

# **MONONGALIA COUNTY SUBDIVISION REGULATIONS**

## **MONONGALIA COUNTY PLANNING COMMISSION**

243 High Street, Rm 026, Morgantown, WV 26505

Phone 304.291.9570

Fax 304.291.9573

[www.monongaliacounty.gov](http://www.monongaliacounty.gov)

Adopted:      INSERT ADOPTED DATE HERE

Amended:     N/A

# MONONGALIA COUNTY SUBDIVISION ORDINANCE

## Table of Contents:

Article 1	Title, Authority and Purpose Policy Severability	Rules of Interpretation	Pg	1
Article 2	General Provisions Vested Property Rights Fire Protection Utilities Enforcement	Deadlines Special Flood Hazard Areas Alternative Compliance	Pg	6
Article 3	Subdivision and Building Classifications Categories of Subdivision Type Building Type Standards (i.e. lot size or setbacks)		Pg	13
Article 4	Exempt Subdivisions Family Cemetery Resource Extraction Utility/Emergency Services	Minor Boundary Adjustment Agricultural Merger Transition Period Exemption	Pg	28
Article 5	Minor Subdivisions Five Lots or Less with Parent Tract		Pg	35
Article 6	Major Subdivisions Six Lots or More with Parent Tract		Pg	40
Article 7	Notice of Improvements and Surety NIF 1 – Site Work NIF 2 – Site Work and Infrastructure NIF 3 – Small-Scale Construction NIF 4 – Large-Scale Construction		Pg	65
Article 8	Changes, Amendments, and Appeals (Subdivision Review Board)		Pg	74
Article 9	General Standards for Roads		Pg	89
Article 10	Earthwork Hillside Development	Natural Areas	Pg	96
Article 11	Sanitary Sewage and Potable Water		Pg	99
Article 12	Storm Water Management and Drainage Design		Pg	101

APPENDIX A Definitions

APPENDIX B Parking Standards

## Article 1. Title, Authority and Purpose

### Section 1.1 Title and General Interpretation

Commonly referred to as "Subdivision Regulations," this Ordinance's official title is the Monongalia County Subdivision and Land Development Ordinance.

### Section 1.2 Authority

This Ordinance was adopted in accordance with and under the authority of Articles 4, 5 and 6 of Chapter 8A of the West Virginia Code. Regulation of the subdivision of land the attachment of reasonable conditions to land subdivisions is a valid exercise of the police power delegated by the State of West Virginia to this County. The developer has the duty of compliance with reasonable conditions established by this Ordinance for the design, dedication, improvement, and use of land to promote appropriate physical and economic development of the County and to benefit the health, safety, and general welfare of future lot owners in the subdivision and the community at large.

The Planning Commission is vested with the authority to review, approve, conditionally approve and deny applications for the subdivision of land, including preliminary and final land use plans and plats. The Planning Commission may approve alternative compliance with the minimum standards of the Subdivision Regulations under the provisions of Section 2.2. All decisions by the Planning Commission or the Planning Director under the Subdivision Regulations must be made based on information that is substantive, objective, and relevant to the findings required by the Ordinance.

During the review process, the public through comment may seek to limit a subdivision in a way that is more restrictive than the Subdivision Ordinance or may seek its denial based on concerns that are outside the scope of the Subdivision Ordinance. The applicant may make voluntary proffers to address such concerns, and the Planning Commission may consider and either accept or reject such proffers in accordance with W. Va. Code §8A-6-2; the Planning Commission may neither suggest nor mandate conditions to address such concerns and may not use them as conditions unless the applicant makes a voluntary proffer to the Commission.

### Section 1.3 Policy

It is the declared public policy of Monongalia County that:

- A. The subdivision of land and subsequent development is subject to regulation by the County under the Comprehensive Plan of Monongalia County for the orderly, planned, efficient, and economical development of the County;
- B. Land to be developed shall be of such character that it can be used safely for intended purposes without danger to health or peril from fire, flood, or other menace, and land shall not be developed until adequate public facilities and improvements exist and proper provision has been made for drainage, water, sewage, and capital improvements such as schools, parks, recreation facilities and transportation facilities;

- C. The Subdivision Regulations shall complement and facilitate the enforcement of the provisions and standards contained in any applicable building and housing code, zoning ordinance, floodplain ordinance, or comprehensive plan of the County, and any applicable law or regulation of the State of West Virginia.

#### Section 1.4 Purpose

This Ordinance was adopted to provide the following public benefits:

- A. To protect and provide for the public health, safety, and general welfare of the residents of Monongalia County;
- B. To provide for adequate light, air, and privacy, to secure safety from fire, flood, erosion and other dangers, and to prevent overcrowding of the land and undue congestion of the population;
- C. To assist in the orderly and efficient subdivision and development of land;
- D. To protect and conserve the value of land throughout the County and the value of buildings and improvements upon the land, and to minimize conflicts among the uses of land and buildings;
- E. To guide public and private policy and action to coordinate future growth and development in order to provide adequate and efficient transportation, water, sewerage, schools, areas for recreation, and other public requirements, facilities, and utilities;
- F. To ensure that roads are safe and adequate for the type of land development and that adequate public or private provision has been made for their maintenance;
- G. To establish reasonable standards of design and procedures for subdivision and re-subdivision in order to further the orderly layout and use of land, and to ensure proper legal descriptions and survey pinning of subdivided land;
- H. To ensure that public facilities and services are available concurrent with land development and will have sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing facilities and services through requiring the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development;
- I. To curtail the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the County to preserve the integrity, stability, and beauty of the community and the value of the land;
- J. To preserve the natural beauty and topography of the County and to ensure appropriate development with regard to these natural features;

- K. To protect prospective purchasers of land in subdivisions.
- L. To remedy the problems sometimes associated with improperly subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, and scattered or low-grade subdivision.

### Section 1.5 Rules of Interpretation

The following rules of interpretation apply to the Subdivision Regulations.

- A. **Defined Terms.** Acronyms and terms used with initial capital letters (other than in headings) are defined in Appendix A.
- B. **How to Compute Periods Measured in Months.** If a period of time is measured in months, the period begins and ends on the same day of a month; however, if there are not enough days in the final month for this to be possible (for example, the period begins on the 31<sup>st</sup> of a month and ends one month later, but the following month has only 30 days), the period ends on the final day of the final month.
- C. **How to Compute Periods Measured in Days.** If this Chapter requires or allows a person to perform an act within a specific time period measured in days, the person must compute the deadline in the following manner:
  - 1. If the period follows an event, count the day after the event as the first day of the period.
  - 2. Count the remaining number of days in the period; however, if the period is seven (7) days or fewer, count only business days.
  - 3. Do not count the last day if it is not a business day for the office where the person must file a document or perform an act.
- D. **Requirements to Act by a Specific Date.**
  - 1. If the law requires or allows a person to perform an act by a specific date, but the specific date is not a business day, the person may perform the act by the next business day following the specific date.
  - 2. If the law requires a notice to be given a number of days in advance of an event or deadline, then the notice must be effected and made in accordance with the specified method of notice no later than that number of days ending on the day before the event or deadline.
  - 3. If any action is required to be taken within a specific period of time then the period of time begins on the day after the date of a final agency action.
  - 4. If an aggrieved person appeals from any decision or ruling of the Planning Commission to the Board of Subdivision and Land Development Appeals, then the appeal must be made within 30 days after the date of the decision.

5. If an aggrieved person seeks review by certiorari of any decision or ruling of the Board of Subdivision and Land Development Appeals to the Circuit Court, then the verified petition for writ of certiorari must be presented to the Circuit Court within 30 days after a decision or order by the Board of Subdivision and Land Development Appeals.
- E. Signatures. The signature of a person may be the actual signature of the person or a mark that the person has authorized.
- F. Singular and Plural. The singular includes the plural and the plural includes the singular.
- G. Tense. The present tense includes the future tense.
- H. Use of "Or." "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- I. Use of "Includes." "Includes" does not limit a term to the specified examples.
- J. Title of Articles, Divisions, and Sections. Titles and captions are not part of the law. They only advise the reader of the content of each Article or Section.
- K. Illustrations and Examples. This Ordinance contains illustrations and examples to assist the reader in understanding and applying the Ordinance. To the extent that there is any inconsistency between the text of this Ordinance and any such illustration or example, the text controls unless otherwise provided in the specific section. All illustrations are illustrative and non-binding unless otherwise stated as to a specific illustration.
- L. Use of "Article." Article means a numbered article in the Subdivision Regulations.
- M. Use of "Section." In this Ordinance, "Section" means section or subsection, as the context indicates.
- N. Use of "Ordinance" and "Subdivision Regulations." The terms "this Ordinance" and "the Subdivision Regulations" both refer to the Monongalia County Subdivision and Land Development Ordinance.
- O. Authority of Planning Commission and Planning Director. Unless specified to the contrary, references to obligations to the Planning Commission (such as submissions by applicants) and responsibilities of the Planning Commission (such as the duty to make certain determinations) shall be read as references to the Planning Director in the context of a Minor Subdivision or Exempt Subdivision, where this Ordinance delegates decision-making authority to the Planning Director.
- P. Reliance on Outside Source of Regulation. Where the Subdivision Regulations refer to an outside source such as a state or local regulation, or a guideline or set of standards, an applicant may rely on either the edition of such source in effect

at the time the subdivision application is filed, or the edition in effect at the time the subdivision is approved.

- Q. The Specific Governs the General.** The interpretation and application of the provisions of this Ordinance, the provisions of this Ordinance shall be deemed to be the minimum requirements necessary for the promotion and protection of public health, safety and welfare, except that in the event of a conflict between a provision of this Ordinance and any applicable zoning regulation, the applicable zoning regulation controls. Where the provisions of this Ordinance and its implementing standards and specifications impose greater restrictions on land development or subdivision than those of a state statute or regulation, another Monongalia County ordinance or regulation other than a zoning regulation, or any applicable land development agreement, the provisions of this Ordinance and its standards and specifications shall be controlling, except to the extent that a state statute or regulation expressly preempts. Where the provisions of any state statute or regulation, other Monongalia County ordinance or regulation, or applicable land development agreement impose greater restrictions on land development than this Ordinance, the provisions of such statute, regulation, other ordinance or regulation, or applicable land development agreement shall be controlling.
- R. Ordinance Supplemental to and Not in Abrogation of Certain State Power.** The provisions of this Ordinance are supplemental and do not abrogate the powers and authority extended to agencies, bureaus, departments, commissions, divisions and officials of the state government by other state statutes.

### **Section 1.6 Severability**

If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudicated invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The County hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

**Article 2. General Provisions**

**Section 2.1**

**A. Applicability**

The provisions of this Ordinance shall apply to all lands within Monongalia County, West Virginia, excepting only lands that are within areas of incorporated municipalities; *provided that*, nothing herein shall be deemed to prevent a municipality from adopting, by reference, this Ordinance in accordance with W. Va. Code § 8A-4-1.

This Ordinance is hereby adopted and enacted as of \_\_\_\_\_ and made effective as of \_\_\_\_\_. All plats filed with the County Clerk after the Effective Date shall be reviewed under the Subdivision Regulations.

Upon its adoption and enactment, this Ordinance shall be filed in the office of the County Clerk.

**B. Administration**

The Planning Commission shall administer this Ordinance. In addition to functions specifically delegated to the Planning Director by the Subdivision Regulations, the Planning Commission may delegate to the Planning Director and his or her staff ministerial duties and the responsibility to make recommendations to the Planning Commission to the extent authorized or permitted by state law.

The Planning Commission or the Planning Director may issue non-binding guidelines to be followed in applying or complying with this Ordinance. In the event of a conflict between such guidelines and the Subdivision Regulations, the Subdivision Regulations govern.

The Planning Director may limit the acceptance of applications under this Ordinance to specified application periods that are designed to coordinate with notice requirements and the Planning Commission meeting schedule, provided that such application periods provide at least five business days per calendar month in which applications will be accepted. The Planning Office may accept applications informally outside of designated application periods for purposes of compressing review times, provided that the applicant acknowledges in writing that the application will not be formally accepted for purposes of any decision-making deadline until the next designated application period.

To partially defray the costs of administering this Ordinance, the Planning Office must assess filing fees according to the Subdivision Fee Schedule to be established by the County Commission within thirty (30) days of the adoption of this Ordinance. Appendix C shall specify the filing fee for each application type anticipated in this Ordinance. The County Commission may in its discretion establish a filing fee of zero for specified application types, structure types or uses.

### C. Plat Approval Requirement

All subdivision of land subject to this Ordinance requires the filing of a Record Plat in the office of the County Clerk for recordation in the County land records. The County Clerk may not accept any plat for filing unless and until:

1. The Planning Commission (or the Planning Director with respect to Minor Subdivisions) has approved, and so stamped, a Record Plat for the subject subdivision; or
2. The Planning Director has determined and certified on the face of the proposed Record Plat that the subdivision qualifies as an Exempt Subdivision, as set forth in Article 4 of the Subdivision Regulations.

It shall be unlawful for any person or entity that owns or controls any land subject to the provisions of this Ordinance to sell, transfer, or agree to sell or transfer, any lot or parcel of such land within a subdivision, or to be created by subdivision, until a Record Plat has been filed with the County Clerk and recorded in the County land records.

It shall be unlawful for any person or entity that owns or controls any land subject to the provisions of this Ordinance to sell, transfer, or agree to sell or transfer any portion less than the entirety of a tract or parcel unless and until a Record Plat dividing such land into lots has been filed with the County Clerk and recorded in the County land records.

Any land subdivided and conveyed or sold under an installment sales contract is governed by the provisions of this Ordinance. Every installment sales contract for real estate must be in such a form as to make it recordable among the land records of Monongalia County and must be filed with the County Clerk within thirty (30) days from the effective date of the sales contract. Responsibility for recording shall be that of the vendor.

The County Clerk shall not receive or record any Record Plat unless the plat shall bear thereon the approval stamp of the Planning Commission or the Planning Director, or certification by the Planning Director that the subdivision qualifies as an Exempt Subdivision.

It shall be unlawful for any person or entity to describe by metes and bounds a lot or parcel of real estate subject to this Ordinance, in an instrument of transfer or other legal document used in the process of selling or transferring ownership of land, with the intent to evade, avoid, or circumvent this Ordinance.

### D. Effect of Non-Approved Plans and Plats

After the Effective Date, a subdivision plat that has not been approved by the Planning Commission or Planning Director, or certified as an Exempt Subdivision, is without legal effect.

### E. Vested Property Right

The right to undertake and complete a subdivision is established as a vested property right when the Final Subdivision Plan and Record Plat are approved by the Planning Commission or by the Planning Director as Planning Commission designee. The right is only applicable under the terms and conditions of the approved Record Plat. Failure

to abide by the terms and conditions of the approved plat will result in forfeiture of the right. Subject to W. Va. Code §16-13E-10a, the vesting period for an approved Record Plat is five (5) years from the date of the approved Record Plat, or, if a phased subdivision, five (5) years from the date of the approved Record Plat for each phase, if each phase requires its own Record Plat. Under W.Va. Code §8A-5-12, a landowner's rights vest in a plat and cannot be affected by a subsequent amendment to a subdivision or zoning ordinance or action by the Planning Commission when, during the vesting period of five (5) years, the landowner:

1. Obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project;
2. Relies in good faith on the significant affirmative governmental act; and
3. Incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

If, within five (5) years of the date of the Record Plat approved by the Planning Commission, or by the Planning Director as Planning Commission designee, the landowner incurs extensive obligations or substantial expenses in diligent pursuit of a specific project and in reliance on a significant affirmative governmental act such as approval of a Record Plat, the landowner's right to pursue the project to completion continues indefinitely.

If the landowner does not incur extensive obligations or substantial expenses in diligent pursuit of a project within five (5) years of the date of the Record Plat approved by the Planning Commission, or by the Planning Director as Planning Commission designee, then:

1. The division of land into lots as depicted on the approved Record Plat remains valid, but the right to implement the subdivision as approved is suspended.
2. Any landowner who wishes to carry out construction or land development activities within the area covered by the previously approved Record Plat must seek a determination from the Planning Director as to whether the approved Record Plat, as it affects the landowner's proposed construction or land development activities, is consistent with the Subdivision Regulations and any applicable zoning regulations in effect at the time.
3. If no inconsistencies are identified, the landowner may apply for the appropriate NIF under Section 2.6 of the Subdivision Regulations.
4. If any inconsistency is identified, the landowner must seek approval under Article 8 of the Subdivision Regulations for an amendment to the approved Record Plat and, if necessary for consistency, the approved Final Subdivision Plan, to bring the Record Plat and Final Subdivision Plan, or at a minimum the portions within that landowner's control, into compliance with all applicable laws and regulations.
5. Such an amendment must be approved before the landowner may apply for a NIF or initiate any construction or land development activities.

6. If the landowner finds that compliance with one or more standards in effect at the time of the proposed amendment creates practical difficulties, the landowner may request approval under the Alternative Compliance provisions in Section 2.2 of the Subdivision Regulations.

#### **F. Deadlines**

The Subdivision Ordinance specifies deadlines for various steps in the subdivision process, such as submission of application materials and conducting meetings or hearings, in keeping with Chapter 8A of the West Virginia Code.

An applicant may submit a written request for an extension of any deadline specified in the Subdivision Ordinance. Such request may be granted by the Planning Commission or the Planning Director, as appropriate depending on the context. Any such extension will result in (a) a corresponding extension of the time for the Planning Office, the Planning Director, or the Planning Commission to make any related determinations; and (b) a corresponding adjustment to all related deadlines for the application.

Where this Ordinance requires the Planning Office to meet with an applicant within a specified period of time, the Planning Office must make good faith efforts to arrange a meeting within the specified time period but is not responsible for an inability to meet caused by the applicant's schedule or availability.

#### **G. Cooperation and Coordination with Other Agencies**

The Planning Commission shall cooperate and coordinate with other governmental agencies affected by the subdivision and development of land, including the Department of Health, the Floodplain Coordinator, the Fire Marshal, DOH, DEP, the Morgantown Municipal Airport, and MUB or the applicable Public Service District. The process for such coordination is set forth in more detail in Sections 5.1, 5.2, pre 6.1 and 6.4.

Compliance with the Subdivision Regulation does not affect a subdivider's obligation to seek approval from DOH under W. Va. Code §17-4-50, where required.

#### **H. Fire Protection**

All subdivisions must comply with applicable provisions of the West Virginia State Fire Code and local Fire Marshal requirements.

#### **I. Special Flood Hazard Areas**

All subdivisions, land development, and construction activity must comply with the Floodplain Ordinance. Proof that a proposed subdivision or land development complies with the Floodplain Ordinance must be submitted as required in Table 6-1.

#### **J. Land Dedicated for Public Purposes**

A portion of a tract dedicated for public purposes by deed or irrevocable easement, such as but not limited to a park site, playground, green space, fire / police station, school, or road right-of-way, shall not be considered a lot for purposes of determining eligibility as an Exempt or Minor Subdivision.

## K. Utilities

All subdivisions must grant easements to local utilities as required in Article 3 of this Ordinance. During the planning process, the developer must consider needed easements for presently identified utilities and potential future utilities that may affect the subdivision. Utilities must not infringe upon the floodplain unless absolutely necessary to provide service as determined by the County Engineer, and in all cases, utilities must comply with the Floodplain Ordinance. Bond release may be granted only as provided in Article 7.

### Section 2.2 Alternative Compliance

The Planning Commission may approve an alternative method of compliance with any of the minimum standards set forth in this Ordinance in conjunction with approval of a Land Development Plan, Final Subdivision Plan or Record Plat. An alternative method of compliance may not be approved by the Planning Director. If an applicant for a Minor Subdivision approval seeks to employ an alternative method of compliance, the Minor Subdivision must be approved by the Planning Commission. Alternative compliance may be approved with regard to any of the minimum standards set forth in this Ordinance, but not from the procedural requirements of the Ordinance or the requirement to apply for subdivision approval; every applicant for a subdivision that does not qualify for an exemption from the Subdivision Regulations under Article 4 hereof must obtain approval of a Minor or Major Subdivision before filing a Record Plat with the County Clerk, seeking a NIF, or carrying out any construction or land development activities.

To request approval for alternative compliance, an applicant for a Minor or Major Subdivision must identify in its statement of justification (i) the standard(s) that the applicant seeks to satisfy by alternative compliance; (ii) the alternative compliance proposed (e.g., the Ordinance calls for a minimum road right-of-way width of 50 feet but the applicant proposes a 40-foot right-of-way); (iii) a basis for the Planning Commission to make the findings required by this section; and (iv) any additional information or studies reasonably requested by the Planning Commission or the Planning Director to justify the proposed alternative compliance. The Planning Commission may approve alternative compliance with one or more of the minimum standards of this Ordinance as part of its approval of a subdivision only if it makes the following findings:

- A. The proposed alternative compliance is consistent with the public interest, and will not be detrimental to the public safety, health, or welfare or injurious to other property;
- B. A unique site characteristic or development constraint such as grade, visibility, an existing building or structure, an easement, or a utility line precludes safe or efficient development under the requirements of the Subdivision Regulations, and the condition(s) upon which the request is based is/are unique to the property for which the relief is sought and not applicable generally to other property in the County;
- C. The relief sought is consistent with the overall intent of the Subdivision Regulations, the Comprehensive Plan and any applicable zoning regulations;

- D. The proposed alternative compliance would modify the applicable functional results or performance standards by the minimum amount necessary to accommodate the conditions justifying the alternative compliance; and
- E. The applicant has agreed to provide mitigation as needed to alleviate any adverse impacts of the proposed alternative compliance.

By requesting alternative compliance with any minimum standard of this Ordinance in connection with a Minor Subdivision, the applicant agrees to an extension of time for a decision on the Minor Subdivision application to allow forty-five (45) days after an application has been declared a Minor Subdivision for the Planning Commission to approve, approve with conditions, or deny approval of the final subdivision plat.

### **Section 2.3 Notice of Improvement Form Requirement**

The construction, erection, installation, placement, rehabilitation, or renovation of any structure, or the development of any land, requires a Notice of Improvement Form issued by the Planning Director, with the exceptions identified in Section 7.1.

### **Section 2.4 Posting Security for Improvements**

As a condition of approval of any Record Plat for a Major Subdivision, the Planning Commission must require that, prior to the recording of the plat, the issuance of a NIF, or the commencement of any land development or construction activity on the subject property, the applicant must provide a security under Section 7.2.

### **Section 2.5 Enforcement**

#### **A. By Planning Commission**

The Planning Commission, through its designated staff members, has the authority to enforce this Ordinance and the conditions attached to final plat approval:

1. First, by ordering in writing the remedy of any violation, stating the name and address of the person charged, the nature of the violation, the place where and approximate date(s) of the violation, and a clear statement of the action that must be taken or discontinued to remedy the violation; and
2. Failing correction of the violation in the time specified in the order, by a legal action in the Circuit Court of Monongalia County seeking injunctive relief to correct the violation. A request for injunctive relief may include measures such as restraining a violation of this Ordinance or a condition of plat approval, requiring compliance with this Ordinance or a condition of plat approval, or ordering the removal of any structure erected in violation of this Ordinance or a condition of plat approval. If the Planning Commission prevails in any such action, the landowner shall bear the costs of the action. Failure to satisfy all conditions attached to a final plat, including without limitation a failure to complete required improvements, shall constitute cause to deny any use, occupancy, or building permits required for the development.

#### **B. By County Commission**

Additionally, the County Commission may:

1. Enforce the penalty specified below for failure to comply with the provisions of this Ordinance;
2. Declare any buildings erected, raised, or converted in violation of this Ordinance, or land or premises used in violation of this Ordinance, a common nuisance, for the creation and maintenance of which the owner of the building, land, or premises shall be liable; or
3. With respect to incomplete required improvements, collect under a bond, letter of credit, or other security and utilize the proceeds to complete the improvements, as provided in Section 6.8 of the Subdivision Regulations.

### **C. Penalty**

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each and every offense. Each day of continuing violation after notification shall constitute a separate offense under this provision.

### **D. Appeals**

Any enforcement decision by the Planning Board or the County Commission may be appealed under the procedures applicable to the appeal of any final decision of the Planning Board under the Subdivision Regulations.

