such approval, whether to require a Dedication of land within the Subdivision/Land Development, payment of a fee in-lieu thereof, or a combination of both, pursuant to the standards in this Subsection 1333.17(C).
- (D) *Prerequisites for Approval of S/LD Application.* Where Dedication is required, such Dedication shall be shown upon each Plat submitted. Where fees are required the same shall be deposited with the City at the time of building permit..
- (E) *Calculation of Mandatory Land Dedication and Fee in Lieu Thereof.*
1. Land Dedication required by dwelling units shall be .024 acres per dwelling unit.
  2. Fee-in-lieu of land required by dwelling units shall be calculated as follows: (Fair Market Value per acre) x .024 acres per unit + \$200.00 per unit (assessed for improvements to public park lands) = (\$ fee per unit).
  3. *Fair Market Value.* For the purpose of this Section, fair market value is to be determined with respect to a Subdivision/Land Development at the time the initial S/LD Application submittal is made to the City. The process for determining fair market value shall be as follows:

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- a. The applicant submits an appraisal completed within six (6) months of the date of the initial submittal of the S/LD Application;
- b. The applicant's appraisal shall be reviewed by a review appraiser retained by the City. The review appraiser shall either concur with the applicant's appraisal or recommend that a new appraisal be prepared;
- c. If a new appraisal is recommended, the City's appraisal shall be done by an appraiser from a City approved list at the City's expense. The decision of the City's appraiser shall constitute the City's decision on fair market value; and
- d. In the event of a disagreement about fair market value, it shall be determined by the special committee procedure provided in Section 1333.17(G).

(F) *Use of Dedicated Land and Fee-in-Lieu of Funds.*

1. *Dedication Land.* The land received by the City under this Section shall be used only for the purpose of providing open space, park and recreational areas.
2. *Fee-in-Lieu of Dedication.*
  - a. All such fees collected shall, upon receipt by the City, be deposited in an interest-bearing account, clearly identifying the specific recreation facility improvements or acquisition thereof for which the fee was received. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only in properly allocable portions for the costs incurred to construct the specific recreational facilities for which the funds were collected.
  - b. Upon request of any Persons who paid any fees under this Section, the City shall refund such fee, plus interest accumulated thereon from the date of payment, if the City had failed to utilize the fee paid for the purposes set forth in this Section within three (3) years from the date such fee was paid.

(G) *Dispute Settlement.*

1. *Generally.* 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 or cannot agree about fair market value, such disagreement shall be determined by a special committee.
2. *Membership and Action.* Where the applicant disagrees with the fair market value determination per Section 1333.17(E)(3), the applicant may appeal to a special committee, comprised of the applicant's appraiser, the City's appraiser, and a third appraiser selected by the first two appraisers. An appraisal shall be completed by the third appraiser with the expense borne equally by the City and the applicant.

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The findings of the special committee shall be by majority vote and shall be certified to the City Council within 45 days of the time of appointment of the third member of the committee.

- (H) *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, and as expressly provided for in Section 1333.17(C)(2)(a) and (b).
- (I) *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 Charles Town Parks Master Plan; and (2) dedicated to public use.

**Section 1333.18, 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 1334.02, Erosion and Sediment Control Standards, of this Ordinance.

**Section 1333.19, Mobile Home Park Standards**

- (A) *Design Standards.*
  - 1. *Size of the Mobile Home Park.* A tract proposed for Development as a Mobile Home Park shall have a minimum area of five (5) acres and a minimum width of 300 feet. In a case where a Mobile Home Park is removed from the public highway, an access road with a minimum right-of-way of forty (40) feet shall be provided.
  - 2. *Design of Mobile Home Park Spaces.*
    - a. In a Mobile Home Park, a separate Mobile Home Space shall be provided for each Mobile Home and shall include a patio area and connections for public or community water supply and sewerage disposal and electrical service.
    - b. Mobile Home Spaces in different sections of the Mobile 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) Mobile Home Spaces per net acre.
    - c. In no case may Mobile Homes be located closer than twenty (20) feet apart.
    - d. Each Mobile Home Space shall be permanently marked by a number.

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- e. All Mobile Homes shall be located at least seventy-five (75) feet from any Street Right-of-Way which abuts a Mobile Home Park boundary and at least fifty (50) feet from any other boundary line.
- f. Each Mobile 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 Mobile Home and the pavement of an adjoining park Street, or common parking area or other common areas within the Mobile Home Park.
- h. The Subdivision and Land Development Application & Approval Requirements specified in Article 1332 herein shall apply to all proposed Mobile Home Parks.

(B) *Parking and Street Standards.*

- 1. Access to Mobile 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 Mobile 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 Mobile Home Parks shall be provided with safe and convenient paved access Streets serving every Mobile 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 Mobile 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 Mobile Home Space.
- 6. One (1) additional parking space shall be provided for each four (4) Mobile Home Spaces to provide for two-car families.
- 7. Common parking areas shall be provided for every Mobile Home Park at the community center, administration Building, laundry, and at any other accessory Structure designed to serve the Mobile 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



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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 Mobile Home Park shall have direct vehicular access to a public Road abutting the Mobile Home Park.

(C) *Other Site Improvements.*

1. Individual tenants at the Mobile Home Park may construct attached enclosures to individual Mobile 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 Mobile 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 Charles Town's Code Enforcement Officer, hereinafter referred to as the Code Enforcement Officer.
4. All other requirement of this Ordinance, the Charles Town Zoning Ordinance, and the Charles Town Codified Ordinances shall apply.

(D) *Recreation and Open Space.*

1. All Mobile Home Parks shall provide, and so indicate on the Plat of the Mobile Home Park, suitable areas for recreation and open space uses of at least twenty (20%) percent of the total area of the Mobile 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 Mobile Home Park in order to be easily accessible to the residents of the Mobile Home Park.
3. The recreation and open space must be maintained by the mobile home association, which may be the operator.

(E) *Responsibilities of the Park Management.*

1. The Person to whom a permit for a Mobile 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.

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2. The park management shall supervise the placement of each Mobile Home on its mobile home stand that includes securing its stability and installing all utility connections.
3. The park management shall give the Subdivision Administrator and Code Enforcement Officer, or designees free access to all Mobile Home Spaces, service Buildings, and other community service facilities for the purpose of inspection.
4. The 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 park management shall notify the local office of the West Virginia Department of Environmental Protection and Department of Health and Human Resources immediately of any suspected communicable or contagious disease within the park.

**Section 1333.20, Townhouse Development Standards**

- (A) *Density.* The overall density in a townhouse project shall not exceed the Maximum Density specified in the Charles Town Zoning Ordinance for the Zoning District in which it is located except when designed and developed as a Planned Unit Development under provisions set forth in the Charles Town Zoning Ordinance. Density shall be calculated using the Net Buildable Land Area (as such term is defined in the Zoning Ordinance) of the Lot.
- (B) *Land Area.* The Net Buildable Land Area (as such term is defined in the Zoning Ordinance) of a townhouse Development shall equal at least 3,500 square feet for each dwelling unit. Each dwelling unit shall have a minimum lot size of 2,000 square feet. The difference between the Net Buildable Land Area and the total area of the dwelling unit Lots shall be allocated to open space common area.
- (C) *Tract Frontage.* Each townhouse development shall have at least 50 foot of street frontage. This does not apply to single or multiple contiguous townhouses on an existing platted street. For a townhouse development on a pipestem lot, the minimum pipestem width shall be the right-of-way width as required per Table 1333.02.
- (D) *Townhouse Lot Width.* The minimum townhouse lot width shall be in accordance with the minimum lot width specified in the Charles Town Zoning Ordinance for the Zoning District in which the townhouse is located. Each Lot on the end of a row of townhouses shall have an additional width necessary to accommodate the required side yard.
- (E) *Length of Townhouse Row.* There shall be not be more than ten (10) nor less than three (3) contiguously connected townhouse units.
- (F) *Yards.* The following minimum Setback requirements shall apply:
  1. *Front Yard.* Each townhouse shall have a minimum front yard Setback that is in accordance with the minimum front yard setback specified in the Charles Town Zoning Ordinance for the Zoning District in which the townhouse is located.

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Townhouses, however, may be arranged to face onto a common open space. In such instances, such a space shall not be less than fifty (50) feet in width and shall be arranged to permit access for emergency vehicles. With such an arrangement, the front yard requirement may be reduced by ten (10) feet. If the townhouses have rear loaded garages or parking, the setback can be reduced from the required setback distance to zero (0) feet, or any distance in between, provided that no steps or stoops shall be allowed within the right of way or upon sidewalk, unless the sidewalk has a clear walking path of five (5) feet from the closest edge of the steps or stoop to the edge of curb. This reduced setback shall supersede the Zoning Ordinance requirements.

2. *Side Yard.* Each townhouse shall have a minimum side yard Setback that is in accordance with the minimum side yard setback specified in the Charles Town Zoning Ordinance for the Zoning District in which the townhouse is located. . When the yard adjoining the corner Lot along the rear lot line fronts the side Street of the corner Lot, the width of the corner Lot shall be increased to provide a minimum side yard Setback equal to the adjoining front yards.
  3. *Rear Yard.* Each townhouse shall have a minimum rear yard Setback that is in accordance with the minimum rear yard setback specified in the Charles Town Zoning Ordinance for the Zoning District in which the townhouse is located. However, access to the rear yard for purposes of maintenance and fire protection shall be accommodated by a private access drive or a minimum ten (10) foot property service easement, which shall be perpetually recorded with each dwelling unit property. An accessory Building shall be located only in a rear yard and shall occupy not over twenty-five (25) percent of the rear yard area and shall be located not less than five (5) from any Alley or rear service Street Line. Enclosing of the rear yard space is permitted pursuant to the fencing requirements specified under Article 1323 (H) of the Charles Town Zoning Ordinance.
- (G) *Access Drives and Off-Street Parking.* Off-street parking space shall be provided at the rate of 1.8 spaces per dwelling unit. In a Subdivision/Land Development of townhouse Lots, it will not be necessary that off-street parking be provided on a specific Lot so long as the required number of parking spaces are provided in the Subdivision/Land Development for the number of Lots to be served; *provided that*, no parking area shall be more than 200 feet from the dwelling unit it serves.
- (H) Townhouse garages may be attached to or detached from the townhouse unit and may be accessed from either the front or rear yard. When detached the garage structure must be consistent and compatible with the architecture and materials of the respective townhouse unit.
- (I) Townhouses abutting each other shall have complimentary but not identical facades.
- (J) No more than two abutting townhouses shall have a common roof line.
- (K) All electric meters shall be located in the rear of dwelling units, except where a waiver may be granted by the Planning Commission.

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- (L) When townhouse Lots do not front on a Public Street, they shall front on private roads, parking lots or access Easements. The length and extent of private roads, parking lots or access Easements providing access to Lots shall be minimized, and Public Streets shall be provided in larger Subdivisions/Land Developments when substantial distances are involved. Private roads, parking lots, and access Easements shall be no more than 500 feet from a Public Street, as measured along the centerline of the access Road. Private roads, parking lots, and access Easements may be located up to 800 feet from a public Road where enhanced circulation is provided with two connection points to the Public Street. The average daily trip for private roads, parking lots, or access Easements shall not exceed 250 VPD. Townhouse Developments that include the use of private roads, parking lots and access Easements shall conform to the West Virginia Code Chapter 36B, Uniform Common Interest Ownership Act, as specified under Section 1333.21 of this Ordinance.
- (M) *Site Coverage.* The minimum townhouse lot width shall be in accordance with the minimum lot width specified in the Charles Town Zoning Ordinance for the Zoning District in which the townhouse is located.
- (N) Adequate provision shall be made for storage of collection and refuse where applicants desire a centralized collection point(s) in lieu of curb-side trash pick-up. This area shall be screened and the dumpsters placed on a concrete pad pursuant to Article 1333.23(L) of this Ordinance.
- (O) Permeable areas of the site shall be planted with ground cover, shrubs, and trees as required by this Ordinance.
- (P) *Required Open Space.*
1. The difference between the Net Buildable Land Area of a townhouse Development and the total area of the dwelling unit Lots shall be allocated to open space common area as specified in Section 1333.20(B) above.
  2. In the event that the Planning Commission, by waiver, permits dwelling unit Lots of less than the 2,000 square foot minimum specified in Section 1333.20(B), compensating open space must be established and provided within the project site equal to the aggregate area by which such Lots are under the 2,000 square foot minimum.
  3. In a townhouse Development, open space for the Subdivision/Land Development must at least equal 30 percent of the Net Buildable Land Area of the Subdivision/Land Development.
- (Q) *Maintenance of Common Areas.* All common areas and facilities including, but not limited to, recreational facilities, off-street parking and common open space shall be maintained in a satisfactory manner without expense to the general taxpayers of the City. In order to insure the maintenance of and the payment of taxes on the commonly held non-public property, a mandatory homeowners association shall be created and a declaration regarding the same shall be recorded to the satisfaction of the Planning Commission in the Office of the Clerk of Jefferson County.

**Section 1333.21, Homeowners Associations**

- (A) All cooperatives and common interest communities, as the same are defined by West Virginia Code Section 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."<sup>2</sup>
- (B) Said declaration shall be submitted with the S/LD Application as a requirement for its approval.
- (C) Neither the City of Charles Town nor its Planning Commission shall have any jurisdiction over private restrictive covenants that may apply to Units or Subdivision/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 Charles Town. 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 Charles Town for any activity or improvement to any Unit or Lot within any Subdivision/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 Charles Town.

**Section 1333.22, Wireless Telecommunications Facilities**

Wireless telecommunications facilities shall be subject to the following requirements:

- (A) *Location Details.*
  - 1. All free standing wireless telecommunication towers shall be set back from all off-site residential Structures by a distance of 125% of the height of the tower. All towers and incidental Structures shall be located a minimum of fifty (50) feet from the adjoining property.
  - 2. Auxiliary facilities shall meet the minimum Setback requirements for the respective Zoning District.
  - 3. The height restriction for wireless telecommunication towers shall be a maximum height of 90 feet.

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<sup>2</sup> A Subdivision/Land Development in which all common areas are to be dedicated to the City of Charles Town at inception, is not governed by the Uniform Common Interest Ownership Act and does not require a declaration.

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(B) *Wireless Telecommunication Facilities Design.*

1. All towers and incidental Structures shall be designed to be compatible with the surrounding environment. They shall consist of neutral colors and designs which will blend into the surrounding environment.
2. Towers shall only be lighted if required by the Federal Aviation Administration (FAA) or another authority.
3. No temporary or permanent signs may be posted on the towers.
4. *Security.* A security fence six (6) feet in height shall be installed around the tower and incidental Structures to prevent unauthorized access. The tower shall also be designed to prevent climbing the Structure.

(C) *Landscaping.*

1. A landscape buffer or opaque, board on board fence shall be provided around all wireless telecommunication towers and incidental Structures. Refer to the buffer, screening, and landscaping standards specified under Sections 1333.15 and 1333.16 of this Ordinance.
2. A waiver may be granted at the discretion of the Planning Commission if the wireless telecommunication facility will be placed in a location where it will be surrounded by an existing adequate landscaped buffer.
3. Existing trees and natural vegetation shall be maintained to the greatest extent possible.

(D) *Performance Security.* The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount equal to 150 percent of the estimated costs of removal and proper disposal as determined by the City, and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this Ordinance and conditions of a Zoning Permit issued pursuant to the Charles Town Zoning Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Zoning Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Zoning Permit.

(E) *Default and/or Revocation.*

1. If a wireless telecommunication facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Zoning Permit, then the Subdivision Administrator shall notify the holder of the permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the

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violations must be corrected within sixty (60) days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this Ordinance, if the violation causes, creates or presents an imminent danger or threat to property or to the health, safety or lives of Persons, the Subdivision Administrator may, at its sole discretion, order the violation remedied.

2. If, within the period set forth in (E)(1) above, the wireless telecommunications facility is not brought into compliance with the provisions of this Ordinance, or of the Zoning Permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facility into compliance, then the Subdivision Administrator shall notify the Zoning Administrator of the non-compliance, and the Zoning Administrator may revoke the Zoning Permit for the wireless telecommunications facility, and shall notify the holder of the permit within forty-eight (48) hours of such action.

(F) *Removal of Wireless Telecommunication Facilities.*

1. Under the following circumstances, the Subdivision Administrator may determine that the health, safety, and welfare interests of the City warrant and require the removal of a wireless telecommunications facility within 90 days:
  - a. A wireless telecommunications facility with a Zoning Permit that has been deemed abandoned by the City of Charles Town. All wireless telecommunication towers, antennas and facilities that have ceased operations for 12 consecutive months shall be considered abandoned by the City of Charles Town.
  - b. A permitted wireless telecommunications facility falls into such a state of disrepair that it creates a health or safety hazard; or
  - c. A wireless telecommunications facility has been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Zoning Permit, or any other necessary authorization.
2. If the Subdivision Administrator makes such a determination as noted in subsection (F)(1) of this Section 1333.22, then the Subdivision Administrator shall notify the holder of the Zoning Permit for the wireless telecommunications facility within forty-eight (48) hours that said wireless telecommunication facility is to be removed. The Planning Commission may approve an interim temporary Zoning Permit, such as to enable the sale of the wireless telecommunication facility.
3. The holder of the Zoning Permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facility, and all associated Structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Subdivision Administrator. However, if the owner of the property upon which the wireless telecommunications facility is located wishes to retain any access

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roadway to the wireless telecommunications facility, the owner may do so with the approval of the Planning Commission.

4. If a wireless telecommunications facility is not removed or substantial progress has not been made to remove the wireless telecommunications facility within ninety (90) days after the permit holder has received notice, then the Subdivision Administrator may order officials or representatives of the City to remove the wireless telecommunications facility at the sole expense of the holder of the Zoning Permit.
5. If the City removed, or causes to be removed, a wireless telecommunications facility, and the owner of the wireless telecommunications facility does not claim and remove it from the site to a lawful location within ten (10) business days, then the City may take steps to declare the wireless telecommunications facility abandoned, and sell it and its components.

(G) *Adherence to State and/or Federal Rules and Regulations.*

1. Notwithstanding anything in this section to the contrary, the Planning Commission may approve and issue a temporary Zoning Permit for the wireless telecommunications facility, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facility shall be developed by the holder of the Zoning Permit, which plan shall be subject to the approval of the Planning Commission, and an agreement to such plan shall be executed by the holder of the Zoning Permit and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected wireless telecommunications facility in the manner provided in this section.
2. To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to, the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC), and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Zoning Permit for a wireless telecommunications facility, then the holder of such a Zoning Permit shall conform the permitted wireless telecommunications facility to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

**Section 1333.23, Parking and Loading Standards**

- (A) *Purpose.* In order to decrease congestion in the Streets, permanent off-street automobile parking spaces shall be provided for (1) all new Structures or uses of land, (2) existing Structures or uses of land that are increased in size by 20 percent or more after the adoption of this Ordinance, and (3) a change of use of land after the adoption of this Ordinance. 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;



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*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 S/LD 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 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) *Parking Lot Design Standards.*
1. *Pavement Standard.* Paved parking areas are required in the City of Charles Town. Parking lot pavement shall be in compliance with the standards of the City of Charles Town for parking (See Standard Detail K-1). To encourage low impact design principles, the Planning Commission may allow alternative pavements surface types in areas of a Subdivision/Land Development determined acceptable and with low vehicular use. The City's Engineer and Subdivision Administrator shall provide a recommendation to the Planning Commission on the proposed alternative. Request for an alternative pavement surface shall be for the benefit of low impact design principles and not solely to eliminate the cost associated with the required pavement.
  2. *Curb and Gutter.* Curb and gutter is required for parking areas in the City of Charles Town. Curbing shall be in compliance with the standard details of the City of Charles Town for curb (See Standard Detail CG-1, CG-1R, CG-2). To encourage Low Impact Design principles, the Planning Commission may allow alternative curb types, or no curb, in areas of a Subdivision/Land Development determined acceptable. The City's Engineer and Subdivision Administrator shall provide a recommendation to the Planning Commission on the proposed alternative. Reduction of curbs and gutters shall be for the benefit of Low Impact Design principles and not solely to eliminate the cost associated with curb and gutter.
- (D) *Low Impact Development Parking Techniques.* Low Impact Parking Techniques, as referenced in the *Virginia Stormwater Management Handbook*, can help mitigate the impact of Stormwater Runoff. The use of Low Impact Parking Techniques is encouraged by the City of Charles Town. Such methods are conditionally approved and may be utilized on a case-by-case basis upon review and approval by the Subdivision Administrator.
- (E) *Impervious Surface Reduction.* The amount of imperviousness 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.

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2. *Compact Car Parking Spaces.* Compact car parking spaces shall be provided for compact vehicles. A minimum of 10 percent and maximum of 20 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 percent (10 percent) of required off-street parking.

(F) *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 1333.16 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 1333.14 of this Ordinance.
  - d. *Screening.* The periphery of an off-street parking area that is within 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/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 1333.16 of this Ordinance.
  - e. *Parking Lot Placement.* Parking lots and Buildings shall be designed in a mutually acceptable layout to enhance safety, aesthetics, convenience, future needs, and function. From a design perspective, parking areas shall be preferred in Side and Rear Yard areas over Front Yard areas.

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- 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.
- g. In the Residential Medium High-Density (R-15) Zoning District and where townhouses are otherwise built, additional "Recreational Vehicle" parking spaces shall be provided at a ratio of 1 space minimum and one space per fifty (50) passenger vehicle parking spaces. Such spaces shall be a minimum of twenty-five (25) feet by twelve (12) feet and shall be subject to buffer requirements in 1333.15, Buffer and Screening Standards.

(G) *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 100 spaces shall be designed as follows:
    - (1) Islands at both ends of each row of parking.
    - (2) One island or peninsula for every 10 contiguous spaces.
    - (3) No more than two (2) contiguous parking bays (60' width) with a 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 9 feet and length of 18 feet including curbing
  - b. Parking lots having 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 15 contiguous spaces.
- 2. No more than three (3) contiguous parking bays (60' width) with 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 Charles Town. Such methods shall be reviewed and approved by the Planning Commission, with the advice of the City Engineer.
- 5. *Access Ramps.* All access ramps shall be designed in accordance with the ADA Accessibility Guidelines, July 1991 and as amended.

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- (H) Except as otherwise required for handicap accessibility, parking space dimension standards for the City of Charles Town shall be as follows:

**Table 1333.23(H), Parking Space Dimensions**

Parking Angle	Parking Bay Width (feet)	Parking Bay Depth (feet)
Parallel	7' or 8'*	22'
30, 45, 60, 90 Degree	9'	18'
Compact Car	8'	15'

\* 7' wide parallel parking spaces shall only be allowed on Neighborhood Center Streets and Neighborhood Streets as described in Section 1333.02 of this Ordinance.

- (I) All parking areas shall be served by access lanes with a minimum width corresponding to the parking angle as follows:

**Table 1333.23(I), Minimum Parking Access Lane (Aisles) Width**

Parking Angle	Minimum Lane Width (feet)	
	One-Way Traffic	Two-Way Traffic
Parallel	11'	22'
30 Degrees	11'	22'
45 Degrees	18'	22'
60 Degrees	20'	22'
90 Degrees	22'	24'

Note: The access lane width for any combination of parking angles shall be that required for the greater of the two angles.

- (J) In all districts, space for parking and storage of vehicles shall be provided in accordance with Table 1333.23(J). The Planning Commission will consider an applicant's proposed alternative parking program requirements as a substitute to the requirements specified in Table 1333.23(J). 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 1333.23(J), Minimum Off-Street Parking Space Requirements**

ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
<b>PORT AND TERMINAL USES (ITE CODES 000 – 009)</b>		
022	General Aviation Airport	.84 spaces per daily enplanement
030	Truck Terminal	1.0 space for each 300 sq. ft. of GFA
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.
<b>RESIDENTIAL USES (ITE CODES 200 - 299)</b>		
210	Single-Family Detached Housing	2.0 spaces per dwelling unit
*	Duplex	2.0 spaces per dwelling unit
220	Apartment	1.20 spaces per dwelling unit

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ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
230	Residential Condominium/Townhouse	See Section 1333.20, Paragraph (G).
240	Mobile Home Park	See Section 1333.19, Paragraph (B).
251	Senior Adult Housing – Detached	1.3 spaces per dwelling unit
252	Senior Adult Housing – Attached	1.3 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	0.5 spaces per dwelling unit
270	Residential Planned Unit Developments	2.0 spaces per dwelling unit
--	Accessory Living Quarters / Second Unit Housing	1.0 spaces per dwelling unit
--	Major Home Occupation	No more than 6.0 vehicles legally parked at the residence at one time
--	Group Home	0.5 spaces per living quarter
--	Guest Quarters	1.0 space per living quarter
<b>LODGING USES (ITE CODES 300 – 399)</b>		
310	Hotel	1.3 spaces per room
311	All Suites Hotel	1.3 spaces per room
312	Business Hotel	1.3 spaces per room
320	Motel	1.1 spaces per room
321	Resort Motel	1.42 spaces per room
--	Bed and Breakfast Inns	1 per guest room, plus two for proprietor
<b>RECREATIONAL USES (ITE CODES 400 – 499)</b>		
411	City Park	7.0 spaces per acre
412	County Park	7.0 spaces per acre
413	State Park	7.0 spaces per acre
414	Water Slide Park	7.0 vehicles per acre
416	Campground/Recreational Vehicle Park	1 space per 6 camp sites, plus 4 per laundry and shower facility
430	Golf Course	12.0 spaces per hole
431	Miniature Golf Course	2.0 spaces per hole
432	Golf Driving Range	1.0 per tee
433	Batting Cages	1.0 per batting cage
435	Multipurpose Recreational Facility	2.7 spaces per hole, 16 spaces per 1,000 sq. ft. GFA, and 24 spaces per acre
437	Bowling Alley	5.6 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	0.33 spaces per seat
443/444	Movie Theater	0.33 spaces per seat

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ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
445	Multiplex Movie Theater	1.0 spaces per 4 seats
452	Horse Racetrack	1.0 space per 6 seats or 1.0 per 50 sq. ft. GFA
453	Automobile Racetrack	1.0 space per 6 seats or 1.0 per 50 sq. ft. GFA
460	Arena	1.0 space per 6 seats or 1.0 per 50 sq. ft. GFA
464	Roller Skating Rink	5.8 spaces per 1,000 sq. ft. GFA
465	Ice Skating Rink	3.9 spaces per 1,000 sq. ft. GFA
473	Casino/Video Lottery Establishment	35.3 spaces per 1,000 sq. ft. GFA and 1.42 spaces per gaming position
480	Amusement Park	1.0 space per 600 sq. ft. of outdoor recreation area
488	Soccer Complex	1.0 space per 6 seats or 1.0 per 50 sq. ft. GFA
490	Tennis Courts	3.2 spaces per court
491	Racquet/Tennis Club	3.6 spaces per court
492	Health/Fitness Club	5.9 spaces per 1,000 sq. ft. GFA and 0.15 spaces per member
493	Athletic Club	3.9 spaces per 1,000 sq. ft. GFA and 0.74 spaces per 10 members
495	Recreational Community Center	3.0 spaces per 1,000 sq. ft. GFA
<b>INSTITUTIONAL USES (ITE CODE 500 – 599)</b>		
520	Elementary School	0.14 spaces per student
522	Middle School/Junior High School	0.28 spaces per student
530	High School	0.46 spaces per student
534/536	Private School (K-12)	0.28 spaces per student
540	Junior/Community College	0.23 spaces per total number of students, faculty, and employees
550	University/College	0.33 spaces per total number of students, faculty, and staff
*	Technical and Vocational Schools	0.23 spaces per total number of students, faculty, and employees
*	Professional and Management Development Training	0.23 spaces per total number of students, faculty, and employees
560/561	Church/Synagogue	7.81 spaces per 1,000 sq. ft. GFA
565	Day Care Center	0.24 vehicles per student
566	Cemetery	Per associated Place of Worship or based on facility requirements if stand alone facility.
571	Prison	1.0 space per 400 sq. ft. GFA, plus 2.0 spaces per employee at peak shift period
580	Museum	1.5 vehicles per 1,000 sq. ft. GFA
590	Library	3.5 spaces per 1,000 sq. ft. GFA
591	Lodge/Fraternal Organization	1.0 space per 250 sq. ft. GFA
<b>MEDICAL USES (ITE CODES 600 – 699)</b>		
610	Hospital	4.7 spaces per bed and 0.82 spaces per employee
612	(Outpatient) Surgery Center	5.67 spaces per operating room
620	Nursing Home	1.5 spaces per 1,000 sq. ft. GFA

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ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
630	Clinic	5.5 spaces per 1,000 sq. ft. GFA
640	Animal Hospital/Veterinary Clinic	2.3 spaces per 1,000 sq. ft. GFA and 2.0 spaces per employee
--	Medical / Dental Lab	3.53 spaces per 1,000 sq. ft. GFA
<b>OFFICE USES (ITE CODES 700 – 799)</b>		
710	General Office Building	2.84 vehicles per 1,000 sq. ft. GFA
714	Corporate Headquarters Building	2.84 vehicles per 1,000 sq. ft. GFA
715	Single Tenant Building	2.84 vehicles per 1,000 sq. ft. GFA
720	Medical-Dental Office Building	3.53 spaces per 1,000 sq. ft. GFA
730	Government Office Building	3.3 spaces per 1,000 sq. ft. GFA
732	United States Post Office	3.3 spaces per 1,000 sq. ft. GFA, and sufficient stacking for any drive-through lane(s)
733	Government Office Complex	3.3 spaces per 1,000 sq. ft. GFA
735	Judicial Complex	4.1 spaces per 1,000 sq. ft. GFA and 0.8 spaces per employee
750	Office Park	2.84 vehicles per 1,000 sq. ft. GFA
760	Research and Development Center	2.84 vehicles per 1,000 sq. ft. GFA
770	Business Park	2.84 vehicles per 1,000 sq. ft. GFA
<b>RETAIL USES (ITE CODES 800 – 899)</b>		
812	Building Materials and Lumber Store	3.8 spaces per 1,000 sq. ft. GFA
813	Free-Standing Discount Superstore	5.0 spaces per 1,000 sq. ft. GFA
814	Specialty Retail Center	4.9 spaces per 1,000 sq. ft. GFA
815	Free-Standing Discount Store	5.0 spaces per 1,000 sq. ft. GFA
816	Hardware/Paint Store	3.8 spaces per 1,000 sq. ft. GFA
817	Nursery/Garden Center	4.9 spaces per 1,000 sq. ft. GFA
818	Nursery (Wholesale)	4.9 spaces per 1,000 sq. ft. GFA
820	Shopping Center	5.3 spaces per 1,000 sq. ft. GFA
823	Factory Outlet Center	4.9 spaces per 1,000 sq. ft. GFA
841	New Car Sales	1.0 space per 400 sq. ft. office space, plus adequate space for vehicle display and storage
843	Automobile Parts Sales	5.0 spaces per 1,000 sq. ft. GFA
848	Tire Store	5.0 spaces per 1,000 sq. ft. GFA
849	Tire Superstore	5.0 spaces per 1,000 sq. ft. GFA
850	Supermarket	6.7 spaces per 1,000 sq. ft. GFA
851	Convenience Market (Open 24 Hours)	5.3 spaces per 1,000 sq. ft. GFA
852	Convenience Market (Open 15 – 16 Hours)	5.3 spaces per 1,000 sq. ft. GFA
853	Convenience Market with Gasoline Pumps	5.3 spaces per 1,000 sq. ft. GFA
854	Discount Supermarket	6.9 spaces per 1,000 sq. ft. GFA
857	Discount Club	5.0 spaces per 1,000 sq. ft. GFA
859	Liquor Store	7.2 spaces per 1,000 sq. ft. GFA
860	Wholesale Market	6.9 spaces per 1,000 sq. ft. GFA
861	Sporting Goods Superstore	4.9 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

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ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
864	Toy/Children's Superstore	1.94 spaces per 1,000 sq. ft. GFA
865	Baby Superstore	1.94 spaces per 1,000 sq. ft. GFA
866	Pet Supply Superstore	4.1 spaces per 1,000 sq. ft. GFA
867	Office Supply Superstore	1.2 spaces per 1,000 sq. ft. GFA
868	Book Superstore	1.1 spaces per 1,000 sq. ft. GFA
869	Discount Home Furnishings Superstore	4.9 spaces per 1,000 sq. ft. GFA
870	Apparel Store	6.3 spaces per 1,000 sq. ft. GFA
879	Arts and Crafts Store	1.2 spaces per 1,000 sq. ft. GFA
880	Pharmacy/Drugstore w/o Drive-Through Window	5.5 spaces per 1,000 sq. ft. GFA
881	Pharmacy/Drugstore with Drive-Through Window	4.9 spaces per 1,000 sq. ft. GFA
890	Furniture Store	2.1 spaces per 1,000 sq. ft. GFA
892	Carpet Store	3.9 spaces per 1,000 sq. ft. GFA
896	Video Rental Store	7.5 spaces per 1,000 sq. ft. GFA
--	Art Gallery	1.5 per 1,000 sq. ft. GFA
<b>SERVICE USES (ITE CODES 900 – 999)</b>		
911	Walk-in Bank	1.0 space per employee, plus 1.0 space per 200 sq. ft. GFA
912	Drive-in Bank	1.0 space per employee, plus sufficient stacking area to accommodate drive-through lane(s)
931	Quality Restaurant	1.0 spaces per every 3.0 seats
932	High-Turnover (Sit-Down) Restaurant	1.0 spaces per every 3.0 seats
933	Fast-Food Restaurant w/o Drive-Through Window	1.0 space per every 3.0 seats
934	Fast-Food Restaurant with Drive-Through Window	1.0 space per every 3.0 seats, plus sufficient stacking area to accommodate drive-through lane
935	Fast-Food Restaurant with Drive-Through Window and No Indoor Seating	1.0 space per employee
936	Coffee/Donut Shop w/o Drive-Through Window	1.0 space per every 3.0 seats
937	Coffee/Donut Shop with Drive-Through Window	1.0 space per every 3.0 seats, plus sufficient stacking area to accommodate drive-through lane
938	Coffee/Donut Shop with Drive-Through Window and No Indoor Seating	1.0 space per employee, plus sufficient stacking area to accommodate drive-through lane
939	Bread/Donut/Bagel Shop w/o Drive-Through Window	1.0 space per every 3.0 seats
940	Bread/Donut/Bagel Shop with Drive-Through Window	1.0 space per every 3.0 seats, plus sufficient staking area to accommodate drive-through lanes
941	Quick Lube Vehicle Shop	1.0 space per 500 sq. ft. GFA, plus 1.0 space per employee
942	Automobile Care Center	1.0 space per 500 sq. ft. GFA, plus adequate space for vehicle storage



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ITE Code	Specific Land Use	Minimum Off-Street Parking Space Requirements
943	Automobile Parts and Service Center	2.0 spaces per 500 sq. ft. GFA, plus adequate space for vehicle storage
944	Gasoline/Service Station	6.0 space per 1,000 sq. ft. GFA, plus sufficient stacking area to accommodate 2.0 vehicles per each side of pump island
945	Gasoline/Service Station with Convenience Market	6.0 spaces per 1,000 sq. ft. GFA, plus sufficient stacking area to accommodate 2.0 vehicles per each side of pump island
946	Gasoline/Service Station with Convenience Market and Car Wash	10.0 spaces per 1,000 sq. ft. GFA, plus sufficient stacking area to accommodate 2.0 vehicles per each side of pump island,
947	Self-Service Car Wash	1.0 spaces per 500 sq. ft. GFA, including wash bays
948	Automated Car Wash	1.0 spaces per 500 sq. ft. GFA, including wash bays
960	Dry Cleaners	3.6 spaces per 1,000 sq. ft. GFA
--	Barber and Beauty Shops	1.0 space per 75 sq. ft. GFA
--	Funeral Home/Crematory	1.0 space per 4.0 seats

(K) *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 the table below:

**Table 1333.23(K), Queue Spaces for Drive-Thru Types**

Business Type	Queue Spaces
Automated Teller Machine (ATM)	2 per machine
Bank, Dry Cleaner, Pharmacy	3 per lane
Car Wash (Customer Operated)	2 per stall
Car Wash (Conveyor Type Operated by Customer)	4 per stall
Car Wash (Conveyor Type Washed by Employees)	6 per stall
Restaurant	6 per lane

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 Commission 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.

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- (L) *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 1333.15 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 Section 1323(U) of 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 1333.15 and 1333.29 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 City of Charles Town Zoning Ordinance.
  6. Loading spaces shall provide ample maneuvering space for vehicles for loading spaces shall be as follows:

**Table 1333.23(L)(6), Minimum Dimensions for Loading Spaces**

Height Clearance	Width	Depth
14 feet	10 feet	50 feet

7. Maneuvering areas shall not be located so as to require vehicles to back into an Alley or Street when unloading materials.

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- 8 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.
- 9. *Required Loading Docks.* Loading docks shall be provided in addition to necessary loading spaces for large Buildings as shown on the following table:

**Table 1333.23(L)(9), 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

- (M) *Accessibility Standards.* ADA parking space requirements shall be provided and designed in accordance with the ADA Accessibility Guidelines, July 1991, and as amended.
- (N) *Additional Parking Standards.* Other provisions of this Ordinance may specify additional standards applicable to parking for particular uses (including, without limitation, Section 1333.02, Street Design Standards; Section 1333.19, Mobile Home Park Standards; and Section 1333.20, Townhouse Development Standards).

**Section 1333.24, 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 road 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 on line, and the location shall be shown on the plat of the land boundary.
- (C) Permanent Monuments shall be placed in all Subdivisions/Land Developments in accordance with the following standards:
  - 1. Two permanent Monuments shall be placed in the ground within each Block of a Subdivision/Land Development as will enable any skilled Surveyor to lay out correctly any Lot in the Subdivision/Land Development.
    - a. Permanent Monuments shall be composed of concrete not less than four inches square or four inches in diameter and at least 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.

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- d. Such Monuments shall be inspected and approved by the Subdivision Administrator before any improvements are accepted by the City of Charles Town.
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 Subdivisions 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 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 1333.25, 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 Subdivision Administrator 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 1333.25, unless otherwise approved by the Planning Commission, in consultation with the City Engineer.
2. The testing frequencies are the minimums considered to provide effective quality control of soil and aggregate material compactive 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.
3. All testing shall be in conformance with approved ASTM test methods.
4. Unless otherwise specified by the Planning Commission or the geotechnical engineer, all compaction shall meet or exceed 95% of the maximum dry density as determined by ASTM D-698.

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**Table 1333.25 – Minimum Standards Required for Site Density Testing**

Test Locations	Testing Frequency
Embankments Fill sections for Streets, travelways, and pipestem Driveways.	One density test shall be performed per 5,000 ft <sup>2</sup> 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, travelways, and pipestem Driveways.	Proofrolling, 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.	Proofrolling, and evaluation and approval by the geotechnical engineer of record.
Subbase Material For Streets, travelways, and pipestem Driveways.	One density test shall be performed per 5,000 ft <sup>2</sup> 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.
Base Material	One density test shall be performed per 5,000 ft <sup>2</sup> 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 Charles Town right-of-way.
Sanitary Sewer, Water and Gas Mains – Backfill * (Note: Field density test reports must be provided to the City of Charles Town Site Inspector before field approval is given for issuance of tap permits.)	One test shall be performed per 300 ft. or between manholes if less than 300 ft. apart and at vertical intervals not to exceed 12 inches when within current, or future, City of Charles Town 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 Charles Town right-of-way.
Sidewalks and Driveway Aprons	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.

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Test Locations	Testing Frequency
	Driveway apron: One test per apron shall be performed.
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 <sup>2</sup> (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 sublots of equal size. Two tests will be performed on each sublot. Each separate Street shall consist of at least one lot. Streets less than 500 ft. in length shall be tested a minimum of twice.</p>

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

**Section 1333.26, Floodplain Standards**

- (A) *General.* The City of Charles Town has adopted the separate City of Charles Town Floodplain Ordinance, Article 1741 of the Codified Ordinances, 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) *S/LD Applications and Approvals.* Any S/LD 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 or Land Development or plans and plats associated therewith. No S/LD 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 1333.27, Karst Geology Standards**

Charles Town 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 Subdivision Administrator, 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 Improvement Location/Land Development Permit shall be issued, and no S/LD 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 Subdivision Administrator.

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- (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. If after review of the Erosion Control Site Plan, the City Engineer 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). The evaluation shall, among other things, determine the proposed Development's effect on ground water and the effect, relative to the Sinkhole and Karst geology, on surrounding property. After review of this evaluation and with the consultation of the West Virginia Department of Environmental Protection (DEP), the City Engineer will either approve or disapprove the Erosion Control Site Plan as submitted. If disapproved, the City Engineer 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. 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 predetention and erosion requirements shall apply. Whenever a new Sinkhole appears it shall be reported to the Jefferson County Soil



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and Water Conservation District for the county in which the Sinkhole is located and the Subdivision Administrator. The City Engineer, the Subdivision Administrator, 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 Subdivision Administrator and City Engineer 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 1333.27 prior to issuing a building permit, Zoning Permit, or Improvement Location/Land Development Permit, or approving an S/LD 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 1333.27.
- (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 Subdivision Administrator) 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 Subdivision Administrator, in consultation with the City Engineer, 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 Subdivision Administrator 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 1333.28, Bus Shelters**

Bus shelters are required in developments where 30 or more residential units are proposed.

- (A) The shelters shall be a minimum of 8 feet long with sides being 36 inches and a minimum interior height of 7 feet. A minimum of three sides shall be solid to protect against the elements. A roof is required.

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- (B) If PO Boxes are included within the shelter, a minimum of 36 inches in front of the PO Boxes is required to meet the intent of A above.

**Section 1333.29, Commercial Design Review Standards**

In addition to the other applicable requirements of the City of Charles Town, the following design standards shall apply to non-residential structures, the OT-MUC District, and any PUD and shall be appropriately incorporated into the Subdivision and Land Development Site Plan application process pursuant to the Charles Town Subdivision and Land Development Ordinance.

- (A) *Planned Residential Building Orientation and Siting Standards.* Traditional Neighborhood Development site planning and design is required for new residential construction. Such design contributes to Charles Town's historic character, upholds and reinforces the pedestrian scale and walkability of neighborhoods, and deemphasizes the automobile. The following practices are meant to reinforce the bulk and area requirements set forth in the Charles Town Zoning Ordinance.
1. Incorporation of Traditional Neighborhood Development principles include the provision of a range of housing types, a network of well-connected Streets and blocks, Public Spaces, and amenities such as stores, schools, Open Space and recreational facilities, access to public transportation, and dedicated pedestrian and bicycle access to downtown Charles Town.
  2. Planned residential Subdivisions and Land Developments shall be compact and designed for the human scale and promotion of social interaction through public spaces.
  3. Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the Subdivision/Land Development. Likewise, motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as "queuing streets," curb extensions, traffic circles, and medians may be used to encourage slow traffic speeds.
  4. Single family residential units shall be designed to promote diversity that breaks from repetitive tract house style by providing front elevation variation throughout the neighborhood plan. Excessive repetition of identical floor plans and elevations throughout a neighborhood or Subdivision/Land Development with little differentiation is highly discouraged. The front entrance of residential units shall be the focal point. The following practices encourage this objective:
    - a. There shall be a main entrance on the primary façade of any new residential Building. New residential Buildings shall be sited so that the primary façade is parallel to the Street it faces.
    - b. Porches large enough to accommodate a seating area are encouraged on the primary façade of new residential Buildings.

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- c. Alternative garage designs, such as a detached garage to rear of property, recessed front-loaded garages, side turn-in attached/detached garages, etc., are encouraged.
- (B) *Commercial (including Mixed-use) Building Standards.* The following building orientation and site planning practices are required to achieve commercial and mixed-used commercial development that supports and reinforces Charles Town’s traditional urban grid and sidewalk system by maintaining a consistent building edge behind the right-of-way/parcel lines. Figures 1333.29A-I provide general design illustrations and are referenced throughout the following standards.

For all projects in the Historic Overlay District, these standards apply in addition to the Historic Overlay Design Review Standards. However, the Historic Landmarks Commission shall have sole authority to modify these standard in accordance with principles in keeping with the National Register of Historic Places and orientation of the structure in its setting.

To ensure compliance with this section of the requirements, scaled architectural drawings of all building elevations shall be submitted for review and approval by the Planning Commission. The drawings shall be of sufficient detail to explain the type and, if appropriate, color of proposed materials. The review of architectural drawings by the Planning Commission shall be conducted in conjunction with any required major S/LD review and submitted with the Sketch Plan.

Requirements with respect to the minimum information that shall be provided in order to appropriately evaluate the proposed building design are as follows:

- Scaled drawings of the building elevations for all sides of all structures with materials called out for walls, roofs, trim, and windows. Color shall be detailed when materials such as split-face block is proposed.
- Material samples may be required at the discretion of the Planning Commission and/or Staff.

Applicability of this section shall be for:

- New construction;
- 50% or more of building damaged or destroyed;
- Addition(s),
- Apartments

Submission of architectural elevations after Sketch Plan approval with Major Subdivision/Land Development Application.

1. Building Orientation and Massing

- a. Primary entries to those buildings along public or private streets shall front on the street. In the event that the primary doors are not street facing, a faux door shall be provided on the front of the building facing the street to give the appearance of a front door, including a walkway. As shown in Figure 1333.29A, Element A, an entry vestibule may be created that faces the front, side and rear parking area simultaneously. When it is not feasible

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to place the Building entry directly on the front façade, attempts shall be made to ensure that it is still readily visible and faces the main Road or internal Street (Figure 1333.29B, Element D).

- b. Buildings shall be oriented so that the rear of the structure and the external mechanical equipment are not facing the road, unless the property has four (4) road frontages, in which case the Planning Commission can approve the appropriate side for the rear of the structure and the external mechanical equipment.
- c. Place as much of the Building width at the front of the Lot as possible to maximize front façade exposure to the public (Figure 1333.29A, Element C). To the greatest extent possible, the front façade shall be kept parallel to the Street.
- d. To reinforce the street-edge, align with neighboring Buildings which are also close to the front Setback line. Landscaping can also be used to reinforce this line (Figure 1333.29A, Element D). The Clearly Prevailing Yard Pattern can be used to determine the front yard setback.
- e. Corner Lots shall place as much Building mass near the intersection as possible to help anchor the Lot and take advantage of the high visibility (Figure 1333.29B, Element A).
- f. Gas station canopies shall be designed as an integral part of the station architecture whenever possible. This can allow for a visual or even physical connection which provides shelter between the vehicle and the Building (Figure 1333.29B, Element B).
- g. Alternative gas station layouts include placing the pumps near the rear of the Lot while having the convenience store out in front near the Street (Figure 1333.29B, Element C). This helps to highlight the Building, shield the utilitarian pump canopy and pulls the curb-cuts away from the intersection, creating easier access.
- h. Older shopping plazas set back far from the Street can benefit from developing the land at the front of their Lot. This helps to define the street character and allows for more “one-stop” shopping and shared parking opportunities (Figure 1333.29B, Element E).
- i. With a group of multiple buildings linked together, the architecture and landscaping shall provide a positive, functional relationship between one another.
- j. Building Articulation
  - (1) Building articulation includes vertical or horizontal changes in materials, texture or wall plane that influence perceived building scale. New development shall incorporate articulation techniques that promote a sense of human scale and divide the mass and scale

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of a larger building into smaller parts that relate to traditionally-scaled buildings.

(a) Use vertical articulation (Figure 1333.29C) techniques to add visual interest and express traditional façade widths. Appropriate vertical articulation techniques include:

1. Wall plane offsets such as notches, porches, or varied façade setbacks
2. Wall projections such as columns, moldings, pilasters or cornices and bays
3. Vertical variations in material.
4. Maximum length of unbroken vertical articulation shall not be more than 50 feet.

(b) Use horizontal articulation (Figure 1333.29D) techniques to establish a sense of human scale in the design of a larger building. Appropriate horizontal articulation techniques include:

1. Stepping back taller building elements
2. Belt courses, expression lines or other techniques that provide horizontal expression
3. Awnings, canopies or other features that help define the ground floor of a building
4. Varied roof forms. Use a combination of gable, hip and flat roof forms to provide visual interest. Vary the roof profile by steeping down some parts of the façade.  
Roofs should project beyond the façade. Flat roofs are discouraged; however, if flat roofs are proposed they shall incorporate roof overhangs, parapet walls, or design features that approximate the look of roof overhangs when viewed from public rights-of-way.
5. Horizontal variations in material.
6. Horizontally dividing the façade into a distinctive base, middle and cap.

(2) Blank walls at ground floor street facades are not permitted, unless an alternative design is approved by the Planning Commission.

(3) Ground floor street facades shall have windows and doors.

(4) All building facades that are visible from a public right of way shall be designed with windows and other architectural elements (such as window sashes, cornices, transoms).

(5) All building facades shall be complementary in design and materials.

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- (6) Upper story windows should not be larger than street level windows and residentially scaled (Figure 1333.29E).
- (7) Street level facades of mixed use buildings shall differ from upper story facades to convey a retail / commercial feel with upper story facades having a residential feel (Figure 1333.29E).
- (8) Windows shall be recessed at least one inch from the plane of the wall.
- (9) Street level window glazing should be of clear vision glass. Stenciling that does not significantly obstruct vision may be acceptable.

k. Structures should be placed at the minimum front setback.

2. Building Material

- a. The front and all sides of a structure(s) that are visible along a public street(s) or dedicated right-of-way or adjacent to a residential use shall consist primarily seventy-five (75) percent of brick, natural and/or cultured masonry stone, fiber cement siding, split face block, EIFS, painted wood clapboard, or some other product deemed appropriate by the Planning Commission. Of the 75%, not more than 50% shall consist of architectural block and is not of a concrete grey color or EIFS. The Planning Commission may consider a greater ratio of split-face block and EIFS provided that the mix of color and undulation creates the appearance of different features or layers. In no instance shall a monochromatic and non-undulated surface be approved. This subsection applies to internal lots, corner lots, and through lots.
- b. The rear of a structure that is not visible from a public street(s) or dedicated right-of-way or adjacent to a residential use, can consist of 100% split face block and/or EIFS and shall be painted/stained to be similar in color to the other sides of the structure.
- c. The requirement in this subsection is not meant to limit the window area proposed for a structure; rather it applies only to those solid portions of the structure.
- d. Concrete masonry units (CMU), split rib CMU, and other related concrete-masonry block materials are not permitted. Manufactured pre-cast concrete panels are not considered stone or brick materials, and their use is prohibited. Metal siding is considered an unacceptable material, unless used as an accent material. This section shall apply to all accessory structures.
- e. Traditional materials and earth tone colors are preferred for building exteriors or colors that are complementary to other material used on the structure and colors shall be non-reflective.

- f. Prohibited materials.
    - (1) Vinyl siding
    - (2) Untreated wood and T1-11 paneling
    - (3) Exposed, smooth faced CMU or slit rib CMU
    - (4) Metal building panel siding
    - (5) Pre-cast concrete panels
    - (6) Panelized brick
  - g. Ensure that synthetic masonry materials convey an authenticity identical to that of genuine masonry.
  - h. Use accent materials to enhance visual interest.
    - (1) Use accent materials to highlight major façade components, iconic building elements, windows and entries.
    - (2) Consider using metal, stone, concrete and other contrasting accent for window headers and sills, belt courses, lintels, and cornices.
  - i. At a building corner, the veneer should wrap around the corner and should, at a minimum, extend to a depth of traditional stone.
  - j. Where a building is taller than one story, heavier masonry material, such as brick and stone shall be on the first floor and lighter masonry elements such as fiber cement siding, stucco or EIFS shall be on the upper floors. This does not preclude heavier masonry material, wood siding or other authentic materials on the upper floors.
  - k. Retaining walls that are visible to the public must be constructed of stone, decorative blocks, stone veneer, or other similar material. Poured concrete and wired gabion are not permitted.
  - l. Decorative trash receptacles matching those in the downtown core shall be installed where accumulation of trash is likely to occur or at intervals that make them convenient to use. (Figure 1333.29F)
  - m. Wall lights can be an architectural element of a building. Therefore, wall lights should complement the building and be designed in styles, materials, and colors that are appropriate to the style of the building. These lights should be in scale with the building and should be full-cutoff, so the source of light is completely enclosed in the fixture to prevent any unwanted light from escaping.
3. Roofs
- a. Sloping roofs shall have durable materials. Metal with standing seems is the preferred material. When asphalt shingles are to be used, only architectural shingles are permitted.

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- b. Flat roofs shall have parapets that screen roof top equipment and mechanical penetrations.
  - c. Roofs should project beyond the façade. Flat roofs are discouraged; however, if flat roofs are proposed they shall incorporate roof overhangs, parapet walls, or design features that approximate the look of roof overhangs when viewed from public rights-of-way.
4. Screening Mechanical Equipment, Loading Docks, and Dumpsters
- a. Loading docks, service areas and trash facilities shall be located at the rear of the Building and not be visible from the Street. Fences, walls or Landscaping can be used to shield them from view (Figure 1333.29A, Element G). Screening materials shall be of the same general character and compatible with the materials used for the principle building. When ground mounted, the screening materials shall consist of opaque materials and landscaping.
  - b. Some Subdivisions/Land Developments may benefit from having a shared access to a common dumpster location, which neighboring properties can use (Figure 1333.29B, Element H).
  - c. Mechanical and electrical equipment, including HVAC units, electrical boxes, water towers, storage tanks, transformers, pump houses, processing equipment, stand fans, cooling towers, communication towers, satellite dishes, vents, stacks, mechanical rooms and any other structures or equipment (whether freestanding or roof mounted) shall be in the rear and screened. Screening can be by the following or a combination of techniques:
    - (1) Whether ground, building or roof mounted, by architectural treatments that are compatible to material used on the building or effectively shielded from public view by an architecturally approved method, including walls and decorative enclosures.
    - (2) Integrating a service or utility area into a gap in a side or rear building wall. (Figure 1333.29G)
    - (3) Landscaping, fences, berms or slopes.
  - d. Storage containers, whether stationary or on wheels, shall be prohibited.
  - e. Additional standards regarding dumpster enclosures can be found in the Charles Town Zoning Ordinance in Article 1323, Supplemental Regulations, Section U and this Ordinance in Section 1333.23 Parking and Loading Standards, subsection L and Section 1333.15, Buffering and Screening Standards.
  - f. Additional standards regarding loading docks can be found in the Charles Town Subdivision Ordinance Section 1333.23 Parking and Loading



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Standards, subsection L and Section 1333.15, Buffering and Screening Standards.

(C) Landscaping

1. The City of Charles Town strongly encourages the incorporation of any existing, older trees into new site plan development to reduce waste and salvage good shade trees, (Figure 1333.29A, Element H). The Charles Town Subdivision Ordinance Section 1333.16 provides for a tree credit for saving existing trees.
2. Landscaped islands and other green space areas shall be consolidated into useful areas, and not just narrow strips of grass or plantings (Figure 1333.29A, Element J). Large shopping plazas shall also attempt to infill the front of their Lots with new commercial space to take advantage of the road frontage.
3. Provide landscaped islands with paths to promote pedestrian circulation across larger parking areas. (Figure 1333.29H)
4. For stormwater facilities, if a perimeter pond fence is to be used, it shall have evergreen shrubs fronting the fence to reduce visual impact. The fence shall be a minimum of four (4) feet tall, black, and vinyl coated. Plantings shall be a minimum of 18 inches at time of planting with an expected minimum height of three (3) feet at time of maturity.
5. In retention ponds that always contain water, measures for aeration, such as fountain features, should be used to reduce water stagnation.
6. Detention areas, which hold temporary runoff, should be planted with moisture tolerant plant material, such as native trees, shrubs and grasses to enhance the aesthetic impact of these features.

(D) Parking

1. In the Old Town Mixed Use District, parking shall be placed at the side or rear of the Lot and screened from view whenever possible (Figure 1333.29A, Element B).
2. For small or single tenant sites, in the front of the structure, only a single drive aisle with parking on either side of the drive aisle is permitted.
3. Whenever possible, attempt to link with adjacent parking lots or provide shared parking areas which can serve neighboring Buildings simultaneously (Figure 1333.29A, Element E). This provides a secondary means of access to the site and can ease congestion on the main Road.
4. Minimize the number of curb-cuts by having a single Access Drive in and out of the property from the main Road whenever possible. Secondary access points from side Roads are encouraged on larger projects when warranted. Curb cuts shall only be as wide as necessary to accommodate needed lanes. Curb radiuses shall be kept to a minimum (Figure 1333.29A, Element I).

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5. The parking lot areas shall be designed in regular, rectangular shapes. Irregular wedge-shaped parking areas created by following angled property lines are discouraged. Only create as much paved area as reasonably necessary.
  6. Provide trees and other landscape screening to shield large parking areas from adjacent Lots (Figure 1333.29B, Element F).
  7. Bicycle Parking
    - a. Bicycle Parking Ratio:
      - (1) For total vehicle parking of up to 100 spaces, the required bicycle parking shall be 10%. From 100 to 200 required vehicle parking spaces, bicycle parking ratio shall be 5%. Beyond 200 required vehicle parking spaces, 2.5% 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 500 feet long, two bicycle racks are required.
    - c. 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.
    - d. Bicycle racks should be of architectural character to compliment that of the buildings and other site features such as lighting and pedestrian amenities.
    - e. Residential bicycle parking should be located indoors or sheltered if feasible to prevent damage to bicycles parked for long periods of time.
    - f. 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 standard black enamel or powder coat finish.
- (E) Outdoor Dining
1. Outdoor dining spaces, when provided, should be located along the sidewalk near the street.
  2. Outdoor dining spaces should include overhead protection from the weather; awnings or table umbrellas are well suited for this purpose.
- (F) Open Space Plaza
1. For developments with a gross floor area greater than 100,000 square feet:
    - a. A public plaza area not less than 750 sq. ft. shall be provided. Such space shall be accessible, usable and visible. Such space shall not be located in such a way as to be surrounded by parking or main access drive where traffic volumes are the most significant. In no instance shall the public plaza

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be less than 25 feet wide. The intent of the public plaza space is to be a square for gathering and is not generally intended to be a linear feature.

- b. Open space shall have at least one bench, minimum of three canopy trees, and is not an asphalt paved surface.
- c. An open space plaza should: be a focal point, include public art, fountain, sculptures, planting beds, connected to sidewalks in the development, and be designed so that adjacent buildings have windows, terraces or other features that provide a visual connection between the building tenants and the open space.
- d. Formal open space areas can be used as transition between adjacent uses and create points of pedestrian destination and connectivity.
- e. Open space plaza shall not be in the floodplain, buffer areas, water features and / or stormwater drainage features, or wetlands. An open space plaza can incorporate low impact development (LID) principles of stormwater management. Permeable pavers are well suited for an open space area.
- f. Orient outdoor open space to views of activities or architectural landmarks to provide visual interest.
- g. Create a sense of enclosure for an outdoor open space area by positioning buildings to frame the space or define it with landscaping

(G) Solar and Energy Efficient Design

- 1. Without adversely affecting the reasonable solar gain of any neighboring property, new plantings should concentrate evergreen trees and hedges on the north side of a structure to protect from wind without interfering with passive solar gain; deciduous, on the south side for seasonal sun control.
- 2. Orient the building consistent with energy conservation principles as feasible.
- 3. Wherever possible, new technologies that reduce energy usage or storm water run-off are encouraged including solar panels, green roofs and permeable surfaces for parking lots.
- 4. Energy efficient building standards are encouraged in the construction of buildings.
- 5. Solar panels are encouraged to be architecturally integrated into the design of the principal structure in terms of placement. It is encouraged that solar panels be flush with the roof or a sidewall to maintain the visual rhythm of the building.

(H) *Pedestrian Circulation.*

- 1. Design Standards. A detailed pedestrian circulation plan that is ADA compliant shall be submitted with all commercial and mixed-use commercial S/LD Applications that shows compliance with the following standards:

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- a. Pedestrian Connections. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
- (1) Provide sidewalks for the full width of the property with a direct link to the primary Building entry (Figure 1333.29A, Element F).
  - (2) The primary entrance or entrances to each commercial building, including pad site buildings;
  - (3) Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development;
  - (4) Any public sidewalk system along perimeter streets adjacent to the commercial development;
  - (5) To the extent practicable and appropriate, adjacent land uses and developments, including but not limited to adjacent residential developments, retail shopping centers, office buildings, or restaurants;
  - (6) To the extent practicable and appropriate, any adjacent public park, greenway, or other public or civic use including but not limited to schools, places of worship, public recreational facilities, or government offices;
  - (7) All parking areas that serve such primary building and shall connect all parking areas to the larger sidewalk network to maximize pedestrian connectivity between uses and sites; and
  - (8) Site amenities or gathering places.
- b. Pedestrian Connections to Perimeter Public Sidewalks.
- (1) Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalk to the interior walkway network.
- c. Minimum Walkway Width. Notwithstanding the minimum sidewalk provisions of Article 1333.09 of the Charles Town Subdivision and Land Development Ordinance, all on-site commercial pedestrian walkways and sidewalks shall be a minimum of five (5) feet wide; except that walkways adjacent to a parking area, where the front or rear of parked cars may overhang the walkway shall be a minimum six (6) feet wide.

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- d. Walkways Along Buildings.
- (1) Walkways Along Primary Buildings: Notwithstanding the minimum sidewalk provisions of Article 1333.09 of the Charles Town Subdivision and Land Development Ordinance, continuous pedestrian walkways no less than eight (8) feet wide shall be provided along the full length of a primary building along any facade featuring a customer entrance and along any facade abutting customer parking areas.
  - (2) Walkways Along Pad Site Buildings: Notwithstanding the minimum sidewalk provisions of Article 1333.09 of the Charles Town Subdivision and Land Development Ordinance, continuous pedestrian walkways no less than five (5) feet wide shall be provided along the full length of a pad site building along any facade featuring a customer entrance and along any facade abutting customer parking areas, except where the front or rear of parked cars may overhang the walkway the walkway shall be a minimum six (6) feet wide.
  - (3) Walkways Through Vehicle Areas in Large Commercial Centers: At each point that the on-site pedestrian walkway system crosses a parking lot or internal street or driveway, the walkway or crosswalk shall be clearly marked through the use of a change in paving materials distinguished by their color, texture, or height.
- e. A well-planned sidewalk is an essential element of a successful streetscape. A sidewalk should have three zones: the building zone, the path of travel, and the curb zone. Generally, a clear path of travel is located down the center of the sidewalk, while the building zone is the area adjacent to the building/property line. The outer edge of the sidewalk is the curb zone, and this is where the street furniture, signs and parking meters can usually be found Figure 1333.29I.
- (1) Building/Frontage Zone: The building zone is the zone of transition from the building facade to the sidewalk. The zone may include plantings, architectural features, entrances, steps, awnings, seating, etc. This zone should be 0-6 feet if outdoor seating is provided.
  - (2) Pedestrian/Sidewalk Zone: The pedestrian zone is the zone of strong pedestrian activity along a sidewalk, bound by the building zone on one side and the curb zone on the other. This zone is generally free of obstacles but may allow encroachments of planting, seating or kiosks. This zone shall be a minimum of 5 feet wide.
  - (3) Curb Zone: The curb zone is the zone of transition from the sidewalk to the street. Most of the utilitarian fixtures such as fire

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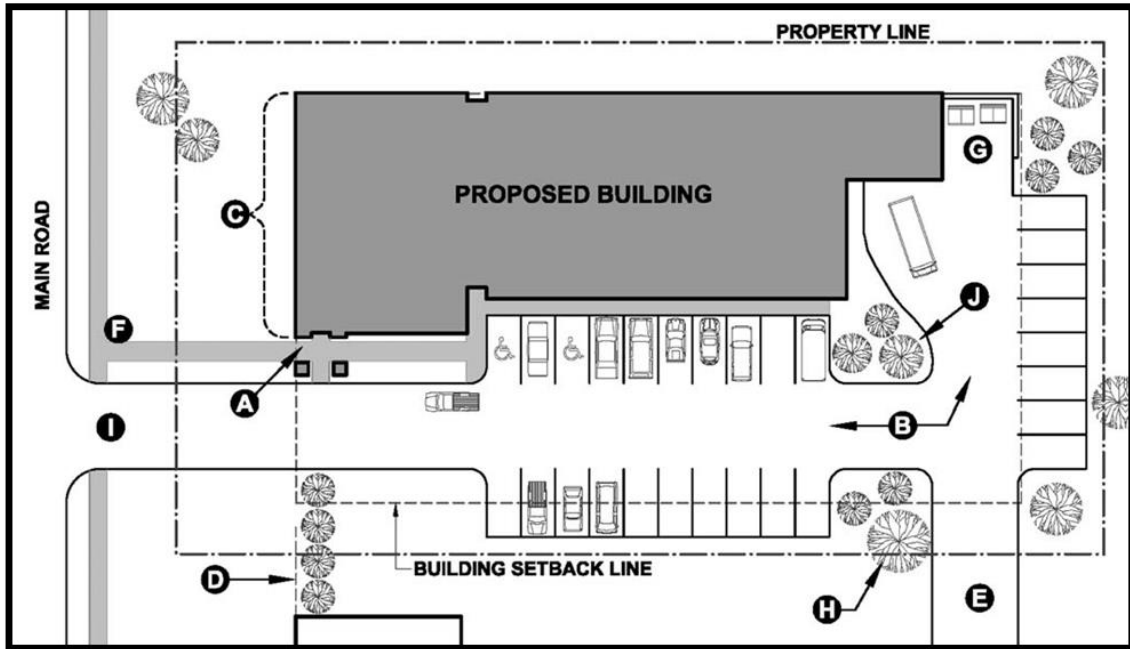
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hydrants, streetlights and street trees are located in this zone. This zone should be a minimum of 3 feet.

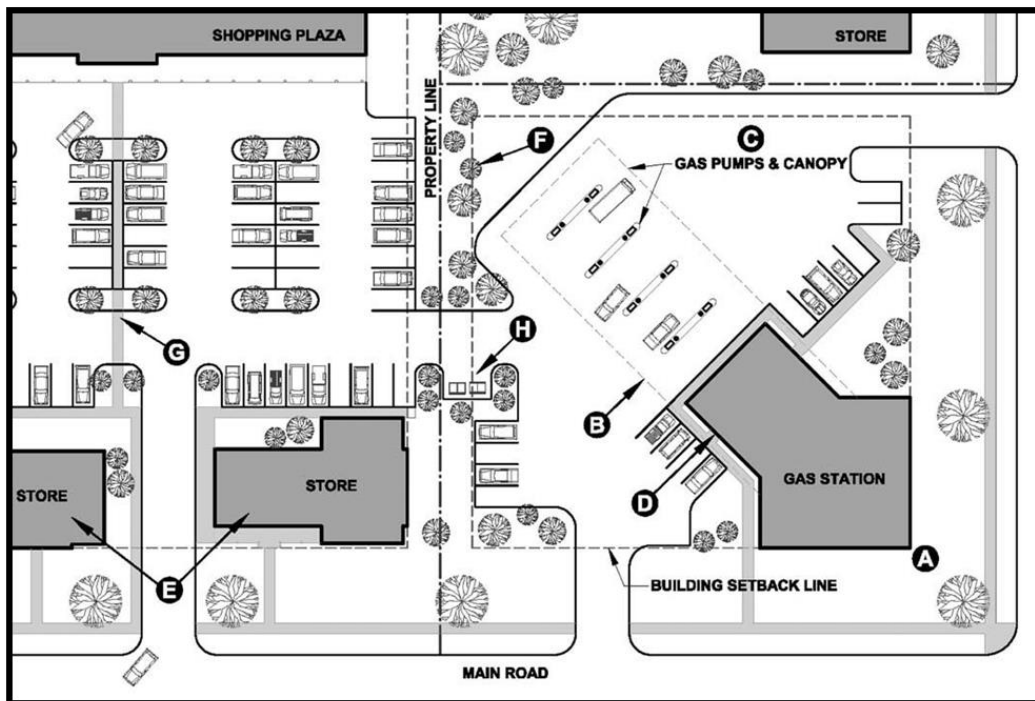
- f. Bench locations should not create unsafe obstacles for pedestrian traffic and should not obstruct building doorways.
- g. Potential conflict points between pedestrians or bicyclists and motor vehicles must be minimized.
- h. Fences must be designed to avoid barriers to pedestrian connections.

(l) *Public Amenities.*

1. Comfortable and attractive street furniture that is accessible to the physically disabled shall be provided in public spaces for public enjoyment and comfort. Street furniture may include seating and tables, drinking fountains, trash receptacles, information kiosks, and directories. These types of pedestrian amenities help to encourage the use of public space.
2. Where appropriate, public transportation stops and shelters shall be incorporated in the site design. The Eastern Panhandle Transit Authority (PanTran) shall be consulted to determine the exact placement of public transportation shelters and similar amenities.
3. Public Spaces shall strive to incorporate the amenities and design features conveyed through the American Planning Association's Characteristics and Guidelines for Great Public Spaces.
4. All site amenities shall be ADA accessible and usable by everyone.



**Figure 1333.29A: Sample Site Layout.** The Building is brought forward as close to the Street as possible, with parking and other services tucked around the side and back. This helps to define the identity of the Street and gives the business maximum public exposure.



**Figure 1333.29B: Redefining the Edges.** Corner Lots are especially important in defining the Street. Special attention shall be paid to bringing the Building mass all the way out to meet the corner. Large shopping plazas shall also attempt to infill the front of their Lots with new commercial space to take advantage of the road frontage.



**Figure 1333.29C: Vertical Articulation**



**Figure 1333.29D: Horizontal Articulation**

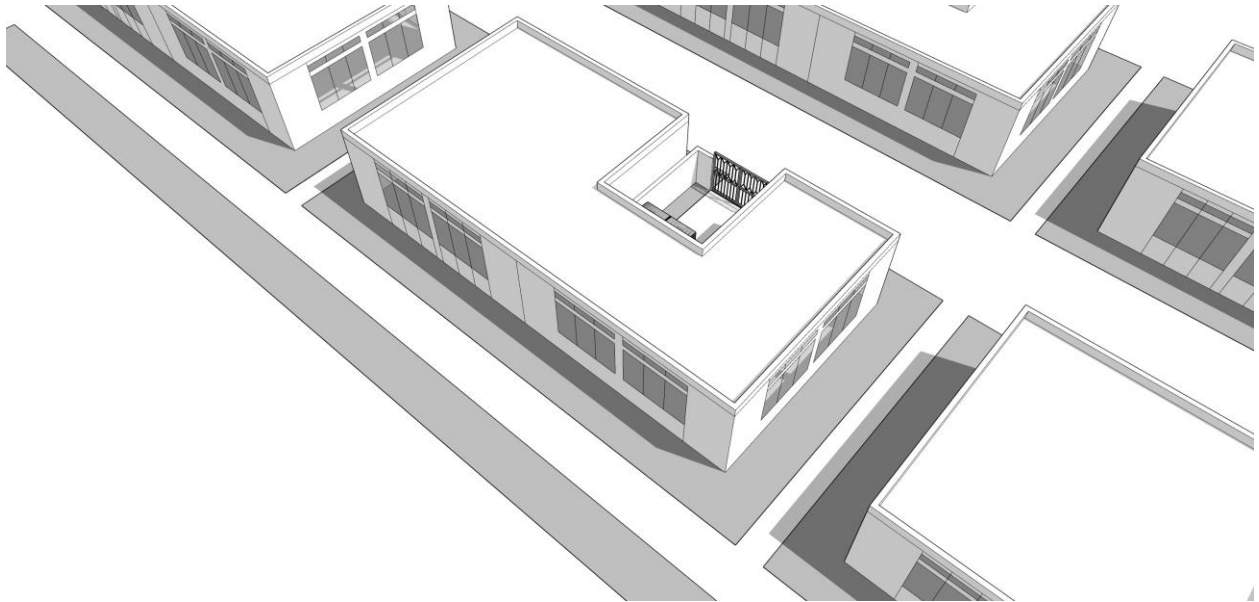




**Figure 1333.29E: Building Scale and Proportion**

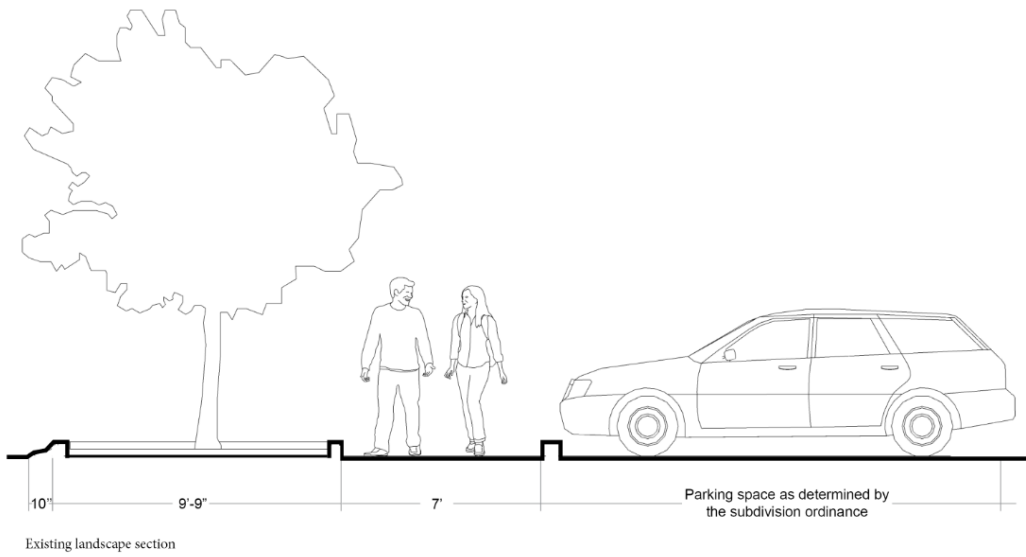
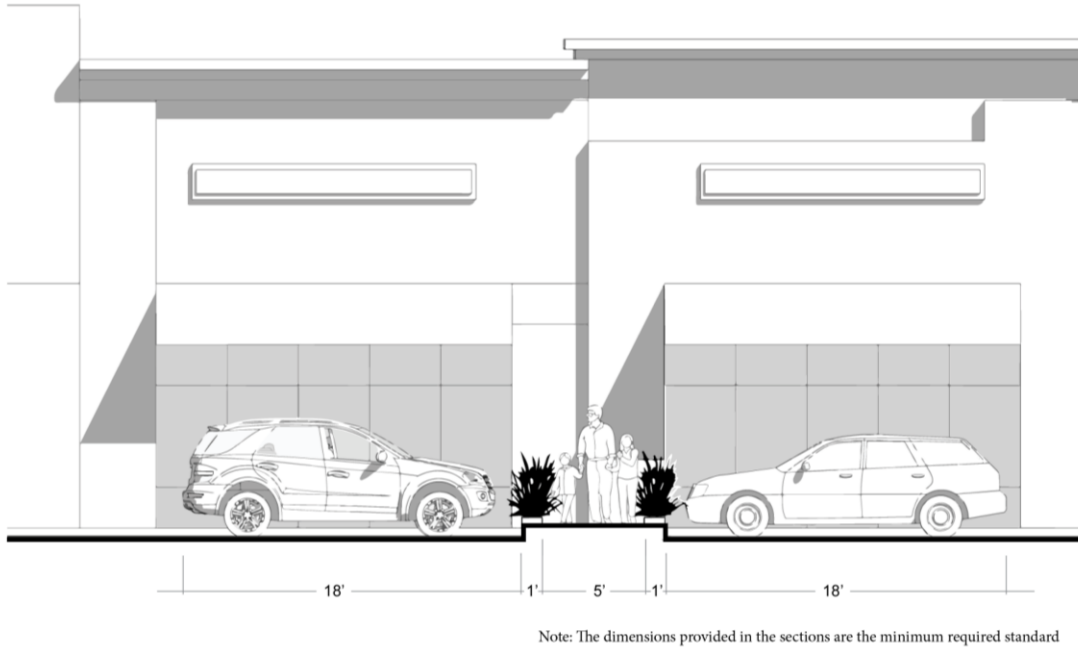


**Figure 1333.29F: Streetscape Accessory**



**Figure 1333.29G: Recessed Alcove for Mechanical Equipment**

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**Figure 1333.29H: Pedestrian Pathway Through Parking Lot**

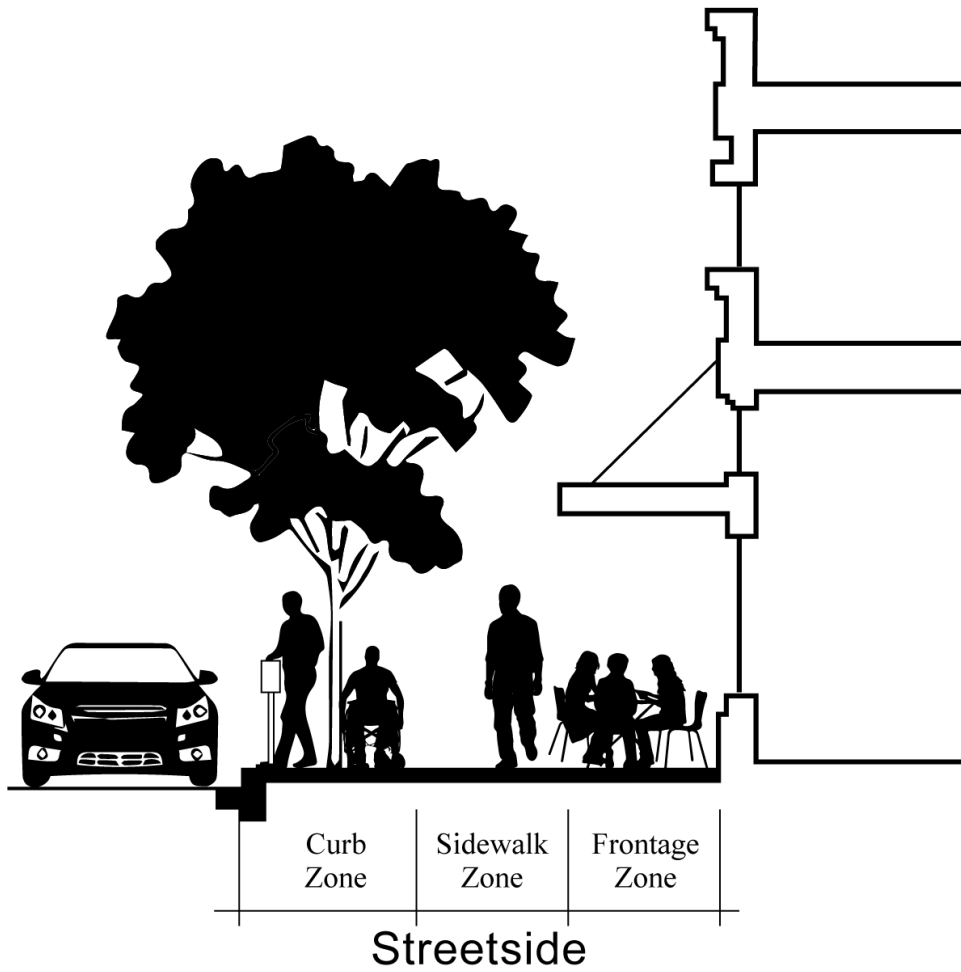


Figure 1333.29I: Sidewalk Zones

**ARTICLE 1334, WATER CONTROL STANDARDS**

**Section 1334.01, Stormwater Management Control Standards**

The City of Charles Town has adopted the following stormwater management control standards to address increasing Development in the City. This Section is designed to mitigate the Stormwater impacts created by Development.

(A) *General Provisions.*

1. *Referenced Document.* The City of Charles Town adopts by this reference the stormwater management methods, standards, and regulations contained in the *Virginia Stormwater Management Handbook* for the purposes of this Section. All Stormwater Management Plans shall be consistent with the regulations and design standards established in said handbook; *provided that*, in the event applicable West Virginia law prescribes conflicting regulations or standards, with the Virginia Stormwater Management Handbook, the West Virginia regulations and standards shall prevail and references herein to the *Virginia Stormwater Management Handbook* shall be deemed references to such West Virginia law to the extent of the conflicting regulations and standards.
2. *Stormwater Management References.* The City of Charles Town will utilize and applicants and agents thereof shall follow the policy, criteria, and information including specifications and standards of the following publications, which are hereby adopted by reference:
  - a. Virginia Stormwater Management Handbook, vols. 1 and 2, 1st ed. (1999)
  - b. Chesapeake Stormwater Network Technical Bulletin No. 1, "Stormwater Design Guidelines for Karst Terrain in the Chesapeake Bay Watershed," version 2.0 (June 2009)
  - c. Darrin Holmes and Ramesh Chintala, West Virginia Division of Highways Drainage Manual, 3rd ed. (Charleston, WV: West Virginia Department of Transportation, Division of Highways, Engineering division, Hydraulic & Drainage unit, December 2007)
  - d. West Virginia Stormwater Management and Design Guidance Manual (2012)

(B) *Purpose.* The purpose of this Section is to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in Watersheds within this jurisdiction, and protect aquatic resources. This Section seeks to meet that purpose through the following objectives:

1. Require that Subdivision/Land Development activities maintain the after-development Runoff Characteristics, as nearly as practicable, as the pre-development Runoff Characteristics in order to reduce flooding, siltation, stream bank erosion, and property damage.

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2. Establish minimum design criteria for the protection of properties and aquatic resources downstream from Subdivision/Land Development activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of Stormwater Runoff.
  3. Establish minimum design criteria for measures to minimize Non-point Source Pollution from Stormwater Runoff which would otherwise degrade water quality.
  4. Establish responsible provisions for the long-term maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of Runoff.
  5. Establish certain administrative procedures for the submission, review, approval, and disapproval of stormwater plans, and the inspection of approved projects.
- (C) *Applicability.* To prevent the adverse impacts of Stormwater Runoff, these performance standards shall be applicable to any application for approval of a Subdivision/Land Development that will involve disturbing 3,000 square feet of land or more.
- (D) *Low Impact Development (LID).* Low Impact Development (LID) is 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. LID is recommended as an alternative to standard stormwater management practices.
1. The use of Low Impact Development and Integrated Management Practices (IMPs) in conjunction with or in lieu of traditional Stormwater Management shall be encouraged to control Stormwater Runoff at the source and more closely approximate predevelopment Runoff conditions.
  2. Low Impact Development stormwater management design plans developed consistent with the requirements of this subsection shall satisfy the water quality and quantity performance criteria of this Ordinance.
  3. The design criteria, hydrologic analysis, and computational procedures for Low Impact Development stormwater management design plans shall be those of the Low Impact Development (LID) toolkit manual referenced in Section 1334.01(A)(2) above or those found in the latest edition of the *West Virginia Stormwater Management and Design Guidance Manual* or any documents referenced therein.
  4. Any LID stormwater management design plan must comply, and shall not conflict, with applicable federal, state or City of Charles Town laws, Ordinances, regulations or policies.
  5. Storm Drainage Easements shall be recorded on the development plat and on the plat of any applicable lot to identify the locations of Integrated Management Practices on Lots or parcels. Said plats and plans shall contain the following language: "Plat Conditions: The Storm Drainage Easement designated hereon shall not be removed or structurally altered, including Integrated Management Practices, without prior written approval from the City of Charles Town's Department of Community Development.

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6. Stormwater Runoff from parking lots shall utilize stormwater management Infiltration Facilities and/or stormwater management filtering systems. These shall be placed within or near the parking lot islands.
- (E) *Stormwater Management Plan Content.* No S/LD Application will be approved unless it includes a proposed Stormwater Management Plan, as required by this Section, detailing how Runoff and associated water quality impacts resulting from the activity will be controlled or managed, and until the Subdivision Administrator approves such Stormwater Management Plan (as it may have been revised by the applicant), upon a determination of compliance with the requirements of this Section. All Stormwater Management Plans shall be adequately sealed and signed by a Professional Engineer, in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with West Virginia Code Chapter 30 and attendant regulations, certifying that the plan meets all submittal requirements outlined in this Ordinance and is consistent with good engineering practice. The Stormwater Management Plan shall include all of the information required in the Stormwater Management Plan Checklist (supplement to the *Virginia Stormwater Management Handbook*). This checklist includes, without limitation, the following items:
1. *Contact Information.* The name, address, and telephone number of all Persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
  2. *Map(s).* A map or maps indicating the location of existing and proposed Buildings, Roads, parking areas, utilities, and structural Stormwater Management and Sediment Control Facilities shall be provided in the Stormwater Management Plan. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, Roads and Easements; and the limits of clearing and grading; all as consistent with the proposed S/LD Application.
  3. *Topographic Base Map.* A 1" = 200' topographic base map of the site which extends a minimum of 200' feet beyond the limits of the proposed Subdivision/Land Development. The map shall also indicate existing surface water Drainage including streams, ponds, culverts, ditches, and Wetlands; current land use including all existing Structures; locations of utilities, Roads, and Easements; and significant natural and manmade features not otherwise shown.
  4. *Natural Resource Inventory.* A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the Watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, Wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features (e.g., Wetlands, Floodplains, steep Slopes, etc.) that provide particular opportunities or constraints for Development.
  5. *Calculations.* Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the Design Storms specified in this Ordinance. Such calculations shall include:

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- a. Description of the Design Storm frequency, intensity and duration;
  - b. Time of Concentration;
  - c. Soil Curve Numbers or runoff coefficients;
  - d. Peak runoff rates and total runoff volumes for each Watershed;
  - e. Infiltration rates, where applicable;
  - f. Culvert capacities;
  - g. Flow velocities;
  - h. Data on the increase in rate and volume of Runoff for the specified Design Storms; and
  - i. Documentation of sources for all computation methods and field test results.
6. *Engineering Analysis.* Sufficient engineering analysis to show that the proposed Stormwater Management measures are capable of controlling Runoff from the site in compliance with this Ordinance and the specifications of the *Virginia Stormwater Management Handbook*.
7. *Soils Information.* Geotechnical properties for the hydrologic and structural properties of soils, especially for dam embankments, shall be described in a soils report. The submitted report shall include boring depth, sampling frequency and types and associated laboratory testing with results and conclusions and follow the criteria in the *Virginia Stormwater Management Handbook*. Soil properties for Infiltration Facilities shall also conform to the guidance and specification outlined in the *Virginia Stormwater Management Handbook*.
8. *Maintenance Requirements.*
- a. *Maintenance Plan.* The design and planning of all Stormwater Management Facilities shall include detailed maintenance procedures to ensure their continued function. These plans will identify the parts or components of a Stormwater Management Facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
  - b. *Maintenance Easements & Agreement.* The applicant must ensure access to all stormwater treatment facilities at the site for the purpose of inspection and repair by securing all the maintenance Easements needed on a permanent basis. These Easements will be recorded with the Final Record Plat and will remain in effect even with transfer of title to the property.



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Further, a covenant for maintenance of the facilities, binding on all subsequent owners of land served by the facilities or an owner's association, shall be entered and recorded with the Final Record Plat.

9. *Landscaping Plan.* The applicant must present a detailed landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater facilities. The landscaping plan must also describe who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected Best Management Practice (hereinafter "BMP").
10. *Erosion and Sediment Control Plans for Construction of Stormwater Management Measures.* The applicant must prepare an Erosion and Sediment Control Plan in accordance with Section G4, Stormwater Pollution Prevention Plans, of the West Virginia/National Pollutant Discharge Elimination System General Water Pollution Control Permit for all construction activities related to implementing any on-site stormwater management practices.
11. *Other Environmental Permits.* The applicant shall provide verification to the Subdivision Administrator that all other applicable environmental permits have been acquired for the site prior to approval of the Stormwater Management Plan.

(F) *Waiver of Stormwater Management Requirements.*

1. General
  - a. This Article is intended to provide a procedure to achieve the water quality and quantity objectives of this Ordinance while providing reasonable flexibility for difficult Site conditions and innovative Site design approaches.
  - b. The provisions of this Ordinance are the minimum requirements for the protection of the public's health, safety, and welfare, and should be strictly adhered to. Written requests for waivers to or modifications of these requirements should be granted only where the requirements of strict adherence would be unreasonable, cause undue hardship, or an alternative standard can be demonstrated to provide equal or better results.
2. Request for Waiver or Modification
  - a. Every applicant defined under Article 1334 of this Ordinance shall submit a Stormwater Management Plan unless a written request for a waiver seeking relief from the stormwater management standards of this Ordinance is filed with the Charles Town Planning Commission and such request is granted by the Charles Town Planning Commission.
  - b. If the applicant demonstrates to the satisfaction of the Charles Town Planning Commission that any stormwater management requirements of this Ordinance are unreasonable or cause undue hardship as it applies to

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the proposed Land Disturbance Activity(ies), the Charles Town Planning Commission may grant relief to such standards provided that such relief meets the findings specified (d) below.

- c. The applicant shall submit all request for waivers in writing to the Charles Town Planning Commission and shall include such requests as part of the Stormwater Management Plan review and approval process as defined in this Ordinance. The applicant shall state in full the facts of unreasonableness or hardship on which the request is based, the provision or provisions of this Ordinance that are involved, and the minimum waiver or relief that is necessary. The applicant shall state how the requested waiver and how the applicant's proposal shall result in an equal or better means of complying with the water quality and quantity objectives and requirements of this Ordinance.
- d. The Charles Town Planning Commission may grant waivers or a modification of requirements when the following findings are made, as relevant:
  - (1) The waiver will not create an adverse impact to water quality and water quantity.
  - (2) The waiver is the minimum necessary to provide relief.
  - (3) The applicant is not requesting a waiver based on cost considerations.
  - (4) Existing off-site stormwater problems will not be exacerbated.
  - (5) Runoff is not being diverted to a different drainage area.
  - (6) Increased flooding or ponding on off-site properties or roadways will not occur.
  - (7) Potential icing conditions will not occur.
  - (8) Increase of peak flow or volume from the Site will not occur.
  - (9) Erosive conditions due to increased peak flows or volume will not occur.
  - (10) Increased 100-year floodplain levels will not result.
  - (11) Increased or unusual municipal maintenance expense will not result from the waiver.
  - (12) The amount of stormwater generated has been minimized to the greatest extent allowed.
  - (13) Infiltration of Runoff through the proposed Site has been provided where practicable, and Pre-development groundwater recharge protected at a minimum.
  - (14) Peak flow attenuation of Runoff has been provided.
  - (15) Long-term operations and maintenance activities are established.
  - (16) The downstream waterways within the watershed containing the site that will receive runoff will not be subject to each of the following criteria:
    - (a) Deterioration of existing culverts, bridges, dams, and other structures.
    - (b) Deterioration of biological functions or habitat.
    - (c) Accelerated streambank or streambed Erosion or siltation.

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- (d) Increased threat of flood damage to public health, life, and property.
- (G) *General Criteria for Stormwater Management Plans.* The following technical criteria shall apply to Stormwater Management Plans for all Subdivision/Land Development activities, except as otherwise specified herein.
- 1. *General.*
    - a. Determination of flooding and channel erosion impacts to receiving streams due to Subdivision/Land Development projects shall be measured at each point of discharge from the Subdivision/Land Development project and such determination shall include any Runoff from the balance of the Watershed which also contributes to that point of discharge.
    - b. The specified Design Storms shall be defined as either a 24-hour storm using the rainfall distribution recommended by the U.S. Soil Conservation Service when using U.S. Soil Conservation Service methods or as the storm of critical duration that produces the greatest required storage volume at the site when using a design method such as the Modified Rational Method.
    - c. For purposes of computing Runoff, all pervious lands in the site shall be assumed prior to Development to be in good condition (if the lands are pastures, lawns, or parks), with good cover (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless of conditions existing at the time of computation.
    - d. Construction of Stormwater Management Facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of approval of all necessary permits, such as U.S. Army Corps of Engineers and West Virginia DEP: Notice of Intent, Stormwater Construction, Stormwater Pollution Prevention Plans permits, National Pollutant Discharge Elimination System (as defined in Article 1336 of this Ordinance and hereinafter referred to as NPDES) Permits, etc., shall be presented.
    - e. Impounding Structures shall be engineered for structural integrity during the 100-year storm event.
    - f. Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices.
    - g. Outflows from a Stormwater Management Facility shall be discharged to an adequate channel, and velocity dissipaters shall be placed at the outfall of all Stormwater Management Facilities and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the basin to a channel.
    - h. Proposed residential, commercial, or industrial Subdivisions shall apply these stormwater management criteria to the Land Development as a

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whole. Individual Lots in new Subdivisions shall not be considered separate Land Development projects, but rather the entire Subdivision shall be considered a single Land Development project. Hydrologic parameters shall reflect the ultimate Subdivision/Land Development and shall be used in all engineering calculations.

- i. All Stormwater Management Facilities shall have a maintenance plan which identifies the owner and the responsible party for carrying out the maintenance plan.
- j. Construction of Stormwater Management impoundment Structures within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to the extent possible. When this is unavoidable, all Stormwater Management Facility construction shall be in compliance with all applicable regulations under the National Flood Insurance Program, Title 44 of the Code of Federal Regulations, Section 60.3.
- k. Natural channel characteristics shall be preserved to the maximum extent practicable.
- l. Subdivision/Land Development projects shall comply with the West Virginia/National Pollutant Discharge Elimination System General Water Pollution Control Permit, Section G4, Stormwater Pollution Prevention Plans.
- m. Non-Structural Stormwater Treatment Practices designed to reduce the volume of Stormwater Runoff are encouraged to reduce the amount of Stormwater Runoff that must be managed. This will help to minimize the reliance on structural practices which require ongoing maintenance in order to be effective.
- n. In areas that are underlain by limestone bedrock, Stormwater Management Facilities shall be designed to minimize the concentration of Stormwater Runoff. A detailed geologic evaluation of the project site shall be performed to determine the suitability of recharge facilities. The evaluation shall be performed by a qualified geologist and/or soil scientist, and at a minimum, address soil permeability, depth of bedrock, susceptibility to sinkhole formation, and subgrade stability. Where pervious pavement is permitted for parking lots, recreational facilities, non-dedicated Streets, or other areas, pavement construction specifications shall be noted on the plan. Stormwater Management Facilities for the recharge of groundwater in limestone bedrock areas must provide for Infiltration opportunities distributed over a very large area. Examples include filter strips, large bio-retention areas, and pervious pavement. Stormwater Management Facilities that create concentrated sources of Infiltration, such as infiltration trenches or dry wells shall not be used in limestone bedrock areas.
- o. Whenever a basin will be located in an area underlain by limestone, a geological evaluation of the proposed location shall be conducted to determine susceptibility to sinkhole formations. The design of all facilities

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over limestone formations shall include measures to prevent groundwater contamination and, where necessary, sinkhole formation. Soils used for the construction of basins shall have low erodibility factors ("K" factors). The Subdivision Administrator may require the installation of an impermeable liner in detention basins as may be warranted by the detailed geologic evaluation specified under Section (n) above.

- p. It shall be the applicant's responsibility to verify if the site is underlain by karst geology. The following note shall be attached to all Stormwater Management Plans and signed and sealed by the applicant's Professional Engineer, Professional Land Surveyor, or landscape architect:

"I, \_\_\_\_\_, CERTIFY THAT THE PROPOSED DETENTION BASIN (CIRCLE ONE) IS/IS NOT UNDERLAIN BY KARST GEOLOGY."

2. *Structural Stormwater Management Practices.*

- a. *Minimum Control Requirements.* All Stormwater Management Facilities shall be designed so that the specific storm frequency storage volumes (e.g., water quality, channel protection, 10-year, 100-year) as identified in the current *Virginia Stormwater Management Handbook* are met, unless the Planning Commission grants the applicant a waiver or the applicant is exempt from such requirements.
- b. In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Charles Town reserves the right to impose any and all additional requirements deemed necessary to protect downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of Stormwater Runoff.
- c. *Site Design Feasibility.* Stormwater Management Facilities for a site shall be chosen based on the physical conditions of the site. Applicants shall consult the *Virginia Stormwater Management Handbook* for guidance on the factors that determine site design feasibility when selecting a stormwater management practice. Among the factors that should be considered:
- (1) Topography
  - (2) Maximum drainage area
  - (3) Depth to water table
  - (4) Soils
  - (5) Slopes
  - (6) Terrain

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- (7) Hydraulic head
    - (8) Location in relation to environmentally sensitive features or ultra-urban areas.
  - d. *Conveyance Issues.* The *Virginia Stormwater Management Handbook* provides detailed guidance on the requirements for conveyance for each of the approved stormwater management practices. All stormwater management practices shall be designed to convey Stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:
    - (1) Maximizing of flowpaths from inflow points to outflow points
    - (2) Protection of inlet and outfall structures
    - (3) Elimination of erosive flow velocities
    - (4) Providing of underdrain systems, where applicable.
- 3. *Pretreatment Requirements.* Every Stormwater Treatment Practice shall have an acceptable form of water quality pretreatment (for on-site sources of contamination), in accordance with the pretreatment requirements found in the current *Virginia Stormwater Management Handbook*. Stormwater Infiltration practices, or practices having an Infiltration component, as specified in the *Virginia Stormwater Management Handbook*, are prohibited, even with pretreatment, in the following circumstances:
  - a. Where Stormwater is generated from highly contaminated source areas known as “hotspots”;
  - b. Where Stormwater is carried in a conveyance system that also carries contaminated, non-stormwater discharges; or
  - c. Where Stormwater is being managed in a designated groundwater recharge area under certain geologic conditions (e.g., Karst) that prohibit the proper pretreatment of Stormwater.
- 4. *Treatment/Geometry Conditions.* All stormwater management practices shall be designed to capture and treat Stormwater Runoff according to the specifications outlined in the *Virginia Stormwater Management Handbook*. These specifications will designate the water quality treatment and water quantity criteria that apply to an approved Stormwater Management Facility. Stormwater Management practices shall be selected to accommodate the unique hydrologic or geologic conditions of the site.
- 5. *Maintenance Agreements.* A legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment facilities shall be secured prior to approval of the Final S/LD Application. In addition, all stormwater treatment facilities shall have an enforceable operation and

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Maintenance Agreement to ensure the system functions as designed. This agreement will include any and all maintenance Easements required for the City of Charles Town to access and inspect the stormwater treatment facilities.

6. *Water Quality.* Unless judged by the Planning Commission for a project to be exempt, the following criteria shall be addressed for Stormwater Management at all sites:
  - a. All Stormwater Runoff generated from Subdivision/Land Development activities shall not discharge untreated Stormwater Runoff directly into a Jurisdictional Wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functions shall be assessed using a method acceptable to the Subdivision Administrator. In no case shall the adverse impact on functions be any greater than allowed by the U.S. Army Corp of Engineers (ACE) or the West Virginia Department of Environmental Protection.
  - b. Annual groundwater recharge rates shall be maintained to the greatest extent possible by promoting infiltration through the use of LID structural and non-structural methods as prescribed by the Chesapeake Stormwater Network Technical Bulletin No. 1, “Stormwater Design Guidelines for Karst Terrain in the Chesapeake Bay Watershed,” (current edition).
  - c. Subdivision/Land Development projects shall comply with either the water quality performance-based criteria, technology-based criteria, or the runoff reduction based criteria in accordance with the following:
    - (1) *Performance-based criteria.* For Subdivision/Land Development, the calculated post-development Non-point Source Pollutant Runoff Load shall be compared to the calculated pre-development load based upon the average land cover condition or the existing site condition. A BMP shall be located, designed, and maintained to achieve the target pollutant removal efficiencies specified in Table 1334.01 to effectively reduce the pollutant load to the required level based upon the following four applicable Subdivision/Land Development situations for which the performance criteria apply:
      - (a) Situation 1 consists of Subdivision/Land Development where the existing percent Impervious Cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent Impervious Cover which is less than the average land cover condition.  
  
Requirement: No reduction in the after-development pollutant discharge is required.

**Table 1334.01, Stormwater Management Performance-Based Criteria**

<b>Water Quality BMP</b>	<b>Target Phosphorus Removal Efficiency</b>	<b>Percent Impervious Cover</b>
Vegetated Filter Strip Grassed Swale	10% 15%	16-21%
Constructed Wetlands Extended Detention (2 x WQ Vol) Retention Basin I (3 x WQ Vol)	30% 35% 40%	22-37%
Bioretention Basin Bioretention Filter Extended Detention- Enhanced Retention Basin II (4 x WQ Vol) Infiltration (1 x WQ Vol)	50% 50% 50% 50%	38-66%
Sand Filter Infiltration (2 x WQ Vol) Retention Basin III (4 x WQ Vol with aquatic bench)	65% 65% 65%	67%-100%

*Note: Innovative or alternate BMPs not included in this table (including without limitation those that target nonpoint source pollution other than phosphorous, such as petroleum, hydrocarbons, sediment, etc.) may be allowed at the discretion of the Planning Commission upon the recommendation of the City Engineer.*

- (b) Situation 2 consists of Subdivision/Land Development where the existing percent Impervious Cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent Impervious Cover which is greater than the average land cover condition.

Requirement: The pollutant discharge after Development shall not exceed the existing pollutant discharge based on the average land cover condition.

- (c) Situation 3 consists of Subdivision/Land Development where the existing percent Impervious Cover is greater than the average land cover condition.

Requirement: The pollutant discharge after Development shall not exceed (i) the pollutant discharge based on existing conditions less 10% or (ii) the pollutant discharge based on the average land cover condition, whichever is greater.

- (d) Situation 4 consists of Subdivision/Land Development where the existing percent Impervious Cover is served by an existing stormwater management BMP that addresses water quality.



Requirement: The pollutant discharge after Development shall not exceed the existing pollutant discharge based on the existing percent Impervious Cover while served by the existing BMP. The existing BMP shall be shown to have been designed and constructed in accordance with proper design standards and specifications, and to be in proper functioning condition.

- (2) *Technology-based criteria.* For Subdivisions/Land Developments, the post-developed Stormwater Runoff from the Impervious Cover shall be treated by an appropriate BMP as required by the post-developed condition percent Impervious Cover as specified in Table 1334.01. The selected BMP shall be located, designed, and maintained to perform at the target pollutant removal efficiency specified in Table 1334.01. Design standards and specifications for the BMPs in Table 1334.01 which meet the required target pollutant removal efficiency shall be consistent with those provided in the *Virginia Stormwater Management Handbook*.
- (a) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, recharge areas, water supply reservoirs) may be subject to additional criteria, or may need to utilize or restrict certain stormwater management practices at the discretion of the Subdivision Administrator.
- (b) Industrial sites which are listed under the Standard Industrial Code are required to prepare and implement a Stormwater Pollution Prevention Plan, and shall file a notice of intent (NOI) under the provisions of the NPDES general permit. The Stormwater Pollution Prevention Plan requirement applies to both existing and new industrial sites.
- (c) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots”, may require the use of specific structural BMPs and pollution prevention practices.
- (d) Prior to design, applicants are required to consult with the Subdivision Administrator to determine if they are subject to additional stormwater design requirements.
- (3) *Runoff Reduction-based criteria:* For Subdivisions/Land Developments, Stormwater management measures shall be designed to capture and treat the Runoff volume from the first one inch of rainfall from a 24-hour storm event. Allowable LID or BMP methods used to achieve this runoff reduction can be provided by any of the design guidelines acceptable by reference as defined in subsection (A) of this article or other models available in the public

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domain as deemed acceptable by the City of Charles Town Planning Department. One-inch capture calculations can be estimated utilizing WVDEP's Stormwater Spreadsheet Tool provided through:

<http://www.dep.wv.gov/WWE/Programs/stormwater/MS4/permits/Pages/ToolsandGuidance.aspx>

7. *Stream Channel Erosion.*

- a. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the *Virginia Stormwater Management Handbook*; the West Virginia/National Pollutant Discharge Elimination System General Water Pollution Control Permit, Section G4, Stormwater Pollution Prevention Plans; and the West Virginia Best Management Practices (BMPs) Manual.
- b. Properties and receiving waterways downstream of any Subdivision/Land Development project shall be protected from erosion and damage due to increases in volume, velocity and frequency of peak flow rate of Stormwater Runoff in accordance with the minimum design standards set out in this section.
- c. An applicant must show that the runoff from the development project, (from a 2-year frequency storm) will not damage adjacent properties, or exceed the capacity or cause erosion of receiving streams. This must be proven by engineering calculations in the Erosion and Sediment Control Plan.
- d. The Subdivision Administrator may determine that some Watersheds or receiving stream systems require enhanced criteria in order to address the increased frequency of bankfull flow conditions brought on by Subdivision/Land Development projects. Therefore, in lieu of Section 1334.01(G)(7)(c) above, the Subdivision/Land Development project being considered shall provide 24-hour extended Detention of the Runoff generated by the 1-year, 24-hour duration storm.
- e. In addition to the requirements of Subsections 1334.01(G)(8)(b) and (c), more stringent channel analysis criteria or design standards may be required by the Subdivision Administrator, with consultation by City Engineer, to ensure that the natural level of channel erosion, to the maximum extent practicable, will not increase due to Subdivision/Land Development projects. These criteria may include, but are not limited to, the following:
  - (1) Criteria and procedures for channel analysis and classification.
  - (2) Procedures for channel data collection.
  - (3) Criteria and procedures for the determination of the magnitude and frequency of natural sediment transport loads.

- (4) Criteria for the selection of proposed natural or man-made channel linings.

8. *Flooding.*

- a. The calculations for determining peak flows as found in the *Virginia Stormwater Management Handbook* shall be used for sizing all stormwater management practices.
- b. Downstream properties and waterways shall be protected from damages from localized flooding due to increases in volume, velocity and peak flow rate of Stormwater Runoff in accordance with the minimum design standards set out in this section.
- c. The 10-year post-developed peak rate of Runoff from the Subdivision/Land Development site shall not exceed the 10-year pre-developed peak rate of Runoff.
- d. Linear Development Projects shall not be required to control post-developed Stormwater Runoff for flooding, except in accordance with any applicable Watershed or Regional Stormwater Management Plan.

(H) *Construction Inspection.*

- 1. Stormwater management construction inspection shall utilize the final approved plans and specifications for compliance. In addition, the inspection shall comply with Section 1334.02, Erosion and Sediment Control Standards.
- 2. *Notice of Construction Commencement.* The applicant must notify the Subdivision Administrator in advance before the commencement of construction. In addition, the applicant must notify the Subdivision Administrator in advance of construction of critical components of the Stormwater Management Facility. Bi-monthly inspections of the stormwater management system construction may be conducted by the staff of the City of Charles Town or a Professional Engineer. Upon completion, the applicant is responsible for certifying that the completed project is in accordance with the approved plans and specifications and shall provide regular inspections sufficient to adequately document compliance. All inspections shall be documented and written reports prepared that contain the date and location of the inspection; whether construction is in compliance with the approved Stormwater Management Plan; any known variations from the approved construction specifications; and any violations that exist. If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall proceed until any violations are corrected and all work previously completed has received approval by the Subdivision Administrator. In addition, the Person responsible for carrying out the plan may be required to provide inspection monitoring and reports to ensure compliance with the approved plan and to determine whether the measures required in the plan provide effective Stormwater Management. If the Subdivision Administrator determines that there is a failure to comply with the plan, a stop,

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cease and desist order shall be served upon the party responsible for carrying out the plan in accordance with Section 1331.09, Administration and Enforcement.

3. *Post-Construction Final Inspection and As-Built Drawings.* All applicants are required to submit actual "as-built" plans and digital specifications for stormwater facilities in a compatible format (.dwg files) synced to the West Virginia State Plane Coordinate System for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all Stormwater Management Facilities and must be certified by a Professional Engineer. A final inspection and approval by the City of Charles Town is required before the corresponding bond may be released. A certified inspection of all aspects of the BMP construction is required, including surface As-Built surveys and geotechnical inspections during subsurface or backfilling, riser & principal spillway installation, bioretention soil placement and compaction activities.

(l) *Maintenance Inspection and Repair of Stormwater Facilities.*

1. *Maintenance Inspection of Stormwater Facilities.* All Stormwater Management Facilities must undergo inspections to document maintenance and repair needs and ensure compliance with the requirements of this Section and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation and any repair or replacement of structural features. At a minimum, a Stormwater Management Facility shall be inspected on an annual basis by the parties responsible for the operation and maintenance of the Stormwater Management Facility (e.g., Homeowner's Association, property owner, etc.). In the event that the Stormwater Management Facility has not been maintained and/or becomes a danger to public safety or public health, the Subdivision Administrator shall notify the Person responsible for carrying out the maintenance plan by registered or certified mail to the address specified in the maintenance covenant. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. If the responsible party fails or refuses to meet the requirements of the Maintenance Agreement, the City of Charles Town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition, and recover the costs from the owner and the City shall have a lien against the owner's real estate which may be perfected by filing in the Office of the Clerk of the County Commission of Jefferson County. This remedy shall be in addition to all other remedies and enforcement procedures available under this Ordinance or applicable law.
2. *Records of Maintenance and Repair Activities.* Parties responsible for the operation and maintenance of a Stormwater Management Facility shall make records of the installation and of all maintenance and repairs, and shall retain the records. These records shall be made available to the City of Charles Town during inspection of the facility and at other reasonable times upon request.

**Section 1334.02, Erosion and Sediment Control Standards**

The City of Charles Town has adopted the following erosion and Sediment Control standards to address increasing Development in the City. This Section is designed to mitigate erosion impacts created by Development.

- (A) *Purpose.* During the construction process, soil is most vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches. In addition, clearing and grading during construction causes the loss of native vegetation, which is necessary for terrestrial and aquatic habitat and to provide a healthy living environment for Charles Town citizens. The purpose of this local regulation is to safeguard Persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any Development or other activity which disturbs or breaks the Topsoil or results in the movement of earth on land in the City of Charles Town.
- (B) *Applicability.* The requirements of this Section shall apply for any land area disturbed that is 3,000 square feet or larger.
- (C) *Improvement Location/Land Disturbance Permits.* No Landowner or land operator shall receive an Improvement Location/Land Disturbance Permit without first obtaining the Subdivision Administrator's approval of an Erosion and Sediment Control Plan for the proposed activity. An Erosion and Sediment Control Plan must accompany an application for an Improvement Location/Land Disturbance Permit as specified in Section 1331.10(A)(1)(a)(4).
- (D) *Referenced Document.* The City of Charles Town adopts by this reference the guidelines of the *Virginia Erosion and Sediment Control Handbook, Third Edition, 1992*, or as amended thereafter, for the purposes of this Section<sup>3</sup>. All Erosion and Sediment Control Plans shall be consistent with the regulations and design standards established in the said handbook; *provided that*, in the event applicable West Virginia law prescribes conflicting regulations or standards, the West Virginia regulations and standards shall prevail.
- (E) *Erosion and Sediment Control Plan Application.*
  - 1. An application for approval of an Erosion and Sediment Control Plan, on a standard form provided by the Subdivision Administrator, shall be submitted to the Subdivision Administrator, together with a copy of the proposed Erosion and Sediment Control Plan for the subject Development activity that is compliant with the requirements of the adopted *Virginia Erosion and Sediment Control Handbook*.
  - 2. Each application shall bear the name(s) and address(es) of the owner or Developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee.

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<sup>3</sup> WV Standards were in the development stage when this Ordinance was drafted and the guidelines that existed were largely based off of the Virginia Standards.

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3. The proposed Erosion and Sediment Control Plan shall consist of a narrative section and a plan drawing. Applicants shall use the checklist for Erosion and Sediment Control Plans found in Section 6, Step 5 of the *Virginia Erosion and Sediment Control Handbook* to construct the narrative. Steps 1 through 4 of said handbook section are necessary to collect the information for the narrative and plan drawing.
  4. *Modifications to the Plan.*
    - a. Applications for major amendments of an approved Erosion and Sediment Control Plan shall be submitted to the Subdivision Administrator and shall be processed and approved, or disapproved, in the same manner as an original application.
    - b. Field modifications of a minor nature, as determined by the Subdivision Administrator, may be authorized by the Subdivision Administrator by written authorization to the permittee.
- (F) The Subdivision Administrator will have forty-five (45) days following submission of a complete application to review and approve or deny the proposed Erosion and Sediment Control Plan. A proposed plan shall be approved if in conformance with the requirements of the *Virginia Erosion and Sediment Control Handbook*. The applicant shall be informed of the determination in writing, with an explanation of the reasons for a denial. The Subdivision Administrator may obtain review of and comment upon the proposed plan by the Eastern Panhandle Conservation District, the City Engineer, or other appropriate third-parties at the applicant's expense.
- (G) *Inspection.*
1. The Subdivision Administrator or designee shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and Filling work bearing the stamp of approval of the Subdivision Administrator shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Subdivision Administrator at least two (2) working days before the following:
    - a. Start of construction
    - b. Erosion and Sediment Control measures are in place and stabilized
    - c. Site clearing has been completed
    - d. Rough grading has been completed
    - e. Final grading has been completed
    - f. Final Landscaping

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2. The permittee or designee shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to City of Charles Town at the time interval specified in the approved permit.
3. The Subdivision Administrator or designee shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed.

**ARTICLE 1335, GUARANTEE OF IMPROVEMENTS**

**Section 1335.01, 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 S/LD 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 S/LD Applications and/or Erosion and Sediment Plans, in accordance with this Ordinance and pursuant to Article 6, Chapter 8A of the West Virginia Code.
- (B) Performance bonds shall be required for public and other physical Improvements to be constructed under an approved Final S/LD Application. Such Improvements shall include, without limitation, Road, curb, gutter, sidewalk, trails, storm Drainage, traffic signalization and control, water and sanitary sewer infrastructure, and any other site-related Improvements required by the City of Charles Town 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 S/LD Application that does not provide for construction of any Improvements eligible for public maintenance if the Planning Commission agrees with a determination of the Subdivision Administrator that the satisfactory completion of Improvements to be constructed under the Final S/LD Application can be enforced pursuant to ordinances regulating building permits and occupancy permits.
- (C) For a Major S/LD development, surety, as detailed in Article 1335, shall be required for Erosion and Sediment Plans, as detailed in Section 1334.02 of this Ordinance. Where Article 1335 affirms that surety is required for "Final S/LD 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.
- (D) Landscaping Surety. Surety is required to ensure the landscaping shown on the Major S/LD plans is maintained for one (1) year. The one (1) year shall start from the date at which the surety for the site has been released, with the exception of this landscaping surety. The landscaping surety amount shall not be less than \$5,000.00 or 10% of the total landscaping cost for the project, which every is greater.

**Section 1335.02, Authority for Accepting/Monitoring Bonds**

A Bond Committee shall review and recommend to City Council for approval or disapproval, and monitor, bonds for construction of Improvements as identified within this Article.

- (A) Bond Committee Members (or their designees) shall include:
  - 1. City Manager
  - 2. City Accounting Manager



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3. Subdivision Administrator
- (B) *Authority of the Bond Committee.* The Bond Committee shall have the authority to perform the following duties with respect to this Article:
1. Review new bonds, bond extensions, bond substitutions, bond reductions/releases, and action resulting from defaults; and send recommendations to City Council for final action.
  2. Establish/update standard bond and agreement forms.

**Section 1335.03, 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 1335.07 of this Ordinance, guaranteeing completion of the Performance Agreement.
- (C) Letter from City Council approving the bond estimate amount as sufficient to cover the cost of the subject Improvements.
- (D) Release of liens from the contractor(s), if applicable.

Submissions to the Bond Committee shall be made to the Subdivision Administrator.

**Section 1335.04, 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 Planning Commission. 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 Bond Committee, as a condition to extension of the Performance Agreement.

**Section 1335.05, 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

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- b. One and one-half percent (1½%) 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 Subdivision Administrator, to be deposited with the City Accounting Manager, in an interest bearing account with full financial accountability provided by the City Accounting Manager 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 Accounting Manager shall be entitled to retain a reasonable amount, not exceeding five percent (5%) of the interest accrued, to cover the cost of administering the account. Upon approval for release of the bond as provided herein, the City Accounting Manager 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 35 and with total letter of credit exposure of the City at the lending institution limited to no more than 50 percent of the institution's equity capital, unless otherwise agreed to by City Council. City Council may, upon the unanimous recommendation of all of the members of the Bond Committee, accept a letter of credit from an institution whose rating is lower than 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 12-month Performance Agreement requires an 18-month Letter of Credit. This 6-month requirement is in addition to the 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

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months unless the City Manager 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 S/LD Application are extensions of Improvements to be constructed under a previously approved Final S/LD 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 Bond Committee 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 S/LD Application and the Improvements to be constructed under the previously approved Final S/LD Application.
  3. A separate Performance Agreement covering such proposed extension Improvements and referencing the modified surety must be submitted.
  4. The Bond Committee may recommend an extension of the completion date under the Performance Agreement covering the previously approved Final S/LD Application in conjunction with the approval of the proposed Final S/LD 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 S/LD Application and the proposed Final S/LD Application.

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- (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 1335.06, Bond Estimate**

- (A) The bond estimate shall be based on the estimated cost of construction of all items to be constructed under the Final S/LD Application (labor and material), plus a ten (10) 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 ten (10) 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 the Planning Commission for approval by City Council.
- (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 City Council's approval, in consultation with the West Virginia Department of Highways where applicable; *provided that*, after such original surety has been accepted by City Council, any bond reduction requested shall be based upon the original bond estimate and not upon the original amount of such surety.

**Section 1335.07, 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 S/LD 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 Subdivision Administrator 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

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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) *Extensions and Rebonding of Agreements.*

1. It shall be the sole responsibility of the owner/Developer to keep the Performance Agreement current.
2. Approximately sixty (60) days prior to the expiration of a Performance Agreement, the Subdivision Administrator may review the project records to determine if the owner/Developer has initiated the process for final bond release and to determine if the bond may reasonably be eligible for release within sixty (60) days. If it is determined that the project bond is not reasonably expected to be released within such sixty (60) days, the owner/Developer and surety may be notified in writing, and may be required to provide for the extension of the Performance Agreement and surety or security within such sixty (60) days. If the bond cannot be released or if no extension agreement and bond extension have been submitted in approved form by the agreement expiration date, the Performance Agreement shall be in default.
  - a. Except as provided in this paragraph, no Performance Agreement shall be extended beyond five (5) years from the date of the original Agreement. Thus, if the initial period of completion was 2 years, no more than three (3) extensions, each of one (1) year, shall be granted. However, upon recommendation by the Bond Committee, the Planning Commission may, at the request of the owner/Developer submitted prior to the fifth extension, grant extensions beyond the five (5) year limit, provided the Bond Committee determines that such additional extensions are reasonably justified due to the magnitude of the bonded project, the reasonableness of the construction schedule and the diligence of the Developer in carrying out the schedule, a reasonable estimate of the time necessary to satisfy West Virginia Department of Highways public Improvement requirements, and such other factors as may be deemed relevant by the Bond Committee.
  - b. The owner/Developer can make a formal request to the Planning Commission for an extension of the completion date for a maximum period of one (1) year. The owner/Developer must indicate the reasons and conditions which have prevented completion of the required Improvements. The owner/Developer shall furnish to the Planning Commission an Extension Agreement, the surety's written consent to the extension and an extension of the surety or security.
3. *Bond Extension Submission Requirements.* The bond extension request shall not be processed unless the following items have been submitted as one complete package.
  - a. Payment of the City's standard fee, which fee entitles the owner/Developer to one submission of the extension documents and, if needed, one

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- correction. If two or more correction reviews are needed, a new fee equal to the original fee must be remitted.
- b. Letter of request with justification from the Developer.
  - c. Extension agreement executed by the owner/Developer, Consent to Extension executed by the owner/Developer and surety, and extension of, or confirmation of continuation of, performance guarantee.
  - d. Extension agreement and consent to extension must be prepared on forms furnished by the Subdivision Administrator.
  - e. If such extension request seeks to extend the completion date for a fifth year, such request shall not be considered nor approved unless accompanied by documentation that indicates the road acceptance/bond release process has been initiated. Such documentation shall include the punch list generated by the official inspection, submitted by the owner/Developer, and a practical work schedule reasonably designed to complete the punch list within a year. This requirement may be postponed to the next subsequent extension request if the Bond Committee has recommended and the Planning Commission has approved an extension beyond the fifth year.
4. In situations where the owner/Developer has requested an extension or a new agreement and surety, the Bond Committee will review the Subdivision Administrator's report on the project and the reasons supplied by the owner/Developer, and make a recommendation to the Planning Commission. The following are some of the factors to be considered by the Bond Committee and Planning Commission:
- a. Percentage of project already completed.
  - b. Number of homes or Buildings completed, occupied, and served by public facilities.
  - c. Rate of construction activity.
  - d. Owner/Developer's history relating to completion of public Improvements in the City, Jefferson County, and in neighboring jurisdictions.
  - e. *Current projected completion cost.* Dependent upon the amount of work yet to complete and the currently estimated cost to complete construction of the project, City Council may require an increase in the amount of the existing bond to cover the completion of such outstanding Improvements and obligations.
  - f. Current rating of the bank or corporate surety providing the security for the Performance Agreement.

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5. The Planning Commission may approve an extension of or a new Performance Agreement and corresponding surety after reviewing the appropriate factors and determining that an extension is justified; *provided that*, City Council shall determine the amount and sufficiency of the surety.
6. In the event the owner/Developer does not respond to the letter sent by the Subdivision Administrator cautioning of potential default or in the event the agreement is in default, the matter will be referred to the City's legal counsel for guidance and possible legal action.
7. No extension request for a bonded Performance Agreement shall be accepted for processing until the Bond committee has determined that such Agreement is qualified for an extension. If such Agreement is not determined to qualify for extension, no extension shall be granted.

(C) *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.

(D) *Bond Reductions.*

1. *Bond Reduction Requirements.* Partial releases of bonds, referred to herein as Bond Reductions, shall be granted based upon completion of specific, identifiable portions of the project 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 (D), Bond Reductions, "completion" shall mean construction of any identifiable section of a specified Improvement or facility in accordance with the approved Final S/LD Application, construction plans, profiles and specifications, and the

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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 Subdivision Administrator 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 Department of Highways, or any other appropriate agency. Failure to perform such maintenance within sixty (60) days of being so directed by the Subdivision Administrator shall constitute default of the Performance Agreement.
- g. When any exception to the completion requirement is permitted, the amount of the bond as reduced shall include the cost of constructing or repairing such final surface pavement or other uncompleted Improvements. In no event shall any bond be reduced to an amount less than the amount deemed necessary by City Council to cover:
  - (1) The total estimated cost of achieving total completion of the project without exceptions, plus,
  - (2) The entire ten (10) percent contingency factor included in the original approved bond estimate, plus,
  - (3) The inflation factor referenced above in Section 1335.06.
- h. When an applicant/Developer has completed construction of a portion of a bonded project, and such portion has been accepted into the state system for maintenance by West Virginia Department of Highways, such owner/Developer may revise the approved plans to exclude such accepted portion and submit such revised plans to the Subdivision Administrator along with a revision of the original bond estimate to cover only the portion not yet accepted. City Council may, upon recommendation of the Bond Committee, approve such revised bond estimate and any consequent bond reduction in accordance with the foregoing Bond Reduction regulations as applied to such revised bond estimate.
- i. No bond shall be reduced for a Performance Agreement that is in default.



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2. *Bond Reduction Procedures.* A request for a reduction of the bond amount shall be deemed to have been made when the Developer has provided notice to the Planning Commission in the following manner. The Bond Reduction Request shall not be deemed to have been made until the following items have been submitted as one complete package. Such notice must include:
  - a. A written request for reduction of the bond amount, signed and acknowledged by the applicant/Developer who executed the Performance Agreement. When applicable, such written request shall include a certification by the owner or Developer that the installation of all underground utilities located within the bounds of any public or private roadway covered by such bond has been inspected and approved by the utility provider.
  - b. An estimate prepared and certified as being accurate by a Professional Engineer that shows the quantities of all bonded Improvements in place, complete, and in good condition.
  - c. Written consent, signed and acknowledged by a duly authorized officer or agent of the corporate surety, banking institution, or other approved surety which provided the surety or security.
  - 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*, City Council 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.

(E) *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 Subdivision Administrator. 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, other than Improvements accepted by West Virginia Department of Highways, have been completed

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in accordance with the approved plans, profiles, and specifications and the requirements of any applicable manual. For Improvements to be accepted for maintenance by West Virginia Department of Highways, such Certification shall state that the Improvements have been installed and inspected in accordance with West Virginia Department of Highway'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 1332.10 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 Department of Highways 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 Department of Highways standards but which, due to factors other than their quality of construction, are not eligible for acceptance by West Virginia Department of Highways.
  - h. For private roadways, a letter of acceptance by the entity responsible for maintenance and a Latent Defects Indemnification Agreement and Bond in accordance with this Section.
  - i. No bond shall be released for a Performance Agreement that is in default.
2. Within thirty (30) days of receiving a release request which meets the requirements of this Subsection, unless such 30 days is waived as provided hereafter, the Subdivision Administrator shall inform the applicant/Developer in writing of any construction defects, deficiencies, or omissions.
3. Inspection procedures for Improvements to be accepted by the City, a homeowners association, or other agency are as follows:
- a. After the applicant/Developer has requested a final bond release pursuant to the provisions of this Section, the Subdivision Administrator will schedule an inspection of such Improvements for which the release is requested.
  - b. The Subdivision Administrator shall notify the applicant/Developer in writing of any items requiring correction or revision within 30 days of receipt of the request for a release. A request by, or the consent of, the applicant/Developer to reschedule an inspection shall constitute a waiver of the 30-day period for the Subdivision Administrator to notify the applicant/Developer of the items requiring correction.

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4. Inspection procedures for roadway Improvements to be accepted by West Virginia DOH are as follows:
    - a. After such roadways, or portions of roadways, are completed and, for fully completed projects, a set of As-Built Drawings per Section 1332.10 of this Ordinance, certified as to construction by a Professional Engineer, is submitted to the Subdivision Administrator, the applicant/Developer must request, in writing, through the Subdivision Administrator, that a joint inspection be made with West Virginia Department of Highways.
    - b. A date will be set for a field inspection by the Subdivision Administrator with all representatives present. The Subdivision Administrator shall provide to the applicant/Developer a copy of the punch list of the items requiring correction or revision.
  5. No bond shall be released for a Performance Agreement that is in default.
- (F) *Private Roadway Maintenance Bonds.* Before a Performance Agreement and surety for private roadway construction shall be released, a Latent Defects Indemnification Agreement and Bond shall be provided by the applicant/Developer and approved by the Planning Commission. The guarantee provided by such Agreement and Bond must be 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 Subdivision Administrator 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 Subdivision Administrator, 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 Subdivision Administrator may take any appropriate action provided for in such Agreement, including calling upon the bond securing such Agreement in order to perform the repairs.
- (G) *Vacation of Plats.*
1. Portions or sections of the Subdivision/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 Subdivision Administrator. 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.

**ARTICLE 1336, 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, dryrun, spring, stream, swail, 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:

**ACCELERATED EROSION** – The removal of surface material by the action of natural elements caused by man’s manipulation of the landscape.

**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.

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**BEST MANAGEMENT PRACTICE (BMP)** – A structural or nonstructural practice which is designed to minimize the impacts of Development on the environment.

**BEST MANAGEMENT PRACTICE (BMP) MANUAL** – West Virginia Department of Environmental Protection, West Virginia Erosion and Sediment Control Best Management Practices Manual.

**BIORETENTION BASIN (RAIN GARDEN)** – A water quality BMP Engineered to filter the water quality volume through an Engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, ground cover), planting soil, and sand bed, and into the in-situ material.

**BIORETENTION FILTER** – A bio-retention basin with the addition of a sand filter collection pipe system beneath the planting bed.

**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.

**BUILDING RESTRICTION LINE** – The line (determined with respect to each lot line and Street Line) beyond which no portion of a Building or Structure shall extend as determined by Front, Rear, and Side Yard Setback requirements referenced in the Charles Town Zoning Ordinance and incorporated herein.

**CALIFORNIA BEARING RATIO** – The California bearing ratio (CBR) is a penetration test for evaluation of the mechanical strength of road subgrades and basecourses. It was developed by the California Department of Transportation. The test is performed by measuring the pressure required to penetrate a soil sample with a plunger of standard area. The measured pressure is then divided by the pressure required to achieve an equal penetration on a standard crushed rock material. The CBR test is described in ASTM Standards D1883-05 (for laboratory-prepared samples) and D4429 (for soils in place in field), and AASHTO T193.

**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 Charles Town, West Virginia.

**CLEAR SIGHT TRIANGLE** – An area of unobstructed vision at street intersections. It is defined by lines of sight between points at a given distance from the intersection of the street centerlines.

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**CLEAN WATER ACT** – The federal Clean Water Act (33 United States Code 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

**CLUSTER DEVELOPMENT** – An arrangement of Structures on adjoining Lots in groupings allowing closer spacing than would be generally permitted under ordinance requirements for lot widths or area with the decrease in lot width or area compensated by maintenance of equivalent common open space.

**COMMON 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.

**CONSTRUCTED WETLANDS** – Areas intentionally designed and created to emulate the water quality improvement function of Wetlands for the primary purpose of removing pollutants from Stormwater.

**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 himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

**DESIGN STORM** – The magnitude of precipitation from a storm event measured in probability of occurrence (e.g., 50-year storm) and duration (e.g., 24-hour), and used in computing stormwater management control systems.

**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.

**DEVELOPMENT** – The physical alteration or improvement of improved or unimproved land, and/or Structures thereon, by human activity or action, or any change or

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

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.

**DRAINAGE FACILITY** – Any ditch, gutter, culvert, storm sewer, or other Structure designed, intended, or constructed for the purpose of diverting surface waters from or carrying surface waters off Streets, public rights-of-way, parks, recreational areas, or any part of any Subdivision or contiguous land areas.

**DRAINAGE WAY** – Any channel that conveys surface Runoff throughout the site.

**DRIVEWAY** – A minor vehicular path, lane or way, 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, Alley or Access Drive and an off-street parking area or garage for a single residential unit of occupancy or agricultural use (farm).

**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 consulting engineer for the City of Charles Town, West Virginia.

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**ENGINEER, PROFESSIONAL** – 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.

**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;
3. The material used to make a fill.

**FINAL PLAN & PLAT** – The Plan and Plat submitted as part of a Final S/LD Application.

**FINAL RECORD PLAT** – The final version of the Plat submitted as part of a Final S/LD Application approved by the Subdivision Administrator, which Plat has been stamped and signed by or on behalf of the Planning Commission and is to be recorded pursuant to Section 1332.03.

**FINAL S/LD APPLICATION** – The application for approval of a Final Plan & Plat for a Subdivision or Land Development, which application is prepared in accordance with, and contains the content specified in, Section 1332.06.

**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.

**GRASSED SWALE** – A natural or man-made Drainage Way of parabolic, trapezoidal or v-shaped cross-section shaped to required dimensions and vegetated for safe disposal of Runoff.



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**IMPERVIOUS AREA** – Any portion of a Lot covered by material impenetrable by precipitation, including Buildings, Structures and paved areas.

**IMPERVIOUS COVER** – Any natural or man-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.

**IMPOUNDMENT** – An area which is a natural topographic depression, man-made Excavation, or diked area that is designed or improved in such a manner so as to hold an accumulation of contaminated surface Runoff, process wastewater, product, or sewerage, or any other liquid substance that could impact groundwater, but does not include any area used for secondary containment.

**IMPROVEMENT LOCATION/LAND DEVELOPMENT PERMIT** – The permit required under Section 1331.10(A)(1) prior to commencing the Development of land in the City, including the construction or alteration of any Structure.

**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, street signs, Monuments, water supply facilities, and sewerage disposal facilities.

**INFILTRATION** – The process of percolating Stormwater into the subsoil.

**INFILTRATION FACILITY** – Any Structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

**INTEGRATED MANAGEMENT PRACTICES (IMPS)** – Tools used in a Low Impact Development (LID) project for water quality treatment and flow control. The term IMP is used instead of Best Management Practice or BMP (used in a conventional development) because the controls are integrated throughout the project and provide a landscape amenity in the LID design.

**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.

**JURISDICTIONAL WETLAND** – An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

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**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 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 manmade 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 Charles Town 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 he 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

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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.

**LINEAR DEVELOPMENT PROJECT** – A Land Development project that is linear in nature such as, but not limited to: (i) the construction of any electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related Structures of a railroad company; and (iii) highway construction projects.

**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.

**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/LAND DEVELOPMENT** – Does not require a Preliminary Plan and Plat Approval, only a Final Plan and Plat Approval. Also known as a Final Record Plat.

**MOBILE HOME** – A transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit, or in two (2) or more units designed to be

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joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

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

**MOBILE HOME SPACE** – An area of land in a Mobile Home Park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single Mobile Home.

**MONUMENTS** – Markers placed on or in the land.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)** – As authorized by the Clean Water Act, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

**NON-POINT SOURCE (NPS) POLLUTION** – Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**NON-POINT SOURCE POLLUTANT RUNOFF LOAD OR POLLUTANT DISCHARGE** – The average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by Stormwater Runoff.

**OFF-SITE STORMWATER FACILITY** – A stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

**ON-SITE STORMWATER FACILITY** – A stormwater management measure located within the subject property boundary described in the permit application for Land Development activity.

**PEAK DISCHARGE** – The maximum rate of flow of water at a given point and time resulting from a specified storm event.

**PERFORMANCE AGREEMENT** – An agreement between the Planning Commission and an owner/Developer that specifies the Improvements required to be constructed in accordance with Article 1335 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.

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

PLAT – A map of a Subdivision or Land Development.

PRELIMINARY PLAN & PLAT – The Plan and Plat submitted as part of a Preliminary S/LD Application.

PRELIMINARY S/LD 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 1332.05.

PROPERTY OWNER – A person or persons having an ownership interest in real property located within the geographic boundaries of Jefferson 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.

RETENTION BASIN I – A retention basin with the volume of the permanent pool equal to three times the water quality volume.

RETENTION BASIN II – A retention basin with the volume of the permanent pool equal to four times the water quality volume.

RETENTION BASIN III – A retention basin with the volume of the permanent pool equal to four times the water quality volume with the addition of an aquatic bench.

RIGHT-OF-WAY, STREET – 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 manmade 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

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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 Charles Town 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 Charles Town 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.

**SKETCH PLAN** – A binding schematic plan approved by the Planning Commission prior to the submission Major S/LD to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to be in general form and layout of a Major S/LD and the objectives of this Ordinance.

**S/LD APPLICATION** – A Preliminary or Final S/LD Application.

**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.

**SOIL STABILIZATION** – Chemical or structural treatment designed to increase or maintain the stability of a mass of soil or otherwise to improve its Engineering properties.

**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 FACILITY** – A device that controls Stormwater Runoff and changes the characteristics of that Runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

**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

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other adverse effects of Stormwater from Impervious Areas, as required by Section 1334.01 of this Ordinance.

**STORMWATER POLLUTION PREVENTION PLANS (SWPPP)** – A plan to describe a process through which a facility thoroughly evaluates potential pollutant sources at a site and selects and implements appropriate measures designed to prevent or control the discharge of pollutants in Stormwater Runoff.

**STORMWATER RUNOFF** – See RUNOFF.

**STORMWATER TREATMENT PRACTICES (STPS)** – Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or Non-point Source Pollution inputs to Stormwater Runoff and water bodies.

**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 1333.02(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 Planning Commission pursuant to Section 1333.02(L) 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 man-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/LAND DEVELOPMENT, MAJOR** – See definition of Major Subdivision Development, Major Land Development, Major Subdivision and Land Development, and Section 1332.02(A)(2).

**SUBDIVISION/LAND DEVELOPMENT, MINOR** – See definition of Minor Subdivision or Land Development and Section 1332.02(A)(1).

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**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.

**TIME OF CONCENTRATION** – The interval of time required for water from the most remote portion of the drainage area to reach the point in question.

**TOPSOIL** – Surface soils and subsurface soils that presumably are fertile soils and soil material, ordinarily rich in organic matter or humus debris. Topsoil is usually found in the uppermost soil layer called the A Horizon.

**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.

**UNNECESSARY HARDSHIP** – A deprivation of the economic use and benefit of property resulting under this Ordinance due to unique characteristics of the property that were not created by the owner or waiver applicant. An unnecessary hardship may justify the granting of a waiver if the Planning Commission makes the findings specified in Article 1334. The burden of proving an unnecessary hardship rests upon the applicant for the waiver. If the hardship is caused by actions of the owner, the applicant, or some other Person, relief by means of waiver may not be granted. Such a situation would arise where hardships result from improvements made in violation of this Ordinance, either willfully or innocently, in which case a waiver cannot be granted.

**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.



Subdivision and Land Development Ordinance of the City of Charles Town, WV  
Part 13, Articles 1331 - 1336, of the Charles Town Code

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ZONING ORDINANCE – The Charles Town Zoning Ordinance, Part 13, Articles 1321 –  
1325, of the Charles Town Code.

# Appendix A

## Typical Roadway Sections

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# Appendix B

## Standard Details

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# Appendix C

## Landscaping and Buffering Standards

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