To: City Council
From: Seth A. Rivard, City Planner
Date: April 3, 2017
Subject: Amendment to the Subdivision Ordinance, Zoning Ordinance and Guarantee of Improvements

The following is a general overview of the proposed changes.

Attached are amendments to the Amendment to the Subdivision Ordinance, Zoning Ordinance and Guarantee of Improvements that have been recommended to City Council from the Planning Commission. The original purpose of the amendments was to expedite the review process of a site plan or subdivision proposal. Particularly, the Planning Commission would review the Sketch Plan and the release of improvements, also known as surety or bonds. This is done by the following:

- The Sketch Plan is proposed to have enough details that the Planning Commission can hold a public hearing and possibly approve the conceptual layout of the development.
- This would allow for constructive input where some changes might be able to be made to the proposed development, if the applicant agrees.
- The Sketch Plan process eliminates the applicant spending a lot of resources on detailed engineering, only to get to the Planning Commission meeting and any constructive changes would now be much costlier for the applicant.
- The more detailed documents, the Preliminary Plan and Plat would be approved by Planning Commission at a workshop.
- The Final Plan and Plat would be reviewed and approved by Staff.
- The change in this process did have a ripple affect across other documents and those documents had to be updated.
- Nearly all the section numbers that did change are correct, but there may be a few that need to be corrected.
- New definitions were included to make the process easier for the user to understand certain procedures.
- While the documents were being amended, Staff did make additional changes to the document. Some of those changes are noted below.
You will see the criteria for submission of a Sketch Plan, Preliminary Plan, and Final Plan appears to have increased. This change is mainly because those items are already required in the document, but were not clearly identified. For the convenience of the applicant, the requirements are in one place. Further, by being clear of what needs to be submitted with a project, it is hoped that this will make it faster for the applicant to draw the plans. This should reduce errors of the applicant missing information. As such, this should increase the review speed of the plans, since there should be less errors identified when Staff reviews the plans.

There were a few errors in the Zoning Ordinance. For example, the document noted reference the “Board of Appeals”, what it should state “Board of Zoning Appeals.”

In the past, few years talking with applicants regarding prospective projects or the waivers applicants have requested from the Subdivision Ordinance, Staff identified some needed changes. Generally, there was nothing wrong with the standard per se, but how it was written didn’t allow for flexibility. For example, there is a buffer width of 20 feet required, and plantings within that area. However, it did not allow for a reduction of the 20 feet to 10 feet if the buffering were increased. These are the types of changes that have made.

There was confusion about tract frontage related to townhomes, that has been addressed.

A 5-acre minimum for townhome developments have been eliminated.

Allow townhomes to have a 0-foot setback if the parking is in the rear structures.

Allow for the encroachment into the setback for certain architectural features, porch, bay windows, chimney’s, etc. in the Old Town Residential District.

Allow accessory structures closer to the rear lot line where there is an alley.

Phasing, which wasn’t clearly addressed, has now been more clearly identified.
Subdivision and Land Development Ordinance of the City of Charles Town, West Virginia

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

Enacted: June 23, 2012
Effective: September 26, 2012
ACKNOWLEDGEMENTS

Mayor and Council of the City of Charles Town

Peggy Smith, Mayor

Rich Bringewatt
Donald Clendening
Chet Hines
Sandra Slusher McDonald

Ann Paonessa
Michael Slover
Mark Reinhart
Wayne Clark

City of Charles Town Planning Commission

Mark Reinhart
Mark Meredith
Al Craven
Mark Roper
Jeff Wogan

Steering Committee

Donald Clendening
Carla Coffey
Al Hooper
Eric Meske
Kristen Ringstaff

City Officials

Joe Cosentini, City Manager
Kiya Tabb, City Clerk
Katie See, City Planner

Consultants

Delta Development Group, Inc.
Steptoe & Johnson PLLC
## TABLE OF CONTENTS

**PART 13, ARTICLE 1331, SUBDIVISION AND LAND DEVELOPMENT ORDINANCE** ........................................ 1

**Article 1331. GENERAL PROVISIONS** .................................................................................................. 1

Section 1331.01, Short Title ...................................................................................................................... 1
Section 1331.02, Purpose ........................................................................................................................ 1
Section 1331.03, Authority ...................................................................................................................... 1
Section 1331.04, Jurisdiction .................................................................................................................. 1
Section 1331.05, Applicability ............................................................................................................. 1
Section 1331.06, Interpretation ............................................................................................................. 3
Section 1331.07, Severability ................................................................................................................ 3
Section 1331.08, Zoning Ordinance – Compatibility and Incorporation of Provisions ....................... 3
Section 1331.09, Administration and Enforcement ............................................................................... 3
Section 1331.10, Permits, Fees, and Inspections ................................................................................... 6
Section 1331.11, Reserved .................................................................................................................... 8
Section 1331.12, Appeals; Waivers; Amendments ............................................................................. 8

**ARTICLE 1332, SUBDIVISION AND LAND DEVELOPMENT APPLICATION & APPROVAL REQUIREMENTS** ........................................................................................................ 11

Section 1332.01, Terminology and Processing Alternatives ................................................................... 11
Section 1332.02, Applicability ............................................................................................................. 11
Section 1332.03, Subdivision and Land Development Application Submission and Review Procedures .................................................................................................................. 14
Section 1332.04, Sketch Plan Requirements .......................................................................................... 37
Section 1332.05, Preliminary S/LD Application Requirements ............................................................. 41
Section 1332.06, Final S/LD Application Requirements ....................................................................... 52
Section 1332.07, Boundary Line Adjustments, Merger, and Vacations .............................................. 59
Section 1332.08, Vacating a Plat .......................................................................................................... 60
Section 1332.09, Amendment of Approved Final Plans & Plats .............................................................. 61
Section 1332.10, As-Built Drawings .................................................................................................... 62

**ARTICLE 1333, SITE PLANNING AND DESIGN SPECIFICATIONS** .................................................. 67

Section 1333.01, General Site Planning and Design Specifications ..................................................... 67
Section 1333.02, Street Design Standards ............................................................................................ 70
Section 1333.03, Street Intersection Design Standards ....................................................................... 78
Section 1333.04, Street Sign Standards ............................................................................................... 79
Section 1333.05, Pavement Marking Standards ................................................................................... 80
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1336, of the Charles Town Code

Section 1333.06, Traffic Management Standards .............................................................. 81
Section 1333.07, Driveway Standards ............................................................................... 81
Section 1333.08, Access Drive Standards .......................................................................... 82
Section 1333.09, Sidewalk & On-Street Parking Design Standards .................................. 83
Section 1333.10, Curb and Gutter Standards .................................................................... 83
Section 1333.11, Easements & Rights-of-Way ................................................................. 84
Section 1333.12, Storm Drainage ....................................................................................... 85
Section 1333.13, Utility Standards; Fire Hydrant Standards .............................................. 86
Section 1333.14, Lighting Standards ................................................................................ 87
Section 1333.15, Buffer and Screening Standards ............................................................ 88
Section 1333.16, Landscaping Standards ......................................................................... 89
Section 1333.17, Park, Recreation and Open Space Amenity Standards ......................... 92
Section 1333.18, Trail Standards ....................................................................................... 96
Section 1333.19, Mobile Home Park Standards ............................................................... 96
Section 1333.20, Townhouse Development Standards ..................................................... 99
Section 1333.21, Homeowners Associations .................................................................. 101
Section 1333.22, Wireless Telecommunications Facilities ............................................... 102
Section 1333.23, Parking and Loading Standards ............................................................. 105
Section 1333.24, Monuments .......................................................................................... 117
Section 1333.25, Geotechnical Observation and Materials Testing Requirements ........... 118
Section 1333.26, Floodplain Standards ............................................................................. 121
Section 1333.27, Karst Geology Standards ...................................................................... 121
ARTICLE 1334, WATER CONTROL STANDARDS ...................................................... 125
Section 1334.01, Stormwater Management Control Standards ....................................... 125
Section 1334.02, Erosion and Sediment Control Standards ............................................. 140
ARTICLE 1335, GUARANTEE OF PUBLIC IMPROVEMENTS ..................................... 144
Section 1335.01, Purpose and Authorization .................................................................... 144
Section 1335.02, Authority for Accepting/Monitoring Bonds ........................................... 144
Section 1335.03, Bond Submission Requirements ............................................................. 145
Section 1335.04, Term of Performance Agreement .......................................................... 145
Section 1335.05, Acceptable Forms of Surety or Security ............................................... 145
Section 1335.06, Bond Estimate ........................................................................................ 148
Section 1335.07, Bond Procedures and Requirements ....................................................... 148
ARTICLE 1336, DEFINITIONS ...................................................................................... 156
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 its where such authority has been delegated to the Subdivision Administrator with respect to Minor Subdivisions/Land Developments) 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
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

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

(C) No Subdivision or Development of land in the City shall be commenced, undertaken, developed, constructed, or otherwise undertaken except in accordance with the provisions, plans, drawings and other content of this Ordinance and wherein with reference to the Charles Town Zoning Ordinance, the Final S/LD Application and Final Plat for the subject Subdivision/Land Development (including the content of the Preliminary S/LD Application as specified in Section 1332.02(C)(4)(b)(3)).

(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 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.

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.

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.
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;

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 fifty dollars ($50.00) nor more than five hundred dollars ($500.00). Each and every day during which such violation continues shall be deemed a separate offense. Work carried on in violation of the cancellation of any permit issued under this Ordinance shall also be deemed a violation punishable in the same manner. City Council is empowered to enforce this penalty, and it may do so on a case-by-case basis by directing the 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 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;

      (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 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

The Board of Appeals established under Section 1321.10 of the Charles Town Zoning Ordinance shall also act as a Board of Subdivision and Land Development Appeals under this Ordinance in accordance with the provisions of said Section 1321.10, which are incorporated herein by reference.

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 – Board of Appeals in accordance with the provisions of Section 1321.10 of the Zoning Ordinance.

2. Every decision or order of the Charles Town Planning Commission or Board of Appeals is subject to review by certiorari as set forth in Article 9, Chapter 8A of the West Virginia Code. Nothing herein shall be deemed to limit the right of any Person to seek such review by certiorari without first appealing to the Board of Appeals.
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 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.**

6. The Planning Commission shall make a decision within 45-90 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 buildings 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
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,
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
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 1332.023, 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 1332.032 – Application and Review Procedures

<table>
<thead>
<tr>
<th>Stage</th>
<th>Minor Subdivisions/Land Development</th>
<th>Major Subdivisions/Land Development</th>
<th>Party Authorized To Approve</th>
<th>Public Hearing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-submission Consultation Meeting</td>
<td>Optional Required</td>
<td>Required</td>
<td>Not Applicable</td>
<td>No</td>
</tr>
<tr>
<td>Sketch Plan Submission</td>
<td>Not Applicable</td>
<td>Required</td>
<td>Planning Commission</td>
<td>Yes</td>
</tr>
<tr>
<td>Preliminary Plan &amp; Plat Approval</td>
<td>Not Applicable</td>
<td>Required</td>
<td>Planning Commission</td>
<td>NO, PC Workshop</td>
</tr>
<tr>
<td>Final Plan &amp; Plat Approval</td>
<td>Required</td>
<td>Required</td>
<td>Staff</td>
<td>No</td>
</tr>
<tr>
<td>Guarantee of Surety</td>
<td>Not Applicable</td>
<td>Required</td>
<td>Planning Commission</td>
<td>Yes</td>
</tr>
</tbody>
</table>

1 Preliminary Plan & Plat approval may be combined with Final Plan & Plat approval as specified in Section 1332.02(C)(4)1(A)(3)(a) and (3)(c).

(B) Minor Subdivision/Land Development.

1. Pre-submission Consultation Meeting.

   The applicant may 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. If a consultation meeting is desired, 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 of the proposal shall be submitted in accordance with Section 1332.03.

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 1332.056, 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
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.


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.
cb. Any revisions made to a Final S/LD Application subsequent to its initial submittal shall contain a transmittal letter listing the revisions and the agency to which the revisions pertain. The revisions will be used by the Subdivision Administrator (or Planning Commission as may be required) when considering the application.

dc. Within ten (10) days after classification of the proposed Subdivision/Land Development as a Minor Subdivision/Land Development, the Subdivision Administrator Planning Commission 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 Planning Commission 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 (or an authorized Planning Commission member). Once so stamped and signed, such Plat will be the Final Record Plat.

(2) **Approval with Conditions.** If the Subdivision Administrator Planning Commission 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 (or an authorized Planning Commission member).

   (b) If all the conditions are not timely satisfied within the specified period or any extensions thereof granted by the Subdivision Administrator Planning Commission, 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 Planning Commission 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 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.

(4) 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) 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 1332.043. 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 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 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.

(2) After the close of the Public Hearing, the Planning Commission may discuss and recommend to the applicant information presented during the hearing, including any Planning Commission input, any possible changes to the 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 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.
b2. **Application Submission, and Review for Completeness.**

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

   (1a) 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. An S/LD Application containing (i) the items set forth in Section 1332.05 for a Final S/LD Application and (ii) the items set forth in Section 1332.04 for a Preliminary S/LD Application that are not otherwise included under clause (i), which approach shall be taken when the applicant elects to seek Final Plan & Plat approval as the initial and only step as outlined in Section 1332.02(C)(4)(a) below. For purposes of this Section, or

   (2b) Major Land Development – Preliminary S/LD Application containing the items set forth in Section 1332.05. Initially, a Preliminary S/LD Application containing the items set forth in Section 1332.04, and (ii) subsequently at such time as permitted hereunder after approval of such Preliminary S/LD Application, a Final S/LD Application containing the items set forth in Section 1332.05, which approach shall be taken when the applicant elects to seek approval of the Preliminary Plan & Plat and the Final Plan & Plat in separate steps as outlined in Section 1332.02(C)(4)(b) below; and

b. (2) 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 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.

(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.

b. Upon written request of the applicant for a determination of completeness, but in any event within forty-five (45) days after receipt of the subject S/LD Application, the Planning Commission shall review the subject S/LD 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 S/LD Application is complete, in which case the application is accepted for further review, or whether it is incomplete and denied.

(1) Complete. An S/LD 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 S/LD Application is complete, the Subdivision Administrator shall duly notify the applicant in writing that the S/LD Application has been accepted as complete and that it is being acted upon pursuant to Section 1332.02(C)(3). (Note: No S/LD Application shall be deemed complete until all related fees and costs are paid in full).

(2) Incomplete. An S/LD 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 an S/LD 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 S/LD Application for the same project.

(3) Revision of Application. When time permits and prior to the Planning Commission's determination whether an S/LD Application is complete, the Subdivision Administrator may notify the applicant of deficiencies in the subject S/LD 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 (as such period may be reduced...
by a request for determination): (a) notify the Subdivision Administrator in writing that the applicant intends to submit a revised S/LD 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 an election to proceed with processing of the original application.

3. **Hearing and Approval Process.**

a. At the meeting at which an S/LD 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 meeting at which the subject S/LD 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.

   (1) 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.

   (2) At least ten (10) business days prior to the public hearing, the applicant shall submit to the Subdivision Administrator the required number of copies of the subject Plat, which shall reflect all City staff and agency comments.

b. 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 S/LD Application and the Subdivision Administrator shall duly notify the applicant in writing of the Planning Commission’s decision:

   (1) **Approval.** Approve the subject S/LD Application if the Planning Commission determines that the application is complete, meets the requirements of this Ordinance, and demonstrates compliance with all of the standards set forth in this Ordinance.

   (a) Upon approval of the Final S/LD Application, 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 (or an authorized Planning Commission member). Once so stamped and signed, such Plat will be the Final Record Plat.

   (2) **Approval with Conditions.** Approve the subject S/LD Application with conditions, in which case 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, the subject S/LD Application is approved. If the applicant timely satisfies all conditions of a Final S/LD Application, 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 (or an authorized Planning Commission member). Once so stamped and signed, such Plat will be the Final Record Plat.
(b) If all the conditions are not timely satisfied within the specified period or any extensions thereof granted by the Planning Commission, the subject S/LD Application shall be considered denied and a new application shall be required for further consideration.

(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 S/LD Application; or

(4) Denial. Deny the subject S/LD Application, in which case the Subdivision Administrator shall notify the applicant in writing of the reasons for denial.

(a) If the subject S/LD Application is denied, the applicant may request, one time, reconsideration of the decision if a written request to do so is filed with the Planning Commission within ten (10) 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) Revision of Application. When time permits and prior to the Planning Commission’s determination whether an S/LD Application is approved, the Subdivision Administrator may notify the applicant of deficiencies in the subject S/LD Application that render it unlikely to be approved. In such a case, the applicant may, prior to the Planning Commission’s determination: (a) notify the Subdivision Administrator in writing that the applicant intends to submit a revised S/LD Application, which notice will serve as the applicant’s request to extend the time periods above as if the determination of completeness was made at the next Planning Commission meeting following 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 an election to proceed with processing of the original application.

c. 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. 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 1332.04(D)(5)) as part of the S/LD Application approved by the Planning Commission, 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.

4. Applicant’s Election as to Process. An applicant for approval of a Major Subdivision/Land Development may elect, by appropriately indicating on the applicant’s initial S/LD Application, either to: (i) seek Final Plan & Plat approval in the initial application and forgo the preliminary step of Preliminary Plan & Plat approval; or (ii) initially seek approval of the Preliminary Plan & Plat and, after such approval has been obtained, later seek separate approval of the Final Plan & Plat.
a. **Final Plan & Plat Approval as Initial Step.** If the applicant elects to seek Final Plan & Plat approval in the initial application, then the S/LD Application submitted shall satisfy all the requirements for a Final S/LD Application set forth herein, as well as all the requirements for a Preliminary S/LD Application set forth herein that will provide information not otherwise required by the Final S/LD Application requirements, as specified in Section 1332.02(C)(2)(a)(1)(A). Any ambiguity or inconsistency between the requirements will be resolved so as to provide the most complete information to the Planning Commission. All the provisions of Section 1332.02(C) shall apply to an S/LD Application submitted pursuant to this Subsection (a) and, for the purposes of Sections 1332.02(C)(3)(b)(1)(A), 1332.02(C)(3)(b)(2)(A), and 1332.02(C)(3)(c), such S/LD Application shall be considered a Final S/LD Application.

b. **Preliminary Plan & Plat Approval and Final Plan & Plat Approval as Separate Steps.** If the applicant elects to first seek approval of a Preliminary Plan & Plat and later seek approval of a Final Plan & Plat, then the provisions of Section 1332.02(C) shall apply to the two (2) processes as follows:

1. **Section 1332.02(C)(1) shall apply only to the Preliminary S/LD Application;**

2. **Section 1332.02(C)(2)(a) shall apply as specified in that Section;**

3. **Section 1332.02(C)(2)(b) shall apply to both the Preliminary S/LD Application and the Final S/LD Application, subject to the following provisions of this Subsection (3).** In the case of the Final S/LD Application, the review for completeness shall include a determination whether the Final Plat conforms in form and substance to the final version of the Preliminary Plat previously submitted with the Preliminary S/LD Application approved by the Planning Commission. If the Planning Commission determines by vote that the Final Plat does so conform to such Preliminary Plat and that the application otherwise contains all required content, the Final S/LD Application shall be approved without further public hearing or action of the Planning Commission, which approval may be with conditions if so determined by vote of the Planning Commission, provided that, (i) such approval shall automatically be with the requirement, and on the condition, that the Subdivision/Land Development be undertaken and completed in accordance with all content in the approved Preliminary S/LD Application not resubmitted with the Final S/LD Application (such as supplemental construction/development plans and drawings and ancillary items), and (ii) any requirement in this Ordinance that construction, performance or other action be in accordance with the Final S/LD Application shall also require that such actions be in accordance with the content of the approved Preliminary S/LD Application specified in clause (i). If the Planning Commission determines by vote that the Final Plat fails to so conform to such Preliminary Plat, the Final S/LD Application shall be deemed an application for approval of a revised Preliminary S/LD Application that must be reconsidered for approval by the Planning Commission after an
(4) Sections 1332.02(C)(3)(a) and 1332.02(C)(3)(b) shall apply only to the Preliminary S/LD Application, except that Sections 1332.02(C)(3)(b)(1)(A), 1332.02(C)(3)(b)(2)(A), and 1332.02(C)(3)(b)(2)(B) shall also apply to the Final S/LD Application. See Section 1332.02(C)(4)(b)(3) above regarding approval, approval with conditions, and revision of Final S/LD Applications. Upon approval of a Preliminary S/LD Application, the Planning Commission may specify conditions that must be satisfied for approval of the related Final S/LD Application (such as posting of bonds to guarantee completion of Improvements); provided that, the failure to specify such conditions at the time of Preliminary S/LD Application approval shall in no way limit or affect the authority of the Planning Commission to place conditions upon approval of the Final S/LD Application; and further provided that, the specification of such conditions at the time of Preliminary S/LD Application approval shall in no way limit or affect the authority of the Planning Commission to place additional or modified conditions upon approval of the Final S/LD Application.

(5) Section 1332.02(C)(3)(c) shall apply only to the Final S/LD Application.

**fc. 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. Vested property rights arise upon approval of a Preliminary S/LD Application and upon approval of a Final S/LD Application. 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.

**gd. 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 Planning Commission; (ii) the specified Improvements will substantially 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)(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, if applicable, 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 to the Planning Commission 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.

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

m. **Preliminary Plan and Plat Creating Lots.** Preliminary approval shall not constitute approval of the Final Plan and Plat and does not authorize the transfer of any proposed parcel of land within the proposed subdivision to another entity. Rather, preliminary approval shall be deemed an expression of the approval of the layout submitted on the Preliminary Plan and Plat as a guide to the preparation of the Final Plan and Plat which will be submitted for approval and for recording upon fulfillment of the requirements of these regulations and the conditions of the preliminary approval, if any.

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:
(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.
(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.
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

(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)(6), Article 1335 and Guarantee of Public Improvements policy.
1. **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 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 release a guarantee of Improvements. The criteria outlined below in 1332.03(C)(6)(g-l) is not intended to override Article 1335 or the release standards detailed 1335(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.
(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 any 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
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 hearing and meeting.
hearing once the deficiencies are corrected prior to releasing the
surety.

l. 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.

(E) Vested Property Right. The right to undertake and complete a Subdivision or Land
Development is established as a vested property right when the subject S/LD Application
is approved by the Planning Commission (or Subdivision Administrator in the case of a
Minor Subdivision/Land Development). The right is only applicable under the terms and
conditions of the approved S/LD Application. Failure to abide by the terms and conditions
of the approved S/LD 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 S/LD Application was
approved by the Planning Commission.

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 a prerequisite to a
pre-submission consultation meeting with the Subdivision Administrator, the first step in the
Major S/LD application process. Such meeting shall occur prior to the submission to the
Planning Commission of an S/LD Application. A Sketch Plan shall be submitted to the in
accordance with Section 1332.03, Subdivision Administrator for advice, suggestions and
non-binding opinions from the City’s Department of Community Development.
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.

(B) Discussions, opinions and/or representations made during the review of a Sketch Plan
shall not be a basis for non-compliance with the applicable requirements for S/LD
Application approval, and shall not be binding upon the Planning Commission when acting
upon subsequently submitted S/LD Applications.

(C) The submission and review of a Sketch Plan shall not 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. **Two-Three (2-3) 11” x 17” copies of the Sketch Plan shall be submitted at least one (1) week prior to the scheduled pre-submission consultation meeting 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
   
   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
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

1. Proposed open space and/or recreation areas, including notes on the plan describing the proposed use, activity area and/or improvement.

2. Any other information requested by the Subdivision Administrator in order for the Subdivision Administrator to make an accurate determination.

b. Land characteristics

c. Available utilities

d. All existing sanitary sewer facilities and combined sewer facilities

e. Existing covenants

f. General layout of the proposed number of Lots and average Lot sizes

g. Location of proposed land uses

h. Location of proposed Street and utility Improvements

i. 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

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 contact 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

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, including the Net Buildable Land Area

m. 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

n. The proposed number of dwelling units of each type in each in the total development

o. Location of proposed Street layout, including connections to adjoining streets or vacant lots,

p. The location of sidewalks, trails and crosswalks, as may be applicable

q. 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

r. The location of environmental sensitive land to be included in common open space

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.

Section 1332.045, 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 hearing 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.

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 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

(10) 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
(11) **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.”

(12) **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.”

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

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

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

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

<table>
<thead>
<tr>
<th>Ordinance</th>
<th>Section of Ordinance</th>
<th>Description of Waiver or Variance</th>
<th>Date Granted</th>
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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, 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 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.
(8) 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.

(9) The 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).

(10) 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.

(11) 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

(12) Location of municipal boundary lines, if applicable.

(13) Location of Zoning District boundary lines if they border upon or
cross any part of a parcel subject to the proposed Subdivision/Land
Development.
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

(14) 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.
   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.
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

(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.

fd. 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, 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.
   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 Ancillary 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

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.

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)(6).

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**
e. 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 1332.056, 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.

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 1332.02(C)(4)(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 hearing 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.

g. 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.

(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.

(15) "This property is not (is) in an area designated as a special flood area, as shown on Community Map/Panel Number / , Effective date ."

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

(17) Such other conditions, certificates, affidavits, endorsements, dedications or agreements as may be deemed necessary by the Planning Commission.

(18) Provide a list of variances/waivers on the Final Plat cover sheet in accordance with Section 1332.05(a)(16).

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-ways 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-ways (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:

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).

(126) 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.

(127) 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 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-ways that may serve at a future date to connect with adjoining properties. The general purpose of Easements and rights-of-way shall be indicated.

(148) 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).

(159) 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. Ancillary 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.

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 1332.076, 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 1332.072.A.1.b and c. Such approval may be granted provided the conditions of A.1, A.2 and A.3 above are 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 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. Surveyor’s 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 1332.087, 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 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 vested in the owners, proprietors, and trustees free and clear of any rights of public use in the same.

Section 1332.098, 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 1332.08(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 1332.06.

Section 1332.0910, 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, and sealed by a Professional Engineer or Professional Land Surveyor.

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.

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.

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.

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.
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.
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 BC, 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.
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.
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 AB. 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.
Table 1333.02 – Minimum Street Design Standards
Note (*) Shall be in accordance with West Virginia DOH Specifications.

<table>
<thead>
<tr>
<th>Street Design Element</th>
<th>Neighborhood Street</th>
<th>Neighborhood Center Street</th>
<th>Minor Collector Street</th>
<th>Major Collector Street</th>
<th>Primary Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Daily Traffic (ADT)</td>
<td>0-500</td>
<td>501-1000</td>
<td>1001-2000</td>
<td>2001+</td>
<td>Where called for in the Comprehensive Plan</td>
</tr>
<tr>
<td>Minimum Design Speed</td>
<td>25 mph</td>
<td>30 mph</td>
<td>35 mph</td>
<td>40 mph</td>
<td></td>
</tr>
<tr>
<td>Minimum Turning Flare Radius at Pavement</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
<td></td>
</tr>
<tr>
<td>Minimum Road Grade</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>Maximum Road Grade</td>
<td>9%</td>
<td>8%</td>
<td>8%</td>
<td>7%</td>
<td></td>
</tr>
<tr>
<td>Pavement cross slope</td>
<td>2.08%</td>
<td>2.08%</td>
<td>2.08%</td>
<td>2.08%</td>
<td></td>
</tr>
<tr>
<td>Pavement Surface Type</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subgrade</td>
<td>6” Class 1.Dense Graded Aggregate*</td>
<td>8” Class 1.Dense Graded Aggregate*</td>
<td>8” Class 1.Dense Graded Aggregate*</td>
<td>12” Class 1.Dense Graded Aggregate*</td>
<td>Per WVDOH Requirement</td>
</tr>
<tr>
<td>Base Course</td>
<td>3” Hot Mix Asphalt Base Course*</td>
<td>3” Hot Mix Asphalt Base Course*</td>
<td>4” Hot Mix Asphalt Base Course*</td>
<td>6” Hot Mix Asphalt Base Course*</td>
<td>Per WVDOH Requirement</td>
</tr>
<tr>
<td>Surface Course</td>
<td>1.5” Hot Mix Asphalt Wearing Course*</td>
<td>2.0” Hot Mix Asphalt Wearing Course*</td>
<td>2.0” Hot Mix Asphalt Wearing Course*</td>
<td>2.0” Hot Mix Asphalt Wearing Course*</td>
<td>Per WVDOH Requirement</td>
</tr>
<tr>
<td>Shoulder Width</td>
<td>N/A</td>
<td>4’</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Shoulder Cross Slope</td>
<td>N/A</td>
<td>6%</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Ditch Depth</td>
<td>N/A</td>
<td>2’</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Minimum Right-of-way width</td>
<td>47’</td>
<td>56’</td>
<td>61’</td>
<td>75’</td>
<td>93’</td>
</tr>
<tr>
<td>Minimum Cul-de-sac radius (at R.O.W.)</td>
<td>50’</td>
<td>50’</td>
<td>50’</td>
<td>50’</td>
<td>N/A</td>
</tr>
<tr>
<td>Street Parking Required</td>
<td>Yes, one side</td>
<td>Yes, both sides</td>
<td>Yes, both sides</td>
<td>No, not permitted</td>
<td>No, not permitted</td>
</tr>
</tbody>
</table>

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.
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.
Subdivision and Land Development Ordinance of the City of Charles Town, WV  
Part 13, Articles 1331 – 1326, of the Charles Town Code

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
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 26.13 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.
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 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.
**Subdivision and Land Development Ordinance of the City of Charles Town, WV**  
**Part 13, Articles 1331 – 1326, of the Charles Town Code**

(D)  **Clear Sight Triangles.**

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.
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

(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:


2. West Virginia Department of Highways, “Standards for the Design and Installation of Road Name Signing” published March 1999, as amended; and


(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.
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.
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 four (54) 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

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Average Lot Size</th>
<th>Density du/acre</th>
<th>Sidewalk Requirement</th>
<th>On-street Parking Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>&gt; 30,000 ft²</td>
<td>1.46 or more</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Residential</td>
<td>15,001 ft² – 30,000 ft²</td>
<td>2.90 – 1.45</td>
<td>One side of Street</td>
<td>One side of Street</td>
</tr>
<tr>
<td>Residential</td>
<td>12,001 – 15,000 ft²</td>
<td>3 – 5.5</td>
<td>Both sides of Street</td>
<td>Both sides of Street</td>
</tr>
<tr>
<td>Residential</td>
<td>&lt; 12,001 ft²</td>
<td>&gt; 5.51</td>
<td>Both sides</td>
<td>Both sides</td>
</tr>
<tr>
<td>Commercial</td>
<td>N/A</td>
<td>N/A</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

*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.
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

(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...
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.
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.
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

(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. The mounting height for luminaire fixtures shall not exceed 33 feet as measured to the top of the fixture from grade.
3. 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.
4. The maximum average maintained footcandles for all parking lighting shall be three (3) footcandles and the minimum average maintained footcandles shall be 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.
5. 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.

6. 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 materials other than 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.

(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.

(F) Buffering shall consists of a land area not less than twenty (20) feet in width for developments between all adjoining residential and non-residential uses.

(G) Buffer width may be reduced to 10 feet, provided 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 B – 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.

(GH) 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. Screening may be used in lieu of screening required in subsection (E).

(HI) 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. Compliance with all trees and shrubs used to meet the requirements of this Section.

(J) Not more than 40% of any one type or specie of tree shall be permitted.
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 580 feet of street
frontage. The minimum spacing of trees shall be according to the
requirements of the specific species.

b. Up to ten percent (10%) 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. All Landscaping shall comply with the requirements of this
Ordinance, including, but not limited to plant selection, planting procedure, and maintenance.

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.

(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.

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

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

1. **Existing Plant Material.** Existing trees, shrubs, and other plant materials shall be retained to the greatest extent feasible. Plans shall indicate how existing trees, shrubs and other plant materials are to be protected and provided moisture and how soils are to be aerated and drained. 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.

<table>
<thead>
<tr>
<th>Tree Category</th>
<th>Tree Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Tree 1” to 6” Diameter Breast Height (DBH)</td>
<td>1 tree unit per tree retained</td>
</tr>
<tr>
<td>Existing Tree 7” to 19” DBH</td>
<td>2 tree units per tree retained</td>
</tr>
<tr>
<td>Existing Tree &gt; 20” DBH</td>
<td>3 tree units per tree retained</td>
</tr>
<tr>
<td>New or Replacement Tree, Large Species (At maturity more than 40 feet tall)</td>
<td>1 tree unit per tree planted</td>
</tr>
</tbody>
</table>

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 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:
   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, prior to the recording of the Final Record Plat for the Subdivision/Land Development.

(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:

   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. 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 trials 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.

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 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.

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 total land area devoted to a townhouse Development shall be at least five (5) acres. 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. Each interior parcel or tract used for a group of townhouses shall have a width of at least 100 feet and each corner parcel or tract shall have a width of at least 120 feet.

(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. 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.

(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.”

(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.

(B) Wireless Telecommunication Facilities Design.

2 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.
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 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 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; 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.

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.

   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.

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

<table>
<thead>
<tr>
<th>Table 1333.23(H), Parking Space Dimensions</th>
</tr>
</thead>
</table>
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>
<thead>
<tr>
<th>Parking Angle</th>
<th>Minimum Lane Width (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parallel</td>
<td>11’</td>
</tr>
<tr>
<td>30 Degrees</td>
<td>11’</td>
</tr>
<tr>
<td>45 Degrees</td>
<td>18’</td>
</tr>
<tr>
<td>60 Degrees</td>
<td>20’</td>
</tr>
<tr>
<td>90 Degrees</td>
<td>22’</td>
</tr>
</tbody>
</table>

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>
<thead>
<tr>
<th>ITE Code</th>
<th>Specific Land Use</th>
<th>Minimum Off-Street Parking Space Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>PORT AND TERMINAL USES (ITE CODES 000 – 009)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 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.  

RESIDENTIAL USES (ITE CODES 200 - 299) | |  
| 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  
| 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  

109
## Subdivision and Land Development Ordinance of the City of Charles Town, WV
### Part 13, Articles 1331 – 1326, of the Charles Town Code

<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Specific Land Use</th>
<th>Minimum Off-Street Parking Space Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>252</td>
<td>Senior Adult Housing – Attached</td>
<td>1.3 spaces per dwelling unit</td>
</tr>
<tr>
<td>253</td>
<td>Congregate Care Facility</td>
<td>0.5 spaces per dwelling unit</td>
</tr>
<tr>
<td>254</td>
<td>Assisted Living</td>
<td>0.5 spaces per dwelling unit</td>
</tr>
<tr>
<td>255</td>
<td>Continuing Care Retirement Community</td>
<td>0.5 spaces per dwelling unit</td>
</tr>
<tr>
<td>270</td>
<td>Residential Planned Unit Developments</td>
<td>2.0 spaces per dwelling unit</td>
</tr>
<tr>
<td></td>
<td>Accessory Living Quarters / Second Unit Housing</td>
<td>1.0 spaces per dwelling unit</td>
</tr>
<tr>
<td></td>
<td>Major Home Occupation</td>
<td>No more than 6.0 vehicles legally parked at the residence at one time</td>
</tr>
<tr>
<td></td>
<td>Group Home</td>
<td>0.5 spaces per living quarter</td>
</tr>
<tr>
<td></td>
<td>Guest Quarters</td>
<td>1.0 space per living quarter</td>
</tr>
<tr>
<td><strong>LODGING USES (ITE CODES 300 – 399)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>310</td>
<td>Hotel</td>
<td>1.3 spaces per room</td>
</tr>
<tr>
<td>311</td>
<td>All Suites Hotel</td>
<td>1.3 spaces per room</td>
</tr>
<tr>
<td>312</td>
<td>Business Hotel</td>
<td>1.3 spaces per room</td>
</tr>
<tr>
<td>320</td>
<td>Motel</td>
<td>1.1 spaces per room</td>
</tr>
<tr>
<td>321</td>
<td>Resort Motel</td>
<td>1.42 spaces per room</td>
</tr>
<tr>
<td></td>
<td>Bed and Breakfast Inns</td>
<td>1 per guest room, plus two for proprietor</td>
</tr>
<tr>
<td><strong>RECREATIONAL USES (ITE CODES 400 – 499)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>411</td>
<td>City Park</td>
<td>7.0 spaces per acre</td>
</tr>
<tr>
<td>412</td>
<td>County Park</td>
<td>7.0 spaces per acre</td>
</tr>
<tr>
<td>413</td>
<td>State Park</td>
<td>7.0 spaces per acre</td>
</tr>
<tr>
<td>414</td>
<td>Water Slide Park</td>
<td>7.0 vehicles per acre</td>
</tr>
<tr>
<td>416</td>
<td>Campground/Recreational Vehicle Park</td>
<td>1 space per 6 camp sites, plus 4 per laundry and shower facility</td>
</tr>
<tr>
<td>430</td>
<td>Golf Course</td>
<td>12.0 spaces per hole</td>
</tr>
<tr>
<td>431</td>
<td>Miniature Golf Course</td>
<td>2.0 spaces per hole</td>
</tr>
<tr>
<td>432</td>
<td>Golf Driving Range</td>
<td>1.0 per tee</td>
</tr>
<tr>
<td>433</td>
<td>Batting Cages</td>
<td>1.0 per batting cage</td>
</tr>
<tr>
<td>435</td>
<td>Multipurpose Recreational Facility</td>
<td>2.7 spaces per hole, 16 spaces per 1,000 sq. ft. GFA, and 24 spaces per acre</td>
</tr>
<tr>
<td>437</td>
<td>Bowling Alley</td>
<td>5.6 spaces per lane</td>
</tr>
<tr>
<td>438</td>
<td>Billiard Hall</td>
<td>6.9 spaces per 1,000 sq. ft. GFA and 3.0 spaces per billiard table</td>
</tr>
<tr>
<td>440</td>
<td>Adult Cabaret (Adult Uses)</td>
<td>5.2 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>441</td>
<td>Live Theater</td>
<td>0.33 spaces per seat</td>
</tr>
<tr>
<td>443/444</td>
<td>Movie Theater</td>
<td>0.33 spaces per seat</td>
</tr>
<tr>
<td>445</td>
<td>Multiplex Movie Theater</td>
<td>1.0 spaces per 4 seats</td>
</tr>
<tr>
<td>452</td>
<td>Horse Racetrack</td>
<td>1.0 space per 6 seats or 1.0 per 50 sq. ft. GFA</td>
</tr>
<tr>
<td>453</td>
<td>Automobile Racetrack</td>
<td>1.0 space per 6 seats or 1.0 per 50 sq. ft. GFA</td>
</tr>
</tbody>
</table>
### ITE Code Specific Land Use Minimum Off-Street Parking Space Requirements

| 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 |

#### INSTITUTIONAL USES (ITE CODE 500 – 599)

| 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/Fraterna Organization | 1.0 space per 250 sq. ft. GFA |

#### MEDICAL USES (ITE CODES 600 – 699)

| 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 |
| 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 |

#### OFFICE USES (ITE CODES 700 – 799)

---

111
<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Specific Land Use</th>
<th>Minimum Off-Street Parking Space Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>710</td>
<td>General Office Building</td>
<td>2.84 vehicles per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>714</td>
<td>Corporate Headquarters Building</td>
<td>2.84 vehicles per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>715</td>
<td>Single Tenant Building</td>
<td>2.84 vehicles per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>720</td>
<td>Medical-Dental Office Building</td>
<td>3.53 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>730</td>
<td>Government Office Building</td>
<td>3.3 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>732</td>
<td>United States Post Office</td>
<td>3.3 spaces per 1,000 sq. ft. GFA, and sufficient stacking for any drive-through lane(s)</td>
</tr>
<tr>
<td>733</td>
<td>Government Office Complex</td>
<td>3.3 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>735</td>
<td>Judicial Complex</td>
<td>4.1 spaces per 1,000 sq. ft. GFA and 0.8 spaces per employee</td>
</tr>
<tr>
<td>750</td>
<td>Office Park</td>
<td>2.84 vehicles per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>760</td>
<td>Research and Development Center</td>
<td>2.84 vehicles per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>770</td>
<td>Business Park</td>
<td>2.84 vehicles per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>812</td>
<td>Building Materials and Lumber Store</td>
<td>3.8 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>813</td>
<td>Free-Standing Discount Superstore</td>
<td>5.0 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>814</td>
<td>Specially Retail Center</td>
<td>4.9 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>815</td>
<td>Free-Standing Discount Store</td>
<td>5.0 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>816</td>
<td>Hardware/Paint Store</td>
<td>3.8 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>817</td>
<td>Nursery/Garden Center</td>
<td>4.9 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>818</td>
<td>Nursery (Wholesale)</td>
<td>4.9 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>820</td>
<td>Shopping Center</td>
<td>5.3 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>823</td>
<td>Factory Outlet Center</td>
<td>4.9 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>841</td>
<td>New Car Sales</td>
<td>1.0 space per 400 sq. ft. office space, plus adequate space for vehicle display and storage</td>
</tr>
<tr>
<td>843</td>
<td>Automobile Parts Sales</td>
<td>5.0 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>848</td>
<td>Tire Store</td>
<td>5.0 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>849</td>
<td>Tire Superstore</td>
<td>5.0 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>850</td>
<td>Supermarket</td>
<td>6.7 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>851</td>
<td>Convenience Market (Open 24 Hours)</td>
<td>5.3 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>852</td>
<td>Convenience Market (Open 15 – 16 Hours)</td>
<td>5.3 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>853</td>
<td>Convenience Market with Gasoline Pumps</td>
<td>5.3 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>854</td>
<td>Discount Supermarket</td>
<td>6.9 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>857</td>
<td>Discount Club</td>
<td>5.0 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>859</td>
<td>Liquor Store</td>
<td>7.2 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>860</td>
<td>Wholesale Market</td>
<td>6.9 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>861</td>
<td>Sporting Goods Superstore</td>
<td>4.9 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>862</td>
<td>Home Improvement Superstore</td>
<td>4.9 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>863</td>
<td>Electronics Superstore</td>
<td>2.3 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>864</td>
<td>Toy/Children’s Superstore</td>
<td>1.94 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>865</td>
<td>Baby Superstore</td>
<td>1.94 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>866</td>
<td>Pet Supply Superstore</td>
<td>4.1 spaces per 1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>867</td>
<td>Office Supply Superstore</td>
<td>1.2 spaces per 1,000 sq. ft. GFA</td>
</tr>
</tbody>
</table>
### ITE Code | Specific Land Use | Minimum Off-Street Parking Space Requirements
--- | --- | ---
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
899 | Art Gallery | 1.5 per 1,000 sq. ft. GFA

#### SERVICE USES (ITE CODES 900 – 999)

<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Specific Land Use</th>
<th>Minimum Off-Street Parking Space Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>911</td>
<td>Walk-in Bank</td>
<td>1.0 space per employee, plus 1.0 space per 200 sq. ft. GFA</td>
</tr>
<tr>
<td>912</td>
<td>Drive-in Bank</td>
<td>1.0 space per employee, plus sufficient stacking area to accommodate drive-through lane(s)</td>
</tr>
<tr>
<td>931</td>
<td>Quality Restaurant</td>
<td>1.0 spaces per every 3.0 seats</td>
</tr>
<tr>
<td>932</td>
<td>High-Turnover (Sit-Down) Restaurant</td>
<td>1.0 spaces per every 3.0 seats</td>
</tr>
<tr>
<td>933</td>
<td>Fast-Food Restaurant w/o Drive-Through Window</td>
<td>1.0 space per every 3.0 seats</td>
</tr>
<tr>
<td>934</td>
<td>Fast-Food Restaurant with Drive-Through Window</td>
<td>1.0 space per every 3.0 seats, plus sufficient stacking area to accommodate drive-through lane</td>
</tr>
<tr>
<td>935</td>
<td>Fast-Food Restaurant with Drive-Through Window and No Indoor Seating</td>
<td>1.0 space per employee</td>
</tr>
<tr>
<td>936</td>
<td>Coffee/Donut Shop w/o Drive-Through Window</td>
<td>1.0 space per every 3.0 seats</td>
</tr>
<tr>
<td>937</td>
<td>Coffee/Donut Shop with Drive-Through Window</td>
<td>1.0 space per every 3.0 seats, plus sufficient stacking area to accommodate drive-through lane</td>
</tr>
<tr>
<td>938</td>
<td>Coffee/Donut Shop with Drive-Through Window and No Indoor Seating</td>
<td>1.0 space per employee, plus sufficient stacking area to accommodate drive-through lane</td>
</tr>
<tr>
<td>939</td>
<td>Bread/Donut/Bagel Shop w/o Drive-Through Window</td>
<td>1.0 space per every 3.0 seats</td>
</tr>
<tr>
<td>940</td>
<td>Bread/Donut/Bagel Shop with Drive-Through Window</td>
<td>1.0 space per every 3.0 seats, plus sufficient stacking area to accommodate drive-through lanes</td>
</tr>
<tr>
<td>941</td>
<td>Quick Lube Vehicle Shop</td>
<td>1.0 space per 500 sq. ft. GFA, plus 1.0 space per employee</td>
</tr>
<tr>
<td>942</td>
<td>Automobile Care Center</td>
<td>1.0 space per 500 sq. ft. GFA, plus adequate space for vehicle storage</td>
</tr>
<tr>
<td>943</td>
<td>Automobile Parts and Service Center</td>
<td>2.0 spaces per 500 sq. ft. GFA, plus adequate space for vehicle storage</td>
</tr>
<tr>
<td>944</td>
<td>Gasoline/Service Station</td>
<td>6.0 space per 1,000 sq. ft. GFA, plus sufficient stacking area to accommodate 2.0 vehicles per each side of pump island</td>
</tr>
</tbody>
</table>
### 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>
<thead>
<tr>
<th>Business Type</th>
<th>Queue Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automated Teller Machine (ATM)</td>
<td>2 per machine</td>
</tr>
<tr>
<td>Bank, Dry Cleaner, Pharmacy</td>
<td>3 per lane</td>
</tr>
<tr>
<td>Car Wash (Customer Operated)</td>
<td>2 per stall</td>
</tr>
<tr>
<td>Car Wash (Conveyor Type Operated by Customer)</td>
<td>4 per stall</td>
</tr>
<tr>
<td>Car Wash (Conveyor Type Washed by Employees)</td>
<td>6 per stall</td>
</tr>
<tr>
<td>Restaurant</td>
<td>6 per lane</td>
</tr>
</tbody>
</table>

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.

### Loading Standards

Adequate loading spaces and maneuvering areas shall be provided for all businesses that will send and receive materials.

1. Loading docks shall not be located on the front of a Building.

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(UV) 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 herein, shall be provided in the following circumstances:

a. When a loading dock will be located adjacent to a place of residence or a residential district; or

b. When a loading dock will be visible from a Street.

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.

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

<table>
<thead>
<tr>
<th>Gross Floor Area (in Square Feet)</th>
<th>Required Loading Docks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 100,000</td>
<td>0</td>
</tr>
<tr>
<td>100,001 – 200,000</td>
<td>1</td>
</tr>
<tr>
<td>200,001 – and over</td>
<td>2 plus 1 for each additional 150,000 square feet</td>
</tr>
</tbody>
</table>

(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.
   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.
Table 1333.25 – Minimum Standards Required for Site Density Testing

<table>
<thead>
<tr>
<th>Test Locations</th>
<th>Testing Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Embankments</td>
<td>One density test shall be performed per 5,000 ft$^2$ per 8-inch compacted lift.</td>
</tr>
<tr>
<td>Fill sections for Streets, travelways, and pipestem Driveways.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Under curb and gutter, one density test shall be performed per 300 ft. on alternating sides.</td>
</tr>
<tr>
<td>Subgrade</td>
<td>Proofrolling, and evaluation and approval by the geotechnical engineer of record.</td>
</tr>
<tr>
<td>Cut in existing fill for Streets, travelways, and pipestem Driveways.</td>
<td>(undercut and stabilization may be necessary as determined by the geotechnical engineer of record).</td>
</tr>
<tr>
<td>Subgrade</td>
<td>Proofrolling, and evaluation and approval by the geotechnical engineer of record.</td>
</tr>
<tr>
<td>Cut in natural soils.</td>
<td></td>
</tr>
<tr>
<td>Subbase Material</td>
<td>One density test shall be performed per 5,000 ft$^2$ per 8-inch compacted lift.</td>
</tr>
<tr>
<td>For Streets, travelways, and pipestem Driveways.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>When the subbase aggregate is placed in layers or lifts, each lift shall be tested.</td>
</tr>
<tr>
<td></td>
<td>Under curb and gutter, when placed before the subbase material in the Street, perform one density test per 300 ft. on alternating sides.</td>
</tr>
<tr>
<td>Base Material</td>
<td>One density test shall be performed per 5,000 ft$^2$ at the finished base grade. When the base aggregate is placed in layers or lifts, each 8-inch compacted lift shall be tested at the required frequency.</td>
</tr>
<tr>
<td>Storm Drainage System – Backfill *</td>
<td>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.</td>
</tr>
<tr>
<td>Sanitary Sewer, Water and Gas Mains – Backfill *</td>
<td>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.</td>
</tr>
<tr>
<td>(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.)</td>
<td></td>
</tr>
<tr>
<td>Sanitary Sewer, Water and Gas Laterals – Backfill for Stub Constructed in Conjunction with Utility Main *</td>
<td>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.</td>
</tr>
<tr>
<td>Sidewalks and Driveway Aprons</td>
<td>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.</td>
</tr>
</tbody>
</table>
### Test Locations

<table>
<thead>
<tr>
<th>Test Locations</th>
<th>Testing Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Driveway Apron</td>
<td>One test per apron shall be performed.</td>
</tr>
<tr>
<td>Saw Cuts or Cores</td>
<td>Two cuts or cores represent one test. A minimum of two tests per Street are required regardless of the Street length.</td>
</tr>
<tr>
<td>OR Conventional Nuclear Density Gauge</td>
<td>One test shall be performed per 500 ft. of roadway or 1,000 ft. of any pass made by a paving train.</td>
</tr>
<tr>
<td>OR Thin Lift Nuclear Density Gauge</td>
<td>One test shall be performed per 500 ft. of roadway.</td>
</tr>
<tr>
<td>Thin Lift Nuclear Density Gauge</td>
<td>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.</td>
</tr>
<tr>
<td>Test areas are defined as lots and sublots.</td>
<td>Streets less than 500 ft. in length shall be tested a minimum of twice. St. less than 500 ft. in length shall be tested a minimum of twice.</td>
</tr>
</tbody>
</table>

*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.
(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 Karst 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
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.
(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.
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:


(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.
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

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.'
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 vegetation 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:
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

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.
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
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.
(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
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
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.”


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
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
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

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.


   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>
<thead>
<tr>
<th>Water Quality BMP</th>
<th>Target Phosphorus Removal Efficiency</th>
<th>Percent Impervious Cover</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vegetated Filter Strip</td>
<td>10%</td>
<td>16-21%</td>
</tr>
</tbody>
</table>
### Grasped Swale

<table>
<thead>
<tr>
<th>Subdivision/Land Development</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constructed Wetlands</td>
<td>30%</td>
</tr>
<tr>
<td>Extended Detention (2 x WQ Vol)</td>
<td>35%</td>
</tr>
<tr>
<td>Retention Basin I (3 x WQ Vol)</td>
<td>40%</td>
</tr>
</tbody>
</table>

### Constructed Wetland

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>22-37%</td>
</tr>
</tbody>
</table>

### Bioretention Basin

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>38-66%</td>
</tr>
</tbody>
</table>

### Bioretention Filter

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
</tr>
</tbody>
</table>

### Extended Detention-Enhanced

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
</tr>
</tbody>
</table>

### Retention Basin II (4 x WQ Vol)

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
</tr>
</tbody>
</table>

### Infiltration (1 x WQ Vol)

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
</tr>
</tbody>
</table>

### Sand Filter

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>65%</td>
</tr>
</tbody>
</table>

### Infiltration (2 x WQ Vol)

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>65%</td>
</tr>
</tbody>
</table>

### Retention Basin III (4 x WQ Vol with aquatic bench)

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>67%-100%</td>
</tr>
</tbody>
</table>

**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 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.**
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

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, 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.

(I) 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. 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.

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

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1 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.
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

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 PUBLIC 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 ever 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
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
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
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.
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 $P$ is the period of the bond (years); $I$ is the annual inflation factor; and $E$ is the estimated cost of construction [including the ten (10) percent contingency factor]; $C$ is 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 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 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.
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 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.
Subdivision and Land Development Ordinance of the City of Charles Town, WV
Part 13, Articles 1331 – 1326, of the Charles Town Code

i. No bond shall be reduced for a Performance Agreement that is in default.

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 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 1332.0910 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.

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 1332.102 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.


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


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.

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
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.
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 Planning Commission, 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(2)(B)(3)(d) of Section 1332.02(C)(3)(c), as applicable.

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 1332.03.

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.

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.

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 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 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 and an approved Final S/LD Application.
and Final Plat by the owner/Developer, the manner of construction of such
Improvements, and the required date of completion.

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

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

PLAT – A map of a Subdivision or Land Development.

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 1332.054.

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
two times the water quality volume.

RETENTION BASIN II – A retention basin with the volume of the permanent pool equal to
three 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 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. A voluntary, non-binding schematic plan submitted for informational purposes only and containing the information specified in Section 1332.03.

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 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).

**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 Section Article 1334 1334.12(B)(3) 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.

Appendix A
Subdivision and Land Development Plan Checklists
Appendix AB

Typical Roadway Sections
NOTES:

1. ALL PEDESTRIAN AND BIKE TRAILS LOCATED OUTSIDE OF CITY OF CHARLESTOWN RIGHT OF WAY SHALL BE A MINIMUM OF 4’ IN WIDTH FOR SIDEWALKS, 6’ FOR ALL PEDESTRIAN TRAILS, AND 8’ FOR ALL BIKE TRAILS.

2. A PRIVATE ACCESS EASEMENT SHALL BE PROVIDED FOR ALL SIDEWALKS AND TRAILS OUTSIDE OF CITY OF CHARLES TOWN RIGHT OF WAY AND SHALL INCLUDE A MINIMUM OF 3’ OF WIDTH ON BOTH SIDES OF THE TRAIL OR SIDEWALK.

3. THE MAXIMUM GRADE FOR ALL PEDESTRIAN TRAILS SHALL BE 10%.

4. THE MAXIMUM GRADE FOR ALL BIKE TRAILS SHALL BE 8%, EXCEPT UP TO 15% IS ALLOWED FOR DISTANCES OF LESS THAN 150 FEET.

5. APPROPRIATE LIGHTING AND SIGNAGE, LANDSCAPING, BUFFERING AND DRAINAGE MEASURES, ALONG WITH CONSIDERATIONS FOR SECURITY SHALL BE INCORPORATED IN THE DESIGN OF THESE FACILITIES.
Appendix C - Buffering Standard Detail

10 foot wide buffer standard

✓ Coniferous trees spaced a maximum of 10 feet on-center and two staggered rows (spaced a maximum of 7 feet apart).

✓ Coniferous trees may be required to be planted closer than specified above if the species planting specifications indicate the chosen planting material will not grow large enough to form a contiguous screen.

20 foot wide buffer standard

✓ A minimum of one continuous row of coniferous trees spaced a maximum of 12 feet on-center and two staggered rows (spaced a maximum of 8 feet apart). One row can consist of deciduous trees.

✓ Coniferous trees may be required to be planted closer than specified above if the species planting specifications indicate the chosen planting material will not grow large enough to form an intermittent screen.
Appendix C – Prohibited Species

The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, or nuisance:

<table>
<thead>
<tr>
<th>Prohibited Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kudzu Vine</td>
</tr>
<tr>
<td>Purple Loosestrife</td>
</tr>
<tr>
<td>Japanese Honeysuckle</td>
</tr>
<tr>
<td>Shrub Honeysuckle</td>
</tr>
<tr>
<td>Autumn Olive</td>
</tr>
<tr>
<td>Common Privet</td>
</tr>
<tr>
<td>Tree of Heaven</td>
</tr>
<tr>
<td>Lespedeza</td>
</tr>
<tr>
<td>Bradford Pear</td>
</tr>
<tr>
<td>Elm</td>
</tr>
<tr>
<td>All Variety of Ash Trees</td>
</tr>
</tbody>
</table>

Any plant material not permitted by the West Virginia Invasive Species Strategic Plan and Voluntary Guidelines 2014, or as amended.
ALL SLOPES ARE TO BE 2:1 OR FLATTER UNLESS SPECIFICALLY APPROVED BY THE DIRECTOR OF PUBLIC WORKS.

TYPICAL ROADWAY SECTION WITH CURB AND GUTTER

TYPICAL SECTION - MAJOR COLLECTOR
(2001+ VPD)
City of Charles Town
All slopes are to be 2:1 or flatter unless specifically approved by the Director of Public Works.

TYPICAL ROADWAY SECTION WITH CURB AND GUTTER

TYPICAL SECTION - MINOR COLLECTOR
(1000-2001 VPD)
City of Charles Town
MAXIMUM ALLOWABLE DEPTH 2.5'

EXTENSION OF SUBGRADE OR 4" MIN., WHICHER IS GREATER

TYPICAL ROADWAY SECTION WITHOUT CURB AND GUTTER

EXTENSION OF SUBGRADE OR 4" MIN., WHICHER IS GREATER

TYPICAL ROADWAY SECTION WITH CURB AND GUTTER

TYPICAL SECTION - NEIGHBORHOOD CENTER STREET
(501-1000 VPD)
City of Charles Town
ALL SLOPES ARE TO BE 2:1 OR FLATTER UNLESS SPECIFICALLY APPROVED BY THE DIRECTOR OF PUBLIC WORKS.

TYPICAL SECTION - NEIGHBORHOOD STREET
(0-500 VPD)
City of Charles Town
ALL SLOPES ARE TO BE 2:1 OR FLATTER UNLESS SPECIFICALLY APPROVED BY THE DIRECTOR OF PUBLIC WORKS.

TYPICAL ROADWAY SECTION WITH CURB AND GUTTER

EXTENSION OF SUBGRADE OR 4" MIN., WHICHEVER IS GREATER

TYPICAL SECTION - PRIMARY STREET

City of Charles Town
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 -1325, of the Charles Town Code

Enacted: June 18, 2012
Effective: September 26, 2012
ZONING ORDINANCE OF THE CITY OF CHARLES TOWN, WV

ACKNOWLEDGEMENTS

Mayor and Council of the City of Charles Town

Peggy Smith, Mayor

Rich Bringewatt
Donald Clendening
Chet Hines
Sandra Slusher McDonald

Ann Paonessa
Michael Slover
Mark Reinhart
Wayne Clark

City of Charles Town Planning Commission

Mark Reinhart
Mark Meredith
Al Craven
Mark Roper
Jeff Wogan

Steering Committee

Carla Coffey
Kristen Ringstaff
Donald Clendening
Eric Meske
Al Hooper

City Officials

Joe Cosentini, City Manager
Kiya Tabb, City Clerk
Katie See, City Planner

Consultants

Delta Development Group, Inc.
Steptoe & Johnson PLLC
### Table of Contents

Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

**PART 13, ARTICLE 1321, ZONING ORDINANCE**
- Section 1321.01, Short Title .......................................................... 1
- Section 1321.02, Purpose ................................................................. 1
- Section 1321.03, Authority ............................................................... 1
- Section 1321.04, Jurisdiction .......................................................... 1
- Section 1321.05, Applicability ......................................................... 1
- Section 1321.06, Interpretation ....................................................... 1
- Section 1321.07, Severability ......................................................... 1
- Section 1321.08, Administration and Enforcement ......................... 1
- Section 1321.09, Zoning Permits, Fees, and Inspections .................. 1
- Section 1321.10, Board of Zoning Appeals and Hearing Procedure .... 1
- Section 1321.11, Special Exception Uses and Variances ..................... 1
- Section 1321.12, Zoning Amendments ............................................. 1

**ARTICLE 1322, ZONING DISTRICT PROVISIONS**
- Section 1322.01, Establishment of Zoning Districts ......................... 1
- Section 1322.02, Zoning Map .......................................................... 1
- Section 1322.03, Rules for Interpretation of District Boundaries ........... 1
- Section 1322.04, Rules for Interpretation of Uses ............................... 1
- Section 1322.05, Urban Reserve (UR) District ................................. 1
- Section 1322.06, Residential Medium-High Density (R-15) District .... 1
- Section 1322.07, Neighborhood Residential (NR) District ............... 1
- Section 1322.08, Neighborhood Commercial (NC) District ............ 1
- Section 1322.09, General Commercial (GC) District ....................... 1
- Section 1322.10, Old Town Residential (OT-R) District .................... 1
- Section 1322.11, Old Town Mixed Use Commercial (OT-MUC) District ... 1
- Section 1322.12, Historic Overlay (HO) District ............................... 1
- Section 1322.13, Floodplain Overlay (FOD) District ......................... 1
- Section 1322.14, Planned Unit Development (PUD) ......................... 1

**ARTICLE 1323, SUPPLEMENTAL REGULATIONS**
- (A) Accessory Uses and Structures – Yard Requirements ................. 1
- (B) Adult Businesses ......................................................................... 1
- (C) Automobile Service Stations ..................................................... 1
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

(D) Child Care Center/Day Care Center ................................................................. 53
(E) Commercial Centers ......................................................................................... 55
(F) Density Standards ............................................................................................... 55
(G) Encroachments ................................................................................................... 56
(H) Fences and Walls ................................................................................................ 58
(I) Garage Sales ........................................................................................................ 59
(J) Heliport ................................................................................................................ 60
(K) Home Occupations ............................................................................................. 60
(M) Nuisances ........................................................................................................... 64
(N) Outdoor Cafés ..................................................................................................... 66
(O) Outdoor Display and Sale of Merchandise ......................................................... 66
(P) Riparian Buffers ................................................................................................... 67
(R) Satellite Dish Antennae ....................................................................................... 71
(S) Storage of Materials ............................................................................................ 72
(T) Swimming Pools .................................................................................................. 73
(U) Trash Dumpsters ................................................................................................. 73
(V) Vehicle Parking .................................................................................................... 74
(W) Design Standards ............................................................................................... 79

ARTICLE 1324, SIGNS ......................................................................................... 85
Section 1324.01, General Provisions ....................................................................... 85
Section 1324.02, Sign Permits .................................................................................. 86
Section 1324.03, Signage Plan Requirements ............................................................ 88
Section 1324.04, Sign Area Computations ................................................................. 90
Section 1324.05, Design, Construction, and Maintenance ......................................... 90
Section 1324.06, Signs Requiring a Permit ................................................................. 91
Section 1324.07, Signs Not Requiring a Permit ......................................................... 98
Section 1324.08, Prohibited Signs .......................................................................... 101

ARTICLE 1325, DEFINITIONS ........................................................................ 103
PART 13, ARTICLE 1321, ZONING ORDINANCE

ARTICLE 1321, GENERAL ZONING PROVISIONS

Section 1321.01, Short Title

This Ordinance and Ordinances supplemental or amendatory thereto, shall be known and may
be cited as the "Zoning Ordinance of the City of Charles Town, West Virginia" and hereinafter
referred to as the "Ordinance."

ENACTED: June 18, 2012
EFFECTIVE: September 26, 2012

Section 1321.02, Purpose

The Charles Town Zoning Ordinance is intended to guide future growth and development by
regulating land Uses within the jurisdiction 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 West Virginia Code Chapter 8A, and has been enacted following a study of
the land within the corporate limits of Charles Town, the preparation by the Planning Commission
of a report and submission of the same to City Council, and public hearings after public notice, all
as required by Article 7 of said Chapter 8A. In addition, this Ordinance works in conjunction with
the Charles Town Subdivision and Land Development Ordinance, and is in accordance with the
Charles Town Comprehensive Plan. The following items were duly considered in drafting and
enacting this Ordinance:

(A) Promoting general public welfare, health, safety, comfort, and morals;

(B) A plan so that adequate light, air, convenience of access, and safety from fire, flood, and
other danger is secured;

(C) Ensuring attractiveness and convenience is promoted;

(D) Lessening traffic congestion;

(E) Preserving Historic Landmarks, Sites, Districts, and Structures; and

(F) Promoting the orderly development of land.

Section 1321.03, Authority

This Ordinance is enacted pursuant to the authority contained in West Virginia Code Chapter 8A-7-1.

Section 1321.04, 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 1321.05, Applicability

(A) The terms of this Ordinance shall be applied to support the intent set forth in the Charles Town Comprehensive Plan.

(B) This Ordinance shall apply to all lands, Buildings, Structures, Signs, properties, and their Uses, within the corporate limits of the City of Charles Town, West Virginia.

(C) The Planning Commission shall consider the most appropriate Zoning District classification(s) for any property proposed for Annexation and provide a recommendation to City Council. Upon Annexation, City Council shall consider the Planning Commission's recommendation and designate the property within one or more appropriate Zoning Districts.

(D) In general, the Subdivision and Land Development Ordinance shall provide design standards and other regulations pertaining to the development of land; whereas, the Zoning Ordinance provides parameters on the Use of land. Both documents correlate with each other to provide the overall regulations that are administered by the Planning Commission, City Council, and/or Board of Zoning Appeals, as specified in said Ordinances.

(E) Except as hereinafter specified, no land shall hereafter be used or developed, and no Building or part thereof or other Structure shall be used, located, erected, constructed, reconstructed, extended, enlarged, converted, or altered, except in conformity with the regulations herein specified for the Zoning District in which it is located. Furthermore, any changes created by a subdivision of land shall also be in conformity with the regulations herein specified for the Zoning District in which it is located, as reviewed and determined by the Zoning Administrator.

(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.

Section 1321.06, Interpretation

(A) The regulations specified within this Ordinance shall be considered minimum regulations and shall be applied uniformly to all individuals and businesses within the jurisdiction of the City.

(B) Uses not permitted (whether expressly permitted or permitted upon interpretation and classification by the Zoning Administrator as follows) within a Zoning District shall be deemed excluded. For the elimination of any doubt, industrial uses are not permitted in any Zoning District – the intent being that such uses are best situated at industrial parks and other sites in Jefferson County. The Zoning Administrator, as defined in Section 1321.08(A), shall interpret the classification of all land Uses within the context and intent
of this Zoning Ordinance and may issue a decision regarding whether a particular Use is permitted or excluded in a Zoning District, all in accordance with Sections 1321.08(D)(12) and 1322.04 of this Ordinance.

(C) When this Ordinance places a greater restriction than is imposed or required by other provisions of law, or by other rules, regulations, Ordinances, or by private restrictions, covenants, or declarations, the provisions set forth in this Ordinance shall prevail, except where otherwise specifically stated herein.

(D) If there is a conflict between or among the provisions of this Ordinance, the stricter regulation shall apply.

(E) Private covenants contained in any Deed or Declaration are not enforceable by the City, however, such covenants may, as a factor, be considered in the exercise of its sound discretion by the Board of Zoning Appeals when called upon to consider Variance requests and neighborhood compatibility factors related thereto.

Section 1321.07, 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 1321.08, 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 designate and approve a Zoning Administrator. The Zoning Administrator shall act on the Planning Commission’s behalf and carry out the duties set forth in Subsection (D) below.

(B) The Planning Commission shall study zoning, its development, application and relation to public and private development and its relation to other phases of the Comprehensive Plan for development of Charles Town and may, from time to time, submit amendments to these regulations or changes in the Zoning District boundaries to the Mayor and City Council of Charles Town. However, no such amendments or changes shall become effective until approved by Council.

(C) 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.

(D) It shall be the duty and the power of the Zoning Administrator to:

1. Receive and examine all applications for Zoning Permits;

2. Issue Zoning Permits only where there is compliance with the provisions of this Ordinance and with other City Ordinances;
3. Following a refusal of a permit, to receive applications for Appeals, Special Use Permits, and Variances, and promptly forward these applications to the Board of Zoning Appeals;

4. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Ordinance;

5. 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 upon Owners or Persons deemed by the Zoning Administrator to be violating the terms of this Ordinance;

6. Record and file all applications for Zoning Permits with accompanying plans and documents. All applications, plans and documents shall be a public record except that the Zoning Administrator, pursuant to W. Va. Code Chapter 29B, Freedom of Information, may withhold information pertaining to a pending investigation involving unlawful activity and documents and data exempt from public disclosure;

7. Maintain the official Zoning Map or Maps showing the current Zoning District classification of all land in the City;

8. Bring any matter to the Planning Commission for its action or information;

9. Bring pertinent matters to the Board of Zoning Appeals for its action and information, and provide administrative duties accordingly;

10. Timely revoke and require the return of a void Zoning Permit by notifying the permit holder in writing, stating the reason for the revocation. Zoning Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of applicable federal, state, or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate which violates this or any Ordinance of the City of Charles Town, or any applicable federal, state, or other local law is void;

11. Upon the request of the Council, the Planning Commission, or the Board of Zoning 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;

12. Evaluate and classify proposed land Uses within the context of this Zoning Ordinance as either permitted, permitted with a Special Use Permit, or prohibited; and

13. Create and maintain land use application forms.

(E) **Enforcement.** The Zoning Administrator shall enforce this Ordinance by issuing written stop, cease, and desist orders and other written orders, by withholding Zoning Permits, by seeking an injunction, mandamus, or other judicial action to prevent, correct, or abate unlawful construction, conversion, alteration, occupancy, or Use, and by seeking warrants for prosecution of violators of this Ordinance when directed by City Council.
1. **Violation; remedies.**
   
   a. **Complaints.** Any Person alleging a violation of this Ordinance may file a written complaint with the Zoning Administrator. Upon receipt of a written complaint, the Zoning Administrator shall investigate the matter within ten (10) business days and take appropriate action to abate any verified violation. A complete record shall be kept of all written complaints received and the actions taken pursuant thereto.
   
   b. **Remedies.** When any Building or part thereof or other Structure is used, located, erected, constructed, reconstructed, extended, enlarged, converted, or altered, or any land is used or developed, in violation of this Ordinance, or any provision of this Ordinance is otherwise violated, the Planning Commission, Board of Zoning Appeals, or Zoning Administrator may institute action in the Circuit Court of Jefferson County for injunction to restrain the Use conducted in violation of this Ordinance or any other violation of this Ordinance, and/or to direct the Owner or other appropriate Person to remove the subject Structure or Building.

2. **Penalties.** Consistent with Section 8A-10-2 of the West Virginia Code, any 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, shall be guilty of a misdemeanor and, upon conviction, shall be punished for each offense by a fine not less than $510.00 or more than $500.00. Each day the violation continues shall be considered 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 Zoning Administrator to act on its behalf.

**Section 1321.09, Zoning Permits, Fees, and Inspections**

(A) A Zoning Permit is a certification of property Use and shall be required for any of the following:

1. Construction, reconstruction, erection, extension, enlargement, conversion, or structural alteration of any Building, including Accessory Structures;

2. Change in Use of an existing Building or Accessory Structure to a Use of a different classification;

3. Occupancy and Use of vacant land;

4. Change in the Use of land to a Use of a different classification;

5. Any change in a Legally Nonconforming Use; and

6. Any Temporary Uses as defined herein.

A Zoning Permit is issued subject to continued compliance with all requirements and conditions of this Ordinance and other regulations enacted by the City of Charles Town,
all as in effect at the time of issuance of the Zoning Permit, and may be revoked for noncompliance.

(B) Applications. Each application for a Zoning Permit shall be accompanied by two (2) copies of a Sketch Plan drawn to scale, one (1) copy of which shall be returned to the applicant upon approval. A Sketch Plan shall be prepared according to the specifications prescribed under Section Article 1332.03 of the Charles Town Subdivision and Land Development Ordinance.

(C) The Zoning Administrator shall approve the issuance of a Zoning Permit only if the application complies with the requirements of this Ordinance, and provided that such Zoning Permit shall be conditioned, where necessary, on the approval of the Zoning Administrator, and any other department, committee, or agency concerned, and provided the application is accompanied by the required fee. It shall be the responsibility of the applicant to identify any deviations from the standards and specifications of this Ordinance.

(D) The Planning Commission shall maintain a record of all Zoning Permits and copies shall be furnished upon request to any Person upon payment of the cost thereof. The issuance of a Zoning Permit shall not be construed so as to sanction a variance from the terms of this Ordinance and any Zoning Permit issued that would work to violate this Ordinance, the applicable Building Codes or the Subdivision and Land Use Ordinance shall be void.

(E) If the Planning Commission shall determine that any provision of this Ordinance are violated, the Commission may instruct the Zoning Administrator to take appropriate action to ensure compliance. This Section shall not be construed so as to require action by the Planning Commission prior to the taking of appropriate enforcement action by the Zoning Administrator as otherwise provided in this Ordinance.

(F) The Zoning Administrator shall approve or disapprove the issuance of a Zoning Permit within sixty (60) days of the applicant’s filing of a complete application. Failure of the Zoning Administrator to act within sixty (60) days of said period shall automatically be considered an approval of said Zoning Permit application unless the Zoning Administrator notifies the applicant within said sixty (60) day period that the application is incomplete and/or does not comply with the policies and requirements of applicable approval agencies, and/or that requested revisions to the permit application have not been made. A Zoning Permit shall become void one (1) year after the date of its issuance if the construction or Use for which the permit was issued has not commenced.

(G) Permits for a principal Use shall encompass any Accessory Uses on the same property provided that such Accessory Uses are clearly reflected in the application or Accessory Structures indicative of such Uses are shown on the Sketch Plan.

(H) Fees. All applications for Zoning Permits, petitions to rezone property and variances 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 and related matters, which provisions, as they may be amended from time to time, are incorporated into this Ordinance by reference.

(I) There shall be no refund of any fee paid hereunder.
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

(J) A Zoning Permit shall authorize only the Use, arrangement, and construction set forth in the application for same.

(K) Undertaking any of the activities listed in Section 1321.09(A) without a Zoning Permit shall be deemed a violation of this Ordinance, provided that this Subsection shall not be construed to apply to a rearrangement of equipment within an existing facility.

Section 1321.10, Board of Zoning Appeals and Hearing Procedure

(A) A Board of Zoning Appeals is hereby established with membership and appointment provided in accordance with Article 8, Chapter 8A of the West Virginia Code.

(B) This Section shall apply to the Charles Town Zoning Ordinance and the Charles Town Subdivision and Land Development Ordinance.

(C) The Board of Appeals shall act as the Board of Zoning Appeals and the Board of Subdivision and Land Development Appeals, and shall be referred to as the Board of Appeals.

(D) Creation; Appointment; Term of Office; Vacancies; Membership; and Removal of Members. The Board of Zoning Appeals, consisting of five (5) members, heretofore created under the prior Charles Town Zoning Ordinance adopted February 4, 1991 is hereby continued in existence as the Board of Zoning Appeals under this Ordinance. The appointment of members, their terms of office, succession, removal, filling of vacancies, membership, and alternate membership, shall be as provided in Article 8, Chapter 8A of the West Virginia Code.

(D) General Powers and Duties. The Board of Zoning Appeals has the following powers and duties:

1. Hear, review and determine Appeals from an order, requirement, decision or determination made by the Zoning Administrator or Planning Commission under the Charles Town Zoning Ordinance or rule or regulation adopted pursuant thereto or by the Subdivision Administrator or Planning Commission under the Charles Town Subdivision and Land Development Ordinance or rule or regulation adopted pursuant thereto;

2. Hear requests for, and decide whether to grant exceptions to the rules and regulations applicable to a Zoning District, but only in the classes of cases or in particular situations as specified in this Ordinance;

3. Hear requests for, and decide whether to issue, Special Use Permits authorizing Special Exception Uses provided in this Zoning Ordinance for the Zoning District at issue;

4. Hear requests for, and decide whether to grant, Variances to the Zoning Ordinance;

5. Reverse, affirm or modify the order, requirement, decision or determination Appealed from and have all the powers and authority of the Zoning Administrator,
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

6. Adopt rules and regulations concerning:
   a. The filing of Appeals, including the process and forms for the Appeal;
   b. Applications and requests for Variances and Special Exception Uses;
   c. The giving of notice; and
   d. The conduct of hearings necessary to carry out the Board's duties under
      the terms of this Ordinance, the Subdivision and Land Development
      Ordinance, and Article 8, Chapter 8A of the West Virginia Code;

7. Keep minutes of its proceedings;

8. Keep an accurate and complete audio record of all the Board's proceedings and
   official actions. The audio record shall be kept in a safe manner and be accessible
   within twenty-four (24) hours of a written request for a period of three (3) years;
   provided that, executive sessions of the Board of Zoning Appeals conducted for
   the purpose of deliberation incident to the quasi-judicial function of the Board
   and/or otherwise conducted in compliance with the Open Governmental
   Proceedings Act as codified in Article 9A, Chapter 6 of the West Virginia Code
   need not be audio recorded;

9. Record the vote on all actions taken;

10. Take responsibility for the custody and preservation of all papers and documents
    of the Board. All minutes and records shall be filed in the office of the Board and
    shall constitute public records;

11. With consent from City Council, hire employees necessary to carry out the duties
    and responsibilities of the Board; provided that, City Council shall set the salaries;
    and

12. Supervise the fiscal affairs and responsibilities of the Board.

Organization; Meetings; Authority to Administer Oaths and Compel Attendance of
Witnesses; Technical Assistance; Open Meetings. The Board shall be organized, hold
meetings and conduct business in accordance with the provisions of this Ordinance and
Article 8, Chapter 8A of the West Virginia Code. Meetings of the Board shall be held at
least quarterly, and more frequently as the Board may determine or at the written request
of the chairman or two or more members. The chairman, or in his absence, the acting
chairman, may administer oaths and compel the attendance of witnesses. For assistance,
in reaching decisions relative to Appeals, Special Exception Uses, or Variances, the Board
may request testimony at its hearings for purposes of securing technical aid or factual
evidence from the Mayor, City Council, or any City Department. All meetings of the Board
shall be open to the public, subject to the right of the Board to adjourn into executive
session for deliberation in the performance of its quasi-judicial functions and for such
other purposes as may be proper under state law.
Appeals to the Board. Any order, requirement, decision, or determination made by the Zoning Administrator or Subdivision Administrator, or Planning Commission under this Ordinance or the Subdivision and Land Development Ordinance, or any rule or regulation adopted thereunder, may be appealed to the Board of Zoning Appeals within thirty (30) days of the original order, requirement, decision, or determination against which the Appeal is made. An Appeal shall be filed on forms established by the Board of Zoning Appeals, specify the grounds of Appeal, and otherwise be in accord with the Rules of the Board of Zoning Appeals.

Hearings by the Board.

1. Hearing – Action required after receipt of application or Appeal. Following receipt by the Board of Zoning Appeals of a complete application or Appeal, the Board shall:
   a. Within ten (10) days of receipt of a complete application or Appeal, set a time for hearing of the application or Appeal, and give notice thereof to the applicant or appellant. The hearing shall be held no later than forty-five (45) days from the date of receipt of the complete application or Appeal. Applicants and appellants may petition for postponement or change of said dates for good cause shown in accord with the Rules of the Board of Zoning Appeals;
   b. At least fifteen (15) days prior to the date set for the hearing on the application or Appeal, publish a notice of the date, time and place of the hearing on the application or Appeal as a Class I legal advertisement in compliance with the provisions of West Virginia Code Chapter 59-3-1 et seq., and provide written notice thereof to the interested parties. The publication area shall be the area covered in the application or Appeal. For purposes of this provision, “interested parties” shall mean Landowners of Adjacent Property. The applicant or appellant shall make a good-faith effort to provide the Zoning Administrator or Subdivision Administrator, as applicable, with a current list containing the accurate names and mailing addresses of all interested parties;
   c. Provide a hearing notice to the Zoning Administrator for posting upon the property upon which the application or Appeal is concerned. The notice shall be posted conspicuously at least fifteen (15) days before the date of the hearing by the applicant;
   d. Direct the Zoning Administrator to provide due notice of the hearing to all adjacent and confronting landowners of the subject property, which shall be deemed to include landowners whose property is separated from the subject property only by a street or alley. Adjacent Property owners are identified as properties within 100 feet of the proposed development or activity. Such notice shall be given at least fifteen (15) days prior to such hearing and shall be given by certified mail. The failure of any party to actually receive such notice shall not invalidate any subsequent action taken; and
2. **Hearing – Holding of Hearing; Appearance at Hearing.** The Board, following such action above, shall hold such hearing. At the hearing, any party may appear and be heard in person or by agent or attorney, subject to the rules of the Board, and the prerogative of the Board to determine the standing of any Person to pursue an application or Appeal that has been filed.

3. **Hearing – Postponement.**

   a. Request for postponement of a scheduled hearing shall be filed in writing with the Board not less than ten (10) days prior to the date of the hearing, and shall be accompanied by a sum of money sufficient to pay the cost of publishing the postponement, certified mail notice to all adjacent and confronting landowners of the subject property, and the rescheduled hearing as a Class I legal advertisement in compliance with the provisions of West Virginia Code Chapter 59-3-1 et seq. The granting of such requests shall be at the discretion of the Chairman of the Board.

   b. Requests for postponement filed less than (10) days prior to the date of a scheduled hearing, shall, in addition to the other requirements set forth in Subsection (a) above, including the sum of money sufficient to pay the cost of advertising the postponement and the rescheduled hearing, be supported by an affidavit or declaration of the party making the request or of some other credible person specifying that the scheduled hearing date will impose an extreme hardship or other good cause for postponement. The granting of such request shall be at the discretion of the Board.

   c. No more than three (3) postponements shall be granted within any period of ninety (90) days.

4. **Hearing – Continuance.** The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Furthermore, the chairman, or in his absence, the acting chairman may call for a continuance if a quorum is not in place for the meeting. The date and hour shall be agreed to by all parties and announced while in session.

(Hi) **Staying of Work on Premises When Appeal Taken; Exception.** When an Appeal has been taken and filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed unless the official or board from whom or which the Appeal was taken shall certify to the Board of Zoning Appeals that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. If such certificate be filed, proceedings or work on the premises shall not be stayed except by order of the Circuit Court of Jefferson County. Such stay shall not affect further administrative proceedings or engineering or architectural work that does not disturb the real property beyond incidental disturbances necessary to complete engineering work (such as surveying, tests, or core drilling).
Hearings – Decision by the Board; Appeal from Decision by the Board. The Board shall render a written decision containing findings of fact and conclusions of law within thirty (30) days after completion of the hearings. The Board may announce its decision at the conclusion of the public hearing and authorize the chairman to execute the written decision once prepared, or it may defer its decision and reconvene within thirty (30) days to further deliberate, vote, and render its written decision. Any Person or Persons aggrieved by any decision of the Board of Zoning Appeals may seek review by certiorari of the same by the Circuit Court of Jefferson County pursuant and subject to Article 9, Chapter 8A of the West Virginia Code by petition filed within thirty (30) days after the filing of the Board's written decision. Nothing herein shall be deemed to limit the right of any Person to seek review by certiorari by said Court pursuant to said Article 9 without first appealing to the Board of Zoning Appeals.

Disapproval of Application. If an application or Appeal is denied by the Board of Zoning Appeals, no further action on another application for substantially the same proposal on the same premises shall be taken until after twelve (12) months from the date of such denial.

Fees. A filing fee shall accompany each application for an Appeal to the Board. See the City of Charles Town Fee Schedule for the amount.

Section 1321.11, Special Exception Uses and Variances

(A) Special Exception Uses. Special Exception Uses are Uses that are conditionally permitted in a particular Zoning District. A Special Exception Use be may be commenced and carried on only after review by the Board of Zoning Appeals and its issuance of a Special Use Permit. The Board of Zoning Appeals shall consider a request for a Special Use Permit if the requested Use is expressly designated as a Special Exception Use in this Ordinance, or interpreted and classified as such by the Zoning Administrator, for the Zoning District in which the subject property is located. The Board of Zoning Appeals shall issue a Special Use Permit (granting the special exception) if the required findings specified in Section 1321.11(DC)(3) are made or deny issuance of a permit if all required findings cannot be made. The Board of Zoning Appeals may attach reasonable conditions to the issuance of a Special Use Permit to insure the Special Exception Use's compatibility with other Uses permitted in the Zoning District. If any conditions required or imposed as part of a Special Use Permit are not maintained or carried out or cease to exist, the Board shall revoke the Special Use Permit and the Use shall thereafter be in violation of this Ordinance.

(B) If the Board cannot make all of the required findings, no Special Use Permit shall be issued. If circumstances change sufficiently that the necessary findings might be met in the future, the Board may rehear a similar application.

(C) A Special Use Permit shall be valid for two (2) years in the event that the use is not acted upon, or a Subdivision and/or Land Development Plan has not received approval.

(D) Special Use Permit Procedures.

1. A written application for a Special Use Permit shall be submitted to the Board of Zoning Appeals and Zoning Administrator, which application shall specify the...
Special Exception Use sought and include all materials required for a Zoning Permit. The administrative staff shall review the application and file a written report with the Board Chairman before the Board reviews the application.

2. The Board shall set and hold a public hearing in accordance with Section 1321.10.

3. In order to issue a Special Use Permit, the Board must make the following written findings regarding the Special Exception Use sought:

   a. The Use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved;

   b. The Use will not substantially diminish the value of Adjacent Property unless the Use is a public necessity; and

   c. The location and character of the Use, if developed according to the plans and information approved, will be in harmony with proximate land Uses, and consistent with the purposes of the Zoning District.

If the Board makes the above required findings, a Special Use Permit shall be issued to permit the requested Use, subject however, to any condition stipulated by this Ordinance or determined by the Board to be necessary to insure that the Use remains compatible with other Uses permitted in the Zoning District and with Adjacent Properties. No Special Use Permit may grant Variances from the requirements of this Ordinance. A Special Use Permit serves as the Zoning Permit for the subject Use and property.

4. **Conditions.** The Board of Zoning Appeals, in issuing Special Use Permits, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other Uses in the same Zoning District. These conditions shall be enforceable by the Zoning Administrator and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Section 1321.08(E).

5. **Sketch Plan Approval.** Any Sketch Plan presented in support of an application for a Special Use Permit shall become an official part of the record for said matter. A Sketch Plan shall be prepared according to the specifications prescribed under Section Article 1332.03 of the Charles Town Subdivision and Land Development Ordinance. Issuance of a Special Use Permit will bind the Use in accordance with that reflected in the submitted Sketch Plan. Therefore, should a change in the Sketch Plan be required as part of the approval of the Use, the applicant shall revise the Sketch Plan prior to the issuance of the Special Use Permit. Any subsequent change to the Special Use aspects having an effect on the originally approved Sketch Plan shall require the obtainment of another Zoning Permit or Special Use Permit, as the case may be.

**Variance and Exception Procedures.**
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

1. A written application for a Variance to the Zoning Ordinance shall be submitted to
   the Board of Zoning Appeals and Zoning Administrator, which application shall
   specify the standard or requirement from which a Variance is sought. The
   administrative staff shall review the application and file a written report with the
   Board Chairman before the Board reviews the application.

2. The Board shall set and hold a public hearing in accordance with Section 1321.10.

3. The Board of Zoning Appeals shall grant the Variance sought if it finds that the
   Variance:
   a. Will not adversely affect the public health, safety or welfare, or the rights of
      Adjacent Property Owners or residents;
   b. Arises from special conditions or attributes which pertain to the property for
      which a Variance is sought and which were not created by the Person
      seeking the Variance;
   c. Would eliminate an Unnecessary Hardship and permit a reasonable Use
      of the land; and
   d. Will allow the intent of the Zoning Ordinance to be observed and substantial
      justice done.

4. If the Board grants a Variance, its actions will be accompanied by its reasons for
   making the required findings and by its certification that the Variance is the
   minimum Variance which will make possible the reasonable Use of land, Buildings,
   or Structures.

5. Exceptions to these rules and regulations as contemplated in Section
   1321.10(D)(2) shall be subject to the procedures of this Section 1321.11(D).

Section 1321.12, Zoning Amendments

(A) General.

1. Authority. Pursuant to and in accordance with West Virginia Code Chapters 8A-7-
   8, 8A-7-8a, and 8A-7-9, City Council upon recommendation by the Planning
   Commission may, by ordinance, amend, supplement, change, modify or repeal
   this Ordinance and the Zoning District boundaries as reflected on the Zoning Map.
   No such amendment shall be adopted by City Council unless and until: (a) City
   Council, with the advice of the Planning Commission, finds either that the
   amendment is consistent with the City’s Comprehensive Plan, or that the
   amendment is not consistent with the Comprehensive Plan but that there have
   been major changes of an economic, physical, or social nature within the area
   involved that were not anticipated when the Comprehensive Plan was adopted and
   that such major changes have substantially altered the basic characteristics of the
   area; (b) the Planning Commission has held a public hearing (after public notice)
   regarding the amendment and submitted its findings and recommendation relative
   thereto to City Council; and (c) if the proposed amendment involves a change in
the Zoning Map classification of any parcel of land, or a change to the allowed Dwelling Unit density of any parcel of land, City Council has, at least thirty (30) days prior to enactment of the adopting ordinance, given written notice of the proposed amendment by certified mail to Landowners whose property is directly involved in the proposed amendment, and published notice of the proposed amendment in the area affected as a Class II-0 legal advertisement in compliance with the provisions of West Virginia Code Chapter 59-3-1 et seq.

2. Proposal of amendments. Amendments may be initiated by City Council, upon petition of the Planning Commission, or upon petition by the Owners of 50 percent or more of the real property in the area to which the petition relates.

(B) Petitions for Zoning Amendment.

1. A petition to amend regulations or the Zoning District boundaries of this Ordinance shall be obtained from the Zoning Administrator and completed in its entirety. A petition, when completed, shall be filed with the Zoning Administrator, who will forward the petition to the Planning Commission, or filed with the City Clerk, so that a public hearing date can be established.

2. Zoning amendment petitions shall provide the following information, except that petitions by the Planning Commission shall exclude petitioner-related information other than identification of the Planning Commission as the petitioner:

   a. A legal description of the property;
   
   b. A scaled map of the property, correlated with the legal description, and clearly showing the property's location;
   
   c. The name, address and phone number of the petitioner(s);
   
   d. The interest of the petitioner(s) in the property, and if the petitioner(s) is (are) not the Owner(s) of all the real property in the area to which the petition relates, the name and address of the other Owner(s);
   
   e. Description of the present Use(s) of the property and existing Zoning District;
   
   f. Description of the proposed Use(s) of the property and requested Zoning District;
   
   g. Proposed text amendment pursuant to Subsection (D)(4)(c) below;
   
   h. Area of the property in square feet and/or acres;
   
   i. Time schedule for development;
   
   j. Additional exhibits may be required by the Zoning Administrator such as a plot plan or site plan showing existing and proposed Structures,
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

1. Public Hearing. The Planning Commission shall hold a public hearing on each proposed amendment, whether initiated by City Council, upon petition of the Planning Commission, or upon petition by the Owners of 50 percent or more of the real property in the area to which the petition relates. The Planning Commission shall select a reasonable hour and place for such public hearing, and it shall hold such hearing within sixty (60) days from the date on which the subject petition was filed, or the date of City Council’s referral of the amendment, as the case may be.


a. At least fifteen (15) days prior to the scheduled hearing on the proposed amendment, the Zoning Administrator shall:

(1) Publish a Class I legal advertisement, in accordance with the provisions of West Virginia Code Chapter 59-3-1 et seq., giving notice of the public hearing on the proposed amendment in a local newspaper of general circulation in the area affected by the proposed Zoning Ordinance;

(2) Give written notice by certified mail to the Landowner(s) whose property is directly involved in the proposed amendment and to all Landowners of Adjacent Property, including confronting Landowners, to the subject property directly involved. Adjacent Property owners are identified as properties within 100 feet of the proposed zoning amendment; provided that, the failure of any party to actually receive such notice shall not invalidate any subsequent action taken; and

(3) Ensure that the public notice of the proposed amendment is conspicuously posted at points along the boundary of the affected property sufficient to notify potentially interested citizens. The affected property shall be posted at least one (1) week prior to the date of the scheduled hearing.

b. Such public notices shall state the date, time and place of the hearing and shall contain a statement regarding the proposed change in regulations or restrictions, or the Zoning District classifications or boundaries of the property. If the proposed amendment would change the Zoning District classification of any property, or the boundaries of any Zoning District, such
notice shall contain the legal description and street address or general street location of such property, its present Zoning District classification, and the proposed classification.

3. **Conduct of Hearing.** The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule, provided that such rule is adopted by City Council. Any interested Person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Commission may request a report on any proposed amendment from any governmental official or agency, or any other Person. If such a report is made, a copy thereof shall be made available to the applicant and any other interested Persons and shall be available for review in the offices of the Zoning Administrator at least three (3) business days before the date set for the public hearing.

4. **Action by the Planning Commission.**
   a. **Recommendations.** Within 45 days of the public hearing, the Planning Commission shall prepare and adopt its recommendations and shall submit the same in writing, together with a record of the hearing thereon, to City Council. Said recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included as appropriate.
   
   b. **Additional Conditions.** The Planning Commission, upon the zoning or rezoning of any land or lands pursuant to the provisions of this Section, may recommend imposing such additional restrictions, conditions, or limitations to preserve, improve, or protect the general character and design of the lands and improvements being zoned and rezoned, or of the surrounding or adjacent lands and improvements; and may, upon the zoning or rezoning of any land or lands, retain or reserve the power and authority to approve or disapprove the design of Buildings, construction, landscaping, or other improvements, Alterations, and changes made or to be made on the subject land or lands to assure conformity with the intent and purpose of this Ordinance.
   
   c. **Text Amendments.** When a proposed amendment would result in a change in the text of this Ordinance but would not result in a change of Zoning District classification of any specific property, the recommendation of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:
      
      (1) Whether such change is consistent with the intent and purpose of this Ordinance;
      
      (2) Whether such change is consistent with the Charles Town Comprehensive Plan;
The areas which are most likely to be directly affected by such change and in what way they will be affected; and

Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other socio-economic conditions in the areas and Zoning Districts affected.

City Council Hearing and Action.

1. Public Hearing. Within thirty (30) days of the receipt of the Planning Commission’s recommendations and record, City Council shall hold a public hearing on the subject proposed amendment. City Council shall select a reasonable hour and place for such public hearing.

2. Notice of Hearing. At least fifteen (15) days prior to the scheduled hearing on the proposed amendment, City Council shall have notice published and given in the same manner as under Subsection (D)(2) above.

3. Conduct of Hearing. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as City Council may from time to time prescribe by rule. Any interested Person or party may appear and be heard at the hearing in person, by agent or by attorney. City Council may request a report on any proposed amendment from any governmental official or agency, or any other Person. If such a report is made, a copy thereof shall be made available to the applicant and any other interested Persons and shall be available for review in the offices of the Zoning Administrator at least three (3) business days before the date set for the public hearing.

4. Action by City Council. City Council shall consider the proposed amendment and may adopt the same by ordinance pursuant to WV Code Chapter 8-11-4. In considering the proposed amendment, City Council shall consider, but shall not be bound by, the findings and recommendations of the Planning Commission, as well as comments at its own public hearing. The adoption by City Council of any amendment to this Ordinance or the Zoning District boundaries, if such amendment renders the then existing Zoning Map inaccurate, shall be deemed the concurrent adoption of a revised official Zoning Map that accurately reflects the effect of the amendment, and authorization for the Zoning Administrator to have prepared and certified such revised Zoning Map.
ARTICLE 1322, ZONING DISTRICT PROVISIONS

Section 1322.01, Establishment of Zoning Districts

The following Zoning Districts are hereby established in the City of Charles Town:

RESIDENTIAL DISTRICTS

UR  Urban Reserve
R-3  Residential Low Density
R-15 Residential Medium-High Density
NR  Neighborhood Residential
OT-R Old Town Residential

MIXED USE DISTRICTS

OT-MUC Old Town Mixed Use Commercial
NC  Neighborhood Commercial

COMMERCIAL DISTRICTS

GC  General Commercial

OVERLAY DISTRICTS

HO  Historic Overlay
FO  Floodplain Overlay
PUD  Planned Unit Development

Section 1322.02, Zoning Map

The Zoning Districts established by Section 1322.01 are shown on the City’s official Zoning Map, which is adopted, and incorporated herein in its entirety, as part of this Ordinance.

(A) Promptly following enactment of this Ordinance, the Zoning Administrator shall place the following legend on the official Zoning Map adopted as part of this Ordinance, the Mayor shall execute the same on behalf of City Council, and the City Clerk shall attest to the same: “On <DATE>, by official action of City Council, the map bearing this legend was adopted as the official Zoning Map of the City of Charles Town by enactment of the Zoning Ordinance of the City of Charles Town, West Virginia, Part 13, Article 1321 of the Charles Town Code.”

(B) If, in accordance with the provisions of this Ordinance and applicable law, the provisions of this Ordinance and/or Zoning District boundaries are amended in any manner that renders the existing Zoning Map no longer accurate, then, promptly following adoption of such amendment, the Zoning Administrator shall have prepared, and present to the Mayor and City Clerk for execution, a revised zoning map accurately reflecting all changes necessitated by the amendment, upon which is placed the following legend: “On <DATE>, by official action of City Council, the map bearing this legend was adopted as the revised official Zoning Map of the City of Charles Town in order to accurately reflect amendments made on said date to the Zoning Ordinance of the City of Charles Town, West Virginia,
Part 13, Article 1321 of the Charles Town Code, and/or Zoning District boundaries provided for therein. Upon execution by the Mayor on behalf of City Council and attestation by the City Clerk, such revised map shall be the official Zoning Map of the City of Charles Town.

(C) No changes of any nature shall be made in the official Zoning Map except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any Person or Persons shall be considered a violation of this Ordinance.

(D) Certified Zoning Maps shall be filed with the City Clerk, the Planning Commission, and the Clerk of the County Commission of Jefferson County.

Section 1322.03, Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of Zoning Districts as shown on the Official Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of Streets, highways, or alleys shall be construed to follow such centerlines;

(B) Boundaries indicated as approximately following property lines or platted Lot lines, shall be construed as following such lines;

(C) Boundaries indicated as approximately following City limits shall be construed as following City limits;

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks; and

(E) Boundaries that are in un-subdivided property or where a Zoning District boundary divides a Lot shall be determined by the use of the map scale as shown thereon.

Section 1322.04, Rules for Interpretation of Uses

Where uncertainty exists as to the Uses permitted by each Zoning District, the following rules shall apply:

(A) All references in this Ordinance to the Institute of Transportation Engineers (ITE) are to the land use titles and descriptions found in the most current editions of the ITE Trip Generation Manual and ITE Parking Generation Manual, which are hereby adopted by reference. The ITE manuals are used, with modifications to suit the purposes of this Ordinance, to list and define land Uses authorized to be located in various Zoning Districts throughout the City of Charles Town;

(B) Uses permitted as of right as Permitted Uses, and Uses conditionally permitted as Special Exception Uses, in a Zoning District are compiled in Table 1322.04 and are categorized according to the above referenced ITE manuals. References to ITE Codes are provided for each ITE defined Use. However, an asterisk (*) in the ITE Code column means that the Use is not defined by the ITE. The ITE defines each land use category and such definitions shall be used by the Zoning Administrator for interpretation purposes;
(C) The Zoning Administrator shall determine whether a proposed land Use not specifically listed in Table 1322.04 or specifically included within an ITE land use classification is allowed in a Zoning District. The Zoning Administrator's determination shall be based on whether or not permitting the proposed Use in a particular Zoning District is consistent with the purposes of this title and the Zoning District's purpose as set forth herein. The following factors will be used by the Zoning Administrator for making such determinations:

1. The physical characteristics of the Use and its supporting Structures, including but not limited to scale, traffic and other impacts, and hours of operation;

2. Whether or not the Use complements or is compatible with other Uses permitted in the Zoning District; and

3. The ITE classification, if any, assigned to the business or other entity that will carry on the primary activities of the proposed Use.

(D) The decision of the Zoning Administrator on an ITE classification shall be final unless the applicant or an adverse party files an Appeal to the Board of Zoning Appeals pursuant to Section 1321.10 of this Ordinance; and

(E) Accessory Uses not expressly covered in Table 1322.04 shall be permitted if directly related and incidental to the allowed principal Permitted Use or Special Exception Use of the subject Lot, as determined by the Zoning Administrator consistent with the provisions of Section 1322.04(C).
Table 1322.04, Zoning District Use Table

<table>
<thead>
<tr>
<th>CHARLES TOWN ZONING ORDINANCE</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DISTRICT USE TABLE</strong></td>
<td>Residential Low Density</td>
</tr>
<tr>
<td><strong>Key:</strong></td>
<td>P – Permitted Use</td>
</tr>
<tr>
<td><strong>ITE Code</strong></td>
<td>Land Use</td>
</tr>
</tbody>
</table>

**PORT AND TERMINAL USES (ITE CODES 000 – 009)**

<table>
<thead>
<tr>
<th><strong>ITE Code</strong></th>
<th><strong>Land Use</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>090</td>
<td>Park-and-Ride Lot</td>
</tr>
</tbody>
</table>

**RESIDENTIAL USES (ITE CODES 200 - 299)**

<table>
<thead>
<tr>
<th><strong>ITE Code</strong></th>
<th><strong>Land Use</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>210</td>
<td>Single-Family Detached Housing</td>
</tr>
<tr>
<td>220</td>
<td>Duplex</td>
</tr>
<tr>
<td>230</td>
<td>Residential Condominium/Townhouse</td>
</tr>
<tr>
<td>240</td>
<td>Mobile Home Park</td>
</tr>
<tr>
<td>251</td>
<td>Senior Adult Housing – Detached</td>
</tr>
<tr>
<td>252</td>
<td>Senior Adult Housing – Attached</td>
</tr>
<tr>
<td>253</td>
<td>Congregate Care Facility</td>
</tr>
<tr>
<td>254</td>
<td>Assisted Living</td>
</tr>
<tr>
<td>255</td>
<td>Continuing Care Retirement Community</td>
</tr>
<tr>
<td>*</td>
<td>Adult Day Care Center</td>
</tr>
<tr>
<td>*</td>
<td>Child Care Center</td>
</tr>
<tr>
<td>*</td>
<td>Detached Garage or carport, provided it does not exceed 500 sq. feet.</td>
</tr>
<tr>
<td></td>
<td>Guest Quarters</td>
</tr>
<tr>
<td></td>
<td>Group Home</td>
</tr>
<tr>
<td>*</td>
<td>Home Occupation, Minor</td>
</tr>
<tr>
<td>*</td>
<td>Home Occupation, Major</td>
</tr>
<tr>
<td>*</td>
<td>Swimming Pool (Private)</td>
</tr>
</tbody>
</table>

**LODGING USES (ITE CODES 300 – 399)**

<table>
<thead>
<tr>
<th><strong>ITE Code</strong></th>
<th><strong>Land Use</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>310</td>
<td>Hotel</td>
</tr>
<tr>
<td>311</td>
<td>All Suites Hotel</td>
</tr>
<tr>
<td>312</td>
<td>Business Hotel</td>
</tr>
<tr>
<td>320</td>
<td>Motel</td>
</tr>
<tr>
<td>*</td>
<td>Bed and Breakfast Inns</td>
</tr>
</tbody>
</table>
# CHARLES TOWN
## ZONING ORDINANCE

### DISTRICT USE TABLE

**Key:**
- P – Permitted Use
- S – Special Exception Use
- PA – Permitted Accessory Use
- SA – Special Exception Accessory Use

<table>
<thead>
<tr>
<th>ZONING DISTRICTS</th>
<th>Residential Low Density</th>
<th>Residential Medium-High Density</th>
<th>Neighborhood Residential</th>
<th>Neighborhood Commercial</th>
<th>General Commercial</th>
<th>Old Town Mixed Use Commercials</th>
<th>Old Town Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-3</td>
<td>R-15</td>
<td>NR</td>
<td>NC</td>
<td>GC</td>
<td>OT-MUC</td>
<td>OT-R</td>
<td></td>
</tr>
</tbody>
</table>

### RECREATIONAL USES (ITE CODES 400 – 499)

<table>
<thead>
<tr>
<th>Code</th>
<th>Land Use</th>
<th>R-3 P</th>
<th>R-15 P</th>
<th>NR P</th>
<th>NC P</th>
<th>GC P</th>
<th>OT-MUC P</th>
<th>OT-R P</th>
</tr>
</thead>
<tbody>
<tr>
<td>411</td>
<td>City Park</td>
<td>P P P P P P</td>
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<tr>
<td>412</td>
<td>County Park</td>
<td>P P P P P P</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>413</td>
<td>State Park</td>
<td>P P P P P P</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>416</td>
<td>Campground/Recreational Vehicle Park</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>430</td>
<td>Golf Course</td>
<td>S S S S S S</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>431</td>
<td>Miniature Golf Course</td>
<td>P P</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>432</td>
<td>Golf Driving Range</td>
<td>S</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>433</td>
<td>Batting Cages</td>
<td>P P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>438</td>
<td>Billiard Hall</td>
<td>S S S S</td>
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<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>435</td>
<td>Multipurpose Recreational Facility</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>437</td>
<td>Bowling Alley</td>
<td>P</td>
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<tr>
<td>440</td>
<td>Adult Cabaret (Adult Uses)</td>
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<tr>
<td>441</td>
<td>Live Theater</td>
<td>P P</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>443/444</td>
<td>Movie Theater</td>
<td>P P</td>
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<tr>
<td>445</td>
<td>Multiplex Movie Theater</td>
<td>P</td>
<td></td>
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</tr>
<tr>
<td>460</td>
<td>Arena</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>464</td>
<td>Roller Skating Rink</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>465</td>
<td>Ice Skating Rink</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>473</td>
<td>Casino/Video Lottery Establishment</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>480</td>
<td>Amusement Park</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>488</td>
<td>Soccer Complex</td>
<td>S S S S P</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>490</td>
<td>Tennis Courts</td>
<td>P P P P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>491</td>
<td>Racquet/Tennis Club</td>
<td>S P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>492</td>
<td>Health/Fitness Club</td>
<td>P P P P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>493</td>
<td>Athletic Club</td>
<td>P P P P</td>
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<td></td>
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</tr>
<tr>
<td>495</td>
<td>Recreational Community Center</td>
<td>S S S P P</td>
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</tr>
</tbody>
</table>

### INSTITUTIONAL USES (ITE CODE 500 – 599)

<table>
<thead>
<tr>
<th>Code</th>
<th>Land Use</th>
<th>R-3 P</th>
<th>R-15 P</th>
<th>NR P</th>
<th>NC P</th>
<th>GC P</th>
<th>OT-MUC P</th>
</tr>
</thead>
<tbody>
<tr>
<td>520</td>
<td>Elementary School</td>
<td>P P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>522</td>
<td>Middle School/Junior High School</td>
<td>P P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### CHARLES TOWN ZONING ORDINANCE

#### DISTRICT USE TABLE

**Key:**
- P – Permitted Use
- S – Special Exception Use
- PA – Permitted Accessory Use
- SA – Special Exception Accessory Use

<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Land Use</th>
<th>R-3</th>
<th>R-15</th>
<th>NR</th>
<th>NC</th>
<th>GC</th>
<th>OT-MUC</th>
<th>OT-R</th>
</tr>
</thead>
<tbody>
<tr>
<td>530</td>
<td>High School</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>534/536</td>
<td>Private School (K-12)</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>540</td>
<td>Junior/Community College</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>550</td>
<td>University/College</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>*</td>
<td>Technical and Vocational School</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Professional and Management Development Training Center</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>S</td>
<td></td>
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<tr>
<td>560/561</td>
<td>Church/Synagogue</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>565</td>
<td>Day Care Center</td>
<td>SA</td>
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<tr>
<td>566</td>
<td>Cemetery</td>
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<tr>
<td>571</td>
<td>Prison</td>
<td>S</td>
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<tr>
<td>580</td>
<td>Museum</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>S</td>
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<td></td>
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<tr>
<td>590</td>
<td>Library</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
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<tr>
<td>591</td>
<td>Lodge/Fraternal Organization</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
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</table>

#### MEDICAL USES (ITE CODES 600 – 699)

<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Land Use</th>
<th>R-3</th>
<th>R-15</th>
<th>NR</th>
<th>NC</th>
<th>GC</th>
<th>OT-MUC</th>
<th>OT-R</th>
</tr>
</thead>
<tbody>
<tr>
<td>610</td>
<td>Hospital</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>612</td>
<td>(Outpatient) Surgery Center</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>620</td>
<td>Nursing Home</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>630</td>
<td>Clinic</td>
<td>P</td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>640</td>
<td>Animal Hospital/Veterinary Clinic</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Medical / Dental Lab</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>*</td>
<td>Heliport</td>
<td>SA</td>
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#### OFFICE USES (ITE CODES 700 – 799)

<table>
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<th>ITE Code</th>
<th>Land Use</th>
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<th>NC</th>
<th>GC</th>
<th>OT-MUC</th>
<th>OT-R</th>
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</thead>
<tbody>
<tr>
<td>710</td>
<td>General Office Building</td>
<td>P</td>
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</tr>
<tr>
<td>714</td>
<td>Corporate Headquarters Building</td>
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</tr>
<tr>
<td>715</td>
<td>Single Tenant Building</td>
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</tr>
<tr>
<td>720</td>
<td>Medical-Dental Office Building</td>
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<td>P</td>
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<tr>
<td>730</td>
<td>Government Office Building</td>
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<tr>
<td>732</td>
<td>United States Post Office</td>
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<tr>
<td>733</td>
<td>Government Office Complex</td>
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<tr>
<td>735</td>
<td>Judicial Complex</td>
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<tr>
<td>750</td>
<td>Office Park</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>760</td>
<td>Research and Development Center</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td></td>
<td></td>
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<tr>
<td>770</td>
<td>Business Park</td>
<td>P</td>
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</table>
## Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

### District Use Table

**Key:**
- P – Permitted Use
- S – Special Exception Use
- PA – Permitted Accessory Use
- SA – Special Exception Accessory Use

<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R-3</td>
</tr>
<tr>
<td><strong>Retail Uses (ITE Codes 800 – 899)</strong></td>
<td></td>
</tr>
<tr>
<td>812 Building Materials and Lumber Store</td>
<td></td>
</tr>
<tr>
<td>813 Free-Standing Discount Superstore</td>
<td>P</td>
</tr>
<tr>
<td>814 Specialty Retail Center</td>
<td>P</td>
</tr>
<tr>
<td>815 Free-Standing Discount Store</td>
<td>P</td>
</tr>
<tr>
<td>816 Hardware/Paint Store</td>
<td>P</td>
</tr>
<tr>
<td>817 Nursery/Garden Center</td>
<td>P</td>
</tr>
<tr>
<td>818 Nursery (Wholesale)</td>
<td>P</td>
</tr>
<tr>
<td>820 Shopping Center</td>
<td>P</td>
</tr>
<tr>
<td>823 Factory Outlet Center</td>
<td>P</td>
</tr>
<tr>
<td>841 Automobile Sales</td>
<td>P</td>
</tr>
<tr>
<td>842 Automobile Parts Sales</td>
<td>P</td>
</tr>
<tr>
<td>849 Tire Superstore</td>
<td>P</td>
</tr>
<tr>
<td>850 Supermarket</td>
<td>P</td>
</tr>
<tr>
<td>851 Convenience Market (Open 24 Hours)</td>
<td>P</td>
</tr>
<tr>
<td>852 Convenience Market (Open 15 – 16 Hours)</td>
<td>P</td>
</tr>
<tr>
<td>853 Convenience Market with Gasoline Pumps</td>
<td>S</td>
</tr>
<tr>
<td>854 Discount Supermarket</td>
<td>P</td>
</tr>
<tr>
<td>857 Discount Club</td>
<td>P</td>
</tr>
<tr>
<td>859 Liquor Store (Including Beer Distributor)</td>
<td>S</td>
</tr>
<tr>
<td>860 Wholesale Market</td>
<td>P</td>
</tr>
<tr>
<td>861 Sporting Goods Superstore</td>
<td>P</td>
</tr>
<tr>
<td>862 Home Improvement Superstore</td>
<td>P</td>
</tr>
<tr>
<td>863 Electronics Superstore</td>
<td>P</td>
</tr>
<tr>
<td>864 Toy/Children’s Superstore</td>
<td>P</td>
</tr>
<tr>
<td>865 Baby Superstore</td>
<td>P</td>
</tr>
<tr>
<td>866 Pet Supply Superstore</td>
<td>P</td>
</tr>
<tr>
<td>867 Office Supply Superstore</td>
<td>P</td>
</tr>
<tr>
<td>868 Book Superstore</td>
<td>P</td>
</tr>
<tr>
<td>869 Discount Home Furnishings Superstore</td>
<td>P</td>
</tr>
<tr>
<td>870 Apparel Store</td>
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</tr>
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</table>

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24
Zoning Ordinance of the City of Charles Town, WV  
Part 13, Articles 1321 – 1325, of the Charles Town Code

<table>
<thead>
<tr>
<th>CHARLES TOWN ZONING ORDINANCE</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>DISTRICT USE TABLE</td>
<td>Residential Low Density</td>
</tr>
<tr>
<td>Key:</td>
<td>P – Permitted Use</td>
</tr>
</tbody>
</table>

### LAND USE

<table>
<thead>
<tr>
<th>Code</th>
<th>Land Use</th>
<th>R-3</th>
<th>R-15</th>
<th>NR</th>
<th>NC</th>
<th>GC</th>
<th>OT-MUC</th>
<th>OT-R</th>
</tr>
</thead>
<tbody>
<tr>
<td>879</td>
<td>Arts and Crafts Store</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>880</td>
<td>Pharmacy/Drugstore w/o Drive-Through Window</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>881</td>
<td>Pharmacy/Drugstore w/Drive-Through Window</td>
<td>P</td>
<td>P</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>890</td>
<td>Furniture Store</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>892</td>
<td>Carpet Store</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>896</td>
<td>Video Rental Store</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td></td>
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</tr>
<tr>
<td>*</td>
<td>Art Gallery</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Gift shops and Boutiques</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Farmers Market</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Florist</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Photo / Camera Store</td>
<td>P</td>
<td>P</td>
<td>P</td>
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### SERVICE USES (ITE CODES 900 – 999)

<table>
<thead>
<tr>
<th>Code</th>
<th>Land Use</th>
<th>R-3</th>
<th>R-15</th>
<th>NR</th>
<th>NC</th>
<th>GC</th>
<th>OT-MUC</th>
<th>OT-R</th>
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<tbody>
<tr>
<td>911</td>
<td>Walk-in Bank</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>912</td>
<td>Drive-in Bank</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>918</td>
<td>Hair Salon</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>931</td>
<td>Quality Restaurant</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>932</td>
<td>High-Turnover (Sit-Down) Restaurant</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>933</td>
<td>Fast-Food Restaurant w/o Drive-Through Window</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>934</td>
<td>Fast-Food Restaurant with Drive-Through Window</td>
<td>P</td>
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<tr>
<td>935</td>
<td>Fast-Food Restaurant with Drive-Through Window and No Indoor Seating</td>
<td>P</td>
<td>P</td>
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<tr>
<td>936</td>
<td>Coffee/Donut Shop w/o Drive-Through Window</td>
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<tr>
<td>937</td>
<td>Coffee/Donut Shop with Drive-Through Window</td>
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<tr>
<td>938</td>
<td>Coffee/Donut Shop with Drive-Through Window and No Indoor Seating</td>
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<tr>
<td>939</td>
<td>Bread/Donut/Bagel Shop w/o Drive-Through Window</td>
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<tr>
<td>940</td>
<td>Bread/Donut/Bagel Shop with Drive-Through Window</td>
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<tr>
<td>941</td>
<td>Quick Lube Vehicle Shop</td>
<td>P</td>
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<tr>
<td>942</td>
<td>Automobile Care Center</td>
<td>P</td>
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Zoning Ordinance of the City of Charles Town, WV  
Part 13, Articles 1321 – 1325, of the Charles Town Code

CHARLES TOWN  
ZONING ORDINANCE

DISTRICT USE TABLE

Key:
P – Permitted Use  
S – Special Exception Use  
PA – Permitted Accessory Use  
SA – Special Exception Accessory Use

ZONING DISTRICTS

<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Land Use</th>
<th>R-3</th>
<th>R-15</th>
<th>NR</th>
<th>NC</th>
<th>GC</th>
<th>OT-MUC</th>
<th>OT-R</th>
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<tbody>
<tr>
<td>943</td>
<td>Automobile Parts and Service Center</td>
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<tr>
<td>944</td>
<td>Gasoline/Service Station</td>
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<tr>
<td>945</td>
<td>Gasoline/Service Station with Convenience Market</td>
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<td>P</td>
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<tr>
<td>946</td>
<td>Gasoline/Service Station with Convenience Market and Car Wash</td>
<td>P</td>
<td>P</td>
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</tr>
<tr>
<td>947</td>
<td>Self-Service Car Wash</td>
<td>P</td>
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</tr>
<tr>
<td>948</td>
<td>Automated Car Wash</td>
<td>P</td>
<td>P</td>
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<tr>
<td>960</td>
<td>Dry Cleaners</td>
<td>S</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>*</td>
<td>Funeral Home/Crematory</td>
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<tr>
<td>*</td>
<td>Kennel</td>
<td>S</td>
<td>P</td>
<td>P</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Tattoo Parlor</td>
<td>S</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*</td>
<td>Self-Storage</td>
<td>S</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>*</td>
<td>Outdoor Café</td>
<td>P</td>
<td>P</td>
<td>P</td>
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</tr>
</tbody>
</table>

MISCELLANEOUS USES

| *        | Parking Facility                              | PA  | PA  | PA  | P  | P  | PA    |
| *        | Wireless Telecommunication Facilities          | S   | S   | S   | S  | S  | S     |
| *        | Essential Utilities and Equipment              | P   | P   | P   | P  | P  | P     |

Section 1322.05, Urban Reserve (UR) District

The following regulations govern land Use within the Urban Reserve (UR) District:

(A) Purpose:

1. The Urban Reserve (UR) District is the zoning classification which is applied to annexed parcels upon approval and assignment into the City’s jurisdiction. The UR District is a temporary holding district meant to accommodate existing Uses until the most appropriate zoning classification is enacted through the zoning amendment provisions specified under Section 1321.12 of this Ordinance; and

2. Parcels in the UR District may not be subdivided. An approved rezoning to any other Zoning District authorized by this Ordinance, or as amended, is necessary prior to subdivision or further development of such parcels or undertaking Uses other than the Uses existing thereon at the time of annexation. The rezoning
request must be compatible with the goals and policies of the Charles Town Comprehensive Plan and must be accompanied by the Sketch Plan as specified under the Charles Town Subdivision and Land Development Ordinance;
Section 1322.06, Residential Low Density (R-3) District

The following regulations govern land Use within the Residential Low Density (R-3) District:

(A) **Purpose.** The purpose of the R-3 District is to provide for locations for single-Family residential development;

(B) **Bulk and Area Regulations.** Table 1322.06 specifies the bulk and area regulations for the R-3 District, which include standards applicable under the Charles Town Subdivision and Land Development Ordinance. The following provisions also apply:

1. **Corner Lots.** A Setback area at least equal to the minimum Front Yard Setback shall be provided along all portions of a Corner Lot abutting any public Street, except where the applicant is granted an exception under the following provisions for a Front Yard Setback exception with respect to one or more property lines abutting a public Street. The Yard and property line directly opposite (behind) the front façade of the main Building (as reasonably determined by the Zoning Administrator) shall be the designated Rear Yard and rear line, respectively;

2. **Projections into Required Yards:**
   a. Cornices, eaves, sills or other similar architectural features, or other required means of egress, rain leads or chimneys or other similar Structures that do not include space useable by persons may extend or project into a Required Yard not more than four (4) feet. Unenclosed exterior stairways and fire escapes may extend or project into a Required Side or Rear Yard not more than four (4) feet; and
   b. No front porch or deck shall extend into the Required Front Yard unless development patterns within the block are such that a porch would be appropriate. In no case, shall a front porch extend more than eight (8) feet into the Required Front Yard;

3. **Front Yard Setback exception.** When the Clearly Prevailing Yard Pattern for Front Yards is less than the minimum Front Yard Setback required in the R-3 District, then the Front Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Front Yards, provided that in no case shall a Front Yard Setback be less than fifty percent (50%) of the minimum Front Yard Setback for the R-3 District; and

4. **Side and Rear Yard Setback exceptions.** One-half of an alley abutting a Side or Rear Yard may be included in required Setback. When the Clearly Prevailing Yard Pattern for Side Yards is less than the minimum Side Yard Setback required in the R-3 District, then the Side Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Side Yards, provided that in no event shall the Side Yard Setback be reduced to less than three (3) feet; and

(C) **Uses.** Table 1322.04 specifies the principal Permitted Uses and Special Exception Uses for the R-3 District. Supplemental Regulations outlined in Section 1323 shall apply accordingly.
(D) **Parking and Loading Standards.** Section 1333.23 of the Charles Town Subdivision and Land Development Ordinance sets forth the minimum off-street parking requirements and other standards applicable to Uses permitted in the R-3 District, which requirements and standards are incorporated herein by reference.

<table>
<thead>
<tr>
<th>Table 1322.06, R-3 District Bulk and Area Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Density</td>
</tr>
<tr>
<td>Minimum Lot Size</td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
</tr>
<tr>
<td>All other</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
</tr>
<tr>
<td>All other</td>
</tr>
<tr>
<td>Minimum Front Yard Setback</td>
</tr>
<tr>
<td>Minimum Side Yard Setback</td>
</tr>
<tr>
<td>Minimum Rear Yard Setback</td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
</tr>
<tr>
<td>Minimum Required Open Space</td>
</tr>
<tr>
<td>Maximum Building Height</td>
</tr>
<tr>
<td>Maximum Stories</td>
</tr>
</tbody>
</table>

¹ When calculating the density of a development it shall be calculated from the Net Buildable Land Area of all parts of the development in the same Zoning District.

² Lot width for a single lot of a duplex lot.

³ No Side Yard shall be required adjoining any Lot line that coincides with party-wall in an attached Dwelling or other Use.

Section 1322.07, Residential Medium-High Density (R-15) District

The following regulations govern land Use within the Residential Medium-High Density (R-15) District:

(A) **Purpose.** The purpose of the R-15 District is to provide for locations for moderate and high density residential development through a variety of housing types;

(B) **Bulk and Area Regulations.** Table 1322.07 specifies the bulk and area regulations for the R-15 District, which include standards applicable under the Charles Town Subdivision and Land Development Ordinance. The following provisions also apply:

1. **Corner Lots.** A Setback area at least equal to the minimum Front Yard Setback shall be provided along all portions of a Corner Lot abutting any public Street, except where the applicant is granted an exception under the following provisions for a Front Yard Setback exception with respect to one or more property lines abutting a public Street. The Yard and property line directly opposite (behind) the front facade of the main Building (as reasonably determined by the Zoning Administrator) shall be the designated Rear Yard and rear line, respectively;
2. Projections into Required Yards:
   a. Cornices, eaves, sills or other similar architectural features, or other required means of egress, rain leads or chimneys or other similar Structures that do not include space useable by persons may extend or project into a Required Yard not more than four (4) feet. Unenclosed exterior stairways and fire escapes may extend or project into a Required Side or Rear Yard not more than four (4) feet; and
   b. No front porch or deck shall extend into the Required Front Yard unless development patterns within the block are such that a porch would be appropriate. In no case, shall a front porch extend more than eight (8) feet into the Required Front Yard;

3. Front Yard Setback exception. When the Clearly Prevailing Yard Pattern for Front Yards is less than the minimum Front Yard Setback required in the R-15 District, then the Front Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Front Yards, provided that in no case shall a Front Yard Setback be less than fifty percent (50%) of the minimum Front Yard Setback for the R-15 District; and

4. Side and Rear Yard Setback exceptions. One-half of an alley abutting a Side or Rear Yard may be included in required Setback. When the Clearly Prevailing Yard Pattern for Side Yards is less than the minimum Side Yard Setback required in the R-15 District, then the Side Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Side Yards, provided that in no event shall the Side Yard Setback be reduced to less than three (3) feet; and

(C) Uses. Table 1322.04 specifies the principal Permitted Uses and Special Exception Uses for the R-15 District. Supplemental Regulations outlined in Section 1323 shall apply accordingly. Mobile Home Parks are subject to the requirements specified in the Charles Town Subdivision and Land Development Ordinance.

(D) Parking and Loading Standards. Section 1333.23 of the Charles Town Subdivision and Land Development Ordinance sets forth the minimum off-street parking requirements and other standards applicable to Uses permitted in the R-15 District, which requirements and standards are incorporated herein by reference.
### Table 1322.07, R-15 Density, Bulk and Area Regulations

<table>
<thead>
<tr>
<th></th>
<th>Units or Area</th>
</tr>
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<tbody>
<tr>
<td><strong>Maximum Density</strong></td>
<td>15 units per acre</td>
</tr>
<tr>
<td><strong>Minimum Lot Size</strong></td>
<td></td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
<td>10,000 square feet</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>12,000 square feet</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
<td>6,000 square feet</td>
</tr>
<tr>
<td>Multi-Family Dwelling</td>
<td>20,000 square feet</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>2,000 square feet</td>
</tr>
<tr>
<td><strong>Mobile Home Parks</strong></td>
<td>See Charles Town Subdivision and Land Development Ordinance</td>
</tr>
<tr>
<td>Group Home</td>
<td>10,000 square feet</td>
</tr>
<tr>
<td>All other</td>
<td>20,000 square feet</td>
</tr>
<tr>
<td><strong>Minimum Lot Width</strong></td>
<td></td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
<td>70 feet</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>80 feet</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
<td>40 feet</td>
</tr>
<tr>
<td>Multi-Family Dwelling</td>
<td>100 feet</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>18 feet</td>
</tr>
<tr>
<td>Group Home</td>
<td>70 feet</td>
</tr>
<tr>
<td>All other</td>
<td>100 feet</td>
</tr>
<tr>
<td><strong>Minimum Front Yard Setback</strong></td>
<td>25 feet</td>
</tr>
<tr>
<td><strong>Minimum Side Yard Setback</strong></td>
<td>10 feet</td>
</tr>
<tr>
<td><strong>Minimum Rear Yard Setback</strong></td>
<td>20 feet</td>
</tr>
<tr>
<td><strong>Maximum Lot Coverage</strong></td>
<td>60 percent</td>
</tr>
<tr>
<td><strong>Minimum Required Open Space</strong></td>
<td>10 percent or 30 percent</td>
</tr>
<tr>
<td><strong>Maximum Building Height</strong></td>
<td>35 feet (55 feet for Multi-Family)</td>
</tr>
<tr>
<td><strong>Maximum Stories</strong></td>
<td>3 stories (4 stories for Multi-Family)</td>
</tr>
</tbody>
</table>

1. When calculating the density of a development it shall be calculated from the Net Buildable Land Area of all parts of the development in the same Zoning District.
2. No Side Yard shall be required adjoining any Lot line that coincides with party-wall in an attached Dwelling or other Use.
3. Thirty (30) percent Open Space is required for Mobile Home Parks. Ten (10) percent Open Space is required for all other Uses in the R-15 District.
4. Multi-Family: 55 feet, 4 stories.
Section 1322.08, Neighborhood Residential (NR) District

The following regulations govern land use within the Neighborhood Residential (NR) District:

(A) **Purpose.** The purpose of the NR District is to provide for a mix of housing types and related services and uses, including commercial uses and office services. It is the intent of the zoning classification to allow mixed development on undeveloped land and, where applicable as may be further described in this ordinance, the redevelopment of specific parcels within the City. The NR District applies to parcels or tracts larger than five (5) acres. The intent is to create a cohesive pattern of primarily residential development that allows a mix of uses, including neighborhood servicing commercial and office uses and/or commercial and office uses that complement the primarily residential character of the neighborhood;

(B) **Application:**

1. Only five (5) or more contiguous acres of land are eligible for the NR District, whether such land is a single parcel or a group of contiguous parcels;

2. The NR District is created as a special Zoning District to be applied:
   a. Where requested to land being annexed by the City; or
   b. Upon petition in accordance with this ordinance for rezoning of a parcel or group of contiguous parcels;

3. The NR District must contain a mix of uses compatible with surrounding uses, particularly existing residential neighborhoods adjoining the proposed development or redevelopment. At least fifty percent (50%) of the total area must be residential; ten percent (10%) of the total usable land area must be open space and not less than ten percent (10%) of the total area must be comprised of neighborhood commercial uses. A market assessment substantiating the proposed mix of residential, commercial and open space uses shall be submitted with the application;

4. The maximum density (dwelling units per acre) allowed within the NR District shall be determined as follows:
   a. The maximum density for multi-family residential development is determined by dividing the total net buildable land area in square feet of a parcel or aggregated parcels by three thousand five hundred (3,500).
   b. The maximum density for all other residential development is determined by dividing the total net buildable land area in square feet of a parcel or aggregated parcels by one thousand seven hundred and fifty (1,750).

5. No residential Lot shall be larger than two (2) acres;

6. Townhouse developments shall meet the requirements of said developments as specified in Section 1333.20 of the Charles Town Subdivision and Land Development Ordinance; and
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

7. Commercial and office Uses shall meet the minimum requirements of the Neighborhood Commercial District and are excluded from the requirements of Table 1322.08;

(C) Bulk and Area Regulations. Table 1322.08 specifies the bulk and area regulations for the NR District, which include standards applicable under the Charles Town Subdivision and Land Development Ordinance. The following provisions also apply:

1. Corner Lots. A Setback area at least equal to the minimum Front Yard Setback shall be provided along all portions of a Corner Lot abutting any public Street, except where the applicant is granted an exception under the following provisions for a Front Yard Setback exception with respect to one or more property lines abutting a public Street. The Yard and property line directly opposite (behind) the front facade of the main Building (as reasonably determined by the Zoning Administrator) shall be the designated Rear Yard and rear line, respectively;

2. Projections into Required Yards:
   a. Cornices, eaves, sills or other similar architectural features, or other required means of egress, rain leads or chimneys or other similar Structures that do not include space useable by persons may extend or project into a Required Yard not more than four (4) feet. Unenclosed exterior stairways and fire escapes may extend or project into a Required Side or Rear Yard not more than four (4) feet; and
   b. No front porch or deck shall extend into the Required Front Yard unless development patterns within the block are such that a porch would be appropriate. In no case, shall a front porch extend more than eight (8) feet into the Required Front Yard;

3. Front Yard Setback exception. When the Clearly Prevailing Yard Pattern for Front Yards is less than the minimum Front Yard Setback required in the NR District, then the Front Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Front Yards, provided that in no case shall a Front Yard Setback be less than fifty percent (50%) of the minimum Front Yard Setback for the NR District; and

4. Side and Rear Yard Setback exceptions. One-half of an alley abutting a Side or Rear Yard may be included in required Setback. When the Clearly Prevailing Yard Pattern for Side Yards is less than the minimum Side Yard Setback required in the NR District, then the Side Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Side Yards, provided that in no event shall the Side Yard Setback be reduced to less than three (3) feet; and

(D) Uses. Table 1322.04 specifies the principal Permitted Uses and Special Exception Uses for the NR District. Supplemental Regulations outlined in Section 1323 shall apply accordingly.
Parking and Loading Standards. Section 1333.23 of the Charles Town Subdivision and Land Development Ordinance sets forth the minimum off-street parking requirements and other standards applicable to Uses permitted in the NR District, which requirements and standards are incorporated herein by reference.

Table 1322.08, NR District Bulk and Area Regulations

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Density</strong></td>
<td></td>
</tr>
<tr>
<td>Multi-Family Group Developments</td>
<td>20 units per acre</td>
</tr>
<tr>
<td>All other residential</td>
<td>10 units per acre</td>
</tr>
<tr>
<td><strong>Minimum Lot Size</strong></td>
<td></td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
<td>6,000 square feet</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>6,000 square feet</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
<td>3,000 square feet</td>
</tr>
<tr>
<td>Multi-Family Dwelling</td>
<td>20,000 square feet</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>2,000 square feet</td>
</tr>
<tr>
<td>Group Home</td>
<td>6,000 square feet</td>
</tr>
<tr>
<td>Hospitals</td>
<td>40,000 square feet</td>
</tr>
<tr>
<td>All other</td>
<td>18,000 square feet</td>
</tr>
<tr>
<td><strong>Minimum Lot Width</strong></td>
<td></td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
<td>60 feet</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>70 feet</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
<td>35 feet</td>
</tr>
<tr>
<td>Multi-Family Dwelling</td>
<td>100 feet</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>18 feet</td>
</tr>
<tr>
<td>Group Home</td>
<td>60 feet</td>
</tr>
<tr>
<td>Hospitals</td>
<td>200 feet</td>
</tr>
<tr>
<td>All other</td>
<td>100 feet</td>
</tr>
<tr>
<td><strong>Minimum Front Yard Setback</strong></td>
<td></td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
<td>25 feet</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>25 feet</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
<td>25 feet</td>
</tr>
<tr>
<td>Multi-Family Dwelling</td>
<td>25 feet</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>25 feet</td>
</tr>
<tr>
<td>Group Home</td>
<td>25 feet</td>
</tr>
<tr>
<td>All other</td>
<td>30 feet</td>
</tr>
<tr>
<td><strong>Minimum Side Yard Setback</strong></td>
<td></td>
</tr>
<tr>
<td>All other</td>
<td>10 feet</td>
</tr>
<tr>
<td><strong>Minimum Rear Yard Setback</strong></td>
<td></td>
</tr>
<tr>
<td>All other</td>
<td>20 feet</td>
</tr>
<tr>
<td><strong>Maximum Lot Coverage</strong></td>
<td>70 (80 percent for Townhouse and Multi-Family Dwellings)</td>
</tr>
<tr>
<td><strong>Minimum Required Open Space</strong></td>
<td>10 percent</td>
</tr>
<tr>
<td><strong>Maximum Building Height</strong></td>
<td>40 feet</td>
</tr>
<tr>
<td><strong>Maximum Stories</strong></td>
<td>3 stories</td>
</tr>
</tbody>
</table>

1 When calculating the density of a development it shall be calculated from the Net Buildable Land Area of all parts of the development in the same Zoning District.

2 No Side Yard shall be required adjoining any Lot line that coincides with party-wall in an attached Dwelling or other Use.

3 Multi-Family: 55 feet; 4 stories
Section 1322.09, Neighborhood Commercial (NC) District

The following regulations govern land Use within the Neighborhood Commercial (NC) District:

(A) Purpose. The purpose of the NC District is to provide for necessary Commercial Uses of a convenient nature within residential areas. The regulations which apply within the NC District are designed to encourage the formation and continuance of a stable, healthy and compatible environment for Uses that are located so as to provide nearby residential areas with convenient shopping and service facilities; reduce traffic congestion and avoid the development of “strip” business. The residential character of the area surrounding NC District shall be of primary consideration.

Development objectives of the NC District include:

1. Attractive, tree-lined Streets, which emphasize and encourage walking and bicycling as well as efficient automobile transit, to serve the commercial developments. In such neighborhoods, the Sidewalk will be setback from the Street aligning with any existing sidewalks; and

2. Commercial Buildings designed in a manner which encourages pedestrian-scale activity on the Street, by placing main entrances facing the Street, and reducing the dominance of parking facilities as a prominent visual street feature. Where possible, parking lots should be placed to the rear or to the side of Buildings. Article 1333, Site Planning and Design Specifications, of the Charles Town Subdivision and Land Development Ordinance provides further Site design standards;

(B) Bulk and Area Regulations. Table 1322.09 specifies the bulk and area regulations for the NC District, which include standards applicable under the Charles Town Subdivision and Land Development Ordinance. The following provisions also apply:

1. Corner Lots: A Setback area at least equal to the minimum Front Yard Setback shall be provided along all portions of a Corner Lot abutting any public Street, except where the applicant is granted an exception under the following provisions for a Front Yard Setback exception with respect to one or more property lines abutting a public Street. The Yard and property line directly opposite (behind) the front facade of the main Building (as reasonably determined by the Zoning Administrator) shall be the designated Rear Yard and rear line, respectively;

2. Projections into Required Yards:

   a. Cornices, eaves, sills or other similar architectural features, or other required means of egress, rain leads or chimneys or other similar Structures that do not include space useable by persons may extend or project into a Required Yard not more than four (4) feet. Unenclosed exterior stairways and fire escapes may extend or project into a Required Side or Rear Yard not more than four (4) feet; and

   b. No front porch or deck shall extend into the Required Front Yard unless development patterns within the block are such that a porch would be
appropriate. In no case, shall a front porch extend more than eight (8) feet into the Required Front Yard;

3. **Front Yard Setback Exception.** When the Clearly Prevailing Yard Pattern for Front Yards is less than the minimum Front Yard Setback required in the NC District, then the Front Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Front Yards.

4. **Side and Rear Yard Setback Exceptions.** One-half of an alley abutting a Side or Rear Yard may be included in required Setback. When the Clearly Prevailing Yard Pattern for Side Yards is less than the minimum Side Yard Setback required in the NC District, then the Side Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Side Yards, provided that in no event shall the Side Yard Setback be reduced to less than three (3) feet; and

(C) **Uses.** Table 1322.04 specifies the principal Permitted Uses and Special Exception Uses for the NC District. Supplemental Regulations outlined in Section 1323 shall apply accordingly.

(D) **Parking and Loading Standards.** Section 1333.23 of the Charles Town Subdivision and Land Development Ordinance sets forth the minimum off-street parking requirements and other standards applicable to Uses permitted in the NC District, which requirements and standards are incorporated herein by reference.

<table>
<thead>
<tr>
<th>Table 1322.09, NC District Bulk and Area Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
</tr>
<tr>
<td>Maximum Lot Size</td>
</tr>
<tr>
<td>Minimum Front Yard Setback</td>
</tr>
<tr>
<td>Minimum Side Yard Setback</td>
</tr>
<tr>
<td>Minimum Rear Yard Setback</td>
</tr>
<tr>
<td>Maximum Lot Coverage, Permitted Residential</td>
</tr>
<tr>
<td>Maximum Lot Coverage, Permitted Commercial</td>
</tr>
<tr>
<td>Maximum Stories</td>
</tr>
</tbody>
</table>
Section 1322.10, General Commercial (GC) District

The following regulations govern land use within the General Commercial (GC) District:

(A) Purpose. The purpose of the GC District is to provide locations for businesses of a more general nature that may not be found in a neighborhood and can be served with adequate water and sewer service. The businesses proposed include retail, wholesale, and some light processing operations;

(B) Bulk and Area Regulations. Table 1322.10 specifies the bulk and area regulations for the GC District, which include standards applicable under the Charles Town Subdivision and Land Development Ordinance. The following provisions also apply:

1. Corner Lots. A setback area at least equal to the minimum front yard setback shall be provided along all portions of a corner lot abutting any public street, except where the applicant is granted an exception under the following provisions for a front yard setback exception with respect to one or more property lines abutting a public Street. The yard and property line directly opposite (behind) the front facade of the main building (as reasonably determined by the Zoning Administrator) shall be the designated rear yard and rear line, respectively;

2. Projections into Required Yards. Cornices, eaves, sills, or other similar architectural features, or other required means of egress, rain leads, chimneys, or other similar structures that do not include space usable by persons may extend or project into a required yard not more than four (4) feet. Unenclosed exterior stairways and fire escapes may extend or project into a required side or rear yard not more than four (4) feet;

3. Front Yard Setback Exception. When the clearly prevailing yard pattern for front yards is less than the minimum front yard setback required in the GC District, then the front yard setback for the subject lot may be reduced by exception to no less than the clearly prevailing yard pattern for front yards, provided that in no case shall a front yard setback be less than fifty percent (50%) of the minimum front yard setback for the GC District; and

4. Side and Rear Yard Setback Exceptions. One-half of an alley abutting a side or rear yard may be included in required setback. When the clearly prevailing yard pattern for side yards is less than the minimum side yard setback required in the GC District, then the side yard setback for the subject lot may be reduced by exception to no less than the clearly prevailing yard pattern for side yards, provided that in no event shall the side yard setback be reduced to less than three (3) feet.

(C) Uses. Table 1322.04 specifies the principal permitted uses and special exception uses for the GC District. Supplemental regulations outlined in Section 1323 shall apply accordingly.

(D) Parking and Loading Standards. Section 1333.23 of the Charles Town Subdivision and Land Development Ordinance sets forth the minimum off-street parking requirements and other standards applicable to uses permitted in the GC District, which requirements and standards are incorporated herein by reference.
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

Table 1322.10, GC District Bulk and Area Regulations

<table>
<thead>
<tr>
<th>Bulk and Area Regulations</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Density</td>
<td>No Requirement</td>
</tr>
<tr>
<td>Minimum Lot Size</td>
<td>No Requirement</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>No Requirement</td>
</tr>
<tr>
<td>Minimum Front Yard Setback</td>
<td>40 feet</td>
</tr>
<tr>
<td>Minimum Side Yard Setback</td>
<td>10 feet (25 feet where adjoining a residential district)</td>
</tr>
<tr>
<td>Minimum Rear Yard Setback</td>
<td>30 feet</td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td>90 percent</td>
</tr>
<tr>
<td>Minimum Required Open Space</td>
<td>No Requirement</td>
</tr>
<tr>
<td>Maximum Building Height</td>
<td>55 feet¹</td>
</tr>
<tr>
<td>Maximum Stories</td>
<td>5 stories¹</td>
</tr>
</tbody>
</table>

¹Hotels shall have a maximum height of 78 feet and maximum number of six (6) stories.

Section 1322.11, Old Town Residential (OT-R) District

The following regulations govern land Use within the Old Town Residential (OT-R) District:

(A) Purpose. The purpose of the OT-R District is to recognize existing and older residential neighborhoods within the City of Charles Town that are characterized as having smaller Lots, smaller Setbacks, traditional grid Street pattern and access by Street or alley. These provisions for the OT-R District are designed to protect the character of these residential neighborhoods while permitting their maintenance and improvement. These standards also seek to encourage sensitively designed infill in keeping with the existing character of the OT-R District. To maintain the scale and design of Buildings currently existing in OT-R District, it is important the scale and design of surrounding Buildings be taken into consideration when proposing additions and new Buildings. The OT-R District also promotes interaction among activities located within the entire Old Town District area, which includes both the OT-R and Old Town Mixed Use Commercial District. The purpose of such interaction is to further enhance business vitality, reduce vehicular traffic, increase access to and the use of transit services, provide employment opportunities for residents close to home, ensure the compatibility among and between residential and downtown Commercial Uses, and ensure the appearance and effects of Buildings and Uses are harmonious with the character of the area in which they are located by:

1. Preserving and restoring the overall character of the Zoning District;
2. Promoting a balance of land Uses;
3. Promoting the opportunity for people to work, interact, shop, dine, and utilize business and public services in the vicinity of their residences;
4. Promoting a positive pedestrian environment in the Zoning District;
5. Facilitating integrated physical design;
6. Promoting a high level of design quality; and
7. Facilitating development proposals responsive to current and future market conditions;

(B) **Bulk and Area Regulations.** Table 1322.11 specifies the bulk and area regulations for the OT-R District, which include standards applicable under the Charles Town Subdivision and Land Development Ordinance. The following provision also applies:

1. **Parking.** The Planning Commission may reduce the minimum number of parking spaces required for property involving two or more Uses where the respective peak parking demands may be reasonably expected to alternate and where shared parking is feasible, provided, however, that a mutually acceptable shared parking agreement shall be executed between the Users.

2. **Projections into Required Yards:**
   a. Cornices, eaves, sills or other similar architectural features, or other required means of egress, rain leads or chimneys or other similar Structures that do not include space usable by persons may extend or project into a Required Yard not more than four (4) feet. Unenclosed exterior stairways and fire escapes may extend or project into a Required Side or Rear Yard not more than four (4) feet; and
   b. No front porch or deck shall extend into the Required Front Yard unless development patterns within the block are such that a porch would be appropriate. In no case, shall a front porch extend more than eight (8) feet into the Required Front Yard.

(C) **Uses.** Table 1322.04 specifies the principal Permitted Uses and Special Exception Uses for the OT-R District. Supplemental Regulations outlined in Section 1323 shall apply accordingly.

(D) **Parking and Loading Standards.** Section 1333.23 of the Charles Town Subdivision and Land Development Ordinance sets forth the minimum off-street parking requirements and other standards applicable to Uses permitted in the OT-R District, which requirements and standards are incorporated herein by reference.
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

Table 1322.11, OT-R District Bulk and Area Regulations

<table>
<thead>
<tr>
<th>Maximum Density</th>
<th>15 units per acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td></td>
</tr>
<tr>
<td>Existing Lot of Record</td>
<td>No Minimum Lot Size</td>
</tr>
<tr>
<td>For Newly Created Lots the Following Standards Shall Apply:</td>
<td></td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
<td>10,000 square feet</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
<td>6,000 square feet</td>
</tr>
<tr>
<td>Multi-Family Dwelling</td>
<td>20,000 square feet</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>2,000 square feet</td>
</tr>
<tr>
<td>Group Home</td>
<td>10,000 square feet</td>
</tr>
<tr>
<td>All Other</td>
<td>20,000 square feet</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td></td>
</tr>
<tr>
<td>Existing Lot of Record</td>
<td>No Minimum Lot Width</td>
</tr>
<tr>
<td>Single-Family Detached Dwelling</td>
<td>70 feet</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>80 feet</td>
</tr>
<tr>
<td>Duplex Dwelling</td>
<td>40 feet</td>
</tr>
<tr>
<td>Multi-Family Dwelling</td>
<td>100 feet</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>18 feet</td>
</tr>
<tr>
<td>Group Home</td>
<td>70 feet</td>
</tr>
<tr>
<td>All Other</td>
<td>100 feet</td>
</tr>
<tr>
<td>Minimum Front Yard Setback</td>
<td>20 feet or Front Setbacks shall vary no more than 10% from the average Setbacks of the three Adjacent Properties to each side.</td>
</tr>
<tr>
<td>Minimum Side Yard Setback</td>
<td>10 feet</td>
</tr>
<tr>
<td>Minimum Rear Yard Setback</td>
<td>20 feet</td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td>70 percent</td>
</tr>
<tr>
<td>Minimum Building Height</td>
<td>Minimum = 24 feet or 1.5 stories</td>
</tr>
<tr>
<td>Maximum Building Height</td>
<td>35 feet (55 feet for Multi-Family)</td>
</tr>
<tr>
<td>Maximum Stories</td>
<td>3 stories (4 stories for Multi-Family)</td>
</tr>
</tbody>
</table>

(1) No Side Yard shall be required adjoining any Lot line that coincides with party-wall in an attached Dwelling or other Use.
(2) Multi-Family: 55 feet, 4 stories
(3) Width of lot shall be determined by ability to meet setbacks when a principle use is located on the lot.
(4) Legal Non-conforming Structures that are destroyed in fires and/or natural disaster are permitted to be rebuilt in their previous area and bulk configuration.
(5) In situations where there are not three (3) contiguous properties to either side of the subject property, where possible, reviewing the front setbacks in the next block on the same side of the street shall be considered. In locations where there are no structures in the contiguous block or if the block pattern change significantly, the intent and spirit of the Zoning Ordinance is to maintain consistency and compatibility within the block where the structure is to be located. Examining the front setbacks across the street from the subject parcel is a reasonable alternative in so much that compatibility within the block is maintained. Discretion in determining the front setback to achieve the character and compatibility resides within the duties of the Zoning Administrator.
Section 1322.12, Old Town Mixed Use Commercial (OT-MUC) District

The following regulations govern land use within the Old Town Mixed Use Commercial (OT-MUC) District:

(A) **Purpose.** The purpose of the OT-MUC District is to recognize the diversity of existing uses and provide for a wide range of uses in a manner that strengthens Charles Town's urban core, contributes to its historic character, minimizes impacts on adjacent land uses, and provides connections to annexed properties. The OT-MUC District shall include the areas formerly consisting of NC, OR, GC, CBD, and I Districts. The OT-MUC District will accommodate the uses previously allowed in the individual districts because the OT-MUC District is designed to provide the flexibility and variety in one Zoning District that was previously provided by five districts.

The OT-MUC District furthermore fosters a greater opportunity for creative Infill Development and Redevelopment by encouraging a mix of uses compatible with existing and neighboring properties and providing housing and business uses in locations where City services are available. The intent is also to encourage interaction among activities located within the OT-MUC District, to enhance business vitality, reduce vehicular traffic, increase access to and the use of transit services, provide employment opportunities for residents close to home, ensure the compatibility with each of the Commercial and residential uses, ensure that the appearance and effects of buildings and uses are harmonious with the character of the area in which they are located by:

1. Allowing a diversity of uses in close proximity in the OT-MUC District within a limited area, including residential, retail, office, and industrial;
2. Preserving and restoring the overall character of the OT-MUC District;
3. Promoting a balance of land uses;
4. Promoting the opportunity for people to work, interact, shop, dine, and utilize business and public services in the vicinity of their residences;
5. Providing opportunities for the development of affordable housing;
6. Providing opportunities for a mixture of uses in the same building;
7. Promoting a positive pedestrian environment in the OT-MUC District;
8. Facilitating integrated physical design;
9. Promoting a high level of design quality;
10. Encouraging the development of flexible space for small and emerging businesses;
11. Facilitating development proposals responsive to current and future market conditions; and
12. Encouraging the development of Open Spaces and Parks within the OT-MUC District to accommodate workers, residents, pedestrians and shoppers;

(B) *Bulk and Area Regulations.* Table 1322.12 specifies the bulk and area regulations for the OT-MUC District, which include standards applicable under the Charles Town Subdivision and Land Development Ordinance. The following provisions also apply:

1. The Planning Commission may impose specific bulk and area conditions to ensure any new construction, including Infill Development, or expansion of an existing Structure is built in a manner that is supportive of existing and adjacent development. This includes imposing appropriate minimum and maximum bulk and area requirements for any expansion or new development if the Commission determines it is necessary to maintain the urban character of the neighborhood. This shall also include setting conditions to ensure the exterior appearance of such development is consistent with the general character of the area, including scale and mass of the Building, arrangement of windows, pitch of roof and type of siding material; and

2. The Planning Commission may also reduce the minimum number of parking spaces required for property involving two or more Uses where the respective peak parking demands may reasonably be expected to alternate and where shared parking is feasible, provided, however, that a mutually acceptable shared parking agreement *shall be executed between the Users.*

(C) *Uses.* Table 1322.04 specifies the principal Permitted Uses and Special Exception Uses for the OT-MUC District. Supplemental Regulations outlined in Section 1323 shall apply accordingly.

(D) *Parking and Loading Standards.* Section 1333.23 of the Charles Town Subdivision and Land Development Ordinance sets forth the minimum off-street parking requirements and other standards applicable to Uses permitted in the OT-MUC District, which requirements and standards are incorporated herein by reference.
### Table 1322.12, OT-MUC District Bulk and Area Regulations

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Density</strong></td>
<td>No Requirement</td>
</tr>
<tr>
<td><strong>Minimum Lot Size</strong></td>
<td>2' width to 3' depth Ratio</td>
</tr>
<tr>
<td><strong>Minimum Lot Width</strong></td>
<td>20 feet</td>
</tr>
<tr>
<td><strong>Minimum Front Yard Setback</strong></td>
<td>0 feet or Front Setbacks shall be more than the average Setbacks of three Adjacent Properties to each side.</td>
</tr>
<tr>
<td><strong>Minimum Side Yard Setback</strong></td>
<td>0 feet (20 feet where adjoining a residential district)</td>
</tr>
<tr>
<td><strong>Minimum Rear Yard Setback</strong></td>
<td>No Requirement</td>
</tr>
<tr>
<td><strong>Maximum Lot Coverage</strong></td>
<td>90 percent</td>
</tr>
<tr>
<td><strong>Minimum Required Open Space</strong></td>
<td>No Requirement</td>
</tr>
<tr>
<td><strong>Maximum Building Height</strong></td>
<td>55 feet</td>
</tr>
<tr>
<td><strong>Maximum Stories</strong></td>
<td>4 stories</td>
</tr>
</tbody>
</table>

(1) Legal Non-conforming Structures that are destroyed by fire and/or natural disaster are permitted to be rebuilt in their previous area and bulk configuration.

(2) In situations where there are not three (3) contiguous properties to either side of the subject property, where possible, reviewing the front setbacks in the next block on the same side of the street shall be considered. In locations where there are no structures in the contiguous block or if the block pattern changes significantly, the intent and spirit of the Zoning Ordinance is to maintain consistency and compatibility within the block where the structure is to be located. Examining the front setbacks across the street from the subject parcel is a reasonable alternative in so much that compatibility within the block is maintained. Discretion in determining the front setback to achieve the character and compatibility resides within the duties of the Zoning Administrator.

(E) **Design Standards.** The design standards specified under Section 1323 (W) of this Ordinance shall apply to the OT-MUC District.

### Section 1322.13, Historic Overlay (HO) District (HOD)

(A) **Establishment and Application.**

1. The “Charles Town Historic Overlay District,” is hereby created in accordance with Section 8A-7-2(b) and Article 26A, Chapter 8 of the West Virginia Code.

2. The Historic Overlay (HO) District (HOD) is created as a special Zoning District to be overlaid on to the existing underlying “fixed” Zoning Districts. The boundaries of each Historic Overlay District shall conform to the boundaries of Lots lawfully created and of record in the Office of the Clerk of Jefferson County at the time of designation of the HOD District. An application fee for these is not required. Where there happens to be any conflict between the provisions or requirements of the HOD District and those of the underlying Zoning District, the provisions of the underlying Zoning District shall apply.

(B) **Purpose.** The purpose of the HOD District is to provide a mechanism for the protection, enhancement and perpetuation of those historic Structures and areas in the City of Charles Town that have significant historical, architectural, archeological and cultural.
Sitites established to reflect elements of the cultural, social, economic, political or architectural history are intended to:

1. Safeguard the heritage of Charles Town as embodied and reflected in such Structures;
2. Stabilize and improve property values in such zones and in Charles Town generally;
3. Foster civic pride in the beauty and noble accomplishments of the past;
4. Strengthen the economy of the City; and
5. Promote the use of Historic Sites, Structures and Landmarks for the education, pleasure, and welfare of Charles Town residents.

(C) Historic Overlay District Map. The area included within the Charles Town Historic District is that as shown on the Official Historic Charles Town Map, which together with all explanatory matters thereon, is hereby adopted by reference and declared to be part of this Ordinance.

(D) Official Map. The Official Historic Charles Town Map, which shall be located in the Department of Community Development, shall be the final authority as to the current historic status of Buildings and other Structures in the City for purposes of this Section.

(E) Boundaries. The boundaries of the Charles Town Historic District are established according to the Official Historic Charles Town Map.

(F) Changes to Map.

1. If, in accordance with the provisions of this Section, changes are made to the Historic District boundaries or other matter portrayed on the Official Historic Charles Town Map, such changes shall be entered on the Official Historic Charles Town Map promptly after the amendment has been approved by the City Council, with an entry on the Official Historic Charles Town Map as follows: “On <DATE>, by official action of City Council, the following (change) changes were made in the Official Historic Charles Town Map: <brief description of nature of change>,” which entry shall be signed by the Mayor and properly attested to by the City Clerk. No amendment to this Section which involves a matter portrayed on the Official Historic Charles Town Map shall become effective until after such change and entry has been made on said map and until such change, if it involves the addition of an area to the district, has been approved by the West Virginia Division of Culture and History by virtue of a resolution certifying to the historical significance of the new area.

2. No changes of any nature shall be made in the Official Historic Charles Town Map or matter shown thereon except in conformity with the procedures set forth in this Subsection (E). Any unauthorized change of whatever kind by any Person or Persons shall be considered a violation of this Section.
(G) **Uncertain Boundaries.** Where uncertainty exists as to the boundaries of the HOD District as shown on the Official Historic Charles Town Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of Street or alley rights-of-way shall be construed to follow such center lines;
2. Boundaries indicated as parallel to, or extensions of features indicated in the above shall be so construed; and
3. Where physical or cultural features existing on the ground are at variance with those shown on the Official Historic Charles Town Map, or in other circumstances not covered by the above, the Board of Zoning Appeals shall interpret the HOD District boundaries.

(H) **Certification.** The existing Charles Town Historic District has been duly certified under state law by the West Virginia Division of Culture and History. Prior to any changes in the Official Historic Charles Town Map, all required certification shall be received from the West Virginia State Historic Preservation Officer (SHPO).

(I) **Historic Landmarks Commission.** Pursuant to the authority granted to the City of Charles Town by Article 26A, Chapter 8 of the West Virginia Code, the City of Charles Town has established the “Charles Town Historic Landmarks Commission” under Article 141 of the Charles Town Codified Ordinance.

(J) **Certificate of Appropriateness.**

1. No private Building, Site or Structure may be erected, altered, restored, moved, or demolished within the HO District except in accordance with Article 141 of the Charles Town Codified Ordinance and/or the Design Review Standards.
2. The rules, regulations, policies, procedures, and standards pertaining to a Certificate of Appropriateness have been adopted and published under Article 141 of the Charles Town Codified Ordinance and/or the Design Review Standards.

**Section 1322.14, Floodplain Overlay (FO) District (FOD)**

(A) **Purpose.** The purpose of the FOD District is to:

1. Regulate the permitted Use of flood-prone areas;
2. Require the utilization of appropriate construction practices and design standards in order to prevent or minimize flood damage in the future; and
3. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing the unwise use and development of property in areas subject to flooding.

(B) **Authority.** West Virginia Code Chapter 8A-7-2(b)(12) gives municipalities the authority to identify flood-prone areas subject to periodic flooding and regulate with specific control the permitted use, type of construction and height of floor levels above base flood elevation.
permitted in the area so as to lessen or avoid the hazards to Persons and damage to property resulting from the accumulation of storm or flood waters.

(C) **Boundaries of District.** To the extent the City of Charles Town Floodplain Ordinance, Article 1741 of the Codified Ordinances, as 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 and included within the FOD District.

(D) **Regulation.** In all areas covered by the FOD District, and except as specified herein, no land shall hereafter be used or developed, and no Building or part thereof or other Structure shall be used, located, erected, constructed, reconstructed, extended, enlarged, converted, or altered, except in conformity with the requirements, regulations, and standards set forth in said Floodplain Ordinance for flood-prone areas or any sub-classification thereof in which the subject land lies. No Zoning Permit shall be issued for any such property unless the applicant evidences such conformity. In addition, where land is to be subdivided, utilized for Mobile Home park or subdivision or otherwise developed, a Subdivision/Land Development Application must be submitted to, and approved by, the City prior to any development, in accordance with the Charles Town Subdivision and Land Development Ordinance.

**Section 1322.15, Planned Unit Development (PUD)**

(A) **Purpose.**

1. The purpose of Planned Unit Development (PUD) regulations is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations. Planned Unit Developments are intended to allow substantial flexibility in planning and designing a proposal. This flexibility often accrues in the form of relief from compliance with conventional Zoning Ordinance and Subdivision and Land Development Ordinance site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities, and ultimately a development that is more desirable to live in than one produced in accordance with typical Zoning Ordinance and subdivision controls. An intrinsic, and often neglected, premise upon which the approval of a PUD must be conditioned, is that while greater density or more lenient siting requirements may be granted, the PUD should contain features not normally required of traditional developments. Inherent to realizing these objectives is continuous and in-depth scrutiny of the proposed PUD and, accordingly, more information is demanded about the proposal than would be required if development were being pursued under conventional zoning and subdivision and land development requirements.

2. The PUD process is also intended to allow Infill Development or development of smaller parcels contiguous with existing developed areas of the City, where it may be appropriate to match existing Lot and block patterns, Street corridors and other existing conditions. In instances of Infill Development, particularly smaller parcels, creative design emphasis shall be placed on architectural controls, landscaping and neighborhood compatibility, rather than subdivision design or the creation of large Open Spaces or common areas.
(B) **Objectives.** Through proper planning and design, each PUD should include features which further, and are in compliance with, the following objectives:

1. To allow for the design of developments that are architecturally and environmentally innovative, and that achieve better utilization of land than is possible through strict application of standard zoning and subdivision controls;

2. To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions (including Karst geology) and refrains from adversely affecting flooding, soil, drainage, and other natural ecologic conditions;

3. To combine and coordinate architectural styles, Building forms, and structural/visual relationships within an environment that allows mixing of different land Uses in an innovative and functionally efficient manner;

4. To provide for abundant, accessible, and property located public open and recreation space, private open and recreation space, schools, and other public and private facilities;

5. To promote the efficient Use of land resulting in networks of utilities, Streets and other infrastructure features that maximize the allocation of fiscal and natural resources;

6. To enable land developments to be, to the maximum extent practicable, compatible and congruous with adjacent and nearby land developments;

7. To ensure that development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction;

8. To allow unique and unusual land Uses to be planned for and located in a manner that ensures harmony with the surrounding community; and

9. To create a method for the permanent preservation of Historic Structures and/or Landmarks.

(C) **Qualifications for Filing as a PUD.**

1. A Planned Unit Development may be developed in any Zoning District if it:
   a. Is within the City’s Old Town Districts, no minimum lot size shall apply, and at least twenty (20) acres in size for undeveloped tracts located outside the City’s Old Town Districts;
   b. Contains more than two (2) detached Buildings accommodating principal Uses; No minimum number of detached Buildings apply in the City’s Old Town Districts;
   c. Is initially under the same ownership or control; and
d. Is of a character that is compatible with, and contains such Uses that are needed in, the area of the proposed project. A market analysis substantiating the need for such Uses is encouraged.

2. Upon approval, a PUD acts as a separate Zoning District overlaid on to the existing underlying “fixed” Zoning District(s). The boundaries of the PUD shall be as specified in the approval. The Uses, requirements, and standards approved for the PUD shall take precedence over inconsistent or conflicting provisions applicable to the underlying “fixed” Zoning District(s). In the event the PUD is abandoned or otherwise terminated, the underlying Zoning District(s) shall thereafter apply to the subject land.

3. Uses permitted in a PUD may be any compatible residential, Commercial, or public Use or combination of Uses.

4. Flexibility to suspend requirements imposed elsewhere is not conferred upon the PUD applicant as a matter of right but is in all cases subject to a finding by the Planning Commission that the objectives of these provisions will be served thereby.

(D) Incentives for Planned Unit Developments. To further a superior level of design and amenity in new development, the following incentives are offered in Planned Unit Developments:

1. Variable Density and Dimensional Zoning Standards. Standards for minimum Lot area, minimum Lot area per Dwelling Unit, Lot Width, Building Height, Yard dimensions, off-street parking and loading, landscaping and screening, fences, and Signs may vary from those established elsewhere in this Ordinance. However, no more than 30 percent of the PUD may be comprised of Lot sizes less than 6,000 square feet and the Maximum Density shall be 15 units per acre; however, no Maximum Density applies to the Old Town Residential Districts.

2. In a Planned Unit Development more than one principal Building may be located on a Lot; and

3. Variable Subdivision Design Standards. Dimensional and design standards for subdivisions and subdivision improvements such as Streets, blocks, Sidewalks and parkways, but not improvement construction standards, may vary from those established in the Charles Town Subdivision and Land Development Ordinance.

(E) Requirements for Planned Unit Developments.

1. Minimum Tract Size:
   a. Within Old Town Districts: No minimum lot size.
   b. Undeveloped tracts located outside the City’s Old Town Districts: Twenty (20) acres.
2. **Maximum Residential Density.** 25 units per acre calculated on the Net Buildable Land Area; however, no Maximum Density applies to the Old Town Residential Districts.

3. **Density Calculation.** The density of a PUD shall be calculated from the Net Buildable Land Area; however, no Maximum Density applies to the Old Town Residential Districts.

4. **Required Common Open Space.** A minimum of twenty percent (20%) of the total usable land in residential Use in each phase shall be set aside for permanent common Open Space as defined herein.

5. **Quality of Design.** To be granted the flexibility permitted hereunder, a Planned Unit Development must evidence a level of design and amenity exceeding that typical of conventional development. Among the features that may evidence such amenity are:
   - a. Amount and quality of landscaping;
   - b. Amount, quality, and interconnectedness of common Open Space;
   - c. Provision of pedestrian or bicycle paths separated from Streets;
   - d. Preservation of drainage ways and other natural features;
   - e. Provision of common recreational facilities;
   - f. Enclosed, underground, depressed, or outstandingly landscaped parking areas;
   - g. Varied Building Setbacks or other measures to reduce monotony in design; and
   - h. Other features as determined by the Planning Commission or City Council.

(F) **Maintenance of Land Intended For Future Phases.** Land designated for future construction phases and other land not intended for immediate improvement shall be landscaped or otherwise maintained with a neat and orderly appearance as specified by the Planning Commission.

(G) **Approval Process.** A Zoning Permit for a PUD or phase thereof shall be issued only following approval by the Planning Commission of a Subdivision/Land Development Application for the PUD. Approval process shall follow the process of a Zoning Amendments as enumerated in Section 1321.12 of this Ordinance and shall require a Sketch Plan as detailed in the Subdivision and Land Development Ordinance.

(H) **Subdivision/Land Development Application Approval.** Subdivision/Land Development (S/LD) Applications for a PUD shall be prepared and submitted in accordance with the "Preliminary S/LD Application Requirements" and "Final S/LD Application requirements" specified under Sections 1332.04 and 1332.06, respectively, of the Charles Town Subdivision and Land Development Ordinance.
Applications for Planned Unit Developments shall be approved only in conformance with the City Subdivision and Land Development Ordinance and upon a finding by the Planning Commission of satisfaction of all criteria specified in this Section.

(I) Additional Criteria for Site Plan Approval for Planned Unit Developments. Upon receipt of a Subdivision/Land Development Application for a PUD, the Planning Commission shall also consider whether the application meets the additional evaluation criteria below:

1. **Consistent With City Comprehensive Plan.** The PUD is generally consistent with the objectives of the City Comprehensive Plan as viewed in light of any changed conditions since its adoption;

2. **Public Welfare.** The PUD will not be detrimental to the public health, safety, morals, or general welfare;

3. **Compatible with Environments.** Neither the PUD nor any portion thereof will be injurious to the Use and enjoyment of other properties in its vicinity, seriously impair property values or environmental quality in the neighborhood, nor impede the orderly development of surrounding property;

4. **Natural Features.** The design of the PUD is as consistent as practical with the preservation of natural features of the Site such as floodplains, wooded areas, Steep Slopes, natural drainage ways, or other areas of sensitive or valuable environmental character;

5. **Open Spaces and Landscaping.** The quality and quantity of common Open Spaces and landscaping provided are consistent with the higher standards of design and amenity required of a PUD. The size, shape, and location of a substantial portion of total common Open Space provided in residential areas render it useable for recreation purposes. Open areas between all Buildings are adequate to allow for light and air, access by firefighting equipment, and for privacy where walls have windows, terraces, or adjacent patios. Open areas along the perimeter of the development are sufficient to protect existing and permitted future Uses of adjacent property from adverse effects from the development;

6. **Public Services.** The land Uses, intensities, and phasing of the PUD are consistent with the anticipated ability of the City, the school system, and other public bodies to provide and economically support police and fire protection, water supply, sewage disposal, schools, and other public facilities and services without placing undue burden on existing residents and businesses.

7. **Design Standards.** The design standards specified under Section 1323 (W) of this Ordinance shall apply to the PUD District.

(K) **Covenants.** Where individual parcels are to be later sold, adequate provision has been made in the form of deed restrictions, a declaration of common interest community, covenants, conditions, and restrictions, or the like for:

1. The preservation and maintenance of any Open Spaces, thoroughfares, utilities, water retention or detention areas, and other common elements not to be dedicated to the City or another public body; and
2. Such control of the Use and exterior design of individual Structures, if any, as is necessary for continuing conformance to the PUD Plan, such provision to be binding on all future ownership and compliant with Chapter 36B of the West Virginia Code;

(L) Phasing. Each development phase of the PUD can, together with any phases that preceded it, exist as an independent unit that meets all of the foregoing criteria and all other applicable regulations herein even if no subsequent phase should ever be completed. The provision and improvement of public or common area improvements, Open Spaces, and amenities -- or the provision of financial sureties guaranteeing their improvement -- is phased generally proportionate to the phasing of the number of Dwelling Units or amount of non-residential Floor Area.
ARTICLE 1323, SUPPLEMENTAL REGULATIONS

Purpose. The purpose of these supplemental regulations is to set specific conditions for various Uses, classification of Uses, or areas where problems are frequently encountered, and to aid applicants in the permitting process. The permitting requirements contained elsewhere in this Ordinance apply to all Uses and Structures, whether or not specifically listed in this Article. Likewise, the provisions of this Article shall not be interpreted as a waiver of the application of City Building Code Requirements or any other requirements of the City of Charles Town or the State of West Virginia. Certain of the following supplemental regulations or provisions thereof, to the extent specified therein, are applicable to any and all Uses of land or Structures, including existing Uses and Structures.

(A) Accessory Uses and Structures – Yard Requirements.

In addition to the other applicable requirements of the City of Charles Town, Accessory Uses and Structures shall also be governed by the following provisions:

1. In all Zoning Districts, any Accessory Use or Structure under 144 square feet shall not be located closer than three (3) feet to an alley line or side or rear Lot line.

2. All Accessory Uses and Structures between 144 square feet and 600 square feet in area shall not be located closer than five (5) feet to an side or rear Lot line. Where located along an alley line, the Accessory Use or Structure shall not be located closer than three (3) feet to the property’s principal Permitted Use or Special Exception Use. The Rear Yard Setbacks shall be equal to the Side Yard requirements in that Zoning District.

3. Accessory Uses and Structures, other than detached Residential Garages, may exceed 600 square feet; however, they must meet the same Setback requirements as the principal Permitted Use or Special Exception Use.

4. Detached Residential Garages shall not contain more than three (3) Vehicles or exceed 600 square feet in ground floor area.

(B) Adult Businesses.

In addition to the other applicable requirements of the City of Charles Town, Adult Businesses shall also be governed by the following provisions:

1. Statement of Legislative Intent. It is the intent of the City of Charles Town to regulate Uses, which, because of the very nature, are recognized as having serious objectionable operational characteristics, particularly when operated near places of worship, schools, playgrounds, residences, and the adjacent areas, special regulation of these Uses, is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood, nor endangering the health, safety, morals, or welfare of the citizens of Charles Town; and

2. Pursuant to the above intent and purposes, the following shall apply to Adult Businesses:
a. No Adult Business shall be allowed within 300 feet of any Residential District (as listed in Section 1322.01), pre-existing Church or other place of public worship, public or private elementary or secondary school, residence, Day Care Center or Child Care Center, or to a City or public Park or playground;

b. Adult Businesses shall not be permitted on either side of Washington Street from its intersection with West Street east to the City limits; and

c. No Adult Business shall be conducted in a manner that permits the observation of any material depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined herein, from any public way or from any property not licensed as an Adult Business. This provision shall apply to any display, decoration, Sign, show window or other opening.

(1) This Section 1323(B)(2)(c) applies to any and all Uses of land or Structures, including existing Uses and Structures.

(C) **Automobile Service Stations.**

In addition to the other applicable requirements of the City of Charles Town, Automobile Service Stations shall also be governed by the following provisions:

1. All storage areas, pits, lifts and working areas shall be within a Building. All lubrication, repair or similar activities shall be performed in an enclosed Building, and no dismantled parts shall be placed outside;

2. All gasoline pumps, air pumps and islands upon which pumps are normally located shall be set back from the Lot line at least fifteen (15) feet and at fifteen (15) feet least fifty (50) feet from other Lot lines. Layout of all pumps shall conform to the requirements of the City’s Building and Housing Code, Part 17 of the Codified Ordinances of the City of Charles Town;

3. No junked motor Vehicle or part thereof nor any unregistered motor Vehicle shall be permitted outside an enclosed service station, except that not more than six (6) motor Vehicles may be located outside a Building for a period not to exceed five (5) days for each Vehicle, provided that the owners are awaiting the repair of the motor vehicle; and

4. The exterior display and parking of equipment or Vehicles for rent or sale shall be permitted, provided that the area devoted to this purpose is in addition to the minimum Lot size required for a service station, the area devoted to this purpose does not exceed twenty percent (20%) of the total area of the entire Site, the maximum Sign area for a service station is not exceeded and the location of the equipment or Vehicles being rented or sold does not interfere with the required off-street parking requirements for the service station and does not interfere with the on-Lot traffic circulation indicated on the approved Sketch Plan.

(D) **Child Care Center/Day Care Center.**
In addition to the other applicable requirements of the City of Charles Town, Child Care Centers and Day Care Centers shall also be governed by the following provisions:

1. If the principal Permitted Use or Special Exception Use of a Lot is as a Day Care Center, the facility must:
   a. Include an outdoor recreation area with a minimum of 75 square feet for each child permitted, meeting the following standards:
      (1) Be enclosed by a fence which allows air and light to penetrate it and be capable of containing each child using the area;
      (2) Not be within a required Building Setback;
      (3) Not be closer than 15 feet to the edge of any public right-of-way; and
      (4) Not be within a parking area;
   b. Not conduct outdoor play activities before 8 a.m. or after 8 p.m.; and
   c. If not located in a stand-alone Building: (a) be located on the first floor of a principal Structure, and (b) be separated (including the restrooms) by a physical barrier from the remaining portion of the Building in which it is located.

2. If the Child Care Center or Day Care Center is conducted as an Accessory Use (e.g., a Child Care Center conducted in a residence or a Day Care Center conducted in a Church), the facility must meet the standards above plus:
   a. Not exceed an amount of floor area equivalent to twenty percent (20%) of the total floor area of the principal Use to which it is accessory;
   b. Be compatible with adjacent land Uses in terms of hours of operation, noise, lighting, parking and similar considerations; and
   c. When conducted as a business in the home, the Dwelling shall retain a residential appearance with no change to the exterior of the Dwelling to accommodate the Use, other than cosmetic and any needed safety improvements, and the Use must:
      (1) Meet the standards for Home Occupations as specified in Article 1323(JK) below;
      (2) Have no more than one employee or associate who does not reside at the home;
      (3) Allow no more than 15 arrivals of non-resident persons who are employees, clients, customers or associates of the business during any 24 hour period;
(4) Provide a play area either at the home or at a suitable play area (public or owned by a homeowners association to which the residence belongs) located within 1,000 feet of the home; and

(5) Be actively operated by a permanent resident of the Dwelling.

(E) Commercial Centers.

In addition to the other applicable requirements of the City of Charles Town, Commercial Centers shall also be governed by the following provisions:

1. There shall be a minimum of two (2) separate points of ingress and egress;
2. All access points shall comply with the City’s access requirements specified in the Charles Town Subdivision and Land Development Ordinance;
3. A Commercial Center shall be under unified management, which shall clearly establish centralized responsibility for the operation and maintenance of the project common areas;

(F) Density Standards.

The following density standards apply to all Zoning Districts:

1. Land donated for a public facility may be counted as part of the Net Buildable Land Area when calculating the density of a development; and

2. Townhouse developments, in any Zoning District, regardless of bonuses, shall not exceed ten (10) Dwelling Units per acre; and

23. Density Bonuses. To encourage better design practices in developments, the Planning Commission shall allow the density bonuses listed below when the specified criteria are satisfied. Such density bonuses may be used to increase the Maximum Density of a development as specified herein for the underlying Zoning District:

   a. Open Space. For every five percent (5%) of the total usable land that is provided as Open Space above the minimum required Open Space, one (1) Dwelling Unit per acre density bonus may be added, up to two (2) additional Dwelling Units per acre. This density bonus is subject to the provision that the additional Open Space shall be located outside of floodplains and wetlands;

   b. Public Park. If a public Park, versus a private Park, is provided as part of a development project, a density bonus of one (1) Dwelling Unit per acre may be applied if the public Park is accepted by the Planning Commission. The Planning Commission's decision shall be made in consultation with the City of Charles Town Parks and Recreation Commission; and

Commented [A1]: Density for any type of development shall be governed by the district which the proposed use is in. Density in general is a factor of how much parking is needed, amount of open space, stormwater controls and other net buildable calculations.
c. **Best Management Practices (BMPs).** If in the opinion of the City Engineer a development substantially exceeds the minimum requirements of Section 1334.01, Stormwater Management Control Standards of the Charles Town Subdivision and Land Development Ordinance, a density bonus of one (1) Dwelling Unit per acre may be applied, as long as the development would continue to substantially exceed the minimum requirements.

(G) **Encroachments.**

The following regulations are intended to assist applicants and business owners in establishing attractive and safe Encroachments that benefit both the downtown business community and the citizens that enjoy those public spaces:

1. **General Requirements:**
   a. The City’s goal is to maintain the highest standards of accessibility and safety while achieving an attractive and functional design within its downtown area;
   b. In general, allowed Encroachments should complement public Use and improvements. In no case shall Encroachments exclude the public from any public Sidewalk or Street;
   c. Allowed Encroachments shall comply with all requirements of this Ordinance and the City's Codified Ordinance; and
   d. This Section 1323(G) applies to any and all Uses of land or Structures, including existing Uses and Structures.

2. **Location and Dimensional Requirements:**
   a. Encroachments may be allowed where it can be determined by the City that the Encroachment would not result, individually or cumulatively, in a narrowing of the Sidewalk such that important functional attributes of the downtown, (e.g., ability of pedestrians to stroll side-by-side and to pass comfortably for significant stretches, lingering and window shopping) are not jeopardized. The location and dimensions of any item located in a public place shall meet the minimum guidelines set forth herein and any other applicable local, state or federal law or regulation;
   b. Encroachments must maintain a clear path of no less than five (5) feet. The Zoning Administrator may permit paths of travel of no less than four (4) feet in instances where safe access can be determined;
   c. Encroachments shall not block safe access to businesses, parking spaces, bike stalls, or other spaces required by local, state or federal building or safety codes;
   d. Encroachments shall not encroach into the areas near corners of Sidewalks or where crosswalks are present. This area shall be defined with a 15 foot area, beginning near the crosswalk or curb cuts;
e. Tables shall not exceed 42 inches in width at the greatest dimension;

f. Chairs shall not extend into the required accessible walkway at any time. Chairs must be at a scale appropriate to the size of the table or space available for seating;

g. Portable outdoor heating devices are prohibited. Permanently mounted heating devices shall be reviewed by the City Engineer for safety and aesthetics and require separate building permit review; and

h. The City may require the Planning Commission to review any items placed in the public right-of-way that are not clearly consistent with these requirements;

3. Maintenance and Operational Requirements:

a. Maintenance of Sidewalk Encroachments shall be the sole responsibility of the permit holder;

b. Any item permitted to be placed in the public right-of-way shall be maintained in a safe manner so as not to obstruct pedestrian access to public Sidewalks, access ramps or doorways. Movable items, such as chairs, shall be positioned to prevent obstruction of access routes at all times. The permitted item shall be relocated to the appropriate location at all times if moved by patrons;

c. All materials shall be well maintained without stains, rust, tears or discoloration. Materials that show signs of significant wear/age shall be replaced; and

d. All Encroachments shall be constructed of durable fade resistant materials, where applicable;

4. Colors and Materials:

a. All items located on the public Sidewalk shall be constructed of durable materials appropriate for use in the public rights-of-way. Folding chairs, light weight materials, deteriorated, U.V. damaged, splintered or other similar furniture will not be approved or placed in the rights-of-way. Sealed or painted metal or wood tables are recommended;

b. Encroachments shall be complementary in material, color and design to the Buildings they serve and to which they are adjacent;

5. Outdoor Displays. Outdoor displays shall be limited to single items or object displays or a few examples of items or goods sold in the store and must comply with all other standards of these Guidelines;

6. Umbrellas and Outdoor Furniture. Umbrellas shall be installed and maintained so as to provide pedestrian clearance by maintaining seven (7) feet of clearance from
7. **Planters and Landscaping:**
   a. Private planters should be kept to a minimum and shall be placed against Buildings to accent Building entrances and openings. Private planters should compliment but not interfere with or be placed adjacent to City-maintained planters located along the Street curb. Planters shall not be used to define seating areas or otherwise cordon off public Sidewalk for private use;
   b. Plant material shall be of high quality and shall be maintained in viable condition at all times; and
   c. Debris or litter caused by planters or nearby landscaping shall be maintained or cleaned by the responsible business or property Owner. Debris, stains or litter shall be cleaned or removed by the responsible business or property Owner; and

8. **Outdoor Cafés.** See Section 1323(N) below for applicable regulations.

9. **Other Encroachment Types.** Other types of Encroachments, not anticipated by this Ordinance, may be considered and permitted by the City, but must comply with the purpose and intent of these requirements.

**Fences and Walls.**

1. **General Requirements.**
   a. A building permit shall be obtained for the erection of fences, walls, and retaining walls. Normal maintenance of fences and walls or replacement of like materials shall be excluded from the permit process.
   b. No fence or wall shall obstruct the flow of stormwater, except as part of a City-approved stormwater system.
   c. Fences and walls shall not be permitted within any right-of-way, clear view triangle area, within the site visibility area adjacent to railroads, or below the 100 year floodplain of any lake, river, or wetland.
   d. Fences and walls shall be exempt from Building lines and Yard requirements except as follows:
      (1) The proposed fence or wall may not adversely affect the safety of vehicular or pedestrian traffic or cause an obstruction to vision and/or a required sight distance triangle;
      (2) Fences or walls located on a cul-de-sac Lot, panhandle Lot, or pipe stem Lot or other Lot located on a dead end Street shall not extend
beyond the front porch or principal face of any principal Structure located on any such Lot; and

(3) Rear Yard fences shall not extend beyond the front principal face of any principal Structure on a Lot.

e. To avoid creating any possible no-maintenance zone(s), perimeter fences and walls shall be installed along and up to a property line but within the property limits, except, however, when a fence is shared by adjoining properties it shall be installed on the property line.

f. Fences and freestanding walls (other than a necessary retaining wall) in Residential Districts (as listed in Section 1322.01) shall not exceed six (6) feet in height for Rear Yard fences and shall not exceed 48 inches in height for Front Yard fences. Front Yards shall be measured from the principal face of a Dwelling.


a. Any fence or wall shall be durably constructed and well-maintained. Privacy fences shall be constructed so that the finished side of the fence faces toward abutting properties and rights-of-way unless the fence is not visible from adjoining property. Fences and walls that have deteriorated shall be replaced or removed.

b. A fence shall not be constructed out of fabric, Junk, Junk Vehicles, appliances, tanks, or barrels.

c. Electric fences, except for in-ground pet fencing, are prohibited in all Zoning Districts except in the UR District and for agricultural Uses.

d. Barbed wire fences are prohibited in all Zoning Districts except in the UR District and for agricultural Uses.

e. Razor fences are prohibited in all Zoning Districts.

f. Chain link fences shall be restricted to Back Yards.

(I) Garage Sales.

In addition to the other applicable requirements of the City of Charles Town, Garage Sales shall also be governed by the following provisions:

1. A Garage Sale shall not involve the sale of new merchandise, excepting only custom craft items.

2. A Garage Sale may not be conducted on any parcel of land on more than two (2) days in any calendar month.
(J) **Heliport.**

In addition to the other applicable requirements of the City of Charles Town, Heliports shall also be governed by the following provisions:

1. Minimum Lot area shall be one (1) acre;

2. A fence shall be installed around Heliports. Fences must be six (6) feet in height when located at ground level and be made of wire mesh;

3. A landscaping screen shall be planted where abutting a residential Use. See Sections 1333.15 and 1333.16 of the Charles Town Subdivision and Land Development Ordinance; and

4. The parking area must be located at least 25 feet from residential Use.

(K) **Home Occupations.**

In addition to the other applicable requirements of the City of Charles Town, Home Occupations shall also be governed by the following provisions:

1. **Intent.** The intent of the Home Occupation regulations are to allow for Home Occupations that are compatible with the neighborhood in which they are located. They insure both the compatibility of Home Occupations with other Uses permitted in Residential Districts (as listed in Section 1322.01) and that permitted Home Occupations are incidental and secondary to the Use of a Dwelling as a residence. The regulations provide for the maintenance and preservation of the residential character of neighborhoods. They also promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they are planned and constructed, rather than Commercial Uses;

2. **Home Occupation Classification.** This Ordinance provides for two classifications of Home Occupations: Minor Home Occupations and Major Home Occupations. The classifications differ in the type of Uses permitted and the number of employees allowed:

   a. **Minor Home Occupations.** The following Minor Home Occupation Uses are permitted as Use by right, provided all requirements of this Ordinance are met:

      (1) Artists, craftsmen, and sculptors;

      (2) Authors and composers;

      (3) Office facilities, excluding medical and dental offices;

      (4) Individual tutoring;

      (5) Individual music instruction, provided that no instrument be amplified;
(6) Telephone solicitation work;

(7) Telework programs that enable primary employment via Internet access; and

(8) Uses not listed that, in the opinion of the Zoning Administrator and upon review and approval of the Board of Zoning Appeals, are considered to be of the same general character as the Minor Home Occupations permitted; and

b. **Major Home Occupations.** The following Major Home Occupations are conditionally permitted and may be undertaken only if the Charles Town Board of Zoning Appeals issues a Special Use Permit upon a finding that the business activity is compatible with the residential Use of the property and surrounding properties:

   (1) Preparation of food or food products to be sold or served off-site;

   (2) Medical offices and dental offices;

   (3) Single chair hair stylists;

   (4) Organized classes with up to six (6) students at one time;

   (5) Televisions and other electrical repairs excluding major appliances such as refrigerators and stoves;

   (6) Upholstering; and

   (7) Uses not listed that, in the opinion of the Zoning Administrator and upon review and approval of the Board of Zoning Appeals, are considered to be of the same general character as the Major Home Occupations conditionally permitted;

3. **General Standards and Guidelines.** Minor and Major Home Occupations are regulated by performance standards aimed at limiting the potential impact of the Home Occupation on surrounding residential Uses. These standards are as follows:

   a. Minor Home Occupations are permitted in any Dwelling type, or detached Residential Garage, and may be operated by one (1) or more persons, all of whom are Family members who reside within the Dwelling;

   b. Major Home Occupations are limited to Single-Family Detached Dwellings and detached Residential Garages, and are permitted to employ one (1) full-time non-resident employee;

   c. Dwellings or detached Residential Garages used for Home Occupations may not be altered in such a manner that would change the residential character or appearance of the property. There shall be no exterior
appearance of a business Use including, without limitation, parking, Signs or lights;

**d.** A sign that is no more than 16 inches x 16 inches shall be permitted for home occupations. Such signs can be either suspended or projected sign, ground mounted or attached to the structure like a wall sign. In no instance shall such sign be placed on the roof in any fashion or above the first floor. No such sign shall be illuminated.

**ed.** The selling, display, or stockpiling or inventorying of a substantial nature, of merchandise, supplies, or products is prohibited on the premises; provided that, orders previously made by telephone, by appointment or at a sales party may be filled on the premises; and further provided that, incidental retail sales may be made in connection with permitted Major Home Occupations;

**fe.** A Home Occupation cannot create significantly greater Vehicle or pedestrian traffic than normal for the Residential District;

**gf.** Goods associated with a Home Occupation cannot be visible from, or stored, outside the Structure used for a Home Occupation;

**hg.** Storage of hazardous materials is limited as follows:

1. To one gallon or less total for all combustible liquids, corrosive liquids, Class 1 or 2 oxidizers, or Class 1 water reactives;

2. To 10 pounds total for all corrosive solids, health hazards, or Class 2 oxidizers, or 50 pounds for Class 1 oxidizers;

3. To four standard cubic feet of flammable gases, and 500 standard cubic feet of inert or oxidizer gases; and

4. No quantities of other hazardous materials classes are permitted in conjunction with a Home Occupation; and

**ih.** No activity is permitted that creates electrical or electronic interference (including any interference with radio or television reception), or creates any offensive noise, vibration, smoke, fumes, dust, odors, heat or glare noticeable at or beyond the property line;

**ji.** The Home Occupation may not generate any solid waste or sewage discharge, in volume or type, not normally associated with residential Use in the neighborhood; and

**kj.** The Home Occupation may not involve any illegal activity; and

4. Operators of Major Home Occupations are required to secure a Zoning Permit from the City’s Department of Community Development. Permits issued for Major Home Occupations are non-transferrable and non-assignable.
(L) Nonconforming Uses.

Except where otherwise provided in this Ordinance, any Use of land, a Building or a Structure (including Signs) lawfully existing at the time of the adoption of this Ordinance or at the time this Ordinance is subsequently amended shall be deemed a Legally Nonconforming Use that may be continued without prohibition by this Ordinance as long as such Use is maintained, subject to the following provisions:

1. Single-Family Detached Dwellings deemed Legally Nonconforming Uses in any Zoning District may expand without limitation in respect to area provided that the expansion may not increase the degree of nonconformity. Such Dwellings shall be treated as principal Permitted Uses in that Zoning District;

2. All other Alterations or additions to, or replacements, enlargements, extensions or expansions of, or changes in, Legally Nonconforming Uses shall be subject to review and approval by the Planning Commission, subject to the provisions of WV Code Chapter 8A-7-10(c) pertaining to agricultural, industrial, and manufacturing Uses. In all Zoning Districts the Planning Commission may approve the alteration or addition to, or enlargement, extension, or expansion of, a Legally Nonconforming Use provided such change is restricted to an additional area not exceeding thirty-five percent (35%) of the area of the existing Use, with the exception that no such change may be permitted for Junk Yards;

3. Legally Nonconforming Uses may not change to a less appropriate Use or classification;

4. If a Legally Nonconforming Use has ceased or been discontinued for one (1) year or more or otherwise been abandoned, then the nonconforming Use may not thereafter be reestablished and any and all Use of the land, Building, Structure (including Signs), or premises shall thereafter be in conformance with this Zoning Ordinance, subject to the provisions of WV Code Chapter 8A-7-10(d) pertaining to natural resources extraction or harvesting, agricultural, industrial, and manufacturing operations, and duly designated Historic Landmarks, Sites, or Districts;

5. Nothing in these regulations shall prevent the restoration or the thirty-five percent (35%) expansion allowed under Subsection (L)(2) above of a Building or Structure destroyed by fire, windstorm, explosion, flood, act of public enemy, accident, or other casualty while a Legally Nonconforming Use, or prevent the continuance of the Use thereof as it existed at the time of such destruction provided that a Zoning Permit is obtained and restoration begun within one (1) year of said destruction;

6. When a portion of a property is deeded to a public entity for a public purpose it shall not cause the remaining portion of the property to be in violation of any part of this Ordinance; and

7. Nothing in this Ordinance shall be deemed to make legal any Use otherwise prohibited by or illegal under applicable law.
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

(M) Nuisances.

The following nuisance performance standards and restrictions shall apply for all non-residential Uses in any of the Zoning Districts:

1. **Control of smoke, dust, dirt, fumes, vapors, gases and odors.** The West Virginia Air Pollution Control Standards shall be used to control the emission of smoke, dust, dirt, fly ash, fumes, vapors, gases, or odors.

2. **Noise:**

   a. At no point along a Residential or Commercial District (as listed in Section 1322.01) or 125 feet from the plant or operation property line shall the sound pressure level of any operation or plant (except as otherwise noted herein) exceed the decibel limits in the octave bands designated in Table 1323-M below:

   Table 1323-M, Noise Level Standards

<table>
<thead>
<tr>
<th>Octave Bands Frequency (cycles per second)</th>
<th>Maximum Permitted Sound Level (Decibels) Along Residential District Boundaries or 125 feet from Industrial Use property line</th>
<th>Maximum Permitted Sound Level (Decibels) Along Commercial District Boundaries or 125 feet from Industrial Use property line</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 75</td>
<td>72</td>
<td>79</td>
</tr>
<tr>
<td>75 to 150</td>
<td>67</td>
<td>74</td>
</tr>
<tr>
<td>150 to 300</td>
<td>61</td>
<td>68</td>
</tr>
<tr>
<td>300 to 600</td>
<td>56</td>
<td>62</td>
</tr>
<tr>
<td>600 to 1,200</td>
<td>50</td>
<td>56</td>
</tr>
<tr>
<td>1,200 to 2,400</td>
<td>45</td>
<td>51</td>
</tr>
<tr>
<td>2,400 to 4,800</td>
<td>41</td>
<td>47</td>
</tr>
<tr>
<td>Above 4,800</td>
<td>38</td>
<td>38</td>
</tr>
</tbody>
</table>

   b. Sound levels shall be measured with a sound-level meter and associated octave band filter, manufactured in compliance with the standards prescribed by the American Standards Association.

   c. **Exemptions.** The following shall be exempt from noise performance standards:

      1) Noises of construction or maintenance activities;

      2) Noises of safety signals, warning devices, and emergency pressure relief valves;

      3) Transient noises of moving sources such as transportation Vehicles, including trains; and

      4) Other noises not under the direct control of the property user; and
d. The Use of outdoor public address systems for any purpose shall be approved by the Zoning Administrator.

3. Vibration. Any Use creating intense earth-shaking vibrations such as are created by a heavy drop forge shall be set back from a Residential District (as listed in Section 1322.01) boundary at least 250 feet or at least 150 feet from a Commercial District (as listed in Section 1322.01) boundary. No perceivable vibrations shall be permitted at the property line. Vibration caused by maintenance and construction activities is exempt;

4. Glare and Heat:
   a. All Uses shall minimize the production of light, heat or glare that is perceptible beyond any property line of the Lot from which the light, heat or glare is produced;
   b. Glare, whether direct or reflected, such as from spot lights or high temperature processes, and as differentiated from general illumination, shall be not visible beyond the Lot line of the Lot on which the Use is located;
   c. Exterior lighting, other than that essential for the safety and convenience of the users of the premises shall be prohibited. All exterior lighting shall be shielded in such manner that the level of light (i.e., measured in foot candles) is zero at common, adjacent Lot lines, except within commonly-owned properties under unified management such as commercial centers; and
   d. Except for within commonly-owned properties under unified management such as commercial centers, no direct or sky-reflected glare, whether from floodlights or from temperature processes such as combustion or welding or otherwise, so as to be visible at the Lot line of the subject property shall be permitted. Furthermore, there shall be no transmission of heat or heated air so as to be discernible (by a healthy observer such as the Zoning Administrator or a designee) at the Lot line;

5. Fire Hazards. No activity or operation shall be established which fails to meet requirements of National Fire Protection Association (NFPA) Life Safety 101: Fire Code standard;

6. Radiation of Electrical Emissions, Radioactivity or Electrical Disturbance. Activities that may emit dangerous radioactivity beyond closed areas shall comply with State and Federal Codes. No electrical disturbances (except from domestic household appliances) shall be permitted to affect adversely, at any point, any equipment other than that of the creator of such disturbance;

7. Electric, Diesel, Gas or Other Power. Every Use requiring power shall be so operated that any service lines, substation, etc., shall conform to the highest applicable safety requirements. They shall be constructed, installed, etc., so that they will be an integral part of the architectural features of the Building or, if visible from abutting residential properties, shall be concealed by evergreen planting; and
8. **Sewage and Waste Treatment.** All methods of sewage and industrial waste treatment and disposal shall:
   
a. Be approved by the Charles Town Sewer Department or applicable provider;
   
b. Meet requirements of the Charles Town Sewer Use Ordinance if the Charles Town Sewer Department is receiving the effluent; and
   
c. Be in accordance with all applicable regulations.

(N) **Outdoor Cafés.**

In addition to the other applicable requirements of the City of Charles Town, Outdoor Cafés shall also be governed by the following provisions:

1. Outdoor cafés (including outdoor seating areas) may be permitted between a storefront and the curb as an Accessory Use to an existing Restaurant, delicatessen, or food store provided vehicular and pedestrian circulation is not unreasonably restricted pursuant to the Encroachment requirements specified in Subsection (G);
   
a. This Subsection 1323(N)(1) applies to any and all Uses of land or Structures, including existing Uses and Structures.

2. Limited outside Sidewalk sales of perishable and consumable items (produce, ice cream, newspapers, magazines, soft drinks, etc.) may be permitted in conjunction with an outdoor café provided that the outdoor display and sale is approved pursuant to the supplemental regulations outlined for “Outdoor Display and Sale of Merchandise” below; and

3. If an outdoor café does not consistently comply with all conditions listed in this Section and its Zoning Permit, or if the Use becomes a nuisance for any reason as determined by the Zoning Administrator, the Zoning Administrator may order such Use terminated. For purposes of this Subsection a “nuisance” shall not be deemed limited to the existence of the conditions referenced in Subsection (M), but shall instead be deemed to include any condition considered a nuisance under applicable law.

(O) **Outdoor Display and Sale of Merchandise.**

In addition to the other applicable requirements of the City of Charles Town, Outdoor Display and Sale of Merchandise shall also be governed by the following provisions:

1. No outdoor display or sale of merchandise, whether upon public property or private property, shall be undertaken except in compliance with all conditions listed in this Section and the applicable Zoning Permit. Outdoor display and sales upon public Sidewalks and rights of way may be permitted only if vehicular and pedestrian circulation is not unreasonably restricted pursuant to the Encroachment requirements specified in Subsection (G);
2. Types of Merchandise:
   a. Outdoor displays and sales may include farmers' markets that are not directly associated with the store or business upon whose property, or fronting the Sidewalk on which, the display and sale is conducted;
   b. Outdoor displays and sales may include items offered for sale by or incidental to the store or business upon whose property, or fronting the Sidewalk on which, the display and sale is conducted;
   c. Outdoor display and sale of automobiles, motorcycles, boats, campers, Travel Trailers, Motor Homes, and other Vehicles or mobile equipment shall be located on paved areas and may not occupy required parking spaces. No display of any kind of such items is permitted on any public Sidewalk or other right of way; and
   d. Garden materials may be displayed and sold outdoors by hardware and building supply stores, nurseries, and other businesses on its property, including parking areas provided the items do not occupy required parking spaces and they are located on an area designated on the Sketch Plan for that purpose; and

3. Additional Conditions:
   a. The merchandise displays shall be on racks or display counters that are of similar quality to those used in the store or business;
   b. All displays shall be removed from the outdoor location or adequately secured when the store or business is closed; and
   c. No Signage other than normal price markers the same size and design as those used on the interior shall be permitted.

4. Garage Sales. See Section 1323(I) above for applicable regulations.

(P) Riparian Buffers.

The requirements of this Subsection (P) shall apply to all Riparian Buffers in the City of Charles Town, which shall be provided and maintained in accordance with the United States Department of Agriculture’s Chesapeake Bay Riparian Handbook: A Guide for Establishing and Maintaining Riparian Forest Buffers¹, which is hereby adopted by reference. Additional requirements for protecting Riparian Buffers are as follows:

Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

1. All lands within a Riparian Buffer shall be left in an undisturbed, vegetated condition, except that removal of dead trees or trees of immediate threat to human safety, as well as reasonable pruning of existing trees, is permitted.

2. The creation of new lawn areas within Riparian Buffers is not permitted. Property Owners already encroaching on the Riparian Buffer are encouraged to return mowed areas to their naturally vegetated state. Supplemental planting with appropriate native vegetation to restore and enhance the effective filtering and bank Stabilization functions of a Riparian Buffer is encouraged.

3. Any areas within a Riparian Buffer that are not vegetated or that are disturbed during construction shall be seeded with a naturalized mix of grasses rather than standard lawn grass.

4. **Permitted Uses.** The following activities are permitted within a Riparian Buffer:
   a. The control of non-native species of nuisance plants including Eurasian milfoil, water chestnut, purple loosestrife and reed grass (Phragmites), where such control is by hand pulling of invasive plants;
   b. Buffer re-establishment projects that use “soft” techniques such as tree revetments and root wads; and
   c. Encroachments necessary to rectify a natural catastrophe for the protection of the public health, safety and welfare. All Stream encroachment activities shall be authorized and permitted under the West Virginia Department of Environmental Protection.

5. **Special Exception Uses.** The Board of Zoning Appeals may authorize the following as Special Exception Uses within Riparian Buffers subject to the standards and conditions enumerated for each Use and subject to the jurisdiction of the Department of Environmental Protection and Army Corps of Engineers:
   a. Clearing of vegetation and filling or excavating of earth materials, only to the extent directly necessitated for the construction or safe operation of a Special Exception Use on the same property and where the Board of Zoning Appeals finds that:
      (1) There is no practical alternative to the Clearing, filling or excavating within the Riparian Buffer; and
      (2) The purposes of these regulations will be protected through erosion controls, plantings, protection of existing vegetation, and/or other measures;
   b. Encroachments necessary for providing for or improving public facilities where the Board of Zoning Appeals finds that:
      (1) There is no practical alternative to the Clearing, filling or excavating within the Riparian Buffer; and
The purposes of these regulations will be protected through erosion controls, plantings, protection of existing vegetation, and/or other measures;

c. Unpaved footpaths for the purpose of public recreation located at least ten (10) feet horizontal distance measured from the Top of Slope, where the channel runs adjacent to a valley wall or high terrace, or Top of Bank, where the channel has access to its floodplain;

d. Paved paths for the purpose of public recreation located at least fifty (50) feet horizontal distance measured from the Top of Slope, where the channel runs adjacent to a valley wall or high terrace, or Top of Bank, where the channel has access to its floodplain. Access points are allowed, but shall be limited to areas where the Stream or river channel is already confined and/or permanently constrained;

e. Stormwater treatment facilities meeting the stormwater treatment practices specified herein where the Board of Zoning Appeals and City Engineer find that:

(1) There is no practical alternative to the Clearing, filling or excavating within the Riparian Buffer;

(2) The purposes of these regulations will be protected through erosion controls, plantings, protection of existing vegetation, and/or other measures; and

(3) Evidence of an approved permit from the West Virginia Department of Environmental Protection for coverage under the applicable permitting requirements shall be required to meet this criterion for encroachment into a Riparian Buffer;

f. Roadways or Access Drives for purposes of crossing a Riparian Buffer to gain access to land on the opposite side of the buffer, or for purposes of providing safe access to an approved Use, in cases where there is no feasible alternative for providing safe access. A roadway crossing or Access Drive shall occur at a right angle to the Stream Channel;

g. Public utility easements to the extent necessary to cross or encroach into the Riparian Buffer where there is no feasible alternative for providing or extending utility services;

h. Outdoor recreation and education facilities provided that any Building or Structure (including parking and Driveways) associated with such Use is located outside the Riparian Buffer; and

i. Stream restoration projects, including dam removals, in accordance with a plan approved by the West Virginia Department of Environmental Protection.
6. **Expansion of Legally Nonconforming Uses within Riparian Buffers.** Notwithstanding the nonconforming Use provisions of Section 1323(L) above, any Building, Structure, or land, or Use thereof, in or upon a Riparian Buffer, which is made nonconforming by reason of the adoption of these regulations, may be expanded or reconstructed, subject to the following provisions:

a. The Structure to be expanded or reconstructed was originally constructed prior to the effective date of these regulations;

b. The Legally Nonconforming Use shall not be changed to another nonconforming Use;

c. A Legally Nonconforming Use that is discontinued for one year or otherwise abandoned shall not be resumed;

d. A Legally Nonconforming Use that is replaced by a conforming Use may not revert to a nonconforming Use;

e. If a Structure made nonconforming by reason of the adoption of this Ordinance is damaged or destroyed over 75% of its market value by flood water inundation or fluvial erosion, the Structure shall not be rebuilt within the Riparian Buffer unless a variance and Zoning Permit are obtained in accordance with this Ordinance;

f. Enlargement, repair or reconstruction of pre-existing Structures within Riparian Buffers shall be permitted if the Planning Commission determines that the development activity will not decrease the existing Structure setback from the waterbody or increase the encroachment within the Riparian Buffer, and the total Building footprint area of the expanded or reconstructed Structure is no more than fifty percent (50%) larger than the footprint of the Structure lawfully existing on or before the effective date of these regulations; and

g. New Accessory Structures appurtenant to a pre-existing Structure within a Riparian Buffer shall only be permitted if it is determined that the Accessory Structures do not extend into the buffer any further than the existing Structure and the total Building footprint area of the new Accessory Structure is no more than fifty percent (50%) of the footprint of the pre-existing Structure.
Salvage/Junk Yards.

In addition to the other applicable requirements of the City of Charles Town, Salvage/Junk Yards shall also be governed by the following provisions:

1. **Storage of Garbage.** Biodegradable materials are prohibited, other than what is customarily generated on-site and routinely awaiting pick-up;

2. Outside storage of Junk shall be at least: (a) 100 feet from any residential Lot line, and (b) 50 feet from any other Lot line and the existing right-of-way of any public Street. Buffering and screening requirements of Section 1333.15 of the Charles Town Subdivision and Land Development Ordinance shall apply;

3. The Site shall contain a minimum of two exterior points of access, each of which is not less than 20 feet in width. One of these accesses may be limited to emergency Vehicles;

4. Secure fencing with a minimum height of ten (10) feet shall be provided and well-maintained around all outdoor storage areas. The fencing shall be provided inside of the evergreen screening;

5. Burning or incineration of Vehicles or Junk is prohibited;

6. All gasoline and oil shall be drained from all Vehicles and disposed of properly. All batteries shall be removed from Vehicles and properly stored in an enclosed area on an impervious, surface while awaiting transportation to a recycling center; and

7. The minimum Lot area shall be 3 acres; the maximum Lot area shall be 20 acres.

Satellite Dish Antennae.

In addition to the other applicable requirements of the City of Charles Town, Satellite Dish Antennae shall also be governed by the following provisions:

1. No more than two (2) satellite dishes shall be allowed on any residential unit;

2. The construction and installation of satellite dish antennas shall conform to all applicable building codes and other regulations and requirements;

3. Subject to the provisions contained herein, satellite dish antennas in excess of 36 inches shall be located only in the Rear Yard of any Lot. If a useable satellite signal cannot be obtained from such Rear Yard, the antenna may be located on the side or front of the property if a landscaped evergreen planting screen is provided for any ground mounted satellite dish antenna to screen it from the view of adjacent Lots and public view. In the event that a usable satellite signal cannot be obtained by locating the antenna on the Rear, Side, or Front Yard of the Structure, such antenna may be placed on the roof of the Dwelling Structure;

4. Satellite dish antennas shall not be mounted on chimneys, towers, spires, or trees; and
5. A ground-mounted satellite dish shall not exceed a grade height of twelve (12) feet.

(S) Storage of Materials.

In addition to the other applicable requirements of the City of Charles Town, the Storage of Materials shall also be governed by the following provisions:

1. No materials or wastes shall be deposited upon a Lot in such form or manner that they may be transferred off the Lot by natural causes or forces, nor shall any substance that can contaminate a Stream or Watercourse or otherwise render such a Stream or Watercourse undesirable as a source of water supply or recreation, or that will destroy aquatic life, be allowed to enter any Stream or Watercourse.

2. All materials or wastes that may cause fumes or dust or that may be edible or otherwise attractive to rodents or insects shall be stored only if enclosed in containers that are adequate to eliminate such hazards.

3. Outdoor storage shall be completely screened from view of any adjacent residential Use. Buffering and screening requirements of Section 1333.15 of the Charles Town Subdivision and Land Development Ordinance shall apply. Screening shall consist of evergreen plantings, architectural screen, or approved safety fence.

4. Temporary storage of construction materials are allowed in all Zoning Districts while building site construction is continuously occurring. A lapse of one (1) month shall not be considered "continuously occurring."

5. No storage shall be permitted within the Front Yard of any Lot.

6. Outside storage of raw materials and/or finished products shall be permitted only within the buildable area of the Lot to the rear of the front Building wall of the principal Building, and shall not exceed twenty (20) feet in height.

7. The storage, handling, and use of flammable and combustible liquids shall be in accordance with NFPA 30: Flammable and Combustible Liquids Code.

8. No Structure or land shall be used or developed, and no Structure shall be located, extended, converted or structurally altered unless the applicant takes all reasonable measures to minimize the impacts of the above ground and underground storage of heating oil, gasoline, diesel fuel, chemical solutions, hazardous materials, or other substances which, if released, would constitute pollutants to surface water or groundwater or environment. It shall be within the sole discretion of the Planning Commission, by majority vote, to determine what constitutes a "reasonable measure". The applicant shall also demonstrate compliance with all applicable federal and state regulations, including notification and registration requirements.

9. This Subsection 1323(ST) applies to any and all Uses of land or Structures, including existing Uses and Structures.
(T) **Swimming Pools.**

In addition to the other applicable requirements of the City of Charles Town, Swimming Pools shall also be governed by the following provisions:

1. A Swimming Pool shall not involve any Commercial Use if it is an Accessory Use to a principal residential use, and

2. The design and construction of all Swimming Pools shall be in accordance with the City of Charles Town’s Building Code, which is the most current version of the International Building Code.

3. A Swimming Pool shall be within the principle setbacks. A contiguous pool patio that is concrete, pavers, bricks, or other hard impervious non-combustible material that is flush with the surrounding grade shall not be required to meet principled setbacks.

(U) **Trash Dumpsters.**

In addition to the other applicable requirements of the City of Charles Town, Trash Dumpsters shall also be governed by the following provisions:

1. **Setbacks.** Trash Dumpsters shall be located in accordance with the following setbacks:

   a. Ten (10) feet from any residentially zoned or used property;
   
   b. Five (5) feet from any non-residentially zoned property;
   
   c. Twenty-five (25) feet from any public Street; and
   
   d. Twenty-five (25) feet from any residential unit;

2. **Service Access:**

   a. Placement of Trash Dumpsters and enclosures shall be planned and constructed in a manner that allows unobstructed access to each Trash Dumpster and the unobstructed opening of the gates during the disposal process;

   b. Trash Dumpsters shall not be located in such a manner that the service Vehicle will block any public Street or alley; and

   c. When Trash Dumpsters are to be serviced from an alley, enclosures shall be angled thirty (30) degrees and recessed off the alley approximately six (6) feet (recessing the enclosure is necessary so that gates do not open into the alley so as to obstruct traffic and so that adequate sight distance can be preserved);

3. **Screening and Minimum Size:**
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

a. All Trash Dumpsters shall be enclosed based on the screening requirements under Section 1333.15 of the Charles Town Subdivision and Land Development Ordinance; and

b. Each screened enclosure shall provide a minimum ten (10) foot interior length and width subject to the following requirements:

(1) Each enclosure shall provide a minimum of twelve (12) inches of clear space between each side of the Trash Dumpster (including lifting flanges) and the adjacent wall surface of that enclosure, or any other Trash Dumpsters within that same enclosure; and

(2) Residential Trash Dumpsters shall not exceed five (5) feet five (5) inches in height; and

(3) Commercial Trash Dumpsters may be sized appropriately based on specific use requirements.

4. Service Gates:

a. Consistent with the screening requirements of Section 1333.15 of the Charles Town Subdivision and Land Development Ordinance, all screened Trash Dumpster enclosures shall also have gates and their construction shall be of sturdy metal frame and hinges with an opaque facing material consisting of wood or other solid material. Metal or plastic slats inserted in chain link shall be prohibited;

b. Service gates shall incorporate gate stops and latches that are functional in the full open and closed positions; and

c. Gates that swing out from the container shall be set back from the property line at least a distance equal to the width of the gate. Hinge assemblies shall be strong and durable so that access and servicing gates function properly and do not sag.

5. Applicability. This Subsection 1323(U) applies to any and all Uses of land or Structures, including existing Uses and Structures; provided that, the requirements of this Section 1323(U) shall not apply to any dumpster temporarily located on property for the receipt of construction or demolition waste during ongoing construction, renovation, demolition, or similar activities.

(V) Vehicle Parking:

In addition to the other applicable requirements of the City of Charles Town, parking of Vehicles shall also be governed by the following provisions:

1. General Restrictions – All Districts. No Vehicle may be used as living quarters, sleeping quarters, or a place of abode while in the City of Charles Town, excepting only Motor Homes or Travel Trailers when lawfully parked in a
2. **Residential District Restrictions.**

   a. **All Vehicles – Maximum Number of Vehicles.** No more than six (6) Vehicles may be regularly parked upon a Lot in a Residential District (as listed in Section 1322.01) upon which a Dwelling is situated; provided that, Vehicles regularly parked in a fully enclosed Residential Garage or other fully enclosed Structure designed for the parking and storage of Vehicles shall not be counted toward such maximum number of Vehicles.

      (1) If no Dwelling is situated upon a Lot, the Lot shall not be used for parking purposes unless such Lot is used together with an adjoining Lot owned by the same Owner and upon which a Dwelling is situated, in which case no more than six (6) Vehicles may be regularly parked upon the adjoining Lots.

   b. **All Vehicles – Permitted Locations.** A Vehicle may be parked upon a Lot in a Residential District (as listed in Section 1322.01) only:

      (1) Upon a Driveway or integrated parking area, paved with an Impervious Cover and constructed in accordance with all applicable Charles Town Ordinances;

      (2) Within a Residential Garage, carport, or other Structure designed for the parking and storage of Vehicles, constructed in accordance with all applicable Charles Town Ordinances; or

      (3) If otherwise in compliance with the provisions of this Ordinance and all other Ordinances of the City, at any location on private property while loading, unloading, cleaning or maintaining the Vehicle for a period not to exceed 24 hours; provided that, no repair, maintenance or restoration of any Vehicle shall be permitted on any Lot with a Dwelling or any common area serving such a Lot.

   c. **All Vehicles – Unlicensed Vehicles.** An Unlicensed Vehicle may be parked or stored for more than 24 hours in a Residential District (as listed in Section 1322.01) only:

      (1) Within a fully enclosed Residential Garage or other fully enclosed Structure designed for the parking and storage of Vehicles;

      (2) Behind a Structure so that no portion of the Unlicensed Vehicle is visible from any Street; or

      (3) In the Rear Yard of a Lot or any portion of the Side Yard of a Lot.
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

that is not also part of the Lot’s Front Yard, at least five feet (5’) from
the boundary of the Lot, and behind a fence, landscaping, or other
opaque screening not in excess of six feet (6’) in height so that no
portion of the Unlicensed Vehicle is visible from any Street.

d. All Vehicles – Inoperable Vehicles. A Vehicle that cannot move under its
own power may be parked or stored in a Residential District (as listed in
Section 1322.01) only within a fully enclosed Residential Garage or other
fully enclosed Structure designed for the parking and storage of Vehicles.

e. Commercial Vehicles. In addition to the other requirements of this Section
1323(VW), a Commercial Vehicle may be parked in any Residential District
(as listed in Section 1322.01) only:

(1) When loading or unloading and, then, only for no longer than
reasonably necessary for such purposes;

(2) When utilized in providing ordinary and customary services to one
or more residents of the District;

(3) When parked in a fully enclosed Residential Garage or other fully
enclosed Structure designed for the parking and storage of
Vehicles;
or

(4) When authorized by a permit issued by the Zoning Administrator to
a bona fide resident of the District for the parking of a Commercial
Vehicle either owned by such resident (or a business entity owned
by such resident) or assigned to such resident by his or her
employer. The resident may apply for such a permit on forms
supplied by the Zoning Administrator. The Zoning Administrator
may issue such a permit only when:

(A) Parking of the Commercial Vehicle will not create a
condition that is inconsistent with the residential nature of
the subject District;

(B) No offensive condition (e.g., the storage of junk in the open
bed of a truck) will be created by parking of the Commercial
Vehicle in the subject District;

(C) The location of the proposed parking is identified with
reasonable specificity and the issuance of a permit will not
result in an unreasonable interference with residential
parking at the location; and

(D) The applicant identifies in its permit application, by name
and mailing address, all Owners of Adjacent Properties, and
certifies that such Owners have been provided at least 30
day’s prior written notice of the applicant’s intent to seek the
permit and of the right of the Owner’s to make written objection thereto.

The Zoning Administrator may prescribe terms and conditions upon which a Commercial Vehicle parking permit is issued, including without limitation the condition that parking of the Commercial Vehicle be limited to specified locations and/or be prohibited in specified locations, or the condition that parking be limited to specified types or sizes of Commercial Vehicles. The Zoning Administrator may revoke any Commercial Vehicle parking permit due to violation of such terms and conditions or due to any misstatement of fact in the application for such permit.

f. Recreational Vehicles. In addition to the other requirements of this Section 1323(VW), a Recreational Vehicle may be parked in any Residential District (as listed in Section 1322.01) only:

(1) When parked in a fully enclosed Residential Garage or other fully enclosed Structure designed for the parking and storage of Vehicles;

(2) When parked behind a building so that no portion of the Recreational Vehicle is visible from any Street;

(3) When parked in the Rear Yard of a Lot or any portion of the Side Yard of a Lot that is not also part of the Lot’s Front Yard, at least five feet (5’) from the boundary of the Lot, and behind a fence, landscaping, or other opaque screening not in excess of six feet (6’) in height so that no portion of the Recreational Vehicle is visible from any Street; or

(4) If otherwise in compliance with the provisions of this Ordinance and all other Ordinances of the City, at any location on private property while loading, unloading, cleaning or maintaining the Vehicle for a period not to exceed 24 hours; provided that, no repair, maintenance or restoration of any Recreational Vehicle shall be permitted on any Lot with a Dwelling or any common area serving such a Lot unless the Recreational Vehicle is owned by and registered in the name of an occupant of the Dwelling situate upon said Lot.

(5) The Board of Zoning Appeals may issue a Special Exception Use Permit pursuant to Section 1321.11 (C) of the Zoning Ordinance for a period of up to one year to persons who provide, to the satisfaction of the Board:

a. Certification from a licensed physician that a specific recreational vehicle otherwise prohibited by this section must be parked near a residence in order to provide reasonable accommodation to one or more disabled occupants of the residence and that no practical alternative exists;
b. The use of the recreational vehicle is no larger than needed to meet the needs for reasonable accommodation. The storage of medical devices not used within the Recreational Vehicle for the person with the medical need, shall not be considered a need of reasonable accommodation;

c. The VIN number, License tag number, and a copy of the Registration and Insurance Certificate for the specific recreational vehicle which is the subject of the physician’s certification;

d. A photograph of the recreational vehicle demonstrating that the vehicle is not in such condition that it will unnecessarily create and/or tend to create public nuisance conditions to the neighborhood;

e. Pictorial evidence of the proposed parking location for the recreational vehicle on an existing driveway or approved parking pad;

f. Evidence that no portion of the recreational vehicle will overhand onto public street or sidewalk; and

g. Such other evidence as may be required by the BZA in order for it to make necessary determinations under Section 1321.11 (DC) of the Zoning Ordinance, provided, however, that satisfaction of these enumerated requirements shall create a rebuttal presumption that the requirements of Section 1321.11 (DC) 3 of the Zoning Ordinance have been met.

The Permit authorized by this section may be renewed by the Zoning Administrator for successive periods of up to one year, upon showing that the conditions imposed by the Board, continue to exist at the time of a request for renewal by the owner of the real estate.

3. Applicability. This Subsection 1323(V) applies to any and all Uses of land or Structures, including existing Uses and Structures. This Subsection 1323(V) is intended to promote the health, safety, and general welfare of the citizens of Charles Town by preventing nuisances that would result from the inappropriate parking of Vehicles, or use thereof while parked. Such nuisances would adversely impact property values, compromise safe Streets and neighborhoods, and otherwise harm the residents of the City.
Design Standards.

In addition to the other applicable requirements of the City of Charles Town, the following design standards shall apply to the OT-MUC and PUD Districts 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.

1. 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.

   a. 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.

   b. Planned residential Subdivisions and Land Developments shall be compact and designed for the human scale and promotion of social interaction through public spaces.

   c. 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.

   d. 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:

      (1) 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.

      (2) Porches large enough to accommodate a seating area are encouraged on the primary façade of new residential Buildings.

      (3) 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.
2. **Commercial (including Mixed-use) Building Orientation and Siting 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 1323.01A and 1323.01B provide general design illustrations and are referenced throughout the following standards.

a. Primary entries to those buildings along public or private streets shall front on the street or a courtyard/auto court. As shown in Figure 1323.01A, Element A, an entry vestibule may be created that faces the front, side and rear parking area simultaneously.

b. Parking shall be placed at the side or rear of the Lot and screened from view whenever possible (Figure 1323.01A, Element B).

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 1323.01A, 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 1323.01A, Element D).

e. Whenever possible, attempt to link with adjacent parking lots or provide shared parking areas which can serve neighboring Buildings simultaneously (Figure 1323.01A, Element E). This provides a secondary means of access to the site and can ease congestion on the main Road.

f. Provide sidewalks for the full width of the property with a direct link to the primary Building entry (Figure 1323.01A, Element F).

g. 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 1323.01A, Element G).

h. 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 1323.01A, Element H).

i. Minimize the amount 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 radiiuses shall be kept to a minimum (Figure 1323.01A, Element I).

j. 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.

k. Landscaped islands and other green space areas shall be consolidated into useful areas, and not just narrow strips of grass or plantings (Figure 1323.01A, 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.

l. 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 1323.01B, Element A).

m. 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 1323.01B, Element B).

n. 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 1323.01B, 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.

o. When it is not feasible 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 1323.01B, Element D).

p. 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 1323.01B, Element E).

q. Provide trees and other landscape screening to shield large parking areas from adjacent Lots (Figure 1323.01B, Element F).

r. Some Subdivisions/Land Developments may benefit from having a shared access to a common dumpster location, which neighboring properties can use (Figure 1323.01B, Element H).
Figure 1323.01A: 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 1323.01B: 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.
3. Pedestrian Circulation.

   a. 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:

      (1) Pedestrian Connections. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:

              (a) The primary entrance or entrances to each commercial building, including pad site buildings;

              (b) Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development;

              (c) Any public sidewalk system along perimeter streets adjacent to the commercial development;

              (d) 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;

              (e) 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;

              (f) All parking areas that serve such primary building; and

              (g) Site amenities or gathering places.

      (2) Pedestrian Connections to Perimeter Public Sidewalks.

              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.

      (3) 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 four-five (\( \text{4.5} \)) 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.
Walkways Along Buildings.

(a) 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.

(b) 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 four and five (5 ½) 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.

(c) 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.

4 Public Amenities.

a. 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.

b. 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.

c. 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.

c. All site amenities shall be ADA accessible and usable by everyone.
ARTICLE 1324, SIGNS

Section 1324.01, General Provisions

(A) Purpose. The intent of this Article is to encourage the use of various types of Signs as a means of communication in Charles Town, while maintaining and enhancing the aesthetic environment, historical character, physical environment, public safety, and the City’s ability to attract sources of economic development and growth. These Sign regulations are crafted with the purpose of their fair and consistent enforcement.

(B) Applicability. A Sign may be erected, placed, established, painted, created, or maintained in the City only in conformance with the standards, procedures, exemptions, and other requirements of this Article. The effect of this Article, as more specifically set forth herein, is:

1. To establish a permit system to allow a variety of types of Signs in Commercial Districts and a limited variety of Signs in other Zoning Districts, subject to the standards and the permit procedures of this Article;

2. To allow Political Signs on residential Lots consistently with the constitutional rights of their occupants and to allow certain Signs that are small, unobtrusive, and incidental to the principal Use of the respective Lots on which they are located, subject to the substantive requirements of this Article, but without a requirement for permits;

3. To provide for Temporary Signs without Commercial Messages in limited circumstances in the public right-of-way;

4. To prohibit all Signs not expressly permitted by this Article; and

5. To provide for the enforcement of the provisions of this Article.

(C) Alteration of Sign Face. The physical alteration of a Sign face or supporting Structure shall be considered the same as construction of a new Sign which shall require a permit and conformity to all the dimensional requirements of this Article.

(D) Signs on Public Property Forfeited. Any Sign installed or placed on public property or within a public right-of-way, except in conformance with the requirements of this article, shall be forfeited to the public and is subject to confiscation. In addition to other remedies hereunder, the Zoning Administrator shall have the right to recover from the Owner or Person placing such a Sign the full costs of removal and disposal of such Sign.

(E) Vacant Parcels. Land completely void of Buildings shall also be completely void of all Signs, except for governmental Signs, warning Signs, Temporary Signs associated with a Temporary Use, and real estate Signs, all of which must be in compliance with this Article.

(F) Violations. Any of the following shall be a violation of this Article and shall be subject to the enforcement remedies and penalties provided by this Article, by the other provisions of the Zoning Ordinance, and by State law:
1. To install, create, erect, or maintain any Sign in a way that is inconsistent with any plan or permit governing such Sign or the Lot on which the Sign is located;

2. To install, create, erect, or maintain any Sign requiring a permit without such a permit;

3. To install, create, erect, or maintain any Sign in a way that is inconsistent with any plan or permit governing such Sign or the Lot on which the Sign is located;

4. To fail to remove any Sign that is installed, created, erected, or maintained in violation of this Article, or for which the Sign Permit has lapsed; or

5. To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this Ordinance. Each Sign installed, created, erected, or maintained in violation of this Ordinance shall be considered a separate violation when applying the penalty portions of this Ordinance.

(G) Enforcement and Remedies. The enforcement provisions of Section 1321.08 are applicable to any violation or attempted violation of this Article or of any condition or requirement adopted pursuant hereto, and for such purposes a Sign shall be considered a Structure. Additionally, in the case of a Sign that poses an immediate danger to the public health or safety, the City may take such measures as are available to the City under the applicable provisions of the City's other ordinances and building code for such circumstances.

(H) Excluding Wall Signs, Suspended Signs, Projecting Signs, Canopy/Awning Signs, and Window Signs, all Signs advertising a business shall be separated by a distance of not less than fifty (50) feet.

(I) Definitions. Terms used herein related to signage may be defined under the definition of “Sign” in Article 1325 or elsewhere in such Article.

Section 1324.02, Sign Permits

(A) General Permit Procedures. The following procedures shall govern the application for, and issuance of, all Sign Permits under this Ordinance:

1. If a Sign type requires a Sign Permit, as specified in Section 1324.06, the Owner of the subject property shall obtain a Sign Permit through the City of Charles Town prior to the placement, construction, erection or modification of a Sign;

2. No Sign Permit may be obtained unless a fully completed Sign Permit application, and an application for approval of a Master Signage Plan or Common Signage Plan, as applicable, are submitted to the City of Charles Town and, following review of the same, the Zoning Administrator, or designee, determines that the Sign and applicable Signage Plan comply with the requirements of this Article;

3. Applications. All applications for Sign Permits of any kind and for approval of a Signage Plan shall be submitted to the Zoning Administrator on an application form
or in accordance with application specifications published by the Zoning Administrator;

4. **Fees.** Each application for a Sign Permit or for approval of a Signage Plan shall be accompanied by the applicable fees, which shall be established by City Council from time to time by resolution and set forth in the City fee schedule;

5. **Action on Permit.** Within thirty (30) business days of the submission of a complete application for a Sign Permit, the Zoning Administrator shall either:
   a. Issue the Sign Permit if the Sign(s) that is the subject of the application conforms in every respect with the requirements of this Article and with the content of the applicable Master or Common Signage Plan; or
   b. Reject the Sign Permit if the Sign(s) that is the subject of the application fails in any way to conform with the requirements of this Article or the content of the applicable Master or Common Signage Plan. In case of a rejection, the Zoning Administrator shall specify in the rejection the section or sections of the Ordinance or applicable plan with which the Sign(s) is inconsistent. If the application is rejected because it is incomplete, the Zoning Administrator shall set forth the specific deficiencies in the rejection;

6. **Action on Plan.** On any application for approval of a Master Signage Plan or Common Signage Plan, the Zoning Administrator shall take action **thirty (30) business days** after the submission of a complete application, in the case of signs for existing Buildings, or on the date when final action is taken on a related application for a building permit or Subdivision/Land Development Application, in the case of new construction.
   On or before such applicable date, the Zoning Administrator shall either:
   a. Approve the proposed plan if the Sign(s) as shown on the plan and the plan itself conform in every respect with the requirements of this Zoning Ordinance; or
   b. Reject the proposed plan if the Sign(s) as shown on the plan or the plan itself fails in any way to conform with the requirements of this Zoning Ordinance. In case of a rejection, the Zoning Administrator shall specify in the rejection the section or sections of the Ordinance with which the plan is inconsistent; and

7. Within 30 days of receipt of a rejection by the Zoning Administrator of an application for a Sign Permit or Master or Common Signage Plan, the applicant may file an Appeal of said rejection to the Board of **Zoning Appeals** per the procedures set forth in this Zoning Ordinance.

(B) **Permits to Construct or Modify Signs.** Signs requiring a Sign Permit, as specified in Section 1324.06, shall be erected, installed, or created only in accordance with a duly issued and valid Sign Construction Permit from the Zoning Administrator. Such permits shall be issued only in accordance with the following requirements and procedures:
1. **Permit for New Sign or for Sign Modification.** An application for construction, creation, or installation of a new Sign or for modification of an existing Sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular Sign, to the extent that such details are not contained on a Master Signage Plan or Common Signage Plan then in effect for the Lot. One application and permit may include multiple Signs on the same Lot; and

2. **Inspections.** Upon expiration of the time permitted for construction, creation, or installation of a Sign in an issued Sign Construction Permit, the Zoning Administrator shall cause an inspection of the Sign for compliance with the application for such permit and supporting materials, any applicable Master or Common Signage Plan, this Ordinance, and all other City ordinances. If the construction is not substantially complete at the time of inspection, the permit shall remain lapsed. If the construction is substantially complete but not in full compliance with the application for such permit and supporting materials, any applicable Master or Common Signage Plan, this Ordinance, and all other City ordinances, the Zoning Administrator shall give the Owner or applicant notice of the deficiencies and extend the Sign Construction Permit an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If a Sign Construction Permit has lapsed, no work shall be performed upon the Sign unless and until a new Sign Construction Permit is obtained.

(C) **Time of Compliance: Nonconforming Signs and Signs Without Permits.** Except as otherwise provided herein, the Owner of any Lot or other premises on which exists a Sign that does not conform with the requirements of this Ordinance, or for which there is no current and valid Sign Permit, shall be obligated to remove such Sign or, in the case of a nonconforming Sign, bring it into conformity with the requirements of this Ordinance.

**Section 1324.03, Signage Plan Requirements**

No permits shall be issued for an individual Sign requiring a permit unless and until a Master or Common Signage Plan for the Lot on which the Sign will be erected, placed, established, painted, created, or maintained has been submitted to the Zoning Administrator and approved as conforming with this Section. Where a business is located on more than one (1) Lot and the Signage for the business is designed to be placed on the multiple Lots, all Lots encompassing said business shall be treated as one Lot for purposes of this Subsection.

(A) **Master Signage Plan.** For any Lot on which the Owner proposes to erect one or more Signs requiring a permit, the Owner shall submit to the Zoning Administrator a Master Signage Plan containing the following:

1. An accurate plot plan of the Lot, at such scale as the Zoning Administrator may reasonably require;

2. Location of Buildings, parking lots, Driveways, and landscaped areas on such Lot;

3. Computation of the maximum total Sign area, the maximum area for individual Signs, the height of Signs and the number of freestanding Signs allowed on the Lot; and
4. An accurate indication on the plot plan of the proposed location of each present and future Sign of any type, whether requiring a permit or not. Incidental Signs need not be shown.

(B) **Common Signage Plan.** The Owner of one or more Lots with a Combined Development shall file with the Zoning Administrator a Common Signage Plan containing all of the information required for a Master Signage Plan and also specifying standards for consistency among all Signs on the Lots affected by the Plan with regard to:

1. Lettering or graphic style to the greatest extent possible based on the prospective tenants;
2. Lighting to the greatest extent possible based on the prospective tenants;
3. Location of each Sign on the Buildings;
4. Material; and
5. Sign proportions.

(C) **Showing Window Signs on Common or Master Signage Plan.** A Common Signage Plan or Master Signage Plan including Window Signs may simply indicate the areas of the windows to be covered by Window Signs and the general type of the Window Signs.

(D) **Other Provisions of Master or Common Signage Plans.** The Master or Common Signage Plan may contain such other restrictions as the property Owners may reasonably determine.

(E) **Consent.** The Master or Common Signage Plan shall be signed by the Applicant and a copy of the plan shall be included in the lease of the tenant.

(F) **Procedures.** A Master or Common Signage Plan shall be included in any Subdivision/Land Development Application, planned unit development plan, or other official plan required by the City for the proposed development and shall be processed simultaneously with such other plan.

(G) **Amendment.** A Master or Common Signage Plan may be amended by filing a new Master or Common Signage Plan that conforms with all requirements of this Ordinance then in effect.

(H) **Adding Signs Where Existing Signs do not conform to Common Signage Plan.** If any new or amended Common Signage Plan is filed for a property on which existing non-conforming Signs are located, all new Signs shall conform to the requirements of this Ordinance in effect on the date of submission. Existing Signs may be retained as non-conforming signs until the Sign structure is changed or modified at which time they shall conform to the amended Common Signage Plan.

(I) **Binding Effect.** After approval of a Master or Common Signage Plan, no Sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this Ordinance. In case of any
conflict between the provisions of such a plan and any other provision of this Ordinance, the Ordinance shall control.

Section 1324.04, Sign Area Computations

The following principles shall control the computation of Sign area and height:

(A) Computation of Area of Single-faced Signs. The area of a Sign face shall be computed by means of the smallest square or rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the Sign from the backdrop or Structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets Zoning Ordinance regulations and is clearly incidental to the display itself;

(B) Computation of Area of Multi-faced Signs. The Sign area for a Sign with more than one face shall be computed by adding together the area of all Sign faces visible from any one point. When two identical Sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such Sign faces are part of the same Sign Structure and not more than 42 inches apart, the Sign area shall be computed by the measurement of one of the faces, whichever has the greater area;

(C) Computation of Height. The height of a Sign shall be computed as the distance from the base of the Sign at normal grade to the top of the highest attached component of the Sign. Normal grade shall be construed to be either the (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the Sign. In cases in which the normal grade cannot reasonably be determined, Sign height shall be computed on the assumption that the elevation of the normal grade at the base of the Sign is equal to the elevation of the nearest point of the crown of a public Street or the grade of the land at the principal entrance to the principal Structure on the Lot, whichever is lower;

(D) Maximum Size of Sign Types. Tables 1324.06A-C shown below list the maximum sizes of Sign types as defined in this Article; and

(E) Maximum Height of Sign Types. Tables 1324.06A-C shown below list the maximum heights of Sign types as defined in this Article.

Section 1324.05, Design, Construction, and Maintenance

All Signs shall be designed, constructed, and maintained in accordance with the following standards:

(A) All new Signs shall comply with applicable provisions of the City's building and electrical codes at all times;

(B) No Signs shall be erected in the public right-of-way, or within five (5) feet of the public right-of-way, except as otherwise permitted herein;
(C) Except for Flags, and Window Signs, all Signs shall be constructed of permanent materials and shall be permanently attached to the ground, a Building, or another Structure by direct attachment to a rigid wall, frame, or Structure;

(D) All Signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times;

(E) No Sign shall be permitted which is an imitation of, or which resembles, an official traffic control device, railroad sign, or which hides from view or interferes with the effectiveness of an official traffic control device or any railroad sign, signal, or traffic sight lines. Illuminated Signs shall be so constructed as to avoid glare or reflection on any portion of an adjacent highway or residential Buildings;

(F) No Sign shall be permitted which contains statements, words, or pictures of an obscene, indecent, or immoral character, which may offend public morals or decency; and

(G) No Sign shall be placed on rocks, trees, or on poles maintained by public utilities.

Section 1324.06, Signs Requiring a Permit

This Section shall govern regulations for Signs permanently installed on a Site and which are required to obtain a Sign Permit in accordance with this Article.

(A) On-Premise Ground Signs. The maximum permitted Sign area, location, characteristics, and number of On-Premise Ground-Mounted Signs shall be determined in accordance with Tables 1324.06A, 1324.06B, and 1324.06C, and this Article. The following additional regulations shall apply to On-Premise Ground-Mounted Signs:

1. Base Landscaping for Ground-Mounted Signs. All Ground-Mounted Signs located within parking or vehicular use areas, and not in Yard areas, shall stand in a bed of landscaping at least 30 square feet in area. This area shall contain low growing materials such as ground covers, perennials, and shrubs, and shall be bordered by acceptable curbing materials as specified in the Charles Town Subdivision and Land Development Ordinance;

2. Distance Requirements from Existing Ground Signs. No proposed Ground-Mounted Sign shall be placed within 50 feet of an existing Ground-Mounted Sign;

3. Ground-Mounted Signs for Combined Developments. All Uses within a Combined Development (includes more than one establishment or business on a common parcel) shall share the permitted Ground-Mounted Sign(s) that is (are) permitted for a Combined Development in accordance with Tables 1324.06A and 1324.06B and this Article. Outparcels shall not be considered part of a Combined Development for purposes of this Subsection (A);

4. Changeable Copy. Changeable Copy or "reader board" area and Electronic Message Board area are permitted as On-Premise Ground-Mounted Signs provided that the Changeable Copy or Electronic Message Board area does not exceed 50 percent of the total area of the Sign. Electronic Message Board area is included in the calculation of the total Sign area unless the board displays only
time and temperature information, in which case the message area is allowed in
addition to the maximum area of the Sign;

5. Drive-Through Menu Signs. Drive-through menu Signs shall be limited to a
maximum size of 32 square feet; and

6. Additional Ground Signs. Lots with more than one Street Frontage shall be allowed
to erect one Ground-Mounted Sign per Frontage, provided that each Frontage is
at least 100 feet in width at the Street right-of-way. No two Ground-Mounted Signs
shall be placed on the same Street Frontage.

(B) Wall Signs. The maximum permitted Sign area, location, characteristics, and number of
Wall Signs shall be determined in accordance with Tables 1324.06A, 1324.06B, and
1324.06C, and this Article. The following additional regulations shall apply to On-Premise
Wall Signs:

1. Signs on Building Walls. The permitted Wall Sign may be placed on a wall that
either does or does not face a public Street. The maximum allowable size for a
Sign on one wall is not transferable to a wall with less length;

2. Additional Wall Sign Permitted on Corner or Double Frontage Lots. Lots with more
than one Street Frontage shall be allowed to erect one additional Wall Sign on the
secondary Street Frontage, provided that the secondary Frontage is at least 100
feet in width at the Street right-of-way. The secondary Wall Sign may not be placed
on the same Building wall as the primary Sign;

3. Additional Wall Sign Permitted to Face Side or Rear Parking Lot. Lots with parking
to the side or rear of a Building shall be allowed to erect one additional Wall Sign
facing the parking lot, provided that at least 50 percent of the required parking for
the establishment is located to the side or rear of the Building and an entrance to
the establishment faces the parking lot. The secondary Wall Sign may not be
placed on the same Building wall as the primary Sign;

4. Location Requirements for Wall Signs. No Wall Sign may extend more than one
foot from the exterior of the wall and no portion of a Wall Sign shall extend above
the Wall on which it is mounted;

5. Wall Mounted Signs for Combined Developments. All establishments within
Combined Developments shall use as individual identification Signs, exclusively,
Canopy/Awning or Wall Signs. No mixing of Sign types within a Combined
Development shall be permitted, except that Canopies containing no Sign copy
may be used in combination with Wall Signs;

6. Wall Signs on Historic Buildings. Wall Signs on historic Buildings shall be placed
within the sign frieze, or distinct place within which a Wall Sign was intended to be
located, if the Building was designed for such. No Wall Sign shall extend beyond
such space. If there is no sign frieze, the Wall Sign shall be placed below the
typical second floor window area. The design and coloration of such Signs shall
be compatible with the character of the Building; and
7. **Changeable Copy.** Changeable Copy or “reader board” area and Electronic Message Board area are permitted as Wall Signs provided that the Changeable Copy or Electronic Message Board area does not exceed 50 percent of the total area of the Sign. Electronic Message Board area is included in the calculation of the total Sign area unless the board displays only time and temperature information, in which case the message area is allowed in addition to the maximum area of the Sign.

(C) **Canopy/Awning Signs.** The maximum permitted Sign area, location, characteristics, and number of Canopy/Awning Signs shall be determined in accordance with Tables 1324.06A, 1324.06B, and 1324.06C and this Article. The following additional regulations shall apply to Canopy/Awning Signs:

1. **General.** Where Tables 1324.06A and 1324.06B provide that Canopy/Awning Signs may be substituted for permitted Wall Signs, a Canopy/Awning Sign may be used in lieu of a Wall Sign in any situation where a Wall Sign is permitted under Subsection (B) above, including situations specified in Subsections (B)(1), (2), and (3);

2. **Valance and Copy Size for Canopy/Awning Signs.** The Valance, or apron, for any Canopy shall in no case exceed 12 inches in height. Individual letters or symbols on these Valances shall not exceed nine inches in height. This provision shall apply only to Valances to which Sign copy is affixed;

3. **Illumination for Canopy/Awning Signs.** Canopy/Awning Signs that may be illuminated shall have no bare bulbs present on or around the Sign face;

4. **Canopy/Awning Signs on Historic Buildings.** No Canopy/Awning Sign shall be permitted on a historic Building unless documentation indicates that such a Sign was used on the Building when originally constructed and occupied. The design and coloration of such Signs shall be compatible with the character of the Building;

5. **Clearance Requirements for Canopy/Awning Signs and Suspended Canopy Signs.** All Canopy/Awning Signs attached to the underside of a Canopy shall maintain the minimum clearance above the ground level of any Sidewalk or vehicular access area as specified in the most recent edition of the City Building Code; and

6. **Canopy/Awning Signs for Combined Developments.** All establishments within Combined Developments shall use as individual identification signs, exclusively, Canopy/Awning or Wall Signs. No mixing of Sign types within a Combined Development shall be permitted, except that Canopies containing no advertising copy, may be used in combination with Wall Signs.

(D) **Projecting or Suspended Signs.** The maximum permitted Sign area, location, characteristics, and number of Projecting or Suspended Signs shall be determined in accordance with Tables 1324.06A, 1324.06B, and 1324.06C, and this Article. The following additional regulations shall apply to Projecting or Suspended Signs:

1. **General.** Where Tables 1324.06A and 1324.06B provide that Projecting or Suspended Signs may be substituted for permitted Wall Signs, a Projecting or
Suspended Sign may be used in lieu of a Wall Sign in any situation where a Wall Sign is permitted under Subsection (B) above, including situations specified in Subsections (B)(1), (2), and (3):

2. A Projecting or Suspended Sign shall include only the address and name of occupant; and

3. A Projecting or Suspended Sign shall not extend more than five (5) feet into the public right-of-way. In no case shall a Projecting or Suspended Sign be permitted to encroach over a motorized Vehicle travel way such as a public or private Street, alley, or Driveway. If such a Sign is suspended or projects above a public right-of-way, the issuance and continuation of a Sign Permit shall be conditioned on the sign owner obtaining, and maintaining in force, liability insurance in an amount of not less than $500,000 per occurrence per Sign.
Table 1324.06A, Standards for Permanent Signs in the GC Zoning Districts

<table>
<thead>
<tr>
<th>Sign Application</th>
<th>Number Allowed</th>
<th>Max. Sign Area</th>
<th>Max. Height</th>
<th>Sign Location</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>On-Premise Ground-Mounted Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individual Business</td>
<td>One (1) per road Frontage</td>
<td>64 ft²</td>
<td>25 feet for standalone businesses</td>
<td>Outside of street right-of-way and sight triangle</td>
</tr>
<tr>
<td>Combined Developments</td>
<td></td>
<td>64 ft² plus 10 ft² per additional tenant; Up to a maximum of 200 ft²</td>
<td>35 feet</td>
<td></td>
</tr>
<tr>
<td>Commercial Subdivision Sign</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entrance Sign</td>
<td>One (1) per entrance road</td>
<td>40 ft²</td>
<td>Twelve (12) feet</td>
<td></td>
</tr>
<tr>
<td><strong>Wall Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individual Business</td>
<td>One (1) per road Frontage</td>
<td>One (1) ft² per lineal foot of the building wall Sign is attached to; Up to 200 ft² maximum Sign area</td>
<td>Not to extend above vertical wall</td>
<td>N/A</td>
</tr>
<tr>
<td>Combined Developments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Subdivision Sign</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Entrance Sign</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Canopy/Awning Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individual Business</td>
<td>May be substituted for permitted Wall Signs</td>
<td>12 ft²</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Combined Developments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Subdivision Sign</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Entrance Sign</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Projecting/Suspended Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individual Business</td>
<td>May be substituted for permitted Wall Signs</td>
<td>Projecting Sign – six (6) ft² OR Suspended Sign – four (4) ft²</td>
<td>N/A</td>
<td>No portion of a Projecting or Suspended sign shall extend more than five (5) feet from the building wall</td>
</tr>
<tr>
<td>Combined Development</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Subdivision Sign</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Entrance Sign</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 1324.06B, Standards for Permanent Signs in the NC and OT-MUC Zoning Districts

<table>
<thead>
<tr>
<th>Sign Application</th>
<th>Number Allowed</th>
<th>Max. Sign Area</th>
<th>Max. Height</th>
<th>Sign Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-Premise Ground-Mounted Signs (Monument style only. Pole and Pylon style Ground-Mounted Signs are prohibited.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individual Business</td>
<td>One (1) per road Frontage</td>
<td>For principal structures with &gt;=25,000 GFA – 64 ft²</td>
<td>For principal structures with &gt;= 25,000 GFA – Ten (10) feet</td>
<td>Outside of street right-of-way and sight triangle</td>
</tr>
<tr>
<td>Combined Developments</td>
<td>32 ft² plus 8 ft² per additional tenant; Up to a maximum of 64 ft²</td>
<td></td>
<td>Twelve (12) feet</td>
<td></td>
</tr>
<tr>
<td>Commercial Subdivision Sign</td>
<td>One (1) per entrance road</td>
<td>40 ft² or One (1) ft² per five (5) linear feet of road Frontage; Up to a maximum size of 64 ft²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entrance Sign</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Wall Signs | | | | |
| Individual Business | One (1) per road Frontage | One (1) ft² per lineal foot of the individual tenant/business occupied building wall where the sign will be attached; Up to 64 ft² |
| Combined Developments | One (1) per road Frontage | | Not to extend above vertical wall |
| Commercial Subdivision Sign | N/A | N/A |
| Entrance Sign | | | |

| Canopy/Awning Signs | | | | |
| Individual Business | May be substituted for permitted Wall Signs | 12 ft² | N/A | N/A |
| Combined Developments | | | | |
| Commercial Subdivision Sign | N/A | | | |
| Entrance Sign | | | | |

| Projecting/Suspended Signs | | | | |
| Individual Business | May be substituted for permitted Wall Signs | Projecting Sign – Six (6) ft² OR Suspended Sign – Four (4) ft² | N/A | No portion of a Projecting or Suspended sign shall extend more than five (5) feet from the building wall |
| Combined Development | | | | |
| Commercial Subdivision Sign | N/A | | | |
| Entrance Sign | | | | |
### Table 1324.06C, Standards for Permanent Signs in the NR, R-3, R-15 and OT-R Zoning Districts

<table>
<thead>
<tr>
<th>Sign Application</th>
<th>Number Allowed</th>
<th>Max. Sign Area</th>
<th>Max. Height</th>
<th>Sign Location</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>On-Premise Ground-Mounted Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entrance Signs for permitted Residential Subdivision uses per Table 1322.04</td>
<td>One (2) per entrance road</td>
<td>25 ft² each Monument sign</td>
<td>Four (4) feet</td>
<td>Outside of street right-of-way and sight triangle</td>
</tr>
<tr>
<td>Permitted Institutional and Recreational uses per Table 1322.04</td>
<td>One (1) per premise</td>
<td>For principal structures with &gt;=10,000 gross floor area – 32 ft²</td>
<td>Four (4) feet</td>
<td>Outside of street right-of-way and sight triangle</td>
</tr>
<tr>
<td>Permitted Miscellaneous uses per Table 1322.04</td>
<td></td>
<td>16 ft²</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Wall Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entrance Signs for permitted residential subdivision uses</td>
<td>Not permitted</td>
<td>Four (4) ft²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permitted Institutional and Recreational uses</td>
<td>One (1) per premise as a substitute for an On-Premise Ground-Mounted Sign</td>
<td>For principal structures with &gt;=10,000 gross floor area – 32 ft²</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Permitted Miscellaneous uses</td>
<td>One (1) per premise</td>
<td>For principal structures with &lt;10,000 gross floor area – 16 ft²</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Canopy/Awning Signs and Projecting/Suspended Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Not permitted</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Section 1324.07, Signs Not Requiring a Permit

No permit is required for the following Signs, provided they comply with the conditions set forth. Signs permissible in this Section 1324.07 shall not be considered in determining the total Sign area. However, if a Sign exceeds the size or in any other way does not comply with these limitations, it shall be considered as a prohibited Sign and/or shall be subject to all other provisions of this Ordinance. Nothing in this Section shall be deemed to authorize or permit any Sign prohibited under Section 1324.08, or otherwise by applicable law:

(A) Building Marker Signs. A building marker Sign may include only the building name, date of construction, or historical data on Historic Buildings or Sites; and shall be cut or etched into masonry, bronze, or similar material;

(B) Business Identification Sign. A pedestrian oriented Sign attached to a Building to identify the tenant within. Such Sign shall contain no advertising other than trade name and/or logotype. One Sign is permitted per entrance. Maximum size is six (6) square feet;

(C) Special Event Signs for Public, Quasi-Public or Non-Profit organizations. A Sign may be erected by public, quasi-public, or non-profit organizations such as schools and Churches for promoting the following events. Such Signs shall not be illuminated and their maximum size is 30 square feet. Such Signs shall not be located within a Street right-of-way or required sight triangle:

1. Scheduled sales events such as rummage and bake sales. Such Signs shall remain in place no more than 72 hours. Additionally, such Signs shall be limited to one On-Premise Sign per Street Frontage;

2. Public events such as charity benefits, fairs, fund drives, revivals and sporting events. Such Signs may be displayed for a period of 30 days and may be allowed on- or off-premise; and

3. Special seasonal events, such as parades, fairs and festivals. Such Signs may be erected (on- or off-premise) within 14 days of the event and shall be removed 72 hours after the end of an event;

(D) Construction/Contractor and Subdivision Project Signs. Such Signs shall be non-illuminated and may be located in any Zoning District to identify future tenants, home builders, contractors, lenders, and architectural or engineering designers during the period of construction. These Signs shall be removed no later than seven (7) days after the completion of a project. Maximum size is 32 square feet;

(E) Flags. Flags of the United States of America, the State of West Virginia, the City of Charles Town, or foreign nations having diplomatic relations with the United States, and any other Flag adopted or sanctioned by an elected legislative body of competent jurisdiction, and any corporate Flag (being a Flag that includes a company logo, insignia, symbol or name), provided that any such Flag shall not be flown from a pole the top of which is more than 40 feet in height. Such Flags shall be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Maximum size of the above-listed Flags is 60 square feet, except that the maximum size of a corporate Flag is 24 square feet;
(F) **Other Flags.** Seasonal or promotional flags that do not include any advertising text. Maximum size is 24 square feet;

(G) **Governmental Signs.** Signs posted by various local, state, and federal agencies such as regulatory signs, welcome signs, and traffic control signs;

(H) **Incidental Signs.** Signs indicating vehicular entrances and exits, parking areas, one-way traffic, no trespassing, dumping, loitering, etc. Such Signs shall not exceed three feet in height, shall not obstruct any vehicular sight triangle, and shall be located no farther than 15 feet away from the edge of the entrance or exit which it delineates. No more than two Signs per entrance or exit shall be permitted. Such Signs may be illuminated and shall contain no Sign copy other than directional information. Maximum size is four (4) square feet;

(I) **Occupant/Street Number Signs.** Non-illuminated Signs affixed to Structures, mailboxes, decorative light posts, Driveway entrances, etc., which serve to identify the address of the Structure or occupant. All such Signs are required to be placed in such a manner as to be visible from the Street;

(J) **Off-Premise Directional Signs for Churches.** Non-illuminated Ground-Mounted Signs located outside of the Street right-of-way. A maximum of two (2) directional Signs per Church shall be permitted within the City’s corporate limits. Maximum size is six (6) square feet;

(K) **Political Signs.** Political Signs shall not be illuminated, shall not be located within a public Street right-of-way or located closer than 10 feet to the edge of Street pavement or within a required sight triangle, shall not be attached to trees or utility poles, and shall be no taller than four feet. Political Signs may be displayed during a period beginning 60 days prior to an election and concluding 48 hours after the election. In the event of a runoff election, Political Signs for the candidates involved may remain on display until 48 hours after the runoff election. With the exception of bumper stickers and the like, all other Portable and roof-mounted Signs for political advertisement are prohibited. All Signs that violate the above provisions and/or Political Signs that remain more than 48 hours after the election may be removed for disposal by the City. Maximum size is six (6) square feet;

(L) **Public Service Signs.** Signs displayed for the convenience of the general public, such as Signs for public rest rooms, automobile inspection, hours of operation, freight entrances, credit cards accepted, etc. Such Signs may be illuminated and shall contain no Sign copy other than service information and trade names and/or logos for the business. Maximum size is six (6) square feet;

(M) **Real Estate Signs – Residential Property (Off-Premise).** Off-Premise Signs which advertise the sale or lease of residential property. Such Signs shall not be illuminated or located within a sight triangle or public right-of-way. Such Signs may only be displayed on weekends and shall not be erected before 5:00 p.m. on Friday and shall be removed by 7:00 a.m. on Monday. Off-Premise real estate Signs may also be displayed on legal holidays. Maximum size is six (6) square feet;

(N) **Real Estate Signs – Residential Properties (On-Premise).** Signs which advertise the sale or lease of the property on which said Sign is located. Such Signs may not be illuminated or located within a sight triangle or public right-of-way and shall be removed no later than
seven (7) days after the sale or lease of the property. Such Signs are limited to one per Street Frontage. Maximum size is six (6) square feet;

(O) **Real Estate Signs – Non-Residential Properties (On-Premise).** Signs which advertise the sale or lease of non-residential property on which said Sign is located. Such Signs may not be illuminated or located within a sight triangle or public right-of-way and shall be removed no later than seven (7) days after the sale or lease of the property. Such Signs are limited to one per Street Frontage. Maximum size is 32 square feet;

(P) **Window Signs.** Signs placed or painted on the interior or exterior of glass windows or doors provided that such Signs cover no more than 25 percent of the glass area of the entire storefront. Window Signs that cover more than 25 percent of the glass area shall be classified as a Wall Sign and shall meet the requirements for Wall Signs within the appropriate Zoning District;

(Q) **Yard Sale Signs.** Such Signs may be placed on- or off-premise provided they are not located in a sight triangle or Street right-of-way nor placed on any tree, street sign, or utility pole. Such Signs may not be illuminated and may remain in place for 72 hours in any thirty (30) day period. Maximum size is six (6) square feet;

(R) **For-profit Temporary Signs.** Businesses advertising special sales, special events and promotions may display one Temporary Sign or Banner per establishment in addition to the permitted Signs, provided that such Temporary Sign or Banner is not illuminated. Such Temporary Sign or Banner must be maintained in good condition and must be removed or replaced upon becoming worn, faded, or torn or at the conclusion of the special sale, event or promotion period. The Temporary Sign or Banner must be located on the property of the business for which it is advertising and cannot be located in any public right-of-way or sight triangle. Maximum size is 24 square feet.

1. Businesses with more than 300 feet of Street Frontage on a designated major thoroughfare may have one (1) additional Banner for every 300 feet of Street Frontage. A maximum of three (3) Banners is allowed.

2. Combined Developments are permitted to have one Temporary Sign per establishment/tenant as stated in this Section; however, the sign(s) must be mounted flush against the Building wall of the advertised business.

3. Use of Portable Signs as Temporary Signs is not permitted; and

(S) **Itinerant Merchants.** Itinerant merchants may erect one Temporary Sign or Banner per establishment for the period of operation provided such Sign is not located within a Street right-of-way or required sight triangle and is not illuminated. Maximum size is 24 square feet.
Section 1324.08, Prohibited Signs

The following Signs are prohibited within the City of Charles Town:

(A) Signs Constituting a Traffic Hazard. No Sign shall be placed, displayed, or illuminated so as to obstruct or impair driver vision. A Sign shall not obstruct the view of any official traffic sign, traffic signal, or traffic marking. Signs that, by reason of their location, shape, size, or color, approximate official highway signs, warning signs, or regulatory devices are prohibited;

(B) Signs displaying blinking, flashing, or intermittent lights, Animation, moving parts, except for permitted Changeable Copy and Electronic Message Boards as permitted in Section 1324.06;

(C) Portable Signs;

(D) “Wrap-around” Signs or other continuous Wall Signs that extend around Building corners or radii;

(E) Off-Premise Signs except as specifically permitted herein;

(F) Outdoor Advertising Signs. No new Outdoor Advertising (Billboard) Signs shall be permitted to be constructed in the City of Charles Town;

(G) Facsimile Signs;

(H) Signs placed within any required sight triangle;

(I) Signs attached to or painted on utility poles, trees, parking meters, bridges and overpasses, rocks, other Signs, benches, and refuse containers, except the latter two may contain an officially recognized logotype;

(J) Roof Signs;

(K) Pavement markings for purposes other than traffic control;

(L) Signs placed within or extending into the right-of-way of City and state maintained Streets and roads, except those Signs erected by a duly constituted government body;

(M) Signs that contain language and/or pictures obscene to the general public;

(N) Signs that advertise an activity or business no longer conducted on the property on which the Sign is located;

(O) Indirect Illumination, such as floodlights, erected in such a manner as to cause glare that impairs driver vision on Streets or roadways or that causes a nuisance to adjoining property;

(P) Beacons, spotlights, or searchlights. Signs which use beacons, spotlights, or searchlights visible from public rights-of-way are prohibited;
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

(Q) Signs that obstruct fire escapes, windows, doors, or other openings used as a means of egress or as required legal ventilation;

(R) Signs containing or consisting of Pennants, ribbons, Streamers, Festoon Lighting, Balloons (or Inflatable Signs), or Spinners;

(S) Signs that in the purview of the Zoning Administrator do not conform to the provisions of these regulations; and

(T) Signs advertising Home Occupations as defined under Article 1325 of this Ordinance, unless otherwise expressly permitted under Section 1323(K).
ARTICLE 1325, 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 subject activity;
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 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 word plot or parcel; and
8. The word “used” or “occupied” as applied to any land or Building shall be construed to include the words “intended, arranged or designed to be used or occupied.”

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

ACCESS DRIVE – A Driveway, Street or open space of not less than the width required herein, that provides vehicular access to and from a road and an abutting property. Access Drive includes acceleration and deceleration lanes. Access Drive shall also include all drainage facilities as may be necessary for the proper construction and maintenance of the roadway and abutting property.

ACCESSORY USE (OR ACCESSORY STRUCTURE) – A Use or Structure customarily incidental and subordinate to the principal Permitted Use or an approved Special Exception Use and located on the same Lot as the principal Use. Examples include, but not limited to, a detached Garage, shed, above ground Swimming Pool, and satellite dish.

ACTIVE RECREATION – A facility that has been constructed for organized recreational activities, primarily for core activities including sports (i.e., site improved playing fields and ball courts), events (i.e., amphitheatre for a concert), and playground facilities.

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.
ADULT BOOK STORES – An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “Specified Sexual Activities,” or “Specified Anatomical Areas,” or an establishment with a segment or section devoted to the sale or display of such material.

ADULT BUSINESS – Shall mean:

1. Any commercial establishment, including but not limited to Adult Book Stores, Adult Motion Picture Theaters, Adult Mini-Motion Picture Theaters, Adult Entertainment Cabaret, or other adult entertainment establishments, in which is offered for sale as a substantial or significant portion of its stock in trade video cassettes, movies, books, magazines, or other periodicals or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or activities which if presented in live presentation would constitute adult entertainment;

2. Any commercial establishment that offers for a consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex;

3. Any commercial establishment that offers for a consideration activities between male and female persons and/or persons of the same sex when one or more persons are nude or “Semi-nude”; and

4. Any commercial establishment that offers for a consideration nude human modeling.

ADULT DAY CARE CENTER – A facility that provides non-medical care for seven (7) or more adult persons on a less than 24-hour basis and that is duly licensed by the State of West Virginia and approved to operate as an adult day care center by all appropriate authorities.

ADULT ENTERTAINMENT CABARET – A public or private establishment that is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators, or similar entertainers.

ADULT MINI-MOTION PICTURE THEATERS – An enclosed Building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas,” for observation by patrons therein.

ADULT MOTION PICTURE THEATERS – An enclosed Building with a capacity of fifty (50) or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas,” for observation by patrons therein.
AGGRIEVED OR AGGRIEVED PERSON – Means a Person who:

1. Is denied by the Charles Town Planning Commission or by the Board of Zoning Appeals, in whole or in part, the relief sought in any application or Appeal; or

2. Has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the City may suffer.

ALTERATIONS – As applied to a Building or Structure, any change or rearrangement in the total floor area, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ANIMAL HOSPITAL – A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

ANNEXATION – Shall have the meaning as set forth in Article 6, Chapter 8 of the West Virginia Code.

APPEAL – For the purpose of this Zoning Ordinance, an Appeal shall refer to a timely submitted and complete application on an application form prescribed by the Board of Zoning Appeals for appeal of an order, requirement, decision or determination made by the Zoning Administrator or Planning Commission under the Charles Town Zoning Ordinance or Subdivision and Land Development Ordinance or rule or regulation adopted pursuant thereto.

ART GALLERY – A Structure, or part thereof, devoted to the exhibition of visual works of fine art. Art galleries generally include accessory services, such as sale or purchase of displayed works, custom framing or encasement of art works and services related to art appraisal, display, preservation or restoration.

AUTOMOBILE SERVICE STATIONS – A Structure, Lot, or both, where gasoline, oil, grease, batteries, tires, and/or automobile accessories are supplied and dispensed at retail, and/or where automobile servicing and minor repairs are provided. Automobile Service Stations do not include facilities that perform major mechanical and/or body work, or facilities whose work involves noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in Automobile Service Stations.

BAR OR TAVERN – Premises used primarily (gross revenue from alcoholic beverages sale are greater than ½ of total revenue) for sale or dispensing of alcoholic beverages by the drink for on-site consumption, and where food may be available for consumption on the premises as accessory to the principal Use.

BASEMENT – That portion of a Building which is partly or completely, or having a floor, below grade on all sides.

BED AND BREAKFAST INN – Any Owner-occupied residential Dwelling in which rooms are rented to paying guests on an overnight basis with not more than one (1) meal
served daily, the entire service to be included in one (1) stated price. Such facility is not a Home Occupation for purposes of this Ordinance.

BOARD OF ZONING APPEALS – The Charles Town Board of Zoning Appeals, either acting in its capacity as a Board of Zoning Appeals under this Ordinance or as a Board of Subdivision and Land Development Appeals under the Charles Town Subdivision and Land Development Ordinance.

BOARDING OR ROOMING HOUSE – A residence in which, for compensation, lodging or meals, or both, are furnished to not more than twelve (12) guests. A Boarding or Rooming House shall not be deemed a Home Occupation for purposes of this Ordinance.

BUILDING – Any Structure which is permanently affixed to land and has one or more floors and a roof. This term shall not include Mobile Homes or other factory constructed buildings unless erected on a permanent foundation.

BUFFER AREA – A Yard, Park, or other undeveloped open area intended to separate incompatible elements or Uses, to control exposure of neighboring properties to noise, odors, or other nuisances, and to define areas in which permanent Structures shall not be constructed or allowed.

BUILDING HEIGHT – The vertical distance measured from the average elevation of the proposed finished grade at the front of the Building to the highest point of the roof for flat roofs, to the highest deck line of Mansard Roofs, and to the highest mean height between eaves and ridges of the same portion of roof for gable, hip, and gambrel roofs.

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 set forth herein.

CAR WASH – A Structure containing facilities for both hand and automatic washing of automobiles, which facilities may include the use of a chain conveyor or other method of moving the cars along, and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

CEMETERY – A place used for the permanent interment of dead human bodies or the cremated remains thereof. A Cemetery may be a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination of one or more thereof.

CHILD CARE CENTER – A private home-based establishment enrolling six (6) or fewer children where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed by the State of West Virginia and approved to operate as such an establishment.

CHURCH – A Religious Institution.

CITY – The City of Charles Town, West Virginia.
CLEARING – Any activity which removes the vegetative surface cover.

CLEARLY PREVAILING YARD PATTERN – The average of the actual setbacks of the three nearest developed Lots on each side of the subject Lot that front on the same Street; provided that, Lots more than 100 yards from the subject Lot shall not be considered in determining such average.

CLINIC – An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, social workers, or veterinarians and where patients are not usually lodged overnight.

COMMERCIAL CENTER – A group of contiguous Lots organized into a shopping center, strip mall, business park, office condominium or similar grouping that share mutual access, ingress and egress easements.

COMMERCIAL SUBDIVISIONS – A Commercial Subdivision of land whether in single or multiple ownership shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or commercial building development. These subdivisions may construct new public or private streets to access new lots.

COMMERCIAL USE/COMMERCIAL STRUCTURE – Any Use or Structure which provides goods or services on either a profit or nonprofit basis.

COMMERCIAL VEHICLE – A Vehicle, with or without motive power and engine, which: is designed or has been converted for use in the hauling of business products or goods, or the commercial transporting of persons; or contains advertising insignia (Signage), business lettering or painting, designed for the promotion of goods or products, that is in excess of four square feet; or is any truck with an open or closed bed having a payload capacity of more than 3,000 pounds; or is 24 feet or longer, including Trailers and pull-along equipment; or is over 10,000 pounds in gross vehicle weight and not licensed as a Motor Home or Travel Trailer.

COMPREHENSIVE PLAN – The Comprehensive Plan of the City of Charles Town developed pursuant to Article 3, Chapter 8A of the West Virginia Code

DAY CARE CENTER – A private establishment enrolling more than six (6) children where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed by the State of West Virginia and approved to operate as such an establishment.

DOMESTIC PARTNER – Shall refer to a spousal equivalent and “Domestic Partners” shall refer to such a couple who cohabitate and live together, whether married or not but who seeks the benefits usually available only to spouses.

DRIVEWAY – A private travel way for Vehicles which provides access to a public Street or road from a parking space, Garage, Dwelling, Structure or Use.

DWELLING – A Building or portion thereof that is arranged, designed, used or intended for use and occupancy by one or more persons living together and maintaining a
common household, and which includes lawful cooking space and lawful sanitary facilities reserved for the occupants, and is affixed to a permanent foundation. This definition does not include Vehicles, portable Structures such as Travel Trailers, Motor Homes, Mobile Homes, buses, or tents, or temporary or transient facilities such as hotels, inns, motels, Hospitals, or cabins.

DWELLING, DUPLEX – A Building located on two Lots and containing two individual Dwelling Units that are attached, but on separate Lots.

DWELLING, MULTI-FAMILY – A Building containing three or more Dwelling Units.

DWELLING, SINGLE-FAMILY DETACHED – A Building containing only a Dwelling Unit surrounded by Yards or other open area on the same Lot and not occupied by more than one single Family.

DWELLING, TOWNHOUSE – One of a series of three or more attached Dwelling Units separated from one another by continuous vertical party walls without openings from Basement floor to roof, with each Dwelling Unit occupied by only one single Family.

DWELLING, TWO-FAMILY – A Building located on one Lot containing not more than two Dwelling Units, arranged one above the other or side-by-side.

DWELLING UNIT – One or more rooms in a residential Building or in a mixed Building, which are arranged, designed, used or intended for use by one or more persons living together and maintaining a common household, and which include lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

ENCROACHMENT – The use, placement, or extension of private Uses into, upon, over, or under public space or a publicly-owned property.

ESSENTIAL UTILITIES AND EQUIPMENT – This term comprises underground or overhead electrical, gas, communications not regulated by the Federal Communications Commission, water and sewage systems, including poles, towers or pole structures, wires, lines, mains, drains, pumping stations, sewers, conduits, cables, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connections therewith. It does not include Buildings, yards, stations or substations for transforming, boosting or switching purposes, where such facilities are constructed on the ground.

FAMILY – One or more persons related to each other by blood, adoption, marriage, or otherwise by law, including foster children, who reside in the same Dwelling Unit as a single housekeeping unit; household servants who reside in the Dwelling Unit; and not more than two additional persons who reside in the Dwelling Unit. A Family as herein defined shall be deemed to specifically exclude unrelated individuals living together in a Boarding or Rooming House, lodging house, club, fraternity, hotel, or any similar group living arrangement, but shall not exclude domestic partners as defined herein.
Zoning Ordinance of the City of Charles Town, WV
Part 13, Articles 1321 – 1325, of the Charles Town Code

FARTHEST FACING WALL – The wall of a Building or Structure that faces, but is farthest in distance from, the subject Street Line or Lot line. In the case of a Building or Structure with walls that are not substantially parallel to Street Lines and Lot lines, separate Farthest Facing Walls may exist for different elevations of the Building or Structure.

FEMA – Federal Emergency Management Administration, or its duly designated and authorized successor agency.

FLAG – Any fabric, Banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity. Flags are regulated in accordance with the Sign regulation standards provided in this Ordinance.

FRONTAGE – A Lot boundary line that abuts a public Street, road, or highway, or rural right-of-way.

FUNERAL HOME – A Building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GARAGE, RESIDENTIAL – An Accessory Structure, portion of a main Building, or Building attached thereto, used for the storage of private motor Vehicles, fifty percent (50%) of which may be for the storage of a Commercial Vehicle. Detached Residential Garages shall not contain more than three (3) Vehicles or exceed six-hundred (600) square feet.

GARAGE, SERVICE – A garage, other than a Residential Garage, where motor Vehicles, Trailers, or other types of equipment are stored, equipped for operation, repaired, or kept for remuneration, hire or sale.

GARAGE SALE – A garage sale includes all sales entitled “garage sale,” “lawn sale,” “yard sale,” “attic sale,” “rummage sale,” or “flea market sale,” or any similar casual sale of tangible personal property that is advertised by any means whereby the public at large is or can be made aware of said sale.

GROUP HOME – A facility that:

1. Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled;
2. Is occupied as a residence by not more than eight (8) individuals who are developmentally disabled and not more than three (3) supervisors, or is occupied as a residence by not more than twelve (12) individuals who are behaviorally disabled and not more than three (3) supervisors;
3. Is licensed by the West Virginia Department of Health and Human Resources; and
4. Complies with the State Fire Code for residential facilities.
HABITABLE FLOOR AREA – The aggregate of the horizontal area of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathroom, closets, nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven (7') feet and the floor area of that part of any room where the ceiling height is less than five (5') feet shall not be considered as part of the habitable floor area.

HISTORIC DISTRICT – Means a geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of Sites, Buildings, Structures or objects united historically or aesthetically by plan or physical development.

HISTORIC LANDMARK – Means a Site, Building, Structure or object designated as historic on a national, state or local register.

HISTORIC SITE – Means the location of a significant event, a prehistoric or historic occupation or activity, or a Building or Structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing Structure, and designated as historic on a national, state or local register.

HISTORIC STRUCTURE – Means any Structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Registry;
2. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered Historic District or a district preliminarily determined by the Secretary to quality as a registered Historic District;
3. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   a. By approved state program as determined by the Secretary of the Interior; or
   b. Directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION – A business, profession, occupation, or trade conducted for financial gain or profit and located entirely within a residential Dwelling, or within a detached Residential Garage. Such Use is accessory, incidental, and secondary
to the Use of the Dwelling for residential purposes and does not change the residential purposes and does not change the residential character or appearance of the Dwelling or detached Residential Garage.

HOSPITAL – A licensed and West Virginia accredited institution rendering medical, surgical or convalescent care at least partially on an inpatient basis, including Nursing Homes, homes for the aged and sanatoriums, and treatment centers that serve human patients at least partially on an inpatient basis and partially by outpatient services, particularly emergency care.

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.

INDIVIDUAL BUSINESS - A single establishment or business occupying one or more Buildings designed to function as a single enterprise which does not share off-street parking, Driveways, or other common facilities with an adjacent establishment or development.

INFILL DEVELOPMENT – Means to fill in vacant or underused land in existing communities with new development that blends in with its surroundings.

JUNK – Old or discarded scrap, copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, junk, or nuisance motor vehicles or parts thereof. Note building materials stored on site for an active or pending construction project are not considered “junk” under this definition.

JUNK VEHICLE – A vehicle that does not display a current license plate lawfully upon a vehicle; is partially dismantled, wrecked or extensively damaged or deteriorated; or is not capable of lawful operation on public roads.

JUNK YARD – Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, parked, stored, disassembled, or handled, including Salvage Yards, auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including areas where such Uses are conducted entirely within a completely enclosed Building and not including pawnshops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable condition, salvaged machinery and the processing of used, discarded, or salvaged materials as part of manufacturing operations.

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.
KENNEL – Any Building or Structure and/or land used, designed, or arranged for housing, boarding, breeding, or care of more than three adult dogs or cats kept or bred for hunting, sale, exhibition, or domestic use or other domestic animals for profit, but not including those animals raised for agricultural purposes.

LAND AREA – Land Area refers to net land area exclusive of Streets and other public space.

LANDOWNER – The legal owner of land as reflected in the tax records of the Sheriff of Jefferson County.

LEGALLY NONCONFORMING USE (commonly referred to as a “Grandfathered Use”) – Any Use of land, a Building or a Structure (including Signs) lawfully existing at the time of the adoption of this Ordinance or at the time this Ordinance is subsequently amended, which Use may be continued without prohibition by this Ordinance as long as such Use is maintained, subject to the provisions of this Ordinance.

LOT – A piece or parcel of land occupied or intended to be occupied by a principal Use and/or Structure, and its Accessory Structures and Uses, including all Open Spaces required by this Ordinance; a designated parcel, tract or area of land established or to be established by plat or subdivision or previously established as a recorded Lot.

LOT, CORNER – A Lot at the junction of and abutting on two (2) or more intersecting Streets or private roads or at the point of abrupt change of a single Street or private road, where the interior angle is less than one hundred and thirty-five degrees (135°) and the radius of the Street or private road line is less than one hundred feet (100’0”).

LOT COVERAGE – The percentage of a Lot’s area occupied by the ground area or footprints of all portions of principal Buildings and Structures, Accessory Structures, and impermeable surfaces on such Lot, including, but not limited to, Buildings, Residential or Service Garages, decks, sheds, carports, patios, porches, chimneys, paved Driveways, parking lots, etc.

LOT WIDTH – The horizontal distance between the side Lot lines measured at the mid-point of the side Lot lines, or the length of the Frontage between said Lot lines, whichever is greater.

MANSARD – A steeply pitched roof, pitched at such an angle as to resemble a building wall.

MARQUEE – Any permanent roof-like Structure projecting beyond a Building or extended along and projecting beyond the wall of the Building, generally designed and constructed to provide protection from the weather.

MAXIMUM DENSITY – Shall mean the maximum number of Dwelling Units per acre.

MOBILE HOME – A portable structure manufactured in one complete section, having either a foundation of wheels and/or jacks, or piers with appropriate skirting and anchored, or to be anchored, in accordance with local building codes, and
designed for long-term occupancy, containing sleeping accommodations, a flush toilet, a bathtub or shower, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems. A Mobile Home is designed to be transported after fabrication on its own wheels, or on flatbed or other Trailer, to arrive at the site where it is to be occupied as a home ready for occupancy except for minor and incidental unpacking and assembly operations. For purposes of this Ordinance, Mobile Homes shall be located only in approved Mobile Home Parks. Sectional, double-wide, and Modular Units, as well as Travel Trailers shall not be considered Mobile Homes.

MOBILE HOME PARK – A Lot or tract of land used or intended to accommodate Mobile Homes for residential purposes with adequate public or community water and sewerage service meeting Health Department standards. A Mobile Home Park does not include Mobile Home sales lots, on which unoccupied Mobile Homes are parked for inspection or sale, and does not include parks for the temporary parking for camping or recreational purposes of Travel Trailers or Motor Homes or sales lots for the same. See the Charles Town Subdivision and Land Development Ordinance for additional information and requirements regarding Mobile Home Parks.

MODULAR UNIT – A factory-fabricated transportable Building unit designed to be used by itself as, or to be incorporated with similar units at a building site into, a modular Structure for residential, Commercial, educational, or industrial Uses. For the purpose of defining a Modular Unit in association to the Zoning Ordinance, and other associated Ordinances, a Modular Unit shall utilize a permanent foundation, without the use of piers (with or without skirting). Recreation Vehicles, Mobile Homes and travel Trailers are not considered Modular Units.

MOTOR HOME – A Vehicle designed to provide temporary living quarters and built into an integral part of or permanently attached to a self-propelled motor Vehicle, chassis or van including: (1) Type A motor home built on an incomplete truck chassis with the truck cab constructed by the second stage manufacturer; (2) Type B motor home consisting of a van-type vehicle which has been altered to provide temporary living quarters; and (3) Type C motor home built on an incomplete van or truck chassis with a cab constructed by the chassis manufacturer.

NET BUILDABLE LAND AREA – When determining the allowed density for any given Lot in the City, the Net Buildable Land Area of the Site is used. Net Buildable Land Area, for the purpose of determining the allowed Dwelling Units for a Site, shall be calculated by subtracting areas where building is prohibited or subject to significant restrictions from the gross Lot area. The area remaining after these exclusions from the gross Lot area represents the Net Buildable Land Area. The following shall be deducted from the gross Lot area to determine Net Buildable Land Area:

1. Sensitive areas including: Type I, II, III and IV wetlands, Riparian Buffers, floodplain area, and Sinkholes;

2. Public right-of-ways and public easements, and private Streets and access corridors; and

3. Areas dedicated to stormwater management.

NON-COMMERCIAL VEHICLE – Any motor Vehicle other than a Motor Home or Commercial Vehicle.

NON-CONFORMING USE – A use that was valid when brought into existence but, by subsequent regulation or ordinance, which has been lawfully continued and which does not now conform with the use regulation or ordinance. "Nonconforming use" is a generic term and includes (1) nonconforming structures (by virtue of size, type of construction, location on land, or proximity to other structures), (2) nonconforming use of a conforming building, (3) nonconforming use of a nonconforming building, and (4) nonconforming use of land. Thus, any use lawfully existing on any piece of property that is inconsistent with a new or amended regulation or ordinance, and that in turn is a violation of the amendment subsequently adopted, will be a nonconforming use.

NUISANCE – A thing, act, occupation, condition or use of property which shall continue for such length of time as to:

1. Substantially annoy, injure or endanger the comfort, health, repose, or safety of the public; or

2. In any way render the public insecure in life or in the use of the property; or

3. Greatly offend the public morals or decency; or

4. Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

NURSING HOME – This item includes rest homes, nursing homes, convalescent homes for children and homes providing chronic and convalescent care; a place that has obtained the necessary licensing requirements in West Virginia which is devoted primarily to the maintenance and operation of facilities for the treatment and care of four (4) or more persons suffering from illness, diseases, deformities or injuries not requiring extensive and/or intensive care that is normally provided in a general Hospital or other specialized Hospital.

OPEN SPACE – One or more areas of land and/or bodies of water within a development intended for the use and enjoyment of the residents living within the development. No more than 50% of the required Open Space may be a water body or impervious area. Open Space is calculated as a percentage of the total usable area of land in the development, with the following items excluded in such calculation from both Open Space and the total usable land: Buffer Areas, Streets, Sidewalks, off-Street parking areas, areas dedicated for public use, traditional stormwater management areas, such as stormwater ponds (but stormwater management areas of low impact design, such as bioretention basins (rain gardens) shall be included), and other areas not practically usable by residents.
OWNER – The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other Person in control of a property.

PARK (PARKLAND) – A land area composed of open area that is used, or intended to be used, as Active and/or Passive Recreation.

PASSIVE RECREATION – Recreation open area which is generally left in its natural state for the enjoyment of outdoor recreation, or open area which is landscaped as gardens, sitting-out areas, waterfront promenades, paved areas for informal games, walking bridges, walking tunnels, hiking trails, jogging/fitness trails, bird watching facilities, fenced in areas for pets, public art, and public horticulture and agriculture areas.

PERMITTED USE – Means any Use allowed by right within a Zoning District, subject to the restrictions applicable to that Zoning District, and that is not a Special Exception Use.

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, any interstate body or any other legal entity.

PLANNING COMMISSION – The City of Charles Town Planning Commission.

PUBLIC SPACE – A public gathering spot or part of a neighborhood or downtown or other area within the public realm that helps promote social interaction and a sense of community. Possible examples may include such spaces as plazas, town squares, parks, marketplaces, public commons and malls, public greens, piers, special areas within convention centers or grounds, sites within public buildings, lobbies, concourses, or public spaces within private buildings.

RECREATIONAL VEHICLE – A Vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent Dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REDEVELOPMENT – The process of developing land that is or has been previously developed.

RELIGIOUS INSTITUTION – A facility used primarily for religious assembly or worship and related religious activities.

RESEARCH AND DEVELOPMENT CENTER – A Building or Buildings, for which an overall Schematic Plan has been approved by the Planning Commission, designed with Open Space and compatible with the adjacent community, to be used for the inquiry and investigation of sources and limited to the basic and applied research phase of the inquiry; not including however, any manufacturing, industrial operations or pilot plant involving machines or operations normally associated with...
production or assembly lines or the production of goods in quantity above that needed for product testing and evaluation.

RESTAURANT – An establishment where food and drink is prepared, served, and consumed primarily within the principal Building.

RESTAURANT, FAST-FOOD – An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the Restaurant Building or off premises.

RIPARIAN BUFFER – Vegetated areas next to water resources that protect water resources from nonpoint source pollution and provide bank Stabilization and aquatic and wildlife habitat.

SALVAGE – Old or scrap copper, brass, rope, rags, batteries, paper, rubber, trash, waste, junked, dismantled or wrecked machinery, machines or motor Vehicles, or any parts of junked, dismantled or wrecked machinery, machines or motor Vehicles, iron, steel, and other ferrous or nonferrous materials.

SALVAGE YARD – Any place which is maintained, operated or used for the storing, keeping, buying, selling or processing of Salvage, or for the operation and maintenance of a motor Vehicle graveyard. Any collection of three or more automobile hulks, or combination of ferrous or nonferrous materials together with one or more automobile hulks, or a collection of any Salvage contained in an area more than one-quarter acre in size, shall be considered a Salvage Yard.

SEMI-NUDE – A state of dress in which clothing covers no more than the genital, pubic region, and areola of the female breast, as well as the portion of the body covered by supporting straps or devices.

SETBACK – The minimum horizontal distance required between the Building Restriction Line as defined herein and the related front, side or rear property line, unless otherwise allowed by this 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.

SIDEWALK – A paved walkway for pedestrian access which is located on the side of a Street.

SIGN – A name, identification, description, display, illustration or device which is affixed or represented directly or indirectly upon a Building, Structure or land and which functions as an Accessory Use by directing attention to a product, place, activity, Person, institution, or business. The following terms and definitions are associated with the Sign regulations contained in this Ordinance.

1. **A-Frame Sign** – A Portable Sign comprised of two separate Panels or faces joined at the top and spread apart at the bottom to form the base on which the Sign stands.
2. Animation – The movement, or the optical illusion of movement of any part of the Sign structure, design or pictorial segment including the movement of any illumination or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a Sign shall be considered to be Animation. Also included in this definition are Signs having “chasing action” which is the action of a row of lights commonly used to create the appearance of motion.

3. Balloon – A nonporous bag of material filled with heated or non-heated air or gas so as to rise or float in the atmosphere.

4. Banner – A Sign or outside advertising display having the character, letters, illustrations, ornaments, symbol, color or visual representation applied to cloth, paper, vinyl, fabric, plastic, or like kind of malleable material with or without frame. National, state or municipal Flags, or the official Flag of any institution or business, shall not be considered Banners.

5. Business or Building Identification Sign – A pedestrian oriented Sign attached to a Building, which bears only the name, number(s) and/or logo of the Building and/or the tenant.

6. Canopy – A protective cover over a door, entrance, window, or outdoor service area which is attached to or cantilevered from a Building; also known as an awning. Permanent Marquees and porticoes which are designed as a continuous or integral part of the Structure shall not be considered Canopies.

7. Canopy/Awning Sign – A Sign that is suspended from, attached to, supported from, applied to, or constructed as part of a Canopy.

8. Changeable Copy Sign – A Sign on which message copy is changed manually in the field through attachment of letters, numbers, symbols and other similar characters of changeable pictorial Panels; also known as a reader-board Sign.

9. Combined Development – Two or more establishments or businesses occupying a common Building or adjoining Buildings which are designed and developed in a coordinated manner and which share parking, Driveways and other common facilities.

10. Commercial Message – Any Sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

11. Electronic Message Board – A Sign which displays messages, such as time and temperature, in alternating light cycles.

12. Entrance Sign – An Entrance Sign is a type of Ground Mounted Sign placed at the point of entry to a residential development or to a Street providing
13. Facsimile Sign – An oversized, three-dimensional object, such as a chicken bucket, automobile (or automobile part), or human figure, which may or may not contain advertising matter, and may or may not contain information about products sold on the premises, and is located in such a manner as to attract attention.

14. Festoon Lighting – A string of outdoor lights suspended between two or more points.

15. Ground-Mounted Sign – A free-standing Sign with its base or its supports mounted directly to the ground. For the purposes of this Ordinance, a Ground-Mounted Sign shall be defined as one of the following: (1) two Sign faces that are located back-to-back on a single structure, or (2) as an option only for entrances to subdivisions (residential and non-residential), two separate single-faced Signs.

16. Indirect Illumination – Illumination which reflects light from an artificial light source intentionally directed upon a surface. This shall also include silhouettes of letters or symbols placed before a background of reflected light.

17. Inflatable Signs – A three-dimensional object, filled with air or gas, and located in such a manner as to attract attention.

18. Monument Sign – A Ground-Mounted Sign that is mounted generally flush with the surrounding grade. It may not be attached to a Pole or Pylon, nor raised by mounting on a man-made berm, wall, or similar structure.

19. Off-Premise Sign – A Sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said Sign is located. However, Outdoor Advertising or "Billboard" Signs shall not be considered to be Off-Premise Signs.

20. On-Premise Sign – A Sign or display that identifies or communicates a message related to the activity conducted, the service offered, or the commodity sold on the premises where the Sign is located.

21. Outdoor Advertising (Billboard) Signs – A permanently installed Sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said Sign is located.
22. Panel – The primary surface of a Sign that carries the identifying/advertising message.

23. Pennant – Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

24. Political Sign – A Sign advertising a candidate or issue to be voted upon on a specific election day, which is attached to the ground by a stake or stakes. Political Sign does not include any other Sign defined as a Portable Sign.

25. Portable Sign – Any Sign designed or intended to be readily relocated whether or not it is permanently attached to a Building, Structure or on the ground. Portable Signs also include Signs on wheels or on portable Structures such as Trailers, tent Signs, A-Frame or T-Shaped Signs and normal advertising placed on motor Vehicles which are not used regularly and are placed in such a manner as to attract attention.

26. Projecting Sign – A Sign which projects from a Structure into a vehicular or pedestrian access way, more than one foot from the surface on which it is mounted, and is mounted usually, but not always, at right angles to the Building.

27. Pylon (or Pole) Sign – A Ground-Mounted Sign attached to one or more posts, whose base is greater than 24 inches above grade.

28. Roof Sign – Any Sign erected, constructed, and/or painted wholly or partially on or above the roof of a Building. Signs which are mounted flush against a parapet roof and do not extend above the roofline are permitted in accordance with the regulations for Wall Signs.

29. Spinner – A wind activated, propeller-type device, which may or may not be attached to advertising copy.

30. Streamer – A string or strip of miniature or full size Pennants or flags which may or may not be suspended between two points.

31. Suspended Sign – A Sign which is suspended from a Structure above into a vehicular or pedestrian access way, more than one foot from the surface on which it is mounted, and is mounted usually, but not always, at right angles to the Building.

32. T-Shaped Sign – A Portable Sign comprised of one or more Panels or faces joined at the bottom to a perpendicular base on which the Sign stands.

33. Temporary Sign – A Sign advertising a special event and not intended to be displayed on a permanent basis.

34. Valance – A short apron which is designed and installed as part of a Canopy and is usually, but not necessarily vertical.
35. Wall Sign – A Sign affixed on and parallel to the exterior wall of any Building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as Wall Signs.

36. Window Sign – A Sign which is applied to the Building glass area located such that the identifying/advertising message, symbol, insignia, visual representation, logotype or any other form which communicates information can be read from off-premise.

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.

SITE – The parcel of land developed or being developed, or a designated portion thereof.

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.

SOLAR ENERGY, ACTIVE – The practice of using mechanical devices (e.g., solar panel system) to capture or deflect the sun’s energy. Active solar heating relies strongly on three components: a solar collector to absorb the solar energy, a solar storage system, and a heat transfer system to disperse the heat to the appropriate places in your home. Active heating systems can be divided into two categories: air systems and liquid systems.

SOLAR ENERGY, PASSIVE – The practice of non-mechanical devices (e.g., windows, walls, trees, Building placement and other simple techniques) to capture or deflect the sun’s energy.

SPECIAL EXCEPTION USE – A Use conditionally permitted in a particular Zoning District under this Ordinance that may be undertaken only following the issuance of a Special Use Permit by the Board of Zoning Appeals pursuant to standards and criteria established in this Ordinance.

SPECIFIED ANATOMICAL AREAS – Human genitals, public region, buttock or female breast below a point immediately above the top of the areola, when any of the foregoing are less than completely and opaquely covered; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES – Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, public region, buttock or female breast.

STABILIZATION – The use of practices that prevent exposed soil from eroding.
STREAM – As defined in WV State Code Chapter 7-1-3U, any Watercourse, whether natural or man-made, distinguishable by banks and a bed, regardless of their size, through which water flows continually or intermittently, regardless of its volume.

STREAM CHANNEL – A natural or artificial Watercourse with a definite bed and banks that conducts continuously or periodically flowing water, and shall include wet weather stream channels.

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. This definition shall not include Driveways.

STREET LINE – A line defining the edge of a Street right-of-way and separating the Street from abutting property or Lots (same as Lot line or right-of-way line). If, on the Comprehensive Plan of streets and highways duly adopted by the County, a Street is scheduled for future widening, the proposed right-of-way line shown on the Comprehensive Plan shall be the Street Line.

STRUCTURE – Anything constructed, the use of which requires fixed location on the ground or attached to something having such location, but not including fences, power, gas, water, sewage or communication lines or poles, towers or pole structures, Sidewalks, Driveways or curbs.


SWIMMING POOL – Any Structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground, and on-ground Swimming Pools, hot tubs, and spas.

TAVERN – See BAR AND TAVERN above.

TEMPORARY USE – Any Use authorized under and in accordance with the provision of this Ordinance which is not unlimited as to the time in which such Use may legally continue.

THEATER – A Building or part of a Building devoted to showing motion pictures, or for dramatic, musical, or live performances.

TOP OF BANK – The lines depicted on the Flood Insurance Rate Maps delineating each side of a Stream indicate the Top of Bank. In the field, a professional familiar with fluvial geomorphology should document the Top of Bank. When a professional is not employed the Top of Bank will be considered to be the top of the first significant slope landward of the waters edge when it is followed by at least 50 feet of relatively flat land.

TOP OF SLOPE – A break in slopes adjacent to steep-banked Streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised or deeply cut channel meet floodplains that have been abandoned or are undergoing abandonment.
TRADITIONAL NEIGHBORHOOD DEVELOPMENT – An area of land developed for a compatible mixture of residential units for various income levels and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings, and parks are interwoven within the neighborhood so that all are within relatively close proximity to each other. Traditional Neighborhood Development is relatively compact, limited in size and oriented toward pedestrian activity. It has an identifiable center and a discernible edge. The center of the neighborhood is in the form of a public park, commons, plaza, square or prominent intersection of two or more major streets. Generally, there is a hierarchy of streets laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provides multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally.

TRAILER – A Vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor Vehicle.

TRASH DUMPSTER – Any temporary ground stored receptacle for refuse, garbage, waste, etc.

UNLICENSED VEHICLE – A Vehicle without lawfully displayed, current, and valid license plates registered and issued to that Vehicle by the West Virginia Division of Motor Vehicles or the appropriate agency of another State.

UNNECESSARY HARDSHIP – A deprivation of the economic use and benefit of property resulting under the Charles Town Zoning Ordinance due to unique characteristics of the property that were not created by the applicant for a Variance. An Unnecessary Hardship may justify the granting of a Variance if the Board of Zoning Appeals makes the findings specified in Section 1321.11(D)(3). The burden of proving an Unnecessary Hardship rests upon the applicant for the Variance.

USE – Any purpose for which a Building or Structure, including Signs, or a tract of land may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation carried on, or intended to be carried on, in a Building or other Structure or on a tract of land. The term Permitted Use or its equivalent shall not be deemed to include any Legally Nonconforming Use.

VARIANCE – A relaxation of the terms of the Zoning Ordinance where the Board of Zoning Appeals makes the findings specified in Section 1321.11(D)(3); a deviation from the minimum standards of the Zoning Ordinance and shall not involve permitting land Uses that are otherwise prohibited in the Zoning District nor shall it involve changing the Zoning District classification of a parcel of land. W.Va. Code Chapter 8A-7-11.

VEHICLE – A Recreational Vehicle, Commercial Vehicle, Non-Commercial Vehicle or a Trailer.

VETERINARY OFFICES, CLINICS, AND LABORATORIES – An establishment for the medical or custodial care of animals. Boarding of animals is limited to short term stays associated with medical care provided.
WATERCOURSE – A permanent or intermittent Stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERSHED – A defined land area drained by a river, Stream, drainage ways or system of connecting rivers, Streams, or drainage ways such that all surface water within the area flows through a single outlet.

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

YARD – An open unoccupied space on the same Lot with a main Building or Structure.

YARD, FRONT – A Yard situated between a Street Line and a line running with the Farthest Facing Wall or Walls of the main Building or Structure on the same Lot, with said line projected to the boundaries of the Lot.

YARD, REAR – A Yard situated between the rear line of a Lot and a line running with the Farthest Facing Wall or Walls of the main Building or Structure on the same Lot, with said line projected to the boundaries of the Lot. All Lots shall have a designated Rear Yard.

YARD, REQUIRED – A Yard between each Lot line or Street Line, as the case may be, and its respective Building Restriction Line, the depth of which is equal to the required Setback.

YARD, SIDE – A Yard situated between a side line of a Lot and a line running with the Farthest Facing Wall or Walls of the main Building or Structure on the same Lot, with said line projected to the boundaries of the Lot. Any Lot line not a rear line or a front line shall be deemed a side line.

ZONING DISTRICT – A portion of territory designated on the official Zoning Map within which certain uniform regulations and requirements of various combinations thereof apply under provisions of this Ordinance.

ZONING MAP – The official zoning map of the City adopted, and incorporated in its entirety, as part of this Ordinance pursuant to Section 1322.02, as it may be amended from time to time in accordance with this Ordinance, upon which the various Zoning Districts are designated.

ZONING PERMIT – A written statement or other signed document issued by the Zoning Administrator, which authorizes Buildings, Structures, or Use in accordance with the provisions of this Ordinance.
City of Charles Town, West Virginia

Subdivision and Land Development

Guarantee of Public Improvements
All required bonding shall be provided by the owner/developer, approved by staff, and in place prior to the recordation of the subdivision final plat, and/or Erosion and Sediment Plans or the issuance of a permit for a land development project, in accordance with this policy.

I. REQUIREMENT FOR PERFORMANCE BONDS

Performance bonds shall be required for public and other physical improvements to be constructed under an approved Final Subdivision and Land Development (S/LD) Application and/or Erosion and Sediment Plans. 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 ensure stability of critical slopes, for necessary utilities, and for stormwater management facilities. A Landscaping 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, whichever is greater.

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.

II. BONDING ARRANGEMENTS

A. Bonding arrangements cannot be made prior to the Planning Council’s Commission’s approval of a project.

B. The owner/developer’s engineer of record shall provide a complete and accurate bond estimate in a format acceptable to the Chief City Engineer, or designee (Exhibit A). The bond estimate shall be based on the estimated costs of the site improvements utilizing current market rates.
SITE IMPROVEMENTS, BONDING, AND BOND SURETY POLICY

However, in no event shall the estimated cost be less than the unit costs provided by the City of Charles Town Engineering Department of Community Development. The unit costs are subject to change from time to time, as deemed necessary by the Chief City Engineer, or designee.

C. A Bond Committee that consists of the City Manager, City Accounting Manager, and the Subdivision Administrator shall review and recommend to City Council for approval or disapproval, and monitoring, bonds for construction of Improvements. The Bond Committee shall have the authority to establish/update standard bond and agreement forms, and review new bonds, bond extensions, bond substitutions, bond reductions/releases, and action resulting from defaults. The Bond Committee shall send recommendations to City Council for final action.

D. A 10% contingency amount shall be added to the bond estimate.

III. LENGTH OF CONSTRUCTION BONDS

The initial bond shall be effective for a two-year period, 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 time frame, City Council may require adjustment of the bond amount, after consideration and review by the Bond Committee, as a condition to the extension of the Performance Agreement.

IV. APPROVED 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 a satisfactory performance guarantee will be assessed by City Council in accordance with criteria reported in the most recent edition of 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:
   a. With a rating of Level A or better; and
   b. In a financial size category of Class VIII, or higher, unless otherwise agreed by the Planning Commission, and such bonds shall be in the amounts not exceeding the following:
      i. Those limitations identified in the Treasury Circular; or
      ii. One and one-half percent (1.5%) of the minimum Adjusted Policyholders’ Surplus for the financial size category as listed in Best’s.
      iii. 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. IRREVOCABLE LETTER-OF-CREDIT. (See Appendix B.) A letter of credit meeting the following minimum conditions will be accepted:
   a. 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
SITE IMPROVEMENTS, BONDING, AND BOND SURETY POLICY

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.

b. 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.

c. 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 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.

d. All extensions of time of the Performance Agreement completion date will be granted only upon corresponding extension of the letter of credit expiration date.

e. Any new letter of credit or letter of credit amendment is subject to all the minimum requirements outlined in this Section (5); or

C. CASH-IN-ESCROW. (See Appendix B.)

a. 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.

b. 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.

Due to the varying ease or difficulty of collection and reliability of the various types of security, the City deems certain types of 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.

V. **Bond Estimate**

The bond estimate shall be based on the estimated cost of construction of all items to be constructed under the Final S/LD Application and/or Erosion and Sediment Plans (labor and materials), plus ten (10) percent contingency factor to cover administrative and engineering costs in the event of default and potential damage to existing Roads and 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.

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. (See Exhibit A).

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.

VI. **Bond Procedures and Requirements**

**Performance Agreement.** 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 requirement Improvements pursuant to approved Final D/LD Application and/or Erosion and Sediment Plans in a timely manner. Such agreement shall specify the manner and date by which the required Improvements shall be completed. An agreement format will be provided by the Subdivision Administrator to all Developers requesting same for use in preparation of the Performance Agreement.

If the owner/Developer acts, or fails to act, in a manner which would constitute a breach of Performance Agreement, or all the noted Improvements are not completed within the specified time period and no extension has been obtained or replacement agreement and bond submitted and approved with a new expiration date, the Performance Agreement shall be in default.

**Extensions and Rebonding Agreements.** It shall be the sole responsibility of the owner/Developer to keep the Performance Agreement current. 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
SITE IMPROVEMENTS, BONDING, AND BOND SURETY POLICY
and bond extension have been submitted in approved form by the agreement expiration date, the
Performance Agreement shall be in default.

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.

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.

**BOND EXTENSION SUBMISSION REQUIREMENTS.** The bond extension request shall not be processed unless
the following items have been submitted as one complete package.

1. Payment of the City’s standard fee, which fee entitles the owner/Developer to one submission of
   the extension documents and, if needed, one correction. If two or more correction reviews are
   needed, a new fee equal to the original fee must be remitted.
2. Letter of request with justification from the Developer.
3. 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.
4. Extension agreement and consent to extension must be prepared on forms furnished by the
   Subdivision Administrator.
5. 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
SITE IMPROVEMENTS, BONDING, AND BOND SURETY POLICY

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.

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

The Planning Commission may approve recommend 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. 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. 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.

VII. BOND REDUCTIONS

No bond shall be reduced until completion of at least thirty (30) percent of the physical improvements secured by such bond. 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. No bond shall be reduced to an amount less than ten (10) percent of the original bond estimate.

Completion shall mean construction of any identifiable section of a specified Improvement or facility in accordance with the approved Erosion and Sediment Plans and/or Final S/LD Application, construction plans, profiles and specifications. 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.
SITE IMPROVEMENTS, BONDING, AND BOND SURETY POLICY

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.

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 equal to the annual percentage change in the Construction Index Code, as published weekly in the Engineering News Record.

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.

No bond shall be reduced for a Performance Agreement that is in default.

BOND REDUCTION PROCEDURES. A request for 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

1. 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.
2. 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 (Exhibit A)
3. 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.
4. The applicable processing fee; and
5. Inspection reports required by Subdivision and Land Development Ordinance

The Planning Commission may approve a Bond Reduction upon a determination of completion of subject Improvements; provided that City Council shall determine the amount and sufficiency of the remaining surety. After a Bond Reduction is approved, an amendment to the surety instrument shall be submitted to reflect the reduced amount.

**BOND RELEASE PROCEDURES.** 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 by certified mail. Such notice shall include:

1. A written request for final release from the bond and Performance Agreement, signed and acknowledged by the applicant/Developer who executed the Performance Agreement
2. Copies of inspection and test reports if work was inspected and tested by a third-part inspector
3. Certification that all bonded Improvements, other than Improvements accepted by West Virginia Department of Highways, have been completed in accordance with the approved plans, profiles, and specifications and the requirements of any applicable manual. For Improvements to be accepted for maintenance by 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.
4. The applicable processing fee(s)
5. A copy of the City-approved As-Built Drawings as required for facilities within public rights-of-way or Easements submitted pursuant to Section 1332.09 of this Ordinance.
6. A letter from a Professional Engineer or Professional Land Surveyor certifying that property corners and Monuments have been set as required under this Ordinance
7. 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.
8. 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.
9. No bond shall be released for a Performance Agreement that is in default.

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.
VIII. **DEFAULT BY THE OWNER/DEVELOPER:**

It shall be the sole responsibility of the owner/Developer to keep the Performance Agreement current and remain in full compliance with its terms. 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.

The Owner/Developer, or their agent, acknowledges receipt of the City of Charles Town Site Improvements Bonding and Bond Surety Policy.

(Owner/Developer/Agent)

________________________________________
(print name)

________________________________________
(title)

________________________________________
(company/organization name)

________________________________________
(mailing address)

________________________________________
(city) (state) (zip code)

Signature: _________________________________

Date: _______________
Changes to the Guarantee of Improvements (commonly known as bonding)

In addition to what has been noted in the Guarantee of Improvements, there are additional changes. These changes are policy neutral. The changes are related to the fact that the consultant who develop this manual was from Pennsylvania and the particular word choices are specific to that state’s governing style. Staff recommends the City Council also make the following changes to the Guarantee of Improvements:

- Remove the following word
  - “Township”
- Change
  - “Commonwealth” to “State” in all locations