## **Article 3. Subdivision Classifications**

### **Section 3.1. Categories of Subdivision Classification**

#### **A. Exempt Subdivisions.**

Subdivisions that are exempt from the review and approval requirements of the Subdivision Regulations under Article 4. For more information on what constitutes an Exempt Subdivision and how to apply for one see Article 4.

#### **B. Minor Subdivisions**

Subdivisions that satisfy the requirements of Article 5 and therefore will have little or no impact on the resources of Monongalia County. For more information on what constitutes a Minor Subdivision and how to apply for one see Article 5.

#### **C. Major Subdivisions**

Subdivisions that do not meet the criteria specific in this Ordinance for classification as an Exempt or Minor Subdivision. For more information on what constitutes a Major Subdivision and how to apply for one see Article 6.

### **Section 3.2. Categories of Building Classification**

Every Major Subdivision established in Monongalia County after the enactment of this Ordinance shall consist of development classified and accordingly designed in one of the following eight (8) classes listed below so as to accommodate the buildings to eventually be constructed on the site(s). A given development may have more than one class of building, but the design of the development layout must accommodate the building class(es) as described below:

- A. Class I – High Density Housing**
- B. Class II – Low Density Residential**
- C. Class III – Estate Residential**
- D. Class IV – Agricultural Residential**
- E. Mobile Home Parks**
- F. Commercial/Industrial/Manufacturing**
- G. Combination (Planned Unit Development)**
- H. Mixed Use**

Unless alternative compliance is approved under Section 2.2, every Major Subdivision must comply with the standards below for the applicable subdivision category. The Planning Commission may approve a reduction in the required width of the road right-of-way or the building and parking lot setbacks from any road right-of-way, under Section 2.2, where all required infrastructure can be accommodated within the reduced right-of-way and setbacks proposed, including water, sanitary and storm sewer, other utilities, stormwater drainage, stormwater management, sidewalks or bikeways, and any roadway infrastructure planned by the applicant, the County, DOH, or any other entity.

### A. Class I – High Density Residential

High Density Residential consists of all residential structures with more than two (2) attached units, including the following:

- Patio Homes
- Triplexes
- Quadruplexes
- Townhomes
- Multi-Family Dwellings.

Use regulations within the High-Density Residential District of the Zoning Ordinance, where applicable, apply to subdivisions in this category.

The following standards apply to subdivisions in this category:

1. **Lot Size:** Minimum lot size will be 25,000 square feet for Multi-Family Dwellings where the parcel is not split. For Triplexes, and Quadruplexes, minimum lot size will be 25,000 square feet where a development is to be built with one lot for each structure, and 10,000 square feet where a development is to be built with one lot for each dwelling unit or a duplex.

Minimum lot size will be 1,500 square feet for Townhomes.

Minimum lot size will be 4,000 square feet for Patio Homes.

All lot sizes exclude road right-of-way. Utility right-of-way must be located only in setback areas.

2. **Setbacks:** All structures must be set back at least twenty-five (25) feet from the right-of-way grading limits of any road and at least ten (10) feet from any lot line, except that (a) no setback requirements apply along property lines that are occupied by party walls; and (b) the Planning Commission may approve the reduction or elimination of setbacks along any side or rear property line where the applicant obtains an easement or covenant from the adjoining property owner that ensures the first ten (10) feet on the adjoining property will be kept permanently clear of any structures, walls, or fences, or any landscaping greater than three (3) feet in height, excluding mailboxes as approved by either USPS or DOH.
3. **Roads:** All roads must be designed and constructed in accordance with Article 9 of this Ordinance.
4. **Water and Sewage:** Water must be provided through a public water utility. Approval of the subdivision requires a written determination from a municipal water and sewer board or public service district that public water is available to serve the subdivision. Sewage treatment must be provided in accordance with Article 11 of this Ordinance.

5. **Stormwater Management:** Drainage control and stormwater management must be provided in accordance with Article 12 of the Subdivision Regulations.
6. **Utility Services and Easements:** All utilities are recommended to be placed underground, except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. Where electrical and telecommunication service lines are placed underground, an additional conduit shall be placed underground for future use of broad-band internet providers. Such additional conduit shall have a diameter of two inches (2") or such other reasonable width as may be recommended by the Planning Office based on accepted industry standards at the time. No additional conduit shall be required where electrical and telecommunication services are provided overhead.

A ten-foot "dry" utility easement, both under and above ground, must be provided along at least one side of each roadway unless all relevant utility providers indicate in writing that adequate space is available for their needs in a right-of-way or easement provided for other purposes, such as sidewalks or streetscape.

Water and sewer mains must be accommodated within the road right-of-way; where this accommodation cannot be achieved, additional easements must be provided. The Planning Commission may require additional easements as needed along other lot lines, including lot lines internal to the subdivision. No easement or setback requirements will apply along property lines that are occupied by party walls.

7. **General Requirements:**

- a. Parking spaces and loading areas must be provided in accordance with Appendix B.
- b. Adequate screening is required around sewage treatment facilities, trash bins greater than 150 gallons in size, recycling containers, and dumpsters.
- c. Street lighting must be provided along any street serving more than nine (9) dwelling units, consistent with FHWA Lighting Handbook standards.
- d. All roads, whether publicly or privately maintained, must provide (i) curb and gutter; and (ii) pedestrian and bicycle travel ways on both sides with a minimum of four (4) feet of pavement per side. All pedestrian and bicycle travel ways must connect to existing pedestrian and bicycle travel ways where feasible and must be designed to facilitate such connections by future adjacent subdivisions. The developer is encouraged to provide a "Complete Street" design, which should be sized and designed to safely and equitably serve the needs of pedestrians, bicyclists, motorists, and transit users.

## B. Class II – Low Density Residential

Low Density Residential consists of single-family detached dwellings and duplexes.

Use regulations within the Low-Density Residential District of the Zoning Ordinance, where applicable, apply to subdivisions in this category.

The following standards apply to subdivisions in this category:

1. **Lot Size:** For lots served by public sewer and water, the minimum lot size is 10,000 square feet and the maximum lot size is two (2) acres. For lots served by private on-site waste water systems and wells, the minimum lot size is 20,000 square feet or the minimum area needed to support a safe septic system that the Health Department will approve, and the maximum lot size is two (2) acres. Flag lots are discouraged but may be permitted at the discretion of the Planning Commission. Lots extending from a cul-de-sac radius must have a minimum fifty (50) foot chord length between the intersections of the diverging property lines and the right-of-way line.
2. **Setbacks:** All structures must be set back at least twenty-five (25) feet from the right-of-way grading limits of any road and at least ten (10) feet from any lot line, except that no setback requirements apply along property lines that are occupied by party walls.
3. **Roads:** All roads must be designed and constructed in accordance with Article 9 of this Ordinance and must be adequate for all-weather operation of school buses, fire trucks, service trucks, and passenger cars.
4. **Water and Sewage:** Connection to public sewer is required if available, per Article 11 of this Ordinance. Water may be provided via connection to a public water utility or private wells. In all cases, water and sewage treatment must be in accordance with Article 11 of this Ordinance.
5. **Stormwater Management:** Drainage control and stormwater management must be provided in accordance with Article 12 of the Subdivision Regulations.
6. **Utility Services and Easements:** All utilities are recommended to be placed underground, except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. Where electrical and telecommunication service lines are placed underground, an additional conduit shall be placed underground for future use of broad-band internet providers. Such additional conduit shall have a diameter of two inches (2") or such other reasonable width as may be recommended by the Planning Office based on accepted industry standards at the time. No additional conduit shall be required when electrical and telecommunication services will be provided overhead.

A ten-foot "dry" utility easement, both under and above ground, must be provided along at least one side of each roadway unless all relevant utility providers indicate in writing that adequate space is available for their needs

in a right-of-way or easement provided for other purposes, such as sidewalks or streetscape.

Water and sewer mains must be accommodated within the road right-of-way; where this accommodation cannot be achieved, additional easements must be provided. If public storm and sanitary sewer or water service is not available at the time of subdivision review, appropriate easements or road right-of-way must be provided to accommodate public water or storm and sanitary sewer should they become available. The Planning Commission may require additional easements as needed along other lot lines, including lot lines internal to the subdivision. No easement or setback requirements will apply along property lines that are occupied by party walls public water or storm and sanitary sewer should they become available.

#### 7. General Requirements:

- a. All roads, whether publicly or privately maintained, must provide (i) curb and gutter; and (ii) pedestrian and bicycle travel ways on one or both sides with a minimum of four (4) feet of pavement per side. All pedestrian and bicycle travel ways must connect to existing pedestrian and bicycle travel ways where feasible and must be designed to facilitate such connections by future adjacent subdivisions.
- b. If pedestrian and bicycle travel ways are provided on only one side of any road, a right-of-way on the other side of the road, at least ten (10) feet in width and aligned with utility easements, must be dedicated for future use for this purpose.
- c. Parking spaces must be provided in accordance with Appendix B.

#### C. Class III - Estate Residential

Estate Residential consists of small-scale farming and single-family detached residences where legally permitted and where suitable roadway networks are generally available for extremely low density residential uses.

The following standards apply to subdivisions in this category:

1. **Lot Size:** The minimum lot size is two (2) acres and the maximum lot size is 9.9 acres.
2. **Setbacks:** All structures must be set back at least twenty-five (25) feet from any road right-of-way, and at least ten (10) feet from any other lot line.
3. **Roads:** All roads must be designed and constructed in accordance with Article 9 of this Ordinance and must be adequate for all-weather operation of school buses, fire trucks, service trucks, and passenger cars.
4. **Water and Sewage:** Connection to public sewer is required if available, per Article 11 of this Ordinance. Water may be provided via connection to a public

water utility or private wells. In all cases, water and sewage treatment must be in accordance with Article 11 of this Ordinance.

5. **Stormwater Management:** Drainage control and stormwater management must be provided in accordance with Article 12 of the Subdivision Regulations.
6. **Utility Services and Easement:** All utilities are recommended to be placed underground, except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. Where electrical and telecommunication service lines are placed underground, an additional conduit shall be placed underground for future use of broad-band internet providers. Such additional conduit shall have a diameter off two inches (2") or such other reasonable width as may be recommended by the Planning Office based on accepted industry standards at the time. No additional conduit shall be required when electrical and telecommunication services will be provided overhead.

A ten-foot "dry" utility easement, both under and above ground, must be provided along at least one side of each roadway unless all relevant utility providers indicate in writing that adequate space is available for their needs in a right-of-way or easement provided for other purposes, such as sidewalks or streetscape.

Water and sewer mains must be accommodated within the road right-of-way; where this accommodation cannot be achieved, additional easements must be provided. If public storm and sanitary sewer or water service is not available at the time of subdivision review, appropriate easements or road right-of-way must be provided to accommodate public water or storm and sanitary sewer should they become available. The Planning Commission may require additional easements as needed along other lot lines, including lot lines internal to the subdivision. No easement or setback requirements will apply along property lines that are occupied by party walls.

7. **General Requirements:** Construction of pedestrian and bicycle paths is optional, however a right-of-way on both sides of each road, at least ten (10) feet in width per side and aligned with utility easements, must be dedicated for future use for this purpose

#### **D. Class IV - Agricultural Residential**

Agricultural Residential consists of larger scale farming and single-family detached residences where legally permitted and where suitable roadway networks are generally available for extremely low density residential uses.

The following standards shall apply to subdivisions in this category:

1. **Lot Size:** Minimum lot size will be ten (10) acres in size.
2. **Setbacks:** All structures must be set back at least twenty-five (25) feet from any road right-of-way, and at least ten (10) feet from any other lot line.

3. **Roads:** All roads must be designed and constructed in accordance with Article 9 of this Ordinance and must be adequate for all-weather operation of school buses, fire trucks, service trucks, and passenger cars.
4. **Water and Sewage:** Connection to public sewer is required if available, per Article 11 of this Ordinance. Water may be provided via connection to a public water utility or private wells. In all cases, water and sewage treatment must be in accordance with Article 11 of this Ordinance.
5. **Stormwater Management:** Drainage control and stormwater management must be provided in accordance with Article 12 of the Subdivision Regulations.
6. **Utility Services and Easements:** All utilities are preferred to be placed underground (but not required), except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. Where electrical and telecommunication service lines are placed underground, an additional conduit shall be placed underground for future use of broad-band internet providers. Such additional conduit shall have a diameter off two inches (2") or such other reasonable width as may be recommended by the Planning Office based on accepted industry standards at the time. No additional conduit shall be required when electrical and telecommunication services will be provided overhead.

A ten-foot "dry" utility easement, both under and above ground, must be provided along at least one side of each roadway unless all relevant utility providers indicate in writing that adequate space is available for their needs in a right-of-way or easement provided for other purposes, such as sidewalks or streetscape.

Water and sewer mains must be accommodated within the road right-of-way; where this accommodation cannot be achieved, additional easements must be provided. If public storm and sanitary sewer or water service is not available at the time of subdivision review, appropriate easements or road right-of-way must be provided to accommodate public water or storm and sanitary sewer should they become available. The Planning Commission may require additional easements as needed along other lot lines, including lot lines internal to the subdivision. No easement or setback requirements will apply along property lines that are occupied by party walls.

#### **E. Mobile Home Park**

Mobile Home Park consists of owner-occupied or rented pad sites for Factory Built Homes, including Modular Homes, Mobile Homes, House Trailers and Manufactured Homes, and may include amenities such as pools, dog parks, laundry areas, and recreation rooms.

The following standards shall apply to subdivisions in this category:

**1. Lot Size or Pad Site Area**

- a. The minimum lot size or pad site area is 1,200 square feet for a single-wide Factory-Built Home and 2,000 square feet for a double-wide Factory-Built Home.
- b. Units must not be installed with entrances facing one another, unless separated by a vehicular roadway.
- c. The minimum distance (separation) between units must be sixteen (16) feet.

**2. Setbacks**

- a. All structures must be set back at least twenty-five (25) feet from any public road right-of-way, at least five (5) feet from any internal road right-of-way, and at least twenty (20) feet from any exterior property line of the Mobile Home Park.
- b. All structures and roadways must be set back a minimum of twenty (20) feet from external property lines to provide for a landscaped buffer area.

**3. Accessory Structures**

- a. Any accessory structure such as a shed must be separated from and at a minimum five (5) feet away from all Factory-Built Homes.
- b. Any deck must be uncovered, except that a roof structure is permitted if it is made of substantial materials and is designed and installed to withstand extreme weather events such as high winds.
- c. Any deck must not extend more than six (6) feet from the face of the Factory-Built Home and is considered part of the structure for purposes of measuring setbacks under Section 5.6.B.

**4. Roads**

- a. All internal roads must have a travelway at least twenty-four (24) feet in width, plus a two-foot (2') shoulder on each side, and grade must not exceed an average of twelve (12) percent over 1,000 feet. Parking may be permitted only on one side of the road.
- b. Roads must be designed and constructed in accordance with Article 9 of this Ordinance in all other respects, and must be adequate for all-weather operation of school buses, fire trucks, service vehicles, and passenger cars.

- 5. Water and Sewage:** Connection to public sewer is required if available, per Article 11 of this Ordinance. Water may be provided via connection to a public

water utility or private wells. In all cases, water and sewage treatment must be in accordance with Article 11 of this Ordinance.

6. **Stormwater Management:** Drainage control and stormwater management must be provided in accordance with Article 12 of this Ordinance.

**Utility Services and Easements:** All utilities are recommended to be placed underground, except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. Where electrical and telecommunication service lines are placed underground, an additional conduit shall be placed underground for future use of broad-band internet providers. Such additional conduit shall have a diameter of two inches (2") or such other reasonable width as may be recommended by the Planning Office based on accepted industry standards at the time. No additional conduit shall be required when electrical and telecommunication services will be provided overhead.

A ten-foot "dry" utility easement, both under and above ground, must be provided along at least one side of each roadway unless all relevant utility providers indicate in writing that adequate space is available for their needs in a right-of-way or easement provided for other purposes, such as sidewalks or streetscape.

Water and sewer mains must be accommodated within the road right-of-way; where this accommodation cannot be achieved, additional easements must be provided. If public storm and sanitary sewer or water service is not available at the time of subdivision review, appropriate easements or road right-of-way must be provided to accommodate public water or storm and sanitary sewer should they become available. The Planning Commission may require additional easements as needed along other lot lines, including lot lines internal to the subdivision. No easement or setback requirements will apply along property lines that are occupied by party walls.

7. **General Requirements:**

- a. Parking spaces must be provided in accordance with Appendix B.
- b. The owner or operator of the Mobile Home Park must collect trash or contract for trash collection from the entire property at a frequency of not less than once a week.
- c. Refuse collection stations must be screened.

#### **F. Commercial/Industrial/Manufacturing**

Commercial/Industrial/Manufacturing consists of any non-residential use or combination of non-residential uses in a subdivision that does not include residential uses. Land use categories may include office, retail, services, institutional, lodging, medical, recreational, industrial, or manufacturing.

The following standards apply to subdivisions in this category:

1. **Lot Size:** Lot sizes must be appropriate for proposed uses.
2. **Roads:** All roads must be designed and constructed in accordance with Article 9 of this Ordinance.
3. **Special Provisions:** Adequate buffer zones, landscape screening and fencing are required as necessary to substantially screen the subdivision, both visually and aurally, from neighboring residential areas.
4. **Setbacks:**
  - a. Building setbacks from external lot lines must be a minimum of:
    - i. Twenty-five (25) feet where an external lot line abuts a road right-of-way;
    - ii. Ten (10) feet from any lot line shared with a non-residential property; and
    - iii. Thirty (30) feet from any lot line shared with a residential property, or twenty (20) feet if appropriate landscape buffering is provided.
  - b. No building setback requirements will apply along internal lot lines.
  - c. Parking area setbacks from external lot lines must be a minimum of ten (10) feet, except that for a parking area with more than ten (10) spaces, the minimum setback from a property line shared with a residential use must be twenty (20) feet.
5. **Water and Sewage:** Connection to public water and public sewer is required if available. Water and sewage treatment must be in accordance with Article 11 of this Ordinance.
6. **Stormwater Management:** Drainage control and stormwater management must be provided in accordance with Article 12 of this Ordinance.

**Utility Service and Easements:** Utility lines may be overhead or underground. Where electrical and telecommunication service lines are placed underground, an additional conduit shall be placed underground for future use of broad-band internet providers. Such additional conduit shall have a diameter of two inches (2") or such other reasonable width as may be recommended by the Planning Office based on accepted industry standards at the time. No additional conduit shall be required when electrical and telecommunication services will be provided overhead.

A ten-foot "dry" utility easement, both under and above ground, must be provided along at least one side of each roadway unless all relevant utility providers indicate in writing that adequate space is available for their needs in a right-of-way or easement provided for other purposes, such as sidewalks or streetscape.

Water and sewer mains must be accommodated within the road right-of-way; where this accommodation cannot be achieved, additional easements must

be provided. If public storm and sanitary sewer or water service is not available at the time of subdivision review, appropriate easements or road right-of-way must be provided to accommodate public water or storm and sanitary sewer should they become available. The Planning Commission may require additional easements as needed along other lot lines, including lot lines internal to the subdivision. No easement or setback requirements will apply along property lines that are occupied by party walls.

**7. General Requirements:**

- a. Construction of pedestrian and bicycle paths is optional, however a right-of-way on both sides of each road, at least ten (10) feet in width on each side and aligned with utility easements, must be dedicated for future use for this purpose.
- b. Parking and loading spaces must be provided for all uses in accordance with Appendix B.

**G. Planned Unit Development Standards**

The County recognizes that a single subdivision may combine a mix of land uses in a designed grouping of varied and compatible land uses, such as housing, recreation, commercial centers, and industrial parks, all within one contained development or subdivision. Such a subdivision is sometimes referred to as a Planned Unit Development or P.U.D., and is reviewed with greater flexibility as to the arrangement of structures and uses than a standard subdivision. In order for a subdivision to be considered under this section, it must be a minimum of ten (10) acres in size.

The following standards apply to subdivisions in this category:

**1. PUD Requirements:**

- a. Each plat submitted to the Planning Commission or shown to any prospective purchaser must clearly delineate which category or categories of development specified in this Article will be included in each area of the subdivision.
- b. Except as specified in this subsection, each area of a subdivision must be designed and constructed in accordance with the standards stated in this Article for the specified category/ies of development. Where an area of a subdivision will have a mix of uses, the most restrictive development standards from the applicable categories of development applies, except that the Planning Commission may approve variations from setbacks or other development standards to promote compatibility and good design.
- c. The entire subdivision, including the roads and facilities connecting one type of land use with another, must be designed and constructed to achieve a compatible blend between the various areas.

**2. Lot Size:** Lot sizes must be appropriate for proposed structures and uses.

3. **Roads:** All roads must be designed and constructed in accordance with Article 9 of this Ordinance.
4. **Special Provisions:** Adequate buffer zones, landscape screening and fencing are required as necessary to substantially screen the subdivision, both visually and aurally, from neighboring residential areas.
5. **Water and Sewage:** Connection to public water and public sewer is required if available. Water and sewage treatment must be in accordance with Article 11 of this Ordinance.
6. **Stormwater Management:** Drainage control and stormwater management must be provided in accordance with Article 12 of this Ordinance.
7. **Utility Service and Easements:** All utilities are recommended to be placed underground for all PUD with a residential component, except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. Where electrical and telecommunication service lines are placed underground, an additional conduit shall be placed underground for future use of broad-band internet providers. Such additional conduit shall have a diameter of two inches (2") or such other reasonable width as may be recommended by the Planning Office based on accepted industry standards at the time. No additional conduit shall be required when electrical and telecommunication services will be provided overhead.

Overhead power distribution lines are acceptable in industrial and commercial areas with no residential component. In any portion of the PUD with a residential component, utilities are recommended to be placed underground, except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. In all areas, a ten-foot "dry" utility easement, both under and above ground, must be provided along at least one side of each roadway unless all relevant utility providers indicate in writing that adequate space is available for their needs in a right-of-way or easement provided for other purposes, such as sidewalks or streetscape.

Water and sewer mains must be accommodated within the road right-of-way; where this accommodation cannot be achieved, additional easements must be provided. If public storm and sanitary sewer or water service is not available at the time of subdivision review, appropriate easements or road right-of-way must be provided to accommodate public water or storm and sanitary sewer should they become available. The Planning Commission may require additional easements as needed along other lot lines, including lot lines internal to the subdivision. No easement or setback requirements will apply along property lines that are occupied by party walls.

8. **General:**
  - a. All roads, whether publicly or privately maintained, must provide (i) curb and gutter; and (ii) pedestrian and bicycle travelways on both sides with a minimum of four (4) feet of pavement per side. All pedestrian and bicycle travelways must connect to existing pedestrian and bicycle

travelways where feasible, and must be designed to facilitate such connections by future adjacent subdivisions. The developer is encouraged to provide a "Complete Street" design, which should be sized and designed to safely and equitably serve the needs of pedestrians, bicyclists, motorists, and transit users.

- b. Parking and loading spaces must be provided for all uses in accordance with Appendix B.

#### H. Mixed-Use Development

Mixed-use development blends residential, commercial, cultural, institutional, or entertainment uses, where those functions are often mixed in a single building and are located on one or more lots with shared parking. Mixed-use development provides opportunities for vibrant development and good connections for non-auto driver modes of transportation. A mixed-use subdivision may consist of more than one use in a single building, or several uses in close proximity to one another in a subdivision of any size with good pedestrian connections and shared parking.

The following standards apply to subdivisions in this category:

##### 1. Mixed-Use Requirements:

- a. Each plat submitted to the Planning Commission or shown to any prospective purchaser must clearly delineate which category or categories of development specified in this Article will be included in each area of the subdivision and within each building.
- b. Except as specified in this subsection, each mixed-use area or building must be designed and constructed in accordance with the standards stated in this Article for the specified categories of development.
- c. The most restrictive development standard from the applicable category of development applies to each building. For example, where a subdivision will include a building with retail on the ground floor and multi-family residential on the upper floors, that building must comply with either retail or multi-family standards, whichever are more restrictive.
- d. The entire subdivision, including the roads and facilities connecting one type of land use with another, must be designed and constructed to achieve a compatible blend of uses.

##### 2. Lot Size: Lot sizes must be appropriate for proposed structures and uses.

##### 3. Roads: All roads must be designed and constructed in accordance with Article 9 of this Ordinance.

##### 4. Special Provisions: Adequate buffer zones, landscape screening and fencing are required as necessary to substantially screen the subdivision, both visually and aurally, from neighboring residential areas.

5. **Water and Sewage:** Connection to public water and public sewer is required if available. Water and sewage treatment must be in accordance with Article 11 of this Ordinance.
6. **Stormwater Management:** Drainage control and stormwater management must be provided in accordance with Article 12 of this Ordinance.
7. **Utility Service and Easements:** All utilities are recommended to be placed underground for all Mixed Use with a residential component, except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. Where electrical and telecommunication service lines are placed underground, an additional conduit shall be placed underground for future use of broad-band internet providers. Such additional conduit shall have a diameter off two inches (2") or such other reasonable width as may be recommended by the Planning Office based on accepted industry standards at the time. No additional conduit shall be required when electrical and telecommunication services will be provided overhead.

Overhead power distribution lines are acceptable in industrial and commercial areas with no residential component. In any area of the subdivision with a residential component, utilities are recommended to be placed underground, except where the applicable utility company advises placement of facilities above ground, such as electrical transformers. In all areas of the subdivision, a ten-foot "dry" utility easement, both under and above ground, must be provided along at least one side of each roadway unless all relevant utility providers indicate in writing that adequate space is available for their needs in a right-of-way or easement provided for other purposes, such as sidewalks or streetscape.

Water and sewer mains must be accommodated within the road right-of-way; where this accommodation cannot be achieved, additional easements must be provided. If public storm and sanitary sewer or water service is not available at the time of subdivision review, appropriate easements or road right-of-way must be provided to accommodate public water or storm and sanitary sewer should they become available. The Planning Commission may require additional easements as needed along other lot lines, including lot lines internal to the subdivision. No easement or setback requirements will apply along property lines that are occupied by party walls.

8. **General:**
  - a. All roads, whether publicly or privately maintained, must provide (i) curb and gutter; and (ii) pedestrian and bicycle travelways on both sides with a minimum of four (4) feet of pavement per side. All pedestrian and bicycle travelways must connect to existing pedestrian and bicycle travelways where feasible and must be designed to facilitate such connections by future adjacent subdivisions. The developer is encouraged to provide a "Complete Street" design, which should be sized

and designed to safely and equitably serve the needs of pedestrians, bicyclists, motorists, and transit users.

- b. Parking spaces must be provided for all uses in accordance with Appendix B.

#### **I. Variation on Minimum / Maximum Lot Size**

An adjustment to the minimum / maximum lot sizes of plus or minus ten percent (10%) from the above standards is allowed for up to two lots if the Planning Director makes the findings required in Section 2.2 of this Ordinance for Alternative Compliance. An adjustment for three or more lots is allowed if the Planning Commission makes the findings required in Section 2.2 of this Ordinance for Alternative Compliance. This is to allow for variation in lot size called for by topography, natural features, irregularly shaped tracts or similar site-specific situations.

#### **Section 3.3. Lot Requirements and HOAs**

- A. For Minor subdivisions, lots must be platted so as to divide ownership of the lots based on lot frontage or size, and cross-easements must be provided for access by all lot owners and residents. Provision must be made for the shared operation, maintenance, repair and replacement of all real property of common ownership or interest including roads, sidewalks/bikeways, land, and stormwater drainage or stormwater management facilities within the subdivision.
- B. For Major subdivisions, and for residential and commercial condominium-type developments, a Homeowners' Association (HOA) or Commercial Owners' Association (COA) must be established for the shared operation, maintenance, repair and replacement of all real property of common ownership or interest including roads, sidewalks/bikeways, land, and stormwater drainage or stormwater management facilities within the subdivision
- C. For a residential condominium developments, the declaration must provide for the operation, maintenance, repair and replacement of the common elements including roads, sidewalks/bikeways, land and stormwater drainage or stormwater management facilities in accordance with UCIOA or, if UCIOA is inapplicable, another mechanism therefor.

## Article 4. Exemptions

### Section 4.1 Exempt Subdivisions.

As specified in this **Section**, certain subdivisions of land may be considered Exempt Subdivisions and are exempt from the review and approval requirements of the Subdivision Regulations, provided that the use of an exemption is not an attempt to evade the Subdivision Regulations by carrying out a series of Exempt Subdivisions.

Exemption from subdivision review does not constitute exemption from the requirement for a NIF under Section 7.1. Only projects that qualify for an exception listed in Section 7.1 may be built without a NIF. An Exempt Subdivision also must provide all utility easements applicable to the relevant building classification(s) under Article 3.

The Planning Director may certify an Exempt Subdivision upon a finding that the proposed subdivision qualifies as one of the following:

- A. Family Subdivision.** The division of all or part of a tract for the purpose of conveyance of lots to the following named members of the family of the grantor: father, mother, son, daughter, stepson, stepdaughter, grandson, granddaughter, brother, sister, or spouse. A Family Subdivision is subject to the following restrictions:
1. A Family Subdivision may create no more than four (4) lots in addition to the parent tract.
  2. The owner of the tract must have a recorded title to the property that is dated either (i) at least five (5) years before the Effective Date, or (ii) at least ten (10) years before the date the request for certification as an Exempt Subdivision is submitted to the Planning Director.
  3. Ownership of any lot created pursuant to a Family Subdivision cannot be transferred within five (5) years of the date that the Record Plat is filed in the land records unless the Planning Commission finds that a hardship exists, such as the death of a lot owner or a bona fide foreclosure of a mortgage or deed of trust.
  4. Each lot created by a Family Subdivision may be developed with (i) one (1) single-family detached dwelling or non-residential building with no more than 5,000 square feet of gross floor area; and (ii) structures related to agricultural use of the lot of any size and number needed.
  5. The minimum lot size for a Family Subdivision is 1,200 square feet or, for lots served by private on-site wastewater systems and wells, the minimum area needed to support a safe septic system that the Health Department will approve.

- B.** Division of land under court order.
- C.** Minor Boundary Line Adjustment. The sale or exchange of part of a tract, parcel or lot between adjoining tracts, parcels, or lots for the purpose of a small adjustment in boundaries, including transfer of land to achieve a boundary line settlement, if:
1. The total area of the adjustment is not greater than 2,000 square feet or two (2) percent of the combined area of the tracts, parcels, or lots;
  2. No additional lots are created;
  3. The adjusted lot line is approximately parallel with the original lot, tract, or parcel line, or if proposed to intersect the original lot line, does not significantly change the shape of the tracts, parcels, or lots involved; and
  4. The property owner submits a scaled drawing for review and approval by the Planning Director, which may be a copy of the existing record plat and must depict:
    - a. the proposed lot line adjustment as a dashed line;
    - b. any buildings, driveways, or other improvements located within fifteen (15) feet of the proposed adjusted boundary line;
    - c. any applicable minimum building setback that would be changed by the minor lot line adjustment; and
    - d. the amount of lot area affected by the minor lot line adjustment.
- D.** Cemetery Subdivision. The formation of cemetery lots.
- E.** Agricultural Subdivision. The creation of a lot for a road, building or structure used exclusively for agricultural purposes on land used exclusively for agriculture, except, to the extent such regulation is permitted under Chapter 19 of the West Virginia Code, an equestrian facility, building, or structure intended for use by participants or spectators at an equestrian event.
- F.** Resource Extraction Subdivision. The creation of one or more lots for the purpose of extraction or harvesting of resources.
- G.** Merger. The merger of all or part of two or more contiguous lots, tracts, or parcels of land for the sole purpose of enlarging an existing lot, tract, or parcel, provided the following conditions are met:
1. The grantee agrees to merge the lot, tract or parcel being acquired with a lot, tract or parcel the grantee presently owns to create a new lot.
  2. The residue parcel, if any, does not violate any existing Monongalia County ordinance pertaining to land use.

3. The following merger statement appears on the plat formalizing the merger: "THE \_\_\_\_\_ ACRE TRACT IDENTIFIED HEREON AS "LAND TO BE MERGED" IS TO BE MERGED INTO [provide brief property description including acreage, lot #, section and name of subdivision if applicable]. ANY FURTHER MODIFICATION OF ANY LAND DEPICTED ON THIS PLAT SHALL BE IN COMPLIANCE WITH THE MONONGALIA COUNTY SUBDIVISION AND LAND DEVELOPMENT ORDINANCE."

H. Utility or Emergency Services Lot. The creation of one or more lots or areas for the purpose of facilitation, metering or transmission of a utility service such as water, sewer, electric, gas, power, telephone, or rail transportation or for the construction of police, fire, and ambulance facilities. The Record Plat and any applicable deed shall contain the following statement: "THE PROPERTY HERE DESCRIBED SHALL NOT BE USED FOR RESIDENTIAL OR COMMERCIAL PURPOSES OTHER THAN THE LEGAL UTILITY OR PUBLIC FACILITY THE LOT WAS DESIGNED FOR." In order to convert such a lot to residential or commercial usage, it shall be considered as a new lot and require approval of an Exempt, Minor or Major Subdivision under the provisions of this Ordinance, the rules and regulations of the Health Department and the DOH and other applicable rules, regulations, and ordinances.

I. Transition Period Exemption. A subdivision may be considered exempt from the Subdivision Regulations if a complete application for exemption is submitted to the Planning Office within 180 days of the Effective Date. This exemption is available regardless of whether a project is under construction when the exemption application is submitted, or is at a conceptual stage. For a multi-phase subdivision, this exemption applies to all phases that are depicted on the submitted Record Plat as required under Section 4.4 and Table 6-1

The developer of any project that is exempt pursuant to this Section 4.1.I is strongly encouraged to comply with the provisions of Article 9 (Roads) and Article 12 (Stormwater Management and Drainage Design) of the Subdivision Regulations.

#### **Section 4.2 Exempt Single-Ownership Development**

Any land development project that does not involve the division of a tract of land into two or more lots, or the recombination of existing lots, is not a subdivision and is exempt from the review and approval requirements of the Subdivision Regulations, provided that the project fits within the following limits:

- A. Up to five single-family, duplex, triplex or quadruplex dwelling units; or
- B. Up to 10,000 square feet of non-residential or multi-family residential gross square footage.

Any land development project that exceeds the limits stated above must be reviewed and approved as a Major Subdivision under Article 6, regardless of whether the applicant

chooses to divide the property into lots or create a subdivision with a single lot comprising the entire property.

Exemption from subdivision review does not constitute exemption from the requirement for a NIF under **Section 7.1**. Only projects that qualify for an exception listed in Section 7.1 may be built without a NIF. An Exempt Single-Ownership Development also must provide all utility easements applicable to the relevant building classification(s) under Article 3.

This exemption is intended to permit land development within the limits specified in this section where the property owner chooses to maintain the property as an undivided tract or parcel of land, rather than to create separate, saleable lots. As stated in **Section 2.1**, it shall be unlawful for any person who owns or controls any land subject to the provisions of this Ordinance to sell, transfer, or agree to sell or transfer any portion less than the entirety of a tract or parcel unless and until a Record Plat dividing such land into lots has been filed with the County Clerk and recorded in the County land records.

### **Section 4.3. Other Exemptions**

Certain transfers of interests in land and land surveys do not constitute subdivisions or land developments and are exempt from compliance with the Subdivision Regulations.

- A.** The sale or other transfer of one or more lots from a subdivision for which a plat was recorded with the County Clerk prior to the Effective Date of the Subdivision Regulations and the sale or other transfer of the entirety of a tract or parcel by deed, but only if the plat or deed is of sufficient survey accuracy to permit the clear conveyance of the subject property by direct plat or deed reference without modification or addition; *provided that*, any resurvey to reflect changes in boundaries and any amended, modified, or corrective plat shall be subject to the requirements of this Ordinance.
- B.** The granting of one or more rights-of-way or easements that do not change the number of lots or the size, shape, and layout of lots, infrastructure, common space or any other feature of an existing subdivision, provided that any right-of-way or easement that provides access to a public road shall require an entrance permit from DOH before certification as an Exempt Subdivision.
- C.** A subdivision plat that represents a survey of existing lots and does not alter boundary lines (although the metes and bounds descriptions of such lines may vary insignificantly from prior descriptions of such lines) or reflect any change in the number of lots or any material change in the size, shape, and layout of lots, infrastructure, common space or any other feature of an existing subdivision.

### **Section 4.4 Approval Process for Exempt Subdivisions and Exempt Single-Ownership Developments**

- A. Exempt Subdivision.** The Planning Director may certify that a proposed subdivision qualifies as an Exempt Subdivision. A complete application for such certification must be presented to the Planning Office, consisting of the following elements:

1. A written application for certification of a proposed subdivision as an Exempt Subdivision, in the format developed and approved by the Planning Director, completed and signed by the applicant.
2. A copy of the proposed Record Plat and supporting information as specified in Table 6-1.
3. Proof that the proposed subdivision will be located on property owned by the applicant or is being done with the consent of the property owner.
4. Identification of the category of exemption for which certification is requested, a written justification for the exemption, and any documentation necessary to demonstrate that the proposed subdivision qualifies for an exemption under this Article.

Within fifteen (15) days of receipt of an application, the Planning Director must determine whether the application is complete and inform the applicant in writing of any missing items. Within fifteen (15) business days of a determination that the application is complete, the Planning Director must notify the applicant in writing whether the proposed subdivision has been certified as exempt. If exempt certification is not granted, the applicant must obtain approval for the subdivision as a Minor or Major Subdivision before a plat may be filed in the land records or a NIF may be obtained.

**B. Exempt Single-Ownership Development.** The Planning Director may certify that a proposed land development project qualifies as an Exempt Single-Ownership Development. A complete application for such certification must be presented to the Planning Office, consisting of the following elements:

1. A written application for certification of a proposed project as an Exempt Single-Ownership Development, in the format developed and approved by the Planning Director, completed and signed by the applicant.
2. A copy of the proposed Concept Plan and supporting information as specified in Table 6-1.
3. Proof that the proposed land development will be located on property owned by the applicant or is being done with the consent of the property owner.
4. Written justification statement signed by the applicant acknowledging that (i) a Single-Ownership Development is not a subdivision and neither divides a tract of land into two or more lots nor recombines existing lots; (ii) the property owner chooses to maintain the subject property as an undivided tract or parcel of land; (iii) the property may be developed with up to five single-family, duplex, triplex or quadruplex dwelling units or up to 10,000 square feet of non-residential or multi-family residential gross square footage; and (iv) as stated in Section 2.1, it is unlawful to sell or transfer any portion less than the entirety of the subject property unless and until the property is approved as a Minor

or Major Subdivision under this Ordinance and a Record Plat dividing the property into lots is approved and recorded in the land records.

Within fifteen (15) days of receipt of an application, the Planning Director must determine whether the application is complete and inform the applicant in writing of any missing items. Within fifteen (15) business days of a determination that the application is complete, the Planning Director must notify the applicant in writing whether the proposed single-ownership development has been certified as exempt. If exempt certification is not granted, the applicant must obtain approval for the subdivision as a Minor or Major Subdivision before a plat may be filed in the land records or a NIF may be obtained.

#### **Section 4.6 Effect of Exempt Subdivision Plat or Single-Ownership Development Plan Certification**

**A. Exempt Subdivision.** When the Planning Director has certified that a proposed subdivision qualifies as an Exempt Subdivision:

1. The applicant must submit three clear and legible prints of the Record Plat for recording with the County Clerk, each of which will be stamped by the Planning Office as certified. The applicant must file the stamped plats with the County Clerk within thirty (30) days of certification.
2. The subdivision takes effect upon recordation of the stamped, certified Record Plat in the land records. Following recordation, the applicant may seek a NIF 2 under Section 7.1 to authorize land development activities to begin.
3. With the exception of a Transition Period Exemption, this Subdivision Ordinance extends to Exempt Subdivisions the vesting provisions outlined in Section 2.1.E of this Ordinance. Accordingly, as stated more fully in Section 2.1.E, the applicant has a vested right to undertake and complete the land development depicted on the Record Plat, subject to a five-year vesting period.
4. A Transition Period Exemption has a validity period of two (2) years from the date of certification of the plat. If the landowner incurs extensive obligations or substantial expenses in diligent pursuit of the project depicted on a Transition Period Exemption plat within two (2) years of certification of the plat, the landowner's right to pursue that project to completion continues indefinitely. If the landowner does not incur extensive obligations or substantial expenses in diligent pursuit of the project depicted on the certified plat within two (2) years of certification of the plat, the exemption expires, and the landowner must submit an application for approval for a Minor Subdivision or a Major Subdivision before undertaking any land development or construction activities
5. A Transition Period Exemption entitles the landowner to implement the plat as certified. A landowner who wishes to make any change to the plat as

certified must submit an application for certification of the amended plat under the provisions of Section 4.4 of the Subdivision Regulations.

- a. Within fifteen (15) days of receipt of an application, the Planning Director must (1) determine whether the application is complete and inform the applicant in writing of any missing items; and (2) assess whether the changes proposed to the certified plat are properly considered *de minimis*, limited, or substantial, as defined in Article 8 of the Subdivision Regulations, and inform the applicant in writing of his or her determination.
- b. If the Planning Director finds that the proposed changes are *de minimis* or limited, then within fifteen (15) business days of a determination that the application is complete, the Planning Director must notify the applicant in writing that the application has been certified as exempt.
- c. If the Planning Director determines that the proposed amendment includes substantial changes to the certified plat, the applicant must obtain approval for the subdivision as a Minor or Major Subdivision before an amended plat may be filed in the land records or a NIF may be obtained.

**B. Exempt Single-Ownership Development.** When the Planning Director has certified that a proposed project qualifies as an exempt single-ownership development:

1. The applicant must submit two clear and legible prints of the Concept Plan to the Planning Office, each of which will be stamped by the Planning Office as certified. One copy shall be added to the application file in the Planning Office. The other copy is for the applicant's records.
2. The applicant may seek a NIF 2 under Section 7.1 to authorize land development activities to begin.

## ARTICLE 5. Minor Subdivisions

Except as specified otherwise in this Ordinance, the Planning Director is authorized by this Ordinance to review a Minor Subdivision for approval pursuant to the provisions of this Article. A Minor Subdivision shall be reviewed by the Planning Commission:

- (a) if the applicant seeks approval for alternative compliance under Section 2.2;
- (b) under Section 5.1.B; or
- (c) if the Planning Director determines, in his or her discretion, that the application is appropriate for Planning Commission review.

### Section 5.1 Minor Subdivision Standards

A Minor Subdivision must meet the following standards:

- A. No more than five (5) lots can be created, including the residue of their parent tract and any lots created from that tract by a previous subdivision plat (whether for a Major, Minor, or Exempt Subdivision) that was filed with the County Clerk after the Effective Date. The owner of the parent tract or any subdivided lot must wait at least ten (10) years after the fifth lot is created before filing an application to create additional lots by Minor Subdivision. When ten (10) years have elapsed from the date that the plat for the fifth lot was filed with the County Clerk, the owner of the original parent tract or the owner of any of the subdivided lots may submit an application to create up to five (5) additional lots by Minor Subdivision.
- B. Each lot may be developed with either (a) one dwelling unit, consisting of one single-family detached, semidetached, or attached dwelling or one unit of a duplex, triplex, or quadruplex dwelling, or (b) one non-residential building with no more than 5,000 square feet of gross floor area. The total number of dwelling units in a five-lot Minor Subdivision may not exceed five (5), regardless of the dwelling type, (for illustration, e.g. five (5) single-family homes; or two (2) single-family homes and one duplex; five (5) townhouses; or four (4) townhouses and the residue of their parent tract lot. Non-residential development in a Minor Subdivision as a whole is limited to a total of 10,000 square feet of gross floor area whether in a single structure or aggregated in more than one structure. Any application that does not adhere to the standards in this Section 4.1.B must be reviewed and approved by the Planning Commission as a Major Subdivision.
- C. The proposed subdivision and land development:
  - 1. Must provide each new lot and the residue parcel (if any) with either direct access to a public road or access to a public road by a private road or right of way for access.
  - 2. Must not require the development of new or the extension of existing off-tract infrastructure such as public or private roads or utilities. (For illustration, e.g., if the site of a proposed subdivision does not have legal access to a public road, it cannot be approved as a Minor Subdivision. To construct a subdivision that requires construction of a new public road to reach the site, or extension of an existing public road to reach the site, the applicant must file for approval as a Major Subdivision.) A

- Minor Subdivision applicant is permitted to build roads and install other infrastructure for direct or indirect access only on private property, at the applicant's cost.
3. Must not adversely affect the residue of the tract (if any) or adjoining property under the control of the applicant.
  4. Must be consistent with the Comprehensive Plan and the Zoning Ordinance.
  5. Must comply with all development standards contained in Articles 3, and 9 through 12 of the Subdivision Regulations, including minimum lot sizes and setbacks, except that a Minor Subdivision is not required to provide stormwater management unless specified under subsections D or E below.
  6. Must comply with all additional applicable requirements of local, state, or federal law, including the Floodplain Ordinance, DOH entrance road permit requirements, connection to public water and sewer or compliance with requirements for private water and sewer, Fire Marshal requirements, and regulations of the Morgantown Municipal Airport or the FAA.
- D. All subdivisions must provide a drainage control system in conformance with the requirements of Article 12 of this Ordinance.
- E. All subdivisions that are located within an area that is regulated by the DEP MS4 NPDES Multi-Sector Permit must provide stormwater management in compliance with applicable standards promulgated by the entity that administers the permit in that area.
- F. For any subdivision that is not located within an area that is regulated by the DEP MS4 NPDES Multi-Sector Permit, if the proposed Minor Subdivision, together with any Minor or Exempt subdivision that was created from the same tract and was filed with the County Clerk after the Effective Date, will result in (i) more than five (5) lots, (ii) residential development at a density greater than one (1) dwelling unit per lot; or (iii) approval for more than 10,000 square feet of gross floor area of non-residential development, the proposed Minor Subdivision must provide stormwater management, in conformance with the requirements of Article 17 of the Subdivision Regulations, for the proposed Minor Subdivision and for any Minor or Exempt Subdivisions filed after the Effective Date for the same tract that do not have stormwater management installed.
- G. Phasing of subdivisions shall not be utilized as a means of circumventing the requirements of the Subdivision Regulations for Major Subdivisions. Any application for approval of a Minor Subdivision to be created from a lot or tract that was part of or created by a Minor Subdivision or Family Subdivision within the previous five (5) years shall constitute an attempt to circumvent Subdivision Regulation requirements for a Major Subdivision. Any such application shall be denied and may result in enforcement action by the Planning Commission for violation of the Subdivision Regulations.

## Section 5.2 Minor Subdivision Application

Review and approval of Minor Subdivisions shall be conducted in all respects in accordance with the requirements of Chapter 8A, Article 5 of the West Virginia Code.

**A. Optional Sketch/Concept Plan Submission.** An applicant for a Minor Subdivision is encouraged to submit either a sketch or concept plan for review by the Planning Office in advance of preparing a full application.

1. If a Minor Subdivision applicant submits a sketch plan, said plan will be reviewed during a pre-application conference with the Planning Office.

The purpose of a Sketch Plan is to facilitate a productive, informal conference at a point when the project is at a preliminary stage and the applicant has not made significant expenditures for engineering work, to permit the Planning Office to offer comments and suggestions regarding project layout and Preferred Design standards. There is no filing fee for a Sketch Plan.

2. If a Minor Subdivision applicant submits a concept plan, it shall follow the Concept Plan submittal requirements indicated in Table 6-1 for Minor Subdivision.
3. If a concept plan is submitted, the Planning Office must meet with the applicant within fifteen (15) days to review the submission and provide comments, make requests for additional information, or inform the applicant that the Planning Office considers it necessary to forward the concept plan to DOH for review. If a concept plan is forwarded to DOH, the Planning Office must request DOH comments within thirty (30) days, and must meet with the applicant again within seven (7) days of receiving DOH comments.

**B. Application for Approval of a Minor Subdivision.** A complete application consisting of the following components must be presented to the Planning Office before the process of review and approval may begin.

1. A written application for approval of a Minor Subdivision, in the format developed and approved by the Planning Director, completed and signed by the applicant.
2. Proposed Subdivision Plan drawing(s), Record Plat, and supporting information as specified in Table 6-1.

## Section 5.3. Minor Subdivision Review Process

### A. Minor Subdivision Application Acceptance Review

1. Prior to acceptance of a Minor Subdivision Final Subdivision Plan application for review, the Planning Office must perform an Application Acceptance Review of the application. The purpose of this pre-filing review is to identify

any missing elements of the application and give the applicant the opportunity to supply those elements before submitting the application for formal completeness review. This will reduce the likelihood that the Planning Director will deny an application for incompleteness. During Application Acceptance Review, the Planning Office may recommend or the applicant may request a pre-filing conference to discuss the application. If the applicant has submitted a concept plan, staff will review this step with the applicant at that time.

2. Within ten (10) days of the submission of a Minor Subdivision application for pre-filing review, the Planning Office must either inform the applicant that staff considers the application complete, or identify additional information required to complete the application.
3. If the Planning Office considers the application complete, the date of that determination must be deemed the date of formal submission for purposes of Section 5.3.B.
4. If the Planning Office considers the application incomplete, it will be returned to the applicant for completion. The applicant may re-submit the application for pre-filing completeness review, or may choose to submit for formal review without an additional pre-filing review.

**B. Classification as a Minor Subdivision:** Within seven (7) days of formal submission of an application, the Planning Office must meet with the applicant to discuss the proposed subdivision and the criteria proposed for its classification as a Minor Subdivision, and must inform the applicant if any additional information is required to consider the application complete or to make an informed decision. Within ten (10) days of submission of a complete application, including any additional information requested, the Planning Director must notify the applicant in writing whether the proposed subdivision has been classified as a Minor Subdivision. If the proposed subdivision does not qualify for classification as a Minor Subdivision, the applicant must obtain approval for the subdivision as a Major Subdivision before filing a plat in the land records or obtaining a NIF.

**C. Approval/Denial:** Within ten (10) days after an application has been classified as a Minor Subdivision, or within forty-five (45) days in the case of a Minor Subdivision to be reviewed by the Planning Commission, the subdivision must be approved, approved with conditions, or denied. Any revisions made during the review process must be clearly shown on the Final Subdivision Plat. The application must be approved if the application is complete and all criteria required for a Minor Subdivision in this Ordinance and Chapter 8A, Article 5 of the West Virginia Code, are satisfied.

1. If an application is approved with conditions, the Planning Commission or Planning Director must provide the conditions in writing to the applicant, and the conditions must be printed on the face of the Record Plat; if space or other technical considerations make it impossible to print the conditions on the face of the plat, the conditions must be attached to the Record Plat, and the face

of the plat must note that it was approved with conditions. If an application is denied, the applicant must be notified in writing of the reason for denial.

2. If an application is approved or denied by the Planning Commission, the action and any conditions of approval must be reflected in the minutes of the meeting or in a written resolution signed by the Planning Commission Chair. If an application is approved or denied by the Planning Director, the action and any conditions of approval must be noted in the application file.

#### **D. Effect of Final Minor Subdivision Plan Approval**

When a Final Minor Subdivision Plan has been approved:

1. The applicant must submit three (3) clear and legible prints of the approved Final Minor Subdivision Plan drawing(s) and the approved Record Plat to the Planning Office within thirty (30) days of the Final Subdivision Plan approval or such longer period as indicated by the Planning Commission or the Planning Director, at the time of final plat approval, for the applicant to meet conditions of approval. The Final Subdivision Plan and Record Plat will be stamped approved per Section 5.3.C provided that the Planning Director finds that any conditions of approval that must be met before the Record Plat is filed with the County Clerk have been met and any required surety has been provided and accepted.
  2. Stamped Record Plat drawings must be filed for recording with the County Clerk within thirty (30) days of the being stamped approved.
  3. The subdivision takes effect when the approved, stamped Record Plat is submitted to the County Clerk and recorded in the land records. Following recordation, the applicant may seek a NIF 2 under Section 7.1 and Table 6-1 to authorize site work to begin.
- E.** Under W. Va. Code §8A-5-12 and as stated more fully in Section 2.1.E of this Ordinance, the applicant has a vested right to undertake and complete the land development depicted on the final plat, subject to a five-year vesting period.

## Article 6. Major Subdivision Application and Review Process

A Major Subdivision is any subdivision or land development project that does not meet the criteria specified in this Ordinance for classification as a Minor Subdivision under Article 5 or an Exempt Subdivision or Exempt Single-Ownership Development under Article 4. All Major Subdivisions must be reviewed for approval by the Planning Commission and must comply with all additional applicable requirements of local, state, or federal law, including the Floodplain Ordinance, DOH entrance road permit requirements, connection to public water and sewer or compliance with requirements for private water and sewer, Fire Marshal requirements, and regulations of the Morgantown Municipal Airport or the FAA.

Review and approval of Major Subdivisions shall be conducted in all respects in accordance with the requirements of Chapter 8A, Article 5 of the West Virginia Code.

### Section 6.1 Standard vs. Expedited Review

All Major Subdivisions fall into one of two categories: Standard or Expedited Review. Expedited Review allows a shortened application review process by establishing Preferred Design, a set of pre-reviewed design criteria that will be approved by the Planning Commission as part of the Guidelines.

The Planning Commission is required to adopt the Guidelines within six months of the adoption of this Ordinance by the County Commission. Adoption of the Guidelines by the Planning Commission shall constitute approval of the methods contained therein and shall serve as pre-approval by the Planning Commission for subdivisions that utilize the methodology contained therein, to be followed by final approval by the Planning Director.

A Major Subdivision applicant who chooses to follow Preferred Design standards will be eligible for Expedited Review. Because the Preferred Design standards have been pre-approved by the Planning Commission, Expedited Review allows a Final Subdivision Plan that has no or de minimis changes from the approved Land Development Plan to receive final review and approval from the Planning Director instead of the Planning Commission. In addition, an applicant following Preferred Design standards will also be eligible for adjustment of certain road standards to improve subdivision design and lot yield, as detailed in the Guidelines.

### Section 6.2 Application and Review Process Overview

- A. Submission of Sketch Plan for discussion of basic project goals and layout with Planning Office.
- B. Submission of Concept Plan for discussion with Planning Office and, if requested by the applicant, Planning Commission review and comment.
- C. Submission of Land Development Plan application for Planning Office Acceptance Check to verify use of appropriate forms, drawing specifications, etc.,
- D. Planning Director review of Land Development Plan application for completeness, to be confirmed by the Planning Commission.
- E. Planning Commission review and approval of Land Development Plan application.

- F. Submission of Final Subdivision Plan application for each phase of project for Planning Office Acceptance Check.
- G. Planning Director or Planning Commission review of Final Subdivision Plan application for completeness.
- H. Planning Commission or Planning Director review and approval of Final Subdivision Plan application for each phase.
- I. Filing of approved Record Plat with County Clerk for each phase.
- J. For post-approval requirements, see Article 7.
- K. For changes to Land Development Plans and amendments to approved Final Subdivision Plans and Record Plats, see Article 8.

### Section 6.3 Sketch Plan

An applicant seeking approval for a Major Subdivision must file a Sketch Plan application for the entire subdivision, including all proposed phases. The sketch plan will be reviewed during a pre-application conference with the Planning Office.

The purpose of a Sketch Plan is to facilitate a productive, informal conference at a point when the project is at a preliminary stage and the applicant has not made significant expenditures for engineering work, to permit the Planning Office to offer comments and suggestions regarding project layout and Preferred Design standards. There is no filing fee for a Sketch Plan.

#### A. Submission Materials Required

A proposed Sketch Plan drawing and supporting information as specified in Table 6-1.

#### B. Review Process

1. Review takes place during the informal conference with the Planning Office. If the informal conference is scheduled sufficiently in advance, the applicant will receive comments from other pertinent agencies in addition to the Planning Office, to maximize design guidance available prior to preparation of a Concept Plan.
2. No public hearing will be held and no official action will be taken with respect to a Sketch Plan. No vested rights arise as a result of, or in connection with, review of or comment on a Sketch Plan.
3. At the conclusion of the pre-application conference, the Planning Office will provide the applicant with a written acknowledgement that a Sketch Plan was submitted and discussed, as well as an electronic template for submitting a Concept Plan application.

## Section 6.4 Concept Plan

An applicant seeking approval for a Major Subdivision must file a Concept Plan application for the entire subdivision, including all proposed phases. The Concept Plan must be filed after a Sketch Plan has been reviewed under Section 6.3.B.

The purpose of a Concept Plan is to facilitate a productive pre-application conference prior to preparation of a Land Development Plan and permit the Planning Office to offer comments and suggestions and raise potential concerns regarding a proposed project. A Concept Plan is intended to require a minimal amount of engineering and expense for application submission.

### A. Deposit and Application Materials Required

1. A non-refundable deposit (to be applied to the Land Development Plan application fee should the applicant choose to proceed) in accordance with the Subdivision Fee Schedule.
2. Proposed Concept Plan drawing(s) and supporting information as specified in Table 6-1.
3. Written statement from applicant indicating whether or not applicant intends to follow Preferred Design standards and seek Expedited Review.

### B. Review Process

1. The Planning Office must meet with the applicant within fifteen (15) days after submission of a Concept Plan to review the submission, provide comments and make requests for additional information, and may inform the applicant that the Planning Office considers it necessary to forward the Concept Plan to DOH or the appropriate public water and sewer service provider for review. If a Concept Plan is forwarded to other agencies, the Planning Office must request agency comments within thirty (30) days, and must meet with the applicant again within seven (7) days after receipt of agency comments.
2. The applicant may request in writing that the Planning Commission conduct an informal review of a Concept Plan. The only purpose of Planning Commission review of a Concept Plan will be to offer comments and suggestions, and raise any potential concerns regarding a proposed project. No approval of the Concept Plan will be provided by the Planning Commission and no guarantee of future project approvals shall be construed from any comments or suggestions provided by the Planning Commission during informal review of a Concept Plan. In its written request, the applicant must either:
  - a. Request the Planning Commission review occur at the next regularly scheduled meeting, with no notice to the public other than the standard posting of the agenda, in which case the request must be made at least fourteen (14) days prior to the next regularly scheduled meeting; or
  - b. Request the Planning Commission review occur at a public hearing following the newspaper notice and sign posting provisions of Section 6.5.D. If the applicant requests a public hearing for Concept Plan review,

the applicant acknowledges that an additional public hearing will still be required during review of the Land Development Plan and potentially during review of the Final Subdivision Plan.

3. If Planning Commission review is requested, the Planning Commission must provide its comments in writing within fifteen (15) days of the meeting or public hearing.
4. No official action will be taken by the Planning Commission with respect to a Concept Plan. No vested property rights shall arise as a result of, or in connection with, review or comment on a Concept Plan.

### **Section 6.5 Land Development Plan**

An applicant seeking approval for a Major Subdivision must file a Land Development Plan application for the entire subdivision, including all proposed phases.

A Land Development Plan is an overview plan whose purpose is to provide the Planning Commission and staff with sufficient information to determine whether the proposed subdivision is in compliance with the requirements of this Ordinance prior to preparation of a Final Subdivision Plan.

For a Multiphase Major Subdivision, the Land Development Plan must provide an overview of all the phases with sufficient detail for the required overall infrastructure to be determined. After approval of the Land Development Plan, individual phases are reviewed in more detail as provided in Section 6.6, Final Subdivision Plan/Technical Verification Review.

#### **A. Application Fee and Materials Required.**

1. The appropriate fees specified for the subject application in the Subdivision Fee Schedule, less the non-fundable deposit paid at the time of Concept Plan submission.
2. A written application in the format developed and approved by the Planning Director, completed and signed by the applicant. Applicants must indicate on this form whether or not they are applying for Expedited Review using Preferred Design standards.
3. Proposed Land Development Plan drawing(s) and supporting information as specified in Table 6-1.

#### **B. Application Acceptance Review**

1. Prior to acceptance of the Land Development Plan application for review, the Planning Office must perform an Application Acceptance Review of the application. The purpose of the Application Acceptance Review is to identify any missing elements of the application and give the applicant the opportunity to supply those elements before submitting the application for formal completeness review. The Application Acceptance Review is intended to reduce potential significant delays later in the review process.

2. Within fifteen (15) days of the submission of a Land Development Plan application for Application Acceptance Review, the Planning Office must either inform the applicant that staff accepts the application or identify additional information or missing elements that are required before the application can be accepted.
3. If the Planning Office accepts the application, the date of acceptance shall be deemed the date of receipt by the Planning Office for purposes of the Subdivision Regulations.
4. If the Planning Office does not accept the application, the application must be returned to the applicant for resubmission. The applicant may re-submit the application for Application Acceptance Review, or may choose to submit for formal completeness review without an additional Application Acceptance Review. If re-submitted, the date of receipt becomes the date of the resubmission.

**C. Determination of Complete Application**

1. Within fifteen (15) days after receipt of an application, the Planning Director must formally review the application for completeness and determine whether it includes all elements and information required by the Subdivision Regulations and whether the applicant has appropriately categorized the building classification under **Article 3**. If the Planning Director finds that the application is complete and is appropriately categorized under **Article 3**, the Director must provide the applicant with a written determination that the application is complete. If the Planning Director finds that the application is not complete or is not appropriately categorized under **Article 3**, the Director must provide the applicant with a written determination of the additional or revised information needed to constitute a complete application.
2. Within three (3) business days of notification by the Planning Director that a Land Development Plan application is complete, the applicant must submit eight (8) hard copies of the application to the Planning Office for distribution to other agencies that will be responsible for reviewing the application and one (1) digital copy in a format determined by the Planning Office. The Planning Office must distribute one copy to each agency named in **Section 2.1.G** within five (5) business days of receipt, together with notice of the Planning Commission hearing date and a request for comment on relevant components of the application no later than fourteen (14) days before the public hearing date. If a listed agency is responsible for approving a component of the subdivision, such as an entrance onto a public road, or providing a sewer and water connection, the applicant is responsible for securing such approval at the time of Final Subdivision Plan.
3. If the Planning Director finds the application to be complete, the Planning Commission must review the Planning Director's determination of completeness within forty-five (45) days after the Planning Office received the application. If the Planning Commission finds the application to be complete, the application may proceed to Application Review. If the Planning Commission finds the application to be incomplete, the Planning Commission must notify the applicant in writing of the deficiency(ies) within five (5) business days of making its finding. The application must be found complete

by the Planning Commission before the application proceeds to Application Review. If the application meets the Preferred Design criteria, the Planning Commission's completeness review will be simplified by compliance with pre-approved standards, and will take place on an expedited basis at the next scheduled meeting.

**D. Land Development Plan Application Review**

1. At the meeting at which the Planning Commission confirms that the Land Development Plan application is complete, the Planning Commission must set a date, time and place for a public hearing and a meeting to vote on the application. The public hearing must be held within forty-five (45) days of the meeting at which the application is determined to be complete, and the meeting to vote on the application must be held either immediately following the public hearing or, at the Planning Commission's discretion, within fourteen (14) days after the public hearing. The public hearing will be conducted according to the Planning Commission's standard hearing procedures. The Planning Commission must notify the applicant of the public hearing and meeting in writing, unless such notice is waived by the applicant in writing. The Planning Commission must publish a notice of the public hearing and meeting on its website and in a local newspaper of general circulation in the area and mail written notice to all persons on the Notification List submitted under Table 6-1 at least twenty-one (21) days prior to the public hearing.

2. **Public Hearing Sign**

The applicant must erect a sign advertising the public hearing at least twenty-one (21) days before the hearing and must maintain such signage in place until the period to appeal the Planning Commission's final decision on the application under Article 8 has expired.

The sign must be made of durable material, at least four foot by four foot (4' x 4'), with black letters on a white or yellow background and with the words "Public Hearing Notice" in six (6) inch tall lettering at the top. All other lettering must be at least two (2) inches tall. Lettering must be clearly legible and if homemade a stencil must be used so letters are evenly spaced and painted in a neat and attractive manner. The sign must include:

- a. **Subdivision name and applicant name**
- b. **Proposed use(s)**
- c. **Number of lots and dwellings proposed (if any)**
- d. **Non-residential square footage proposed (if any)**
- e. **Size of lots**
- f. **Notice of Planning Commission public hearing date, time, and place**
- g. **Statement that application is available in the Planning Office for review**

The sign must be located at the proposed entrance area of the subdivision or at such other location as will offer the greatest visibility to the public.

3. No later than seven (7) days before the meeting at which the Planning Commission will consider the application, the Planning Office must provide a report to the Planning Commission members and post the report on its web site. The report must describe the application, analyze in detail its compliance with the Subdivision Ordinance, the Comprehensive Plan, and any applicable zoning regulations, summarize comments from other local and state agencies and make a recommendation of approval, approval with conditions, or denial.
4. At the scheduled meeting, the Planning Commission must vote to approve, approve with conditions, deny, or hold the application. The Planning Commission may vote to hold the application for up to forty-five (45) days if it finds that additional information is needed to determine whether to approve or deny, or at its discretion may defer a decision for up to two (2) years at the request of the applicant. If the Planning Commission does not make a decision on a deferred application within two years of the date of deferral, the application is considered void and the applicant must re-start the application process, beginning with Sketch Plan.
5. The Planning Commission must approve the application if it finds that the application is complete and meets the requirements of the Subdivision Regulations, the Comprehensive Plan, and any applicable zoning regulations. Each application must demonstrate compliance with all standards set forth in this Ordinance specific to the applicable category of building classification, as well as generally applicable standards.
6. If the Planning Commission approves the application, its approval must be reflected in the minutes of the meeting or in a written resolution signed by the Planning Commission Chair, and the Planning Commission's approval stamp and the date of approval must be placed on the Land Development Plan.
7. If the Planning Commission approves the application with conditions, its approval and the conditions must be reflected in the minutes of the meeting or in a written resolution signed by the Planning Commission Chair. The Planning Commission must provide the conditions to the applicant in writing and the conditions must be printed on the face of the plan; if space or other technical considerations make it impossible to print the conditions on the face of the plan, the conditions must be attached to the Land Development Plan and the Planning Commission must note on the face of the plan that it was approved with conditions.
8. If the Planning Commission denies the application, (i) its denial must be reflected in the minutes of the meeting or in a written resolution signed by the Planning Commission Chair; and (ii) the Planning Commission must notify the applicant in writing, by mail, of the reasons for the denial, with such notice to be postmarked no later than ten (10) days after the date that the denial took place.

9. The applicant or any aggrieved person may submit a written request for reconsideration of the Planning Commission's decision, which must be postmarked no later than fourteen (14) days after the date of on which the Planning Commission voted to deny the application. Any request for reconsideration must specify any alleged errors of fact or law and state fully all grounds for reconsideration because of mistake, inadvertence, surprise, fraud, or other good cause. The Planning Commission shall have the discretion whether to grant the request for good cause shown and reconsider the application, or deny the request and allow its denial of the application to stand. At its next regular meeting after a written request for reconsideration is received in the Planning Office, the Planning Commission must vote on whether to reconsider an application. A motion to reconsider may be made only by a member of the Planning Commission who voted in the majority on the decision that is the subject of the reconsideration request. The motion passes if it receives the vote of a majority of the Planning Commission present and voting and each member voting on the motion participated in the decision to be reconsidered or read the record of the proceeding. If the Planning Commission decides to grant the request for reconsideration:
  - a. the Planning Commission must schedule a date and time to reconsider the application no less than twenty-five (25) days and no more than forty-five (45) days after the vote to reconsider;
  - b. the applicant must submit to the Planning Office, within seven (7) days of the vote to reconsider, a set of stamped envelopes addressed to the Notification List submitted under **Table 6-1a**; and
  - c. the Planning Commission must send written notice of the meeting at which it will reconsider the application to all persons who received notice of the original public hearing and meeting.
10. On reconsidering an application, the Planning Commission must vote to approve or deny the application, as provided for in **Sections 6.5.D.4 - 8**. No further requests for reconsideration may be submitted. See Article 8 for appeal procedure.

#### E. Effect of Land Development Plan Approval

When a Land Development Plan has been approved:

1. The applicant must submit two (2) clear and legible prints of the approved Land Development Plan to be stamped per **Section 6.5.E**. One print is to be added to the application file in the Planning Office and one is for the applicant's records.
2. An approved Land Development Plan has an initial implementation period of one year unless the Planning Commission approves a longer period, at the request of the applicant, based on a finding that the requested implementation period is in the public interest. The applicant must submit a Final Subdivision Plan application for the entire project, or for one or more phase(s) of a multi-phase project, during the Land Development Plan implementation period.

- a. If no Final Subdivision Plan application is submitted during the implementation period, the Land Development Plan is no longer valid and the applicant must re-start the application process, beginning with Sketch Plan.
  - b. For a multi-phase project, a Final Subdivision Plan application must be submitted for one or more phases during the initial implementation period to preserve the validity of the Land Development Plan. Each time a Final Subdivision Plan application is submitted, the Land Development Plan implementation period is automatically extended for an additional two years.
3. Under Expedited Review, at any time after approval of a Land Development Plan the applicant may submit a NIF 1 application, under Section 7.1, to obtain permission to begin sitework while preparing a Final Subdivision Plan application.
  4. If an applicant chooses to submit a Final Subdivision Plan application simultaneously with the Land Development Plan, the two applications will be reviewed in a single, combined review process, including a single Planning Commission hearing.

#### **Section 6.6 Final Subdivision Plan/Technical Verification Review**

An applicant seeking approval for a Major Subdivision must file a Final Subdivision Plan application for each phase of the project within the applicable Land Development Plan implementation period, as detailed in Section 6.5.E. For a Major Subdivision that is intended to be built in a single phase, a Final Subdivision Plan application must be submitted that covers the entire subdivision. For a Major Subdivision that is intended to be built in more than one phase, each Final Subdivision Plan application must cover at least one complete phase as shown on the previously approved multi-phase Land Development Plan.

##### **A. Application Fee and Materials Required**

1. The appropriate fees, if any, specified for the subject application in the Subdivision Fee Schedule.
2. A written application in the format developed and approved by the Planning Director, completed and signed by the applicant.
3. Proposed Subdivision Plan drawing(s), Record Plat, and supporting information as specified in Table 6-1.

##### **B. Final Subdivision Plan Application Acceptance Review**

Prior to acceptance of a Final Subdivision Plan application for review, the Planning Office must perform an Application Acceptance Review of the application as specified in Section 6.5.B for a Land Development Plan. If the Planning Office accepts the application, the date of acceptance shall be deemed the date of receipt by the Planning Office for purposes of the Subdivision Regulations.

C. Final Subdivision Plan Application Review:

Each Final Subdivision Plan application must be reviewed per the applicable process set forth in this section. The Record Plat must be reviewed as part of the Final Subdivision Plan, and must be approved, approved with conditions or denied in the same action that approves, approves with conditions or denies the Final Subdivision Plan application.

1. Standard Review. A Standard Review application with no (or *de minimis* change) from the approved Land Development Plan shall be reviewed by the Planning Director with confirmation by the Planning Commission as follows:
  - a. The Planning Director must approve, approve with conditions, or deny the application within 60 days after the application was received and accepted by the Planning Office.
  - b. The Planning Director must approve the application if the Planning Director finds that all elements, including the Record Plat, meet the requirements of the Subdivision Regulations, the Comprehensive Plan, and any applicable zoning. Each application must demonstrate compliance with all standards set forth in this Ordinance specific to the applicable category of building classification, as well as all generally applicable standards.
  - c. If an application is approved with conditions, the Planning Director must provide the conditions in writing to the applicant and the conditions must be printed on the face of the Record Plat; if space or other technical considerations make it impossible to print the conditions on the face of the Record Plat, the conditions must be attached to the Record Plat and the Planning Director must note on the face of the Record Plat that it was approved with conditions. If an application is denied, the applicant must be notified in writing of the reason for denial.
  - d. The Planning Director's action must be noted in the application file.
  - e. Planning Director approval of the Final Subdivision Plan application must be confirmed by the Planning Commission. The Planning Commission must review the Planning Director's approval of the application within sixty (60) days after the Planning Office received the application, under the procedures set forth in Section 6.5.D.
2. Expedited Review. An Expedited Review project with no changes from the approved Land Development Plan shall receive Technical Verification review by the Planning Director based on conformance to the Subdivision Regulations and the Preferred Design standards.
  - a. The Planning Director must approve, approve with conditions, or deny the application within thirty (30) days after the application was received by the Planning Office.
  - b. The Planning Director must approve the application if the Planning Director finds that all elements, including the Record Plat, meet the requirements of the Subdivision Regulations, the Comprehensive Plan,

and any applicable zoning regulations. Each application must demonstrate compliance with all standards set forth in this Ordinance specific to the applicable category of building classification, as well as all generally applicable standards.

- c. If an application is approved with conditions, the Planning Director must provide the conditions in writing to the applicant and the conditions must be printed on the face of the Record Plat; if space or other technical considerations make it impossible to print the conditions on the face of the Record Plat, the conditions must be attached to the plat and the Planning Director must note on the face of the Record Plat that it was approved with conditions. If an application is denied, the applicant must be notified in writing of the reason for denial.
- d. The Planning Director's action must be noted in the application file.

#### D. Changes from Land Development Plan

For any Major Subdivision Final Subdivision Plan, any changes to the Land Development Plan must conform to the procedures in Article 8.

#### E. Effect of Final Subdivision Plan Approval

When a Final Subdivision Plan has been approved:

1. The applicant must submit three (3) clear and legible prints of the approved Final Subdivision Plan drawing(s) and the approved Record Plat to the Planning Office within thirty (30) days of Final Subdivision Plan approval or such longer period as indicated by the Planning Commission or Planning Director, at the time of Final Plat approval, for the applicant to meet conditions of approval and provide any surety required under Section 7.2. The Final Subdivision Plan drawing(s) and Record Plat will be stamped approved per **Section 6.6.E** provided that the Planning Director finds that any conditions of approval that must be met before the Record Plat is filed with the County Clerk have been met and any required surety has been provided and accepted.
2. Stamped Record Plat drawings must be filed for recording with the County Clerk within thirty (30) days of being stamped approved.
3. The subdivision takes effect upon recordation of the approved, stamped Record Plat in the land records. Following recordation, the applicant may seek a NIF 2 under Section 7.1 and Table 6-1.
4. Under W. Va. Code §8A-5-12 and as stated more fully in **Section 2.1.E** of this Ordinance, the applicant has a vested right to undertake and complete the land development depicted on the Final Subdivision Plan, subject to a five-year vesting period.

*This space intentionally left blank  
Table 6-1 begins on next page*

**Section 6.7 Required Submissions – Table 6-1**

**Table 6-1a. Standard Drawing Requirements**

*(All drawings MUST follow these standards UNLESS otherwise established in writing by the Planning Director or the County Engineer)*

*Note Application Steps: S=Sketch Plan, C=Concept Plan, L=Land Development Plan, FS=Final Subdivision Plan, R= Record Plat*

Required Items	Application Step
1. Submitted on durable paper and must be clear and legible.	S,C,L,FS,R
2. North Arrow	S,C,L,FS,R
3. Legend and Scale	S,C,L,FS,R
4. The scale must be fifty (50) feet or less to the inch for lots averaging less than two (2) acres, and one hundred (100) feet or less to the inch for lots averaging two (2) acres or more. The size of sheets must be twenty-four (24) inches by thirty-six (36) inches including a one and one-half (1 1/2) inch margin for binding along the left edge.	C, L, FS,R
5. When more than one sheet is required, a sheet index shall be provided on the cover sheet.	C, L, FS,R
6. Each of the drawing sheets must include a Title Block containing the name of the subdivision, applicant name as it appears on the application, sheet number, submission date, revision numbers and dates, and the individual or firm that has prepared the drawings and presented information.	C, L, FS,R
7. Vicinity map with north arrow and scale (between 1,000 and 5,000 feet per inch) showing location of property in relation to state roads, geographical features, and other nearby lands held by the applicant or related entities. Vicinity map may be an inset map on a larger drawing.	C, L, FS,R
8. Contour lines at intervals no less than two feet labeled at intervals no greater than ten feet.	C, L, FS,R
9. Registered Engineer stamp, signature and date	L, FS,R
10. Registered Surveyor stamp, signature and date	L, FS,R
11. MCPC application file number	L, FS,R
12. All changes / revisions to drawings previously submitted and accepted subdivision elements must be identified with red ink and noted as revisions in the title block of the affected sheet. <i>Any attempt to submit revisions without proper identification shall be grounds for the Planning Director to immediately return the application to the applicant without further review, and will require resubmission and re-acceptance of all previous application submissions.</i>	L, FS,R

**Table 6-1b. General Application Requirements**

*Note Application Types: E=Exempt Subdivision, O=Single-Ownership Development, N=MiNor Subdivision, J=MaJor Subdivision, P=Phased Major Subdivision, X=Expedited Major Subdivision, IRL=Individual Residential Lot*

Required Items	Subdivision Type
1. A list of all owners of the subject property and either proof of ownership or a notarized statement by the owner(s) that authorizes the applicant to submit the application.	E,O,N,J,P,X
2. Completed application form	E,O,N,J,P,X
3. Payment of applicable fees (See Appendix C)	N,J,P,X
4. A Notification List as defined in Appendix A and a stamped envelope addressed to each listed property owner and to the president of each listed homeowners' association or condominium association	N,J,P,X
5. One paper copy and one digital copy of all submissions in a format determined by the Planning Office.	E,O,N,J,P,X
7. Written confirmation by a Registered Engineer that all roadway intersections in the subdivision or at its access points have adequate sight distance according to AASHTO standards.	N, J, P, X
8. Written justification statement demonstrating that the proposed subdivision and land development (i) qualify for the application type; (ii) do not adversely affect the remainder of the tract (if any) or adjoining property; and (iii) comply with the Comprehensive Plan, any other applicable governmental plan (e.g. Long-Range Transportation Plan), any applicable zoning regulations, the Floodplain Ordinance and all applicable requirements of the Subdivision Regulations.	N,J,P,X
9. Written justification statement identifying the category of exemption for which certification is requested, the justification for the exemption, and any documentation necessary to demonstrate that the proposed subdivision or land development qualifies for an exemption.	E, O
10. HOA/COA agreement or maintenance agreement to be signed by all property owners providing for shared maintenance of all roads, access easements, and common-ownership property.	N
11. Any additional information reasonably considered necessary by the Planning Commission to make an informed decision, such as a traffic study, forest delineation, or, where the applicant seeks a parking reduction per Appendix B, a parking study.	J, P, X

*This space intentionally left blank*

**Table 6-1c. Sketch Plan (S) Requirements**

<i>Required to be Shown on Sketch Plan (Must be in conformance with Table 6-1a Items 1-3)</i>	<i>Subdivision Type</i>
1. General location of proposed subdivision	N <sup>1</sup> ,J,P,X
2. Existing State Roads and proposed access	N <sup>1</sup> ,J,P,X
3. Any significant geographical features	N <sup>1</sup> ,J,P,X
4. Maximum anticipated number of dwelling units and/or non-residential square footage	N <sup>1</sup> ,J,P,X
5. Approximate layout of proposed subdivision	N <sup>1</sup> ,J,P,X
6. Project Goals (e.g. housing mix, parks, environmental features)	N <sup>1</sup> ,J,P,X

Notes:

1. Sketch Plan submission is optional for Minor Subdivision application.

**Table 6-1d. Concept Plan (C) Requirements**

<i>Required Items (Must be in conformance with Table 6-1a Items 1-8)</i>	<i>Subdivision Type</i>
1. Cover Sheet	O, N <sup>1</sup> ,J,P,X
a. Vicinity Map with north arrow and scale (between 1,000 and 5,000 feet per inch) showing location of property in relation to state roads, geographical features, and other nearby lands held by the applicant or related entities. Vicinity map may be an inset map on a larger drawing.	O, N <sup>1</sup> ,J,P,X
b. The following statement with the proposed building classification(s) as defined in <b>Section 3.2</b> filled in appropriately. <p style="margin-left: 40px;">“This subdivision is proposed for approval as a <i>(insert appropriate building classification(s) here)</i> project. The roads are considered adequately designed for year-round access by passenger, emergency, and service vehicles and are required to be constructed to that standard.”</p>	N <sup>1</sup> ,J,P,X
c. The following statement: <p style="margin-left: 40px;">“This Concept Plan is not a subdivision plat and does not divide the land into lots. It serves only to identify a Single-Ownership Development. The tract or parcel shown on this plat must remain under unified ownership unless and until the property is approved as a Minor or Major Subdivision and a subdivision plat is recorded in the land records. It is unlawful for any person or entity that owns or controls the land depicted on this plat to sell, transfer, or agree to sell or transfer any portion less than the entirety of the tract or parcel unless and until the property goes through the subdivision process as a Minor or Major Subdivision and a subdivision plat is recorded in the land records.”</p>	O
2. Existing Conditions Sheet	O,N <sup>1</sup> ,J,P,X
a. Exterior boundary lines <sup>2</sup>	O,N <sup>1</sup> ,J,P,X
i. Existing, lots, structures, infrastructure, and access points within the boundaries of the proposed subdivision	O,N <sup>1</sup> ,J,P,X

ii.	Significant features within or adjacent to the proposed subdivision boundaries, either natural or man-made, that may influence the design of the subdivision	N <sup>1</sup> ,J,P,X
b.	Existing drainage of surface water	O,N <sup>1</sup> ,J,P,X
3.	Proposed Conditions Sheet	O,N <sup>1</sup> ,J,P,X
a.	Proposed layout of lots, roadways, driveways, buildings and other improvements	O,N <sup>1</sup> ,J,P,X
b.	General locations proposed for infrastructure <sup>4</sup> including stormwater drainage facilities	O,N <sup>1</sup> ,J,P,X
c.	Proposed Building types and maximum building footprint	O,N <sup>1</sup> ,J,P,X
d.	Maximum anticipated number of residential units and non-residential square footage	O,N,J,P,X
e.	Number of dwellings units for residential developments	N,J,P,X
f.	Common area(s) type, size, and locations	O,N <sup>1</sup> ,J,P,X
g.	Project phasing, as applicable	O,N,J,P,X
h.	Description of use for portion of tract not included in development, if any.	O,N <sup>1</sup> ,J,P,X
i.	The following statement: "This Concept Plan is not a subdivision plat and does not divide the land into lots. It serves only to identify a Single-Ownership Development. The tract or parcel shown on this plat must remain under unified ownership unless and until the property is approved as a Minor or Major Subdivision and a subdivision plat is recorded in the land records. It is unlawful for any person or entity that owns or controls the land depicted on this plat to sell, transfer, or agree to sell or transfer any portion less than the entirety of the tract or parcel unless and until the property goes through the subdivision process as a Minor or Major Subdivision and a subdivision plat is recorded in the land records."	O
4.	Completed Preferred Design form in format established by the Planning Director if applicant seeks Expedited Review.	X
5.	Satisfactory evidence that the applicant has obtained required approvals from all applicable state and local agencies, including the Floodplain Coordinator, the Fire Marshal, DOH, and the Health Department, as well as approval or confirmation of available service from appropriate utility service providers.	O

Notes:

1. Concept Plan submission is optional for Minor Subdivision application.
2. County tax mapping may be utilized for Concept Plan application. Surveyed property lines must be utilized for all other applications.
3. County provided LIDAR mapping may be used for Concept Plan application. County LIDAR mapping must be verified for all other application types.
4. Detailed infrastructure designs are not required for Concept Plan application.

*This space intentionally left blank*

**Table 6-1e. Land Development Plan (L) Requirements**

<i>Required Items (Must be in conformance with Table 6-1a)</i>		<i>Subdivision Type</i>
1.	Cover Sheet	J,P,X
a.	Vicinity Map with north arrow and scale (between 1,000 and 5,000 feet per inch) showing location of property in relation to state roads, geographical features, and other nearby lands held by the applicant or related entities. Vicinity map may be an inset map on a larger drawing.	J,P,X
b.	The following statement with the proposed building classification(s) as defined in <b>Section 3.2</b> filled in appropriately. “This subdivision is proposed for approval as a ( <i>insert appropriate building classification(s) here</i> ) project. The roads are considered adequately designed for year-round access by passenger, emergency, and service vehicles and are required to be constructed to that standard.”	J,P,X
c.	Certificate of a Registered Engineer and Registered Land Surveyor to affirm the accuracy of boundary lines, topographic data, and other engineering or survey data, and to certify that the Subdivision Plan and supporting documents were prepared in a manner that satisfies all submission requirements and applicable State and County standards, policies, and procedures.	J,P,X
d.	For proposed re-plot of existing subdivision, name of existing subdivision and location where recorded in County records.	J,P,X
2.	Existing Conditions Sheet (Must also include all items from Table 6-1c Item 2)	J,P,X
a.	Exterior boundary lines including total area of subdivision and bearings and lengths as determined by a Licensed Professional Surveyor	J,P,X
b.	Identification of steep slopes per <b>Article 10</b> of the Subdivision Regulations.	J,P,X
c.	Existing rights-of-way and easements, including but not limited to railroads and utilities, with the following information to be shown:	J,P,X
i.	Type and location with bearings and lengths shown.	J,P,X
ii.	Non-defined rights-of-way shall also be noted on the drawing(s)	J,P,X
d.	Locations, widths, and names of all existing street(s), alley(s), and access rights-of-way within the proposed subdivision or within one hundred (100) feet of exterior boundary the proposed subdivision. Recorded but unimproved rights-of-ways should be shown with dotted lines.	J,P,X
e.	Existing topography, lots, structures, infrastructure, and access points within the boundaries of the proposed subdivision.	J,P,X
f.	Topography, paving, and structures on adjoining properties within one hundred (100) feet of the subdivision boundaries, and any additional features within one hundred (100) feet of the subdivision boundaries, either natural or man-made, that may influence the design of the subdivision, such as watercourses, tree groves, wetlands, rock	J,P,X

	outcrops, utility lines, cemeteries, drainage structures, year-round springs and wells.	
g.	Location of all existing utility lines that will be extended to provide service to the proposed subdivision. This may include but is not limited to water lines, sanitary sewers, storm sewers, ditches, swales, streams, electrical lines, telephone lines, fiber optic lines, phone lines, gas lines and any other utility.	J,P,X
j.	Historic structures and/or landmarks as defined by the West Virginia State Historic Preservation Office located within site or within one hundred (100) feet of exterior boundary	J,P,X
k.	Public transportation infrastructure within site or within ___ hundred (___) feet of exterior boundary, including but not limited to: transit routes, bus stops, bicycle and pedestrian facilities and public walking trails	J,P,X
l.	Natural resources such as FEMA floodplain areas, streams and areas shown as wetlands on the U.S. Fish and Wildlife Service National Wetlands Inventory.	J,P,X
3.	Proposed Conditions Sheet (Must also include all items from Table 6-1d Item 3)	J,P,X
a.	Lot dimensions and area (including bearings and distances of all property lines as determined by a Licensed Professional Surveyor) and lot numbers laid out in numerical order	J,P,X
b.	Proposed blocks lettered in alphabetical order	J,P,X
d.	MECCA approved road names, proposed building types, uses and setbacks	J,P,X
e.	Location and widths of all proposed roadway, access, and utility rights-of-way and easements, with DOH road class identified where applicable.	J,P,X
f.	Proposed transportation infrastructure locations and widths and potential future facilities to be built by others, including but not limited to: roadways, road improvements, transit routes, bus stops, bicycle and pedestrian facilities, public walking trails, and connections to existing similar features	J,P,X
g.	Proposed contours and grading slopes.	J,P,X
h.	Identification of steep slopes per <b>Article 10</b> of the Subdivision Regulations and plan for compliance with Table 10-1.	J,P,X
i.	The [type and] location of all water system components, including connection points, showing all of the infrastructure required by Article 11. Locations of private wells and buffer areas shall be shown, if applicable.	J,P,X
j.	The [type and] location of all sanitary sewage components, including connection points, showing all of the infrastructure required by Article 11. Location of septic tanks, leach fields, home aeration units and discharge points and buffer areas shall be shown, if applicable.	J,P,X

k.	Gas, Electric, Communications infrastructure location, type (above or below ground for electric and communication lines), and associated rights-of-way.	J,P,X
l.	Stormwater collection and conveyance plan as required by Article 12,	J,P,X
m.	Floodplain boundaries, existing and revised (if applicable).	J,P,X
n.	Locations, approximate outlines and proposed uses of any areas to be reserved or dedicated for common use by the residents of the subdivision or for general public use	J,P,X
4.	Completed Preferred Design form in format established by the Planning Director if applicant seeks Expedited Review.	X
5.	Satisfactory evidence that the applicant has consulted with or sought required regulatory input from all applicable state and local agencies, including the Floodplain Coordinator, the Fire Marshal if applicable, DOH, appropriate utility service providers, and the Health Department if required.	J, P, X

**Table 6-1f. Final Subdivision Plan (SP) Requirements<sup>1</sup>**

<i>Required Items (Must be in conformance with Table 6-1a)</i>		<i>Subdivision Type</i>
1.	Cover Sheet	E, N, J, P, X
a.	Vicinity Map with north arrow and scale (between 1,000 and 5,000 feet per inch) showing location of property in relation to state roads, geographical features, and other nearby lands held by the applicant or related entities. Vicinity map may be an inset map on a larger drawing.	E, N, J, P, X
b.	The following statement with the proposed building classification(s) as defined in <b>Section 3.2</b> filled in appropriately. “This subdivision is proposed for approval as a <i>(insert appropriate building classification(s) here)</i> project. The roads are considered adequately designed for year-round access by passenger, emergency, and service vehicles and are required to be constructed to that standard.”	E, N, J, P, X
2.	Approvals	E, N, J, P, X
a.	Satisfactory evidence that the applicant has obtained final or conditional approvals from DOH if applicable, and final approvals from all other applicable state and local agencies, including the Floodplain Coordinator, the Fire Marshal, and the Health Department. Final approval from DOH will be required before the Final Subdivision Plan or Record Plat can be approved.	E, N, J, P, X
b.	Confirmation of available service and identification of required easements from the appropriate utility authority (Health Department, public service district, water association, or municipal water and sewer board) for water and sewer facilities, including final or conditional approval from MUB if applicable. Final approval	E, N, J, P, X

	from MUB, if applicable, will be required before the Final Subdivision Plan or Record Plat can be approved.	
c.	Documentation of any easements, covenants, HOA or COA agreements, maintenance agreements or other agreements applicable to land within the subdivision.	E, N, J, P, X
d.	Approved Land Development Plan.	J, P, X
e.	Staff provided forms and supporting documentation, if necessary, for submission of an Amendment to a previously approved Subdivision Plan as defined in Article 8.2	E, N, J, P, X
2.	Existing Conditions Sheet (Must include all items from Table 6-1e Item 2)	N, J, P, X
3.	Proposed Conditions Sheet (Must include all items from Table 6-1e Item 3)	N, J, P, X
4.	Record Plat <sup>2</sup>	E,N,J,P,X
a.	An owner certification signed by all parties with an ownership interest in the subject property, including lenders with a financial security interest, taking the following actions:	E,N,J,P,X
i.	Adopting the plat	E,N,J,P,X
ii.	Granting any new easements or dedications provided for on the plat	E,N,J,P,X
iii.	Attesting that the plat is in conformance with any covenants and restrictions affecting the property	E,N,J,P,X
iv.	Indicating that all rights-of-way and easements affecting the property have been shown	E,N,J,P,X
b.	All information required by the West Virginia Board of Professional Surveyors Minimum Standards for Boundary Surveys and Plat Requirements, West Virginia 23CSR5, Standards for the Practice of Surveying in West Virginia, in effect at time of subdivision approval	E,N,J,P,X
c.	Tax map references for all property included on the plat.	E,N,J,P,X
d.	The exact layout for the subdivision or phase shown on the Record Plat, including:	E,N,J,P,X
i.	All proposed lots, clearly numbered and marked with dimensions, area, and bearings and distances of floodplain if applicable.	E,N,J,P,X
ii.	All proposed blocks, lettered in alphabetical order.	E,N,J,P,X
iii.	Street and alley lines with their names, bearings, or angles of intersections and widths, including widths along the line of any obliquely intersecting street.	E,N,J,P,X
iv.	Data for all curves shown in detail at the curve or in a curve data table.	E,N,J,P,X
v.	Location and width of all easements or rights-of-way.	E,N,J,P,X
e.	The location, dimension, and number of each proposed lot along with a table listing the area in square feet of each lot.	E,N,J,P,X

f.	Building setback lines and any other setback line locations and distances from the nearest existing or proposed property line (a) as required by the Subdivision Regulations or other applicable law or regulation; (b) as stipulated in any applicable deed restrictions; and (c) as proposed	E,N,J,P,X
g.	Locations, dimensions, and proposed uses for any areas to be reserved or dedicated for common use by the residents of the subdivision or the general public, including but not limited to roadways and community parking areas, pedestrian access routes, bus stops, community mailboxes and associated parking, communal green space and recreational areas, stormwater management treatment areas, and any other improvement that is intended to be used for public or community benefit	E,N,J,P,X
h.	MECCA approved street names and addresses for all proposed lots and buildings.	E,N,J,P,X
i.	Utility line easements and rights-of-way to be provided in connection with the submitted Record Plat for all utilities that will serve the lots shown on the Record Plat and for all utilities that may be extended at a future date to serve adjacent parcels of land or future phases of development.	E,N,J,P,X
j.	Drainage easements necessary for the conveyance of all stormwater that will flow through the subdivision regardless of the means of conveyance (i.e. pipes, ditches, swales, streams, channels, etc.)	E,N,J,P,X
k.	All other encumbrances to the subdivision common elements and individual lots not specifically listed above	E,N,J,P,X
i.	<p>If the Final Plat is a re-plat of a subdivision on record, the following statement with the applicable entries completed (additional lines may be added as needed):</p> <p>This is a re-plat of _____ [Name of Subdivision], Recorded on _____ [Date of Recording] in Deed Book No. _____, Page No. _____ Owned by _____ at the time of Recording [Name(s)] _____ Signature of Present Owner(s)</p> <p>(Note: In the case of a re-plat of a subdivision of record, such record and date of recording must be shown, and the Planning Commission may require the applicant to use different types of lines to show features or locations to be abandoned and proposed features or locations.)</p>	E,N,J,P,X
5.	Proposed Roadway Geometry Sheet(s)	J, P, X
a.	MECCA approved names for all roads and alleys	J, P, X
b.	WVDOH classification of all roadways and alleys	J, P, X
c.	Roadway centerlines showing the following information:	J, P, X
i.	Stationing every one hundred (100) feet, minimum	J, P, X
ii.	Horizontal tangent bearings and distances	J, P, X

iii.	Horizontal curve radii, chord length and bearings	J, P, X
iv.	Coordinate values of beginning and ending stations	J, P, X
d.	Roadway dimensional information including:	J, P, X
i.	Widths of travel lanes, pedestrian and bicycle access routes, and sidewalks	J, P, X
ii.	Edge of radii at intersections	J, P, X
e.	Roadway profile(s) showing the following information:	J, P, X
i.	Tangent slope(s)	J, P, X
ii.	Length of vertical curve(s)	J, P, X
iii.	Profile elevations	J, P, X
iv.	Designed K-values and AASHTO recommended design values	J, P, X
vi.	Vertical curve radii	J, P, X
6.	Proposed Utility Sheet(s)	N, J, P, X
a.	The [type and] location of all water system components, including connection points, showing all the infrastructure required by Article 11. Locations of private wells and buffer areas shall be shown, if applicable.	N, J, P, X
b.	The [type and] location of all sanitary sewage components, including connection points, showing all of the infrastructure required by Article 11. Sanitary sewer centerline alignments with stationing at a minimum of one hundred (100) feet along with stations at the center of all structures. Location of septic tanks, leach fields, home aeration units and discharge points and buffer areas shall be shown, if applicable. )	N, J, P, X
c.	Gas, Electric, Communications infrastructure location, type (above or below ground for electric and communication lines), and associated rights-of-way.	N, J, P, X
d.	The [type and] location of all stormwater collection and conveyance system components, including connection points, showing all of the infrastructure required by Article 12. Storm sewer centerline alignments with stationing at a minimum of one hundred (100) feet along with stations at the center of all structures.	N, J, P, X
e.	Design computations and documentation prepared by a Registered Engineer to show compliance with <b>Article 12</b> . ( <i>The calculations may be provided in a separate document.</i> )	N, J, P, X
f.	Hydrologic analysis prepared by a Registered Engineer per DOH Drainage Manual or MUB Stormwater Design Manual, whichever is more stringent. The engineer should select the most appropriate method for computing the peak rate of runoff, volume of runoff and time distribution of flow from DOH Drainage Manual or MUB Stormwater Design Manual, whichever is more stringent, based on size of subdivision and stormwater drainage facility being designed.	N, J, P, X
g.	Profiles of all storm and sanitary sewage systems showing the following	N, J, P, X

i.	Pipe slope between structures	N, J, P, X
ii.	Structure station	N, J, P, X
iii.	Structure lid/rim elevation	N, J, P, X
iv.	All structure inverts	N, J, P, X
v.	Existing and proposed ground surface	N, J, P, X
vi.	Profile location of all crossing utilities including separation between crossing utilities measured between outside diameters of crossing utilities	N, J, P, X
7.	Stormwater Management Sheet(s)	N, J, P, X
a.	Plan and profile views of proposed stormwater management system showing:	N, J, P, X
i.	Detailed grading plans (embankment width and slopes)	N, J, P, X
ii.	Stage/storage information	N, J, P, X
iii.	Outlet control structure	N, J, P, X
iv.	Design storms water surface elevation	N, J, P, X
v.	Design freeboard	N, J, P, X
vi.	Emergency spillway/overflow size and location	N, J, P, X
b.	Stormwater management calculations prepared by a Registered Engineer to show compliance with <b>Article 12</b> . <i>(The calculations may be provided in a separate document.)</i>	N, J, P, X
c.	Construction details of all system components.	N, J, P, X
8.	Erosion and Sediment Control Sheet(s) prepared in accordance with the DEP Erosion and Sediment Control Best Management Practices Manual in effect at the time of subdivision approval.	N, J, P, X
a.	Plan view of all sediment control devices and techniques.	N, J, P, X
b.	Profiles of all ditches and piping.	J, P, X
c.	Details of sediment basins showing storage volume, cross section the basin and overflow, longitudinal section along any berm, outlet control structure, emergency spillway, supporting calculations for the basin design. <i>(The calculations may be provided in a separate document.)</i>	J, P, X
d.	Ditch design calculations showing a minimum freeboard and water velocity as necessary to design lining materials to prevent scour.	J, P, X
e.	Construction details of all erosion control devices and techniques.	J, P, X

Notes:

1. A revision form will be required if a Subdivision applicant wishes to change to an approved Land Development Plan or a Record Plat. Actual re-submissions will be determined in consultation between applicants and the Planning Office. See Article 8 for details.
2. The Record Plat is the record document of the Subdivision that must be recorded at the Monongalia County Clerk's Office for all types of Subdivisions prior to the sale of any lots.

*This space intentionally left blank*

**Table 6-1g.NIF 1 – Site Work Plan – Submission Requirements**

<i>Required Items (Must be in conformance with Table 6-1a)</i>		<i>Subdivision Type</i>
1.	Completed application form.	X
2.	Proof of ownership or a notarized statement by the owner(s) that authorizes the applicant to submit the application.	X
3.	Approved Land Development Plan.	X
4.	Proof that any surety required under Section 7.2 has been submitted and accepted	X
5.	WVDEP NPDES permit approval and a copy of all approved documents.	X
6.	Existing Conditions Sheet (Must include all items from Table 6-1e Item 2)	X
7.	Proposed Conditions Sheet (Must include all items from Table 6-1e Item 3)	X
8.	Proposed Utility Sheet(s) (Must include all items from Table 6-1f Item 6 and utility profiles for construction)	X
a.	Approval from applicable public utility providers for all water and/or sewer facility construction plans and a copy of all approved documents.	X
b.	Copies of extension agreements with public utilities, as applicable.	X

Note:

See Section 7.1 for site work permitted under a NIF 1.

**Table 6-1h.NIF 2 – Site Work and Infrastructure Plan – Submission Requirements**

<i>Required Items (Must be in conformance with Table 6-1a)</i>		
1.	Completed application form	E, O, N, J, P, X
2.	Proof of ownership or a notarized statement by the owner(s) that authorizes the applicant to submit the application.	E, O, N, J, P, X
3.	Record Plat recorded in County land records.	E, N, J, P, X
4.	Concept Plan submitted to Planning Office.	O
5.	Proof that any surety required under Section 7.2 has been submitted and accepted	J, P, X
6.	WVDEP NPDES permit approval and a copy of all approved documents.	E, O, N, J, P, X
7.	Existing Conditions Sheet (Must include all items from Table 6-1e Item 2)	E, N, J, P, X
8.	Proposed Conditions Sheet (Must include all items from Table 6-1e Item 3)	E, N, J, P, X
9.	Existing Conditions Sheet (Must include all items from Table 6-1d Item 2)	O
10.	Proposed Conditions Sheet (Must include all items from Table 6-1d Item 3)	O

11.	Full set of construction drawings.	E, O, N, J, P, X
a.	Approval and design drawings for any offsite improvement required by DOH.	E, O, N, J, P, X
12.	Proposed Utility Sheet(s) (Must include all items from Table 6-1f Item 5)	E, O, N, J, P, X
a.	Approval from applicable public utility providers stating that the proposed utilities are designed in accordance with applicable standards.	E, O, N, J, P, X
b.	Executed extension agreements with public utilities, as applicable.	E, O, N, J, P, X
c.	Executed and recorded documentation of all easements, rights-of-way and other encumbrances necessary for the project such as offsite utility extensions, including appropriate DOH permits for utility installations in DOH-controlled rights-of-way.	E, O, N, J, P, X
13.	Stormwater Management Sheet(s) (Must include all items from Table 6-1f Item 7)	N <sup>1</sup> , J, P, X

Note:

1. Stormwater Management is not required for certain Minor Subdivisions, as detailed in Article 5

<b>Table 6-1i. NIF 3 – Small-Scale Construction– Submission Requirements</b>		
<i>Required Items (Must be in conformance with Table 6-1a)</i>		
1.	Completed application form	E,O,N,IRL
2.	Proof of ownership or a notarized statement by the owner(s) that authorizes the applicant to submit the application.	E,O,N,IRL
3.	Record Plat recorded in County land records.	E,N,IRL
4.	Concept Plan submitted to Planning Office	O
5.	WVDEP NPDES permit approval and a copy of all approved documents.	E,O,N
6.	As-built Conditions	E,O,N,IRL
a.	Evidence that all site work and infrastructure work authorized by a NIF 1 or NIF 2 has been completed satisfactorily.	E,O,N,IRL
b.	Location of all utility connection locations for each structure.	E,O,N,IRL
c.	Recorded lot lines and setbacks .	E,O,N,IRL
	Location and widths of all proposed roadway, access, and utility rights-of-way and easements, with DOH road class identified where applicable.	E,O,N,IRL
d.	All known improvements on and adjacent to the subject property including but not limited to roads, sidewalks, pedestrian pathways, utility mains and service lines, and any other item that may affect the proposed structure.	E,O,N,IRL
7.	Proposed Conditions	E,O,N,IRL

a.	Building location and size showing dimension from nearest property line and setback along the front, side and rear of the structure.	E,O,N,IRL
b.	Location and dimensions of all other improvements including, but not limited to pools, sheds, landscaping, and retaining walls.	E,O,N,IRL
c.	MECCA approved structure address.	E,O,N,IRL

<b>Table 6-1j. NIF 4 – Large-Scale Construction– Submission Requirements</b>		
<i>Required Items (Must be in conformance with Table 6-1a Items 1-11)</i>		
1.	Completed application form	E,O,N,J,P,X
2.	Proof of ownership or a notarized statement by the owner(s) that authorizes the applicant to submit the application.	E,O,N,J,P,X
4.	Record Plat recorded in County land records.	E,N,J,P,X
5.	Concept Plan submitted to Planning Office	O
6.	Proof that any surety required under Section 7.2 has been submitted and accepted	J,P,X
7.	WVDEP NPDES permit approval and a copy of all approved documents.	E,O,N,J,P,X
8.	<b>As-built Conditions</b>	E,O,N,J,P,X
a.	Evidence that all site work and infrastructure work authorized by a NIF 1 or NIF 2 has been completed satisfactorily.	E,O,N,J,P,X
b.	Location of all utility connection locations for the structure.	E,O,N,J,P,X
c.	Recorded lot lines and setbacks .	E,O,N,J,P,X
	Location and widths of all proposed roadway, access, and utility rights-of-way and easements, with DOH road class identified where applicable.	E,O,N,J,P,X
d.	All known improvements on and adjacent to the subject property including but not limited to roads, sidewalks, pedestrian pathways, utility mains and service lines, and any other item that may affect the proposed structure.	E,O,N,J,P,X
9.	<b>Proposed Conditions</b>	E,O,N,J,P,X
a.	Building location and size showing dimension from nearest property line and setback along the front, side and rear of each structure.	E,O,N,J,P,X
b.	Location, dimensions and construction details for all other improvements including, but not limited to pools, sheds, landscaping, retaining walls, parking spaces, vehicular pathways, entrances and exits from site road, if applicable, sidewalks, and ADA parking space locations and pathways	E,O,N,J,P,X
c.	MECCA approved structure address(es).	E,O,N,J,P,X

## Article 7 Notice of Improvement Form (NIF) and Surety

### Section 7.1 Notice of Improvement Form Requirement

The construction, erection, installation, placement, rehabilitation, or renovation of any structure, or the development of any land, requires a NIF issued by the Planning Director, with the following exceptions: (1) use of land for agricultural purposes; (2) an improvement or addition to a building or structure that does not increase the footprint of the structure or, in the case of a single-family dwelling, does not increase the gross floor area by more than one hundred percent (100%); (3) the addition of windows, doors, or steps to a building; (4) normal maintenance and repair of a building or structure; (5) construction of a private driveway no greater than twenty (20) feet in width, a walkway that is not enclosed or covered by a roof, or a patio no greater in size than twenty (20) feet by twenty (20) feet and not enclosed or covered by a roof; (6) construction of a fence or clothesline; (7) construction of an on-site sign nine square feet or less in area; (8) construction of a non-habitable accessory structure with less than one hundred (100) square feet of gross floor area; and (8) a structural modification that is intended to update compliance with current building codes and will increase gross floor area by no more than ten percent (10%).

**A. Application.** An applicant for a NIF must submit the following to the Planning Office:

1. A completed application in the form prescribed by the Planning Office.
2. Drawings and documentation specified in Table 6-1.
3. The appropriate filing fee, if any, specified in the Subdivision Fee Schedule.

**B. Review Process.** Each application must be categorized and reviewed as a NIF 1, NIF 2, NIF 3 or NIF 4.

1. NIF 1 – Site Work Plan

- a. A NIF 1 Site Work Plan permits the applicant to carry out any site preparation work that is necessary to determine the final parameters of the site layout or to protect the site during construction. This includes but is not limited to: demolition, site testing, clearing, grading, grubbing, below-ground infrastructure, roadway base layers and retaining walls. A NIF 1 Site Work Plan does not allow any above-ground construction other than retaining walls, and does not allow final roadway construction, including paving, curb, gutter, or sidewalk.
- b. Only a subdivision with a Land Development Plan that was approved under the Expedited Review provisions of Article 6 is eligible for a NIF 1 Site Work Plan. A NIF 1 must not be issued for a subdivision reviewed or approved under Standard Review.
- c. Issuance of a NIF 1 requires the following findings:

- (i) The proposed land development activity will be located on property owned by the applicant or is being undertaken with the consent of the property owner.
  - (ii) A Land Development Plan for the development has been approved under Expedited Review.
  - (iii) The proposed land development activity is consistent with the approved Land Development Plan.
  - (iv) The proposed land development activity complies with the Floodplain Ordinance.
  - (v) The applicant has received conditional or final approval from DOH for any connections to state roadways.
  - (vi) The applicant has received approval from applicable public utility providers for all water or sewer facility construction plans to be implemented under the NIF 1.
- d. Within seven (7) days of receipt of an application, the Planning Director must determine whether the application is complete and inform the applicant in writing of any missing items.
- e. Within fifteen (15) days of a determination of completeness, the Planning Director must either:
- (i) Issue a NIF 1 based on a determination that (a) the findings required in subpart c of this section can be made; (b) in accordance with the recommendation of the County Engineer, the submitted construction drawings are consistent with the approved Land Development Plan; and (c) a surety in accordance with the requirements of this Ordinance and W. Va. Code §8A-6-1(a)(3) has been supplied and found acceptable by the County Commission, if required under Section 7.2; or
  - (ii) Inform the applicant in writing of any deficiencies.
- f. When the Planning Director has issued a NIF 1, the applicant may proceed with all land development activity shown on the NIF 1 Site Work Plan. Any work not shown on the NIF 1 Site Work Plan will require approval of a NIF 2, 3 or 4. If the applicant chooses to proceed based on conditional approval from DOH, all such work is done at the applicant's own risk; the applicant will be required to make any changes necessary to comply with final approval from DOH.
- g. All work specified on a NIF 1 must be completed before the applicant may submit an application for a NIF 3 or 4.

## 2. NIF 2 – Site Work and Infrastructure Plan

- a. A NIF 2 Site Work and Infrastructure Plan permits the applicant to carry out all site preparation work on the subject property that is necessary to implement the approved Final Subdivision Plan and Record Plat, including but not limited to grubbing; clearing; grading; construction,

stabilization or installation of infrastructure such as roads, curb, gutter, sidewalks, utilities, sewer and water systems and stormwater management; and off-site improvements and connections to off-site facilities as approved by the appropriate agencies. A NIF 2 Site Work and Infrastructure Plan does not allow any above-ground construction other than retaining walls.

- b. . Issuance of a NIF 2 requires the following findings:
  - (i) A Record Plat for the proposed development has been approved and recorded in the County land records (or, for an Exempt Single-Ownership development, a Concept Plan has been submitted to the Planning Office per Article 4).
  - (ii) The proposed land development activity is consistent with the approved Final Subdivision Plan and Record Plat (or, for an Exempt Single-Ownership Development, the submitted Concept Plan).
- c. Within seven (7) days of receipt of an application, the Planning Director must determine whether the application is complete and inform the applicant in writing of any missing items.
- d. Within fifteen (15) days of a determination of completeness, the Planning Director must either:
  - (i) Issue a NIF 2 based on a determination that (a) the findings required in subpart b of this section can be made; (b) per the recommendation of the County Engineer, the submitted construction drawings are consistent with the Final Subdivision Plan and Record Plat (or, for an Exempt Single-Ownership Development, the submitted Concept Plan); and (c) a surety in accordance with the requirements of this Ordinance and W. Va. Code §8A-6-1(a)(3) has been supplied and found acceptable by the County Commission, if required under Section 7.2; or
  - (ii) Inform the applicant in writing of any deficiencies.
- e. When the Planning Director has issued a NIF 2, the applicant may proceed with all land development activity shown on the NIF 2 Site Work and Infrastructure Plan. Any activity not shown on the NIF 2 Site Work and Infrastructure Plan (or a previously approved NIF 1 Site Work Plan) will require approval of a NIF 3 or 4. All work specified on a NIF 2 must be completed before the applicant may submit an application for a NIF 3 or 4.

### 3. NIF 3 – Small-Scale Construction Plan

- a. A NIF 3 Small-Scale Construction Plan permits the applicant to undertake construction activities within certain limits in connection with:

- (i) An Exempt Subdivision or Single-Ownership Development under Article 4.
  - (ii) A Minor Subdivision under Article 5.
  - (iii) An Individual Residential Lot.
- b. Residential construction under a NIF 3 Small-Scale Construction Plan is limited to the following:
- (i) Renovation of or addition to single-family or two-family dwelling.
  - (ii) Habitable or non-habitable accessory structure associated with a residential use.
  - (iii) New detached single family or two-family dwelling.
- c. Commercial construction pursuant to a NIF 3 Small-Scale Construction Plan is limited to the following:
- (i) Primary non-residential structure no larger than 5,000 square feet gross floor area.
  - (ii) Accessory structure associated with a non-residential use and no greater than 5,000 square feet gross floor area.
  - (iii) Addition to non-residential structure where the new gross floor area is no more than 5,000 square feet.
- d. Any construction beyond the limits specified in this section requires a NIF 4 Large-Scale Construction Plan.
- e. Issuance of a NIF 3 requires the following findings:
- (i) A Record Plat for the proposed development has been approved and recorded in the County land records (or, for an Exempt Single-Ownership development, a Concept Plan has been submitted to the Planning Office per Article 4).
  - (ii) The proposed land development activity is consistent with the approved Final Subdivision Plan and Record Plat (or, for an Exempt Single-Ownership development, the submitted Concept Plan).
  - (iii) All land development activity shown on the NIF 2 Site Work and Infrastructure Plan (and any previously approved NIF 1 Site Work Plan) associated with the project has been completed consistent with the approved Final Subdivision Plan and Record Plat (or, for an Exempt Single-Ownership development, the submitted Concept Plan).
- f. Within seven (7) days of receipt of an application, the Planning Director must determine whether the application is complete and inform the applicant in writing of any missing items.
- g. Within fifteen (15) days of a determination of completeness, the Planning Director must either:

- (i) Issue a NIF 3 based on a determination that (a) the findings required in subparagraph e of this section can be made; (b) per the recommendation of the County Engineer, the submitted construction drawings are consistent with the approved Final Subdivision Plan and Record Plat (or, for an Exempt Single-Ownership Development, the submitted Concept Plan); and (c) a surety in accordance with the requirements of this Ordinance and W. Va. Code §8A-6-1(a)(3) has been supplied and found acceptable by the County Commission, if required under Section 7.2; or
    - (ii) Inform the applicant in writing of any deficiencies.
  - h. When the Planning Director has issued a NIF 3, the applicant may proceed with all construction shown on the NIF 3 Small-Scale Construction Plan. Final as-built drawings must be submitted to the Planning Office within fifteen (15) days of completion of construction.
- 4. NIF 4 – Large-Scale Construction Plan
  - a. A NIF 4 Large-Scale Construction Plan permits the applicant to undertake:
    - (i) All construction activities that are necessary to implement a Record Plat approved and recorded in connection with a Major Subdivision.
    - (ii) All construction activities that are necessary to implement a Record Plat approved and recorded in connection with an Exempt Subdivision, or a Concept Plan submitted in connection with an Exempt Single-Ownership Development, but are beyond the parameters of a NIF 3 Small-Scale Construction Plan.
  - b. Issuance of a NIF 4 requires the following findings:
    - (i) A Record Plat for the proposed development has been approved and recorded in the County land records (or, for an Exempt Single-Ownership development, a Concept Plan has been submitted to the Planning Office per Article 4).
    - (ii) The proposed land development activity is consistent with the approved Final Subdivision Plan and Record Plat (or, for an Exempt Single-Ownership development, the submitted Concept Plan).
    - (iii) All land development activity shown on the NIF 2 associated with the project (and any previously approved NIF 1 Site Work Plan) has been completed consistent with the approved Final Subdivision Plan and Record Plat (or, for an Exempt Single-Ownership development, the submitted Concept Plan).
  - c. Within fifteen (15) days of receipt of an application, the Planning Director must determine whether the application is complete and inform the applicant in writing of any missing items.

- d. Within forty-five (45) days of a determination of completeness, the Planning Director must either:
  - (i) Issue a NIF 4 based on a determination that (a) the findings required in subparagraph b of this section can be made; (b) per the recommendation of the County Engineer, the submitted construction drawings are consistent with the approved Final Subdivision Plan and Record Plat (or, for an Exempt Single-Ownership Development, the submitted Concept Plan); and (c) a surety in accordance with the requirements of this Ordinance and W. Va. Code §8A-6-1(a)(3) has been supplied and found acceptable by the County Commission, if required under Section 7.2; or
  - (ii) inform the applicant in writing of any deficiencies.
- e. When the Planning Director has issued a NIF 4, the applicant may proceed with all construction shown on the NIF 4 Large-Scale Construction Plan. Final as-built drawings must be submitted to the Planning Office within fifteen (15) days of completion of construction.

## Section 7.2 Posting Security for Improvements

- A. As a condition of approval of any Final Subdivision Plan for a Major Subdivision, the Planning Commission must require that, prior to the recording of the Record Plat, the issuance of a NIF, the commencement of any land development or construction activity on the subject property, or the sale of any lots within the subdivision, the applicant must provide a security that the County Commission finds to be consistent with the requirements of this Section. The security must be adequate to cover the estimated construction cost (as proposed by the applicant's Registered Engineer and determined by the County Commission based on the recommendation of the County Engineer) of water and sanitary sewer infrastructure and any other improvements (such as streets and roads, sidewalks, curbing, and storm water controls) that are (a) depicted on the approved plat and supporting documents or (b) required by conditions of approval. Such security may be in the form of a surety agreement; a surety bond; a letter of credit; a multi-party agreement among the applicant, the County Commission, and any financial institution(s) holding a recorded first deed of trust or mortgage covering the subject property or a portion thereof, each given as security for advances to be made to the applicant by a financial institution; or an agreement between the applicant and the county commission collateralized by cash or marketable and foreclosable securities in an amount sufficient to secure the obligations. The applicant must obtain a written determination that the County Commission finds the surety acceptable in form and amount before recordation of the plat.
  1. Any bond or letter of credit must: (i) be forfeitable or payable to the County Commission; (ii) have adequate surety or guarantee and be in a form satisfactory to the County Commission; (iii) specify the time for completion of the improvements; and (iv) specify the date or conditions for release of the

bond or letter of credit, consistent with the requirements of the Subdivision Ordinance including Section 7.2.E.

2. Any multi-party agreement must: (i) be executed by the applicant, the applicant's lender and the County Commission; (ii) be in a form satisfactory to the County Commission; (iii) provide for the retention by the lender of funds sufficient in the opinion of the County Commission and otherwise due the applicant, to secure the construction of required infrastructure, as described in Section 7.2.A; (iv) provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the work, with completion to be determined by the Planning Commission with the assistance of the County Engineer; and (v) provide that in the event the work is not completed within a specified period of time, any funds remaining undisbursed shall be available to the County Commission for completion of the required infrastructure.
  3. Funds received from a security must be used by the County Commission only for the completion of the required improvements (including associated administrative costs), in the event they are not completed as contemplated on the approved plats.
- B.** All improvements guaranteed by a security must be completed within thirty (30) months or such shorter period of time as the County Commission may require when approving the security. The failure to substantially complete improvements within the period of time to which the applicant agreed shall constitute a default or condition of the security entitling the County Commission to invoke or claim the benefits of the security in whole or in part. The County Commission may extend the period for completion of improvements for up to eighteen (18) months) provided that:
1. All dwelling units are served by a road that is totally improved with the exception of the top coat of asphalt;
  2. All erosion and sediment controls are in place and functioning properly;
  3. Stormwater Management (SWM) facilities are in place either as temporary silt traps per plans or as permanent, stabilized SWM facilities protected from silt from undisturbed areas in the project;
  4. Applicable fees are paid;
  5. The security amount is re-evaluated to determine if the amount is still appropriate and adequate in the discretion of the County Commission;
  6. Additional security is obtained from the applicant or on its behalf if the original amount is not appropriate or adequate;
  7. Existing infrastructure must be reconstructed or redesigned if failing or substandard and the estimated cost for same must be added to the surety;

8. Elements of the Record Plat that have not been constructed must be reviewed for compliance with current design standards and modified as necessary to meet current standards.
- C. The County Commission may require the developer to enter into a Subdivision Improvement Agreement in connection with the required improvements, in a format developed and approved by the County Commission.
  - D. The principal sum of the required security must be one hundred fifteen percent (115%) of the estimated cost of constructing the required improvements. The fifteen percent (15%) contingency fee shall be required and must be retained by the County Commission until the final release is approved. In the event that a previously released component fails before the final release, no other releases will be granted until said component is corrected and approved.
  - E. A developer may request a security reduction or modification when covered improvements are at least thirty percent (30%) complete.
    1. A Security Reduction Request must be submitted in the format developed and approved by the Planning Director. The Planning Office, with the assistance of the County Engineer as needed, will determine whether the security may be reduced and by what amount.
    2. A Security Reduction Request may not be granted for any section of roadway where there exists any failing pavement.
    3. In no event shall any security be reduced to an amount insufficient to achieve total completion of the project, plus the amount of the original fifteen percent (15%) contingency.
    4. No security shall be reduced or modified if the applicant is in default in the performance of its obligations and not current with respect to any obligation owed to the County.
  - F. The County Commission may release the surety in its entirety when the required improvements have been completed and as-built drawings satisfying the requirements below have been submitted to the Planning Office, verified as compliant by the County Engineer, and filed with the County Clerk:
    1. Must meet drawing standards of Table 6-1.
    2. Must show all revised contours and appropriate "spot elevations" as needed to verify the development has been satisfactorily constructed according to the approved Final Subdivision Plan and Record Plat.
    3. Must show actual as-built location, length, size, and capacity where applicable of all constructed improvements, including but not limited to roadways; curbing; sidewalks; pedestrian facilities; utilities; stormwater collection, conveyance, and management facilities; signage; public use

spaces; and any other element reasonably deemed necessary by the Planning Commission, Planning Director, or other pertinent agencies.

- G.** In the event required improvements are not constructed according to the terms of the surety, the County Commission may declare the surety in default and request funds from the surety sufficient to complete the unfinished construction. The provider of the security must, without delay, inspect the subdivision for unfinished construction and immediately thereafter release the funds requested by the County Commission or complete the unfinished work.
- H.** Improvements to the subdivision alleged by the subdivider to have been made after inspection by the provider of the security shall not be grounds for a re-inspection or for a reduction of the funds to be released by the provider of the surety as requested by the County Commission. The County Commission shall be authorized to contract for the completion of required improvements and to enter upon the subject property for the purpose of completing such improvements.

DRAFT

## Article 8. Changes, Amendments, Appeals, and the Subdivision Review Board

Project revisions proposed after approval of a land development plan but before approval of a final subdivision plan are addressed below as “changes.” Project revisions proposed after approval of a final subdivision plan are addressed below as “amendments.” All changes and amendments are classified as De minimis, Limited, or Substantial, as defined in Section 8.3.

### Section 8.1 Changes from Approved Land Development Plan

#### A. Change Review Process

Conformance to Land Development Plan. Each Final Subdivision Plan that is submitted for a Major Subdivision must conform to the approved Land Development Plan for the subdivision, except as provided in this section. For multi-phase subdivisions, each phase of the subdivision must conform to the approved Land Development Plan, except as provided in this section. Changes must be identified as specified in Table 6-1. For any changes to be considered, a revision form must be filed with the Planning Office clearly identifying all changes and their impacts on the subdivision plan. The Planning Director shall determine whether the change is to be classified as *de minimis*, limited or substantial as defined in Section 8.3.

#### B. Determination of Completeness

Each Final Subdivision Plan application must be found to be complete per the process set forth in this Section before it may proceed to Subdivision Plan Review. Once all submissions are received, the Planning Director must formally review the application for completeness and determine whether it includes all elements and information required by the Subdivision Regulations and whether the applicant has appropriately categorized the building classification under Article 3. If the Planning Director finds that the application is complete and is appropriately categorized under Article 3, the Director must provide the applicant with a written determination that the application is complete. If the Planning Director finds that the application is not complete or is not appropriately categorized under Article 3, the Director must provide the applicant with a written determination of the additional or revised information needed to constitute a complete application.

Within 30 days of acceptance of the Final Subdivision Plan application as complete, the Planning Director will issue a written determine as to whether the proposed changes are de minimis, limited or substantial.

#### C. Final Subdivision Plan Review/Technical Verification Review

Each Final Subdivision Plan application must be reviewed per the applicable process set forth in this section.

1. In all cases, review of the application must consider only elements that have changed since approval of the Land Development Plan. Elements that were approved as part of the Land Development Plan and have not been modified above a *de minimis* level must be considered approved; their compliance with applicable standards must not be reassessed.

2. The Record Plat must be reviewed as part of the Final Subdivision Plan, and must be approved, approved with conditions or denied in the same action that approves, approves with conditions or denies the Final Subdivision Plan application.
3. No Change/De minimis Change.
  - a. Standard Review. A Standard Review application with no or de minimis change from the approved Land Development Plan shall be reviewed by the Planning Director with confirmation by the Planning Commission as follows, subject to the provisions of Sections 8.1.C.1 and 8.1.C.2:
    - (i) The Planning Director must approve, approve with conditions, or deny the application within 30 days after the application was received and accepted by the Planning Office.
    - (ii) The Planning Director must approve the application if the Planning Director finds that all elements, including the Record Plat, meet the requirements of the Subdivision Regulations, the Comprehensive Plan, and any applicable zoning. Each application must demonstrate compliance with all standards set forth in this Ordinance specific to the applicable category of building classification, as well as all generally applicable standards.
    - (iii) If an application is approved with conditions, the Planning Director must provide the conditions in writing to the applicant and the conditions must be printed on the face of the Record Plat; if space or other technical considerations make it impossible to print the conditions on the face of the Record Plat, the conditions must be attached to the Record Plat and the Planning Director must note on the face of the Record Plat that it was approved with conditions. If an application is denied, the applicant must be notified in writing of the reason for denial.
    - (iv) The Planning Director's action must be noted in the application file.
    - (v) Planning Director approval of the Final Subdivision Plan application must be confirmed by the Planning Commission. The Planning Commission must review the Planning Director's approval of the application within sixty (60) days after the Planning Office received the application, under the procedures set forth in Section 6.5.D.
  - b. Expedited Review. An Expedited Review project with no or de minimis change from the approved Land Development Plan shall receive Technical Verification review by the Planning Director based on conformance to the Subdivision Regulations and the Preferred Design standards, subject to the provisions of Sections 8.1.C.1 and 8.1.C.2.

- (i) The Planning Director must approve, approve with conditions, or deny the application within thirty (30) days after the application was received by the Planning Office.
- (ii) The Planning Director must approve the application if the Planning Director finds that all elements, including the Record Plat, meet the requirements of the Subdivision Regulations, the Comprehensive Plan, and any applicable zoning regulations. Each application must demonstrate compliance with all standards set forth in this Ordinance specific to the applicable category of building classification, as well as all generally applicable standards.
- (iii) If an application is approved with conditions, the Planning Director must provide the conditions in writing to the applicant and the conditions must be printed on the face of the Record Plat; if space or other technical considerations make it impossible to print the conditions on the face of the Record Plat, the conditions must be attached to the plat and the Planning Director must note on the face of the Record Plat that it was approved with conditions. If an application is denied, the applicant must be notified in writing of the reason for denial.
- (iv) The Planning Director's action must be noted in the application file.

#### 4. Limited Change

- a. **Standard Review.** A Standard Review application with limited change from the approved Land Development Plan shall be reviewed per the procedure set forth for Planning Commission review of a Land Development Plan in Section 6.5.D, subject to the provisions of Sections 8.1.C.1 and 8.1.C.2.
- b. **Expedited Review.** An Expedited Review project with limited change from the approved Land Development Plan shall be reviewed by the Planning Director with confirmation by the Planning Commission as follows, subject to the provisions of 8.1.C.1 and 8.1.C.2:
  - (i) The Planning Director must approve, approve with conditions, or deny the application within 60 days after the application was received by the Planning Office, unless the Planning Director determines that an outside agency's decision has been impacted by the change. The Planning Director may condition the approval upon re-review and confirmation of such an agency decision.
  - (ii) The Planning Director must approve the application if the Planning Director finds that all elements, including the Record Plat, meet the requirements of the Subdivision Regulations, the Comprehensive Plan, and any applicable zoning regulations. Each application must demonstrate compliance with all standards set forth in this Ordinance specific to the applicable category of building classification, as well as all generally applicable standards.

- (iii) If an application is approved with conditions, the Planning Director must provide the conditions in writing to the applicant and the conditions must be printed on the face of the Record Plat; if space or other technical considerations make it impossible to print the conditions on the face of the Record Plat, the conditions must be attached to the plat, and the Planning Director must note on the face of the Record Plat that it was approved with conditions. If an application is denied, the applicant must be notified in writing of the reason for denial.
- (iv) The Planning Director's action must be noted in the application file.
- (v) Planning Director approval of the Final Subdivision Plan must be confirmed by the Planning Commission. The Planning Commission must review the Planning Director's approval of the application within sixty (60) days after the Planning Office received the application. This review must follow the procedures set forth for Planning Commission review of a Land Development Plan in Section 6.5.D, except that notice to the public shall be provided on the Planning Commission agenda only.

5. Substantial Change

Any Final Subdivision Plan application with substantial change from the approved Land Development Plan shall be reviewed by the Planning Commission per the procedures set forth for Planning Commission review of a Land Development Plan in Section 6.5.D. Additionally, the resubmission of the Land Development Plan to the WVDOH for approval may be required as deemed necessary by the Planning Director.

**Section 8.2 Amendments to Approved Final Subdivision Plan or Record Plat**

An applicant wishing to make revisions to a project after approval of the Final Subdivision Plan or Record Plat must submit an application to amend the Final Subdivision Plan and/or Record Plat as provided below.

**A. Pre-filing submission and meeting.**

- 1. Before submitting an amendment application, the applicant must submit the following materials for discussion at an informal pre-filing meeting with the Planning Office:
  - a. Copies of all components of approved Final Subdivision Plan and Record Plat necessary to provide a full understanding of proposed revisions.
  - b. Redlined versions of all sheets of Final Subdivision Plan and Record Plat affected by proposed revisions.
- 2. Within ten (10) days after the pre-filing meeting, the Planning Director must provide the applicant with a Filing Checklist indicating whether the application is considered a De minimis, Limited or Substantial Amendment under Section

8.3, and what components of the Final Subdivision Plan and Record Plat must be included in the amendment application in original and redline format.

## **B. Amendment Application**

1. For any changes to be considered, a revision form must be filed with the Planning Office clearly identifying all changes and their impacts on the subdivision plan. In all cases, an amendment application must include:
  - a. A written application in the format developed and approved by the Planning Director, completed and signed by the applicant.
  - b. A list of all owners of the subject property and proof of ownership.
  - c. The appropriate fees specified in the fee schedule established by the Planning Commission.
  - d. All items required by the Filing Checklist.
2. A Limited Amendment application must include a Notification List and accompanying stamped, addressed envelopes.
3. A Substantial Amendment application must follow the application submittal requirements for a Standard Review Final Subdivision Plan and Record Plat in Table 6-1.

## **C. Amendment Review**

### **1. De minimis Amendment**

- a. Within fifteen (15) days after receipt of an application, the Planning Office must review the application for completeness and determine whether it includes all elements required by the Filing Checklist. If the Planning Office finds that the application is complete, staff must provide the applicant with a written determination that the application has been accepted for review. If the Planning Office finds that the application is not complete, it will be returned to the applicant for completion.
- b. A De minimis Amendment shall be reviewed by the Planning Director and a decision providing to the applicant in writing within 15 days of acceptance of the application. The Planning Director must approve the amendment if all components of the application are consistent with the Subdivision Ordinance, the Comprehensive Plan, and any applicable zoning regulations.
- c. If an application is approved with conditions, the Planning Director must provide the conditions in writing to the applicant, and the conditions must be printed on the face of the Record Plat; if space or other technical considerations make it impossible to print the conditions on the face of the plat, the conditions must be attached to the Record Plat, and the face

of the plat must note that it was approved with conditions. If an application is denied, the applicant must be notified in writing of the reason for denial.

- d. If the amendment application is approved, the applicant must submit three (3) clear and legible prints of the approved Final Minor Subdivision Plan drawing(s) and the approved Record Plat to the Planning Office within thirty (30) days of the Final Subdivision Plan approval or such longer period as indicated by the Planning Director, approval of the amendment, for the applicant to meet conditions of approval and provide any surety required under Section 7.2. The Final Subdivision Plan and Record Plat will be stamped approved per Section 5.3.C provided that the Planning Director finds that any conditions of approval that must be met before the Record Plat is filed with the County Clerk have been met and any required surety has been provided and accepted.

## 2. Limited Amendment

- a. Within fifteen (15) days after receipt of an application, the Planning Office must review the application for completeness and determine whether it includes all elements required by the Filing Checklist. If the Planning Office finds that the application is complete, staff must provide the applicant with a written determination that the application has been accepted for review. If the Planning office finds that the application is not complete, it will be returned to the applicant for completion.
- b. Within five (5) days of finding the application complete, the Planning Office must send notice of the application to all persons on the Notification List. The notice must identify the property, briefly describe the proposed minor amendment, and state that any objections to the minor amendment must be received by, not postmarked to, the Planning Director, in writing, within thirty (30) days after the notice was sent.
- c. A Limited Amendment must be reviewed by the Planning Director and a decision provided to the applicant in writing within fifty-five (50) days of acceptance of the application.
- d. The Planning Director must approve a limited change if no objection to the application is received within thirty (30) days after the application notice is sent and the Planning Director finds that all components of the application are consistent with the Subdivision Ordinance, the Comprehensive Plan, and any applicable zoning regulations.
- e. If an objection is timely received and the Planning Director considers the objection relevant, the application must be reviewed and decided by the Planning Commission following the notice and review procedures applicable to a Final Subdivision Plan under Section 6.6 of the Subdivision Regulations.
- f. If an application is approved with conditions, the Planning Director must provide the conditions in writing to the applicant, and the conditions must

be printed on the face of the Record Plat; if space or other technical considerations make it impossible to print the conditions on the face of the plat, the conditions must be attached to the Record Plat, and the face of the plat must note that it was approved with conditions. If an application is denied, the applicant must be notified in writing of the reason for denial.

- g. If the amendment application is approved, the applicant must submit three (3) clear and legible prints of the approved Final Minor Subdivision Plan drawing(s) and the approved Record Plat to the Planning Office within thirty (30) days of the Final Subdivision Plan approval or such longer period as indicated by the Planning Director, approval of the amendment, for the applicant to meet conditions of approval and provide any surety required under Section 7.2. The Final Subdivision Plan and Record Plat will be stamped approved per Section 5.3.C provided that the Planning Director finds that any conditions of approval that must be met before the Record Plat is filed with the County Clerk have been met and any required surety has been provided and accepted.
  - h. At any time after a Limited Amendment Application is filed, the Planning Director has the discretion to decide, on a case-by-case basis, that the application should be reviewed and decided by the Planning Commission. In such cases, the Planning Commission must review and decide the minor amendment following the notice and review procedures applicable to a Final Subdivision Plan under Section 6.6 of the Subdivision Regulations.
  - i. No more than three Limited Amendments may be approved for any Final Subdivision Plan or Record Plat. Any additional amendments to such plan or plat must be treated as Substantial Amendments.
3. **Substantial Amendment.**

A Substantial Amendment Application must follow the notice, and review requirements applicable to a Final Subdivision Plan under Section 6.6 of the Subdivision Regulations.

### **Section 8.3. Definition of De minimis, Limited and Substantial**

**A. De minimis Change or Amendment.** For purposes of the Subdivision Regulations, a de minimis change or amendment is one that has a negligible impact on the subdivision, including:

1. Correction to drafting or other errors or omissions in the approved Land Development Plan, Final Subdivision Plan or Record Plat, provided that correcting such errors or omissions will have no more than a de minimis impact on the approved Land Development Plan, Final Subdivision Plan or Record Plat.
2. Reduction in the number of lots by up to five percent (5%) or ten (10) lots, whichever is less, due to (a) a condition or requirement imposed by a

governmental or quasi-governmental entity such as a utility service provider; or (b) new technical information such as the results of a geotechnical review.

3. Reduction in footprint of one or more buildings or driveways.
4. Reduction in impervious surface other than buildings or driveways of up to ten percent (10%).
5. Reduction in number of parking spaces by up to five percent (5%), provided that such decrease has no effect on ingress/egress locations, impervious area, magnitude of stormwater runoff, or location and direction of stormwater runoff.
6. Displacement of a road or driveway centerline by up to five (5) feet for each one hundred (100) feet in road length (e.g., a 50-foot-long driveway may be displaced by up to 2.5 feet).
7. Reduction in length of a road or driveway by up to ten percent (10%).
8. Reduction in square footage of steep slopes disturbed by up to five percent (5%). Any land area with a slope of ten percent (10%) or more will be considered a steep slope for purposes of this section. Any change affecting the geotechnical design of the site such as a retaining wall, steeping of slopes, or reinforced soil slopes will not be considered de minimis.
9. Landscaping change (where a landscaping plan has been submitted to address a regulatory requirement or governmental agency condition, or has been proffered by the applicant) that results in no change in landscaped square footage or an increase in landscaped square footage of no more than five percent (5%); does not result in changing the location of any landscaping; and has either no impact or a beneficial impact on water management (e.g., increase in the size of a landscaped island without changing its location).
10. Change in order of phases in a multi-phase subdivision that results in no more than de minimis changes to the subdivision plan.

**B. Limited Change or Amendment.** For purposes of the Subdivision Regulations, a limited change or amendment consists of the following:

1. Reduction in the number of lots by up to ten percent (10%) or twenty (20) lots, whichever is less, due to (a) a condition or requirement imposed by a governmental or quasi-governmental entity such as a utility service provider; or (b) new technical information such as the results of a geotechnical review.
2. Use of improved technology or materials that better meets the goals of the Subdivision Ordinance without changing any basic element of the subdivision (e.g., a new version of a package plant that does not change sewer/water pipeline layout or layout/size of package plant).

3. Displacement of a road or driveway centerline by up to ten (10) feet for each one hundred (100) feet in road length (e.g., a 50-foot-long driveway may be displaced by up to 5 feet).
4. Reduction in length of a road or driveway by up to twenty percent (20%).
5. Reduction in impervious surface of up to twenty percent (20%).
6. Reduction in number of parking spaces by up to ten percent (10%), provided that such decrease has no effect on ingress/egress locations, magnitude of stormwater runoff, or location and direction of stormwater runoff, and causes no increase in impervious surface.
7. Reduction in square footage of steep slopes disturbed by up to ten percent (10%). Any land area with a slope of ten percent (10%) or more will be considered a steep slope for purposes of this section. Any change affecting the geotechnical design of the site such as a retaining wall, steeping of slopes, or reinforced soil slopes will not be considered a limited change.
8. Landscaping change (where a landscaping plan has been submitted to address a regulatory requirement or governmental agency condition, or has been proffered by the applicant) that results in no change in landscaped square footage or an increase in landscaped square footage of no more than ten percent (10%), and which has either no impact or a beneficial impact on water management. The Planning Director or Planning Commission may require additional drawings, calculations, or studies to assist in assessing impact.
9. Change in order of phases in a multi-phase subdivision that results in limited changes to the subdivision plan.

**C. Substantial Change or Amendment.** For purposes of the Subdivision Regulations, a substantial change or amendment is any other change that does not qualify as de minimis or limited.

## **Section 8.4 Appeals**

### **A. Appeal from Planning Director Decision**

1. An applicant or any party who is aggrieved by a Planning Director decision under the Subdivision Regulations may appeal such decision to the Planning Commission, in writing, within thirty (30) days of the issuance of the Planning Director's decision. The writing must state that the Planning Director's decision was in violation of the Subdivision Regulations and specify the nature of the violation. The Planning Commission must consider such appeal within forty-five (45) days, at a regularly scheduled meeting or a special meeting. After reviewing the application as submitted to the Planning Director and accepting testimony from the Planning Director, the applicant, and interested members of the public, the Planning Commission may affirm, affirm

with revised or additional conditions, or reverse the decision of the Planning Director.

2. When an appeal has been filed with the Planning Commission, all proceedings and work on the subject property shall be stayed, except as provided in this section.
  - a. If the Planning Commission finds that a stay would cause imminent peril to life or property, proceedings or work on the subject property are not stayed.
  - b. A stay pending appeal does not prevent:
    - (i) Further administrative proceedings, including, but not limited to, submissions to and reviews by the Planning Office or any administrative body.
    - (ii) Engineering or architectural work that does not result in any land disturbance beyond what is necessary to complete engineering, survey work or other tests.
3. Nothing in this section prevents a party from obtaining a restraining order.

#### **B. Appeal from Decision of the Planning Commission**

An applicant or any party who is aggrieved by a Planning Commission decision on a Minor Subdivision and who participated in the Planning Commission hearing on the application, either in person or by written submission, may appeal the decision to the Subdivision Review Board as provided in this section.

#### **C. Subdivision Review Board Establishment**

A Subdivision Review Board is hereby established in accordance with W. Va. Code §8A-4-2. The Subdivision Review Board shall have only those powers, duties and jurisdiction as this Ordinance expressly confers on it in accordance with W. Va. Code §8A-4-2(b)(1) and W. Va. Code §8A-8-1, *et seq.*

##### **1. Membership on the Subdivision Review Board**

- a. The Subdivision Review Board shall have five (5) members to be appointed by the County Commission.
- b. Each member of the Subdivision Review Board:
  - (i) Must be a resident of the County for at least three (3) years preceding appointment;

- (ii) Cannot be a member of the Planning Commission, but may be a member of the Board of Zoning Appeals; and
  - (iii) Cannot hold any other elective or appointive office in Monongalia County government.
- c. Upon the creation of the Subdivision Review Board, the members shall be appointed for the following terms: One for a term of one (1) year; two for a term of two (2) years; and two for a term of three (3) years. The terms shall expire on January 1 of the first, second and third year, respectively, following their appointment. Thereafter, members shall serve three-year terms. If a vacancy occurs, the County Commission shall appoint a member for the unexpired term.
  - d. The County Commission may appoint up to three (3) additional members to serve as alternate members of the Subdivision Review Board. The alternate members must meet the same eligibility requirements as a regular member, as set out in subsection B of this section. The term for an alternate member is three (3) years. The County Commission may appoint alternate members on a staggered term schedule.
  - e. An alternate member may serve at any meeting of the Subdivision Review Board when one of the regular members is unable to serve. The alternate member shall continue to serve until a final determination is made in the matter for which the alternate member was initially called on to serve.
  - f. The Subdivision Review Board shall establish rules and procedures for designating an alternate member. An alternate member shall have the same powers and duties of a regular board member.
  - g. The members and alternate members of the Subdivision Review Board shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.
  - h. The Subdivision Review Board shall adopt for its meetings, hearings and other proceedings a code of parliamentary procedure.

## 2. Meeting and Officers

- a. The Subdivision Review Board shall meet quarterly and may meet more frequently at the written request of the chairperson or two (2) or more members.
  - (i) Notice for a special meeting must be in writing, include the date, time and place of the special meeting, and be sent to all members at least two (2) days before the special meeting.

(ii) Written notice of a special meeting is not required if the date, time and place of the special meeting were set in a regular meeting.

- b. The Subdivision Review Board must have quorum of the members then serving to conduct a meeting. A majority of the members of the Subdivision Review Board is a quorum. No action of the Subdivision Review Board is official or carries any legal weight unless authorized by a majority of the members present at a regular or properly called special meeting.
- c. At its first regular meeting each year, the Subdivision Review Board must elect a chairperson and vice chairperson from its membership. The vice chairperson shall have the power and authority to act as chairperson during the absence or disability of the chairperson.

### 3. **Offices and Funding**

The County Commission must provide the Subdivision Review Board with:

- a. Suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts.
- b. Appropriate funding to defray reasonable expenses of the Subdivision Review Board.

### 4. **Powers and Duties**

The Subdivision Review Board has the following powers and duties:

- a. Hear, review and determine appeals from any final decision of the Planning Commission on a Final Subdivision Plat application.
- b. Reverse, affirm or modify the decision appealed from and have all the powers and authority of the Planning Commission with regard to the matter appealed.
- c. Adopt rules and regulations concerning:
  - (i) The filing of appeals, including the process and forms for the appeal;
  - (ii) Applications for variances and conditional uses;
  - (iii) The giving of notice; and
  - (iv) The conduct of hearings necessary to carry out the duties of the Subdivision Review Board under the terms of this Article.

- d. Keep minutes of its proceedings.
- e. Keep an accurate and complete audio record of all the Subdivision Review Board's proceedings and official actions and preserve the audio record in a safe manner, accessible within twenty-four (24) hours of demand, for three (3) years.
- f. Record the vote on all actions taken.
- g. Take responsibility for the custody and preservation of all papers and documents of the Subdivision Review Board. All minutes and records must be filed in the office of the Subdivision Review Board and shall be public records.
- h. With consent from the County Commission, hire employees necessary to carry out the duties and responsibilities of the Subdivision Review Board, provided that the County Commission sets the salaries.
- i. Supervise the fiscal affairs and responsibilities of the Subdivision Review Board.

#### **D. Filing of an Appeal**

1. Any Aggrieved Person may file an appeal with the Subdivision Review Board from any final decision of the Planning Commission on a Land Development Plan, Final Subdivision Plan or Record Plat.
2. The appeal must:
  - a. Specify the grounds of the appeal;
  - b. Be filed within thirty (30) days of the Planning Commission decision; and
  - c. Be on a form prescribed by the Subdivision Review Board.
3. Upon request of the Subdivision Review Board, the Planning Commission must transmit all documents, plans and papers constituting the record of the action from which the appeal was taken within ten (10) days of the request.

#### **E. Notice and Hearing**

1. Within ten (10) days of receipt of an appeal by the Subdivision Review Board, the board must set a time for the hearing on the appeal and give notice. The hearing on the appeal must be held within forty-five (45) days of receipt of the appeal by the Subdivision Review Board.

2. At least fifteen (15) days before the date set for the hearing on the appeal, the Subdivision Review Board must (i) publish a notice of the date, time and place of the hearing as a Class I legal advertisement in compliance with the provisions of Chapter 59, Article 3 of the West Virginia Code; (ii) publish the same notice on its web site and the Planning Commission web site; and (iii) send written notice to interested parties, including the appellant and all parties who participated in the hearing on the application before the Planning Commission, either in person or in writing. The publication area shall be the area covered in the appeal.
3. The Subdivision Review Board may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.
4. At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in this State.
5. Every decision by the Subdivision Review Board must be in writing and state findings of fact and conclusions of law on which the board based its decision. If the Subdivision Review Board fails to provide findings of fact and conclusions of law adequate for review by the circuit court and as a result of such failure, the circuit court returns an appealed matter to the Subdivision Review Board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court returns the matter with or without restrictions, the Subdivision Review Board shall pay any additional costs for court filing fees, service of process and reasonable attorneys' fees required to permit the person appealing the Subdivision Review Board's decision to return the matter to the circuit court for completion of the appeal.
6. The written decision by the Subdivision Review Board shall be rendered within thirty (30) days after the hearing. If the board fails to render a written decision within thirty (30) days after the hearing, any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.

#### **F. Stays; exception**

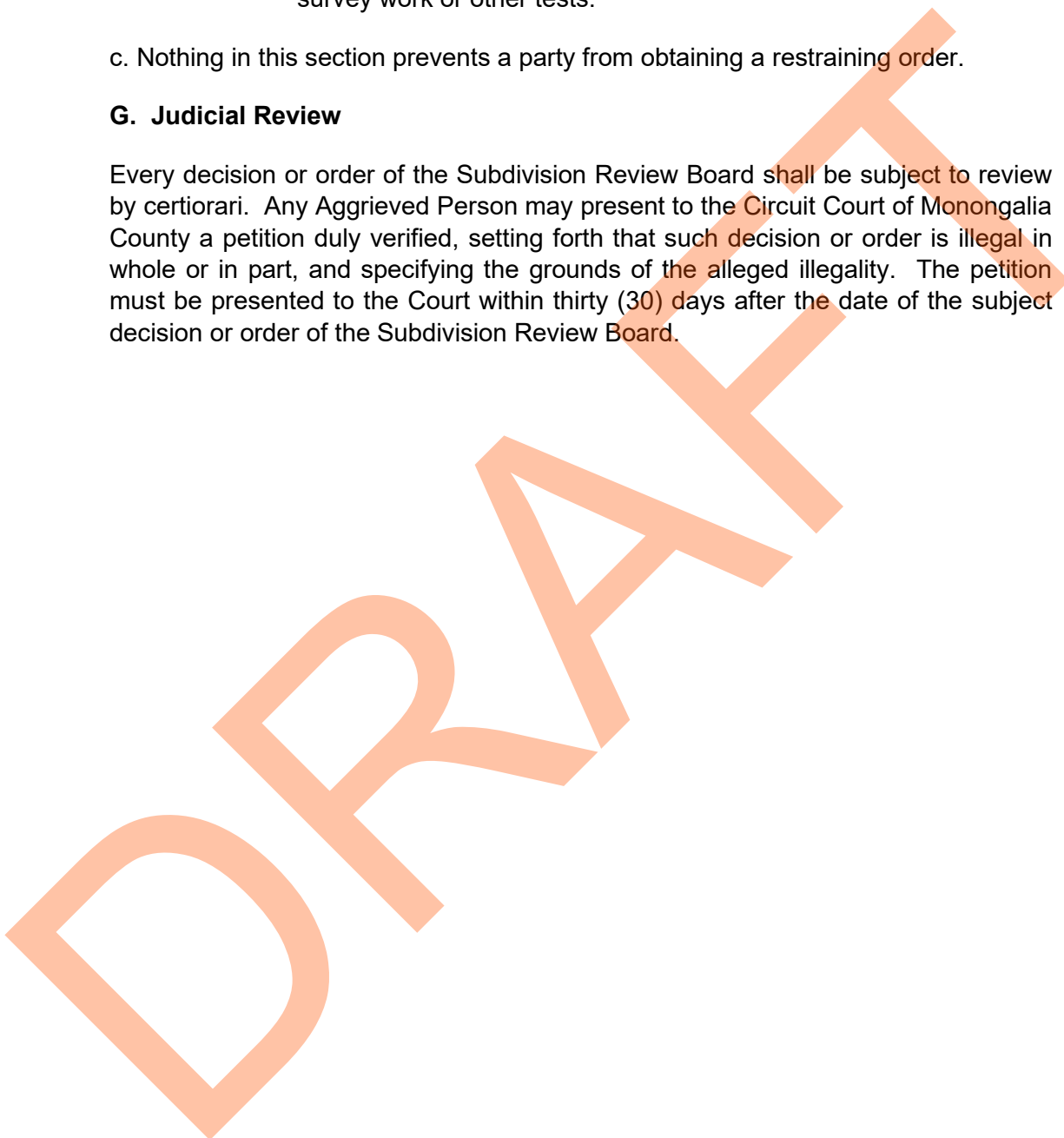
1. When an appeal has been filed with the Subdivision Review Board, all proceedings and work on the premises in question shall be stayed, except as provided in this section.
  - a. If the Planning Commission certifies in writing to the Subdivision Review Board that a stay would cause imminent peril to life or property, proceedings or work on the premises are not stayed.
  - b. A stay pending appeal does not prevent:

- (i) Further administrative proceedings, including, but not limited to, submissions to and reviews by the Planning Office or any administrative body.
- (ii) Engineering or architectural work that does not result in any land disturbance beyond what is necessary to complete engineering, survey work or other tests.

c. Nothing in this section prevents a party from obtaining a restraining order.

**G. Judicial Review**

Every decision or order of the Subdivision Review Board shall be subject to review by certiorari. Any Aggrieved Person may present to the Circuit Court of Monongalia County a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition must be presented to the Court within thirty (30) days after the date of the subject decision or order of the Subdivision Review Board.



## Article 9. General Standards for Roads

Road requirements will be as follows:

### Section 9.1. West Virginia Division of Highways (WVDOH) Standards

All roads and driveways must be constructed in accordance with DOH standards in effect at the time of subdivision approval, including DOH Standard Specifications Roads and Bridges, Manual on Uniform Traffic Control Devices, and Driveway Manual if affecting a DOH roadway.

### Section 9.2. Types of Roads

- A. Arterial Road:** These roads must be designed to serve a maximum of fifty-two (52) lots per block. Except as specified in Table 9-1, the road surface must be at least forty four (44) feet in width, plus a minimum two-foot (2') shoulder on each side, and grade must not exceed an average of twelve (12) percent over 1,000 feet. A minimum seventy (70) foot right-of-way is required.
- B. Collector Roads:** These roads must be designed to serve a maximum of sixty (60) lots per block, or up to sixty (60) lots per side of each block in a subdivision that follows the Preferred Design standards outlined in the Guidelines. Except as specified in Table 9-1, the road's surface must be at least twenty-four (24) feet in width, plus a minimum two-foot (2') shoulder on each side, and grade must not exceed an average of twelve (12) percent over 1,000 feet. A minimum fifty (50) foot right-of-way is required.
- C. Local Roads:** These roads must be designed to serve a maximum of thirty-nine (39) lots per block, or up to fifty (50) lots per block in a subdivision that follows the Preferred Design standards outlined in the Guidelines. Except as specified in the following chart, the road surface must be at least twenty-two (22) feet in width, plus a minimum two-foot (2') shoulder on each side, and grade must not exceed an average of twelve (12) percent over 1,000 feet. A minimum fifty (50) foot right-of-way is required.
- D. Side Roads:** These roads must be designed to serve a maximum of five (5) lots for a Side Road 1, or nine (9) lots for a Side Road 2, except that a Side Road 2 may serve a maximum of ten (10) lots per block in a subdivision that follows the Preferred Design standards outlined in the Guidelines. Except as specified in the following chart, the width of road surface must be at least twenty (20) feet, plus a minimum two-foot (2') shoulder on each side, and grade must not exceed an average of fifteen (15) percent over 1,000 feet. A minimum fifty (50) foot right-of-way is required.
- E. Junctions:** All connections to adjacent roadways must meet DOH requirements.

*This space intentionally left blank*

**Table 9-1  
Roadway Requirements**

Road Type		Side 1	Side 2	Local 1	Local 2	Collector 1	Collector 2	Arterial 1
		(S1)	(S2)	(L1)	(L2)	(C1)	(C2)	(A1)
Road Segment Treatment	Max Units/block (Parents = Max. with Preferred Design bonus)	5	9 (10)	39 (50)	39 (50)	60 (60 per side)	60 (60 per side)	52
	Min. ROW Width (ft.)	50	50	50	50	50	50	70
	Min. Grading Limit Includes Travelway and Roadway Cross-Section (ft)	25	25	30	30	35	35	60
	Min. Travelway Width (ft)	20	20	22	22	24	24	44
	Max. Number of Lanes	2	2	2	2	2	2	4
	Min. Lane Width (ft)	9	9	9.5	9.5	10	10	10
	Min. Shoulder (ft)	1	1	1.5	1.5	2	2	2
	Sidewalk/Bike <sup>1</sup>	-----See Article 3-----						
	On-Street Parking <sup>2</sup>	One Side	One Side	One Side	One Side	One Side	One Side	Both Sides
	Max. Average Grade/Slope	15% <sup>3</sup>	15% <sup>3</sup>	12% <sup>4</sup>	12% <sup>4</sup>	12%	12%	12%
	Min. Lot Frontage (ft) (Parents = Min if Driveway Spacing below DOH Standards)	50	50 (75)	50 (75)	50 (75)	50 (90)	50 (110)	25 (75)
	Acceptable Material	Asphalt, Concrete, Gravel	Asphalt, Concrete, Gravel	Asphalt, Concrete	Asphalt, Concrete	Asphalt, Concrete	Asphalt, Concrete	Asphalt, Concrete
Max. Speed Limit	<15	<20	25	25	30-35	35-45	25-35	
<sup>1</sup> Sidewalks and bike facilities must be provided in conformance with Article 3, except that a ten (10) foot multiuse path can substitute for other sidewalk and bike facilities requirements in Article 3, following the methods described in the Guidelines.								
<sup>2</sup> Where on-street parking is provided, an additional eight (8) feet of right-of-way and pavement must be provided on each side for Side, Local and Collector Roads.								
<sup>3</sup> The maximum longitudinal slope may not exceed 17% for any section of roadway more than five (5) feet in length.								
<sup>4</sup> The maximum longitudinal slope may not exceed 15% for any section of roadway more than five (5) feet in length.								

### Section 9.3. Road Surface

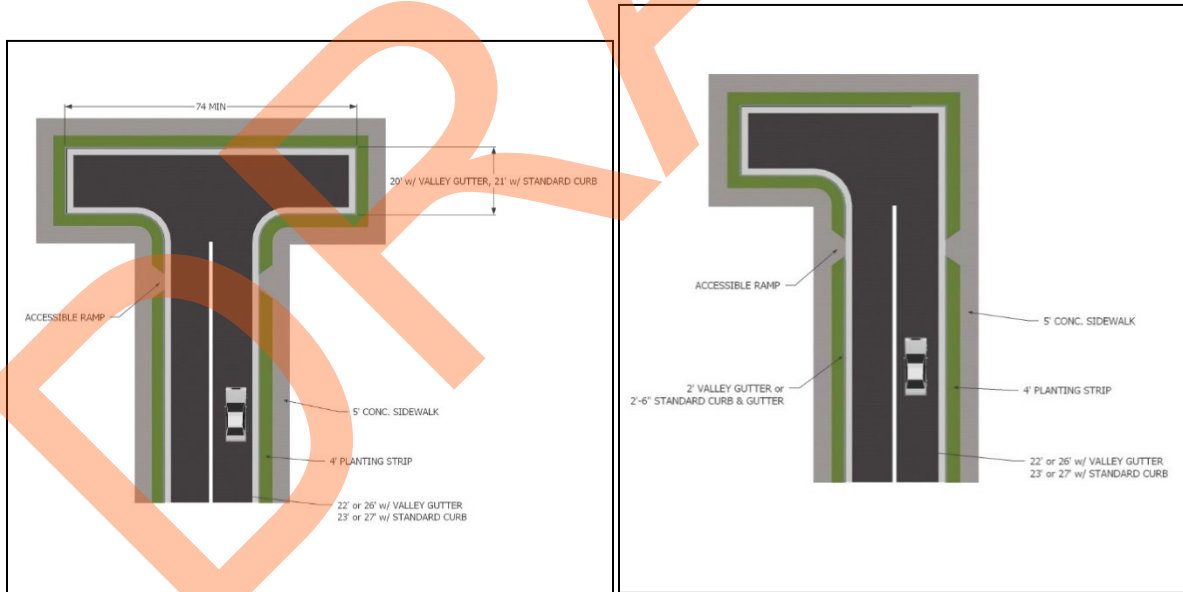
Roads must consist of a final hard surface such as asphalt pavement or Portland cement concrete pavement, except where a gravel road surface is permitted by Table 9-1. Gravel roads should include a stability fabric base, followed by a minimum of six (6) inches of graded, compacted, clean stone and a surface layer of a minimum three (3) inches of compacted, clean, crushed stone. The design of the pavement must meet applicable DOH Standards.

Materials must meet the requirements outlined in DOH Sections 400 and 500.

### Section 9.4. Connectivity, Size and Dead-Ends

All roadway networks should have more than one way in and one way out. Road dead-ends should be avoided.

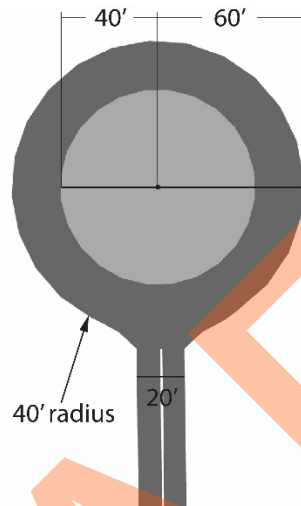
- A. All subdivisions must connect to existing roads in adjacent subdivisions wherever feasible and must be designed to facilitate such connections by future adjacent subdivisions.
- B. If a roadway does not feasibly have a second connection possible, design and right-of-way should be provided to connect in the future. Thus, a 'hammerhead' as shown below is the recommended design for a road termination, although a cul-de-sac with through-road potential may be acceptable at the discretion of the Planning Commission, acting on the recommendation of the County Engineer.



Hammerhead graphics are intended to illustrate general design only. Numerical standards and detailed right-of-way features depicted are not requirements under the Subdivision Ordinance.

- C. A hammerhead should follow design standards for streets and intersections (see Section 9.5 below) as it is intended to become part of a connected street grid.

- D. If a cul-de-sac is allowed, the outside radius must be a minimum of sixty (60) feet for the travel way pavement and preferably sixty-five (65) feet, to include five (5) feet for curb and gutter, sidewalk or a grass strip within the right-of-way. A median island with a minimum diameter of twenty (20) feet, either raised or depressed, must be installed in the center of any cul-de-sac and may be used for either stormwater treatment or vegetated swales.



### Section 9.5. Other Road Requirements

- A. All roads must be designed for year-round use.
- B. All roads must be constructed with a minimum ten (10) foot radius and a maximum fifteen (15) foot radius for all edge of pavement intersections. The Planning Commission may approve alternative compliance with these requirements, subject to Section 2.2 of this Ordinance, to allow (a) a five (5) foot radius, provided that the applicant demonstrates that access and sight lines will be safe, adequate, and efficient; or (b) a radius larger than fifteen (15) feet to respond to special considerations such as DOH requirements, sight distance requirements, topography, or other safety conditions.
- C. For any standards not explicitly established in this Ordinance, all roads must be constructed in accordance with DOH design requirements established for each road classification in Table 9-1, or in the absence of DOH design standards, must be in accordance with AASHTO standards.
- D. The sub-grade of Arterial, Collector and Local roads must have a minimum of one-quarter (1/4) inch per foot cross slope.
- E. All roads must be designed to prevent wash-out erosion and to preserve roadway edges in accordance with Section 9.5.P of this ordinance.
- F. All roads must have grades no greater than three (3) percent in the first fifty (50) feet leaving an intersection, and eight (8) percent in the next one hundred (100)

- feet. Maximum grades permitted thereafter must follow the standards in Table 9-1.
- G. Wherever access to a lot is from a street, alley, or driveway to an off-street parking area serving any use except residential uses of four (4) or fewer dwelling units, the driveway or other vehicular access must have a maximum grade of not more than ten (10) percent, measured from the edge of the street, alley, or driveway pavement.
  - H. All roads must be designed such that the spread of surface drainage does not exceed two (2) feet into the traveled way during the appropriate design storm as defined in Article 12 of this Ordinance.
  - I. All intersections must provide sight distance clearance in accordance with AASHTO requirements.
  - J. All roads must have brushy vegetation removed within the right-of-way and the adjoining utility easement, to improve sight distance as well as allowing snow melt in minimal time. Ornamental shrubs shall be permitted as long as they do not block sight distance.
  - K. Minimum stopping sight distances for all roads must be provided in accordance with AASHTO requirements.
  - L. If lots are served by driveways connecting to a DOH-maintained road, said driveways must be constructed according to side road requirements as contained in this Ordinance for a minimum distance of fifty (50) feet from the DOH maintained road.
  - M. Roads must have compaction tests on the fill slope as well as the road subgrade. This must be performed on each lift of placed fill material per DOH specifications until finished grade is achieved. The final road subgrade must be tested according to DOH standard testing requirements. Tests results must be compared to DOH standards with the results submitted to the Planning Office. The compaction testing and witnessing of a proof roll must be performed by an independent inspector certified by DOH and paid for by the applicant. The testing and proof rolling shall be performed on the entire roadway subgrade including roadway edge protection areas.
  - N. Separation fabric must be used for the separation of the aggregate base course and road sub-grade. Any fabric used must meet DOH standards and be installed per manufacturer's recommendations. Alternative compliance with this requirement may be approved, under Section 2.2 of this Ordinance, if the County Engineer determines that filter fabric is not necessary due to factors specific to the individual site and project. The applicant must pay the County Engineer's fee for this review.
  - O. Guardrails must be provided in accordance with AASHTO's Roadside Design Guide. Guardrails, barricades, or walls are acceptable; other structures meeting safety requirements and DOH standards will also be allowed.

- P. Road Edge Preservation measures must be provided to help ensure the longevity of roadway pavements and to minimize road edge deterioration from erosion of adjacent soils, extended saturation of base and sub-base materials, and other factors that cause shortened service life of roadway edges. Acceptable methods of Road Edge Preservation are described below, but alternative methods may be utilized pending review and approval of the County Engineer.
1. Concrete curb and gutter shall serve as adequate asphalt edge protection. Proper backfill of the curb and gutter is required to prevent standing water along the back of the curbing.
  2. Soil reinforcement techniques utilizing geosynthetics are acceptable. Geosynthetic systems are ideally used for areas where grass or other vegetation is intended to be located directly adjacent to the pavement section. Geosynthetic are recommended for use in areas where aggregate will be located directly adjacent to the pavement section.
  3. Underdrains must be installed along edge of pavement where persistent sources of groundwater are present. Underdrains must be constructed and installed per the DOH Construction Manual.

#### Section 9.6. Standards for Vehicular Access

- A. **School Buses** must be able to safely pick up and discharge passengers, to turn corners and to enter and leave the subdivision while all parking spaces are occupied and without having to back up.
- B. **Fire Trucks** must be able to travel to any point on a road without backing up even if all parking spaces are occupied, and to complete a turn-around without having to back up more than fifty (50) feet.
- C. **Service Trucks** must be able to perform their functions in all seasons without stopping the flow of traffic.
- D. **Normal Passenger Vehicles**, excluding those of very low (less than four (4) inches) ground clearance must be able to operate without chains, using tires appropriate for the season.
- E. **Parking Spaces** must not encroach on the area of roadway or drive aisles required to meet width or corner radius minimums.

#### Section 9.7. Impact on Public Road Network

If a subdivision is proposed with vehicular access from an existing road that does not meet applicable DOH standards, or will no longer meet applicable DOH standards after construction of the proposed subdivision, the applicant must demonstrate that the proposed subdivision will not have an unacceptable adverse impact on the public road network. The Guidelines to be adopted by the Planning Commission must detail how such a demonstration may be made, e.g. a commitment by the applicant to bring all or part of the road in question up to DOH standards before the subdivision is occupied; a commitment by DOH to bring all or part of the road up to DOH standards within a specified period of time; traffic distribution measures that mitigate the subdivision's impact on the road in question; or a commitment

by the applicant to make roadway improvements that will allow the subdivision to be built and occupied without decreasing LOS on the road in question.

The Guidelines adopted by the Planning Commission must provide for a review and written recommendation from the Planning Office, and the opportunity for DOH to review and provide a recommendation, regarding each request for a determination that a proposed subdivision will not have an unacceptable adverse impact on the public road network. The Guidelines must further provide that any actions to be required of the applicant must be related to and proportionate to the anticipated impact of the proposed subdivision on the public road network.

DRAFT

## Article 10 Earthwork

### Section 10.1 Hillside Development

Hillsides with slopes of ten percent (10%) or more are sensitive areas which are frequently not able to tolerate subdivision development as it is practiced on flatter land. The instability of such areas requires careful planning and design before any land development or construction activity takes place. Natural slopes, trees, rock formations, and other features such as scenic views can best be preserved if subdivision development is allowed to be flexible and creative, while bearing in mind that in general, the integrity and durability of a hillside is inversely related to the amount of construction activity (particularly earthwork) that takes place on the hillside.

### Section 10.2 Principles and Regulations

Hillside subdivision proposals will be reviewed and considered on an individual, independent basis. The natural features of each hillside will determine final subdivision design configuration. The design must be consistent with principles of good access, proper drainage, and resource conservation.

Planning Commission and Planning Director review of hillside subdivision proposals must be based upon the following guidelines:

- A. Minimize the alteration of natural terrain and the removal of topsoil and vegetative cover.
- B. Allow flexibility in density, lot size, lot shape, and setbacks so that the more buildable areas of a hillside can be developed, and the less buildable areas left in a natural condition.
- C. Consider narrow rights-of-way and roads (possibly one-way roads with convenient pull-offs) to minimize the earthwork needed to access developable areas.
- D. Consider roadside parking bays.
- E. Design and construct roads that are parallel to contour lines, with a preference for roads on ridges and in valleys to minimize cuts and fill. Use retaining walls where possible to minimize cuts and fill. To avoid high retaining walls, to the maximum extent possible create a series of shorter walls with terraces and suitable landscaping.
- F. Encourage lot layouts which minimize on-site (on-lot) grading and earthwork for access, parking and building construction.
- G. Include provisions in deeds of sale that require property owners to protect hillsides, woodlands, etc. from destruction.
- H. Fill used for roads and areas under structures is required to be free of debris, organics, waste, vegetative, or other deleterious matter. Material that is larger than four (4) inches in any dimension must not be used.

- I. Bonding benches shall be required for all sliver slopes.
- J. Any retaining wall which has a total height greater than four (4) feet when measured from the bottom of the first course of block to the top of the highest retaining block or will retain a slope in excess of ten (10) feet in height measured from the finished ground at the bottom of the first coarse of block shall be designed by a registered Professional Engineer.
- K. All slopes in excess of ten (10) feet in height must be designed by a registered Professional Engineer.

**Section 10.3 Natural Areas**

Hillside subdivision developments shall include the retention of a percentage of the tract in a natural, undisturbed condition. The following table shall be used to determine the percentage of the proposed subdivided lots that must be maintained in a substantially natural condition (no clearing, cutting, filling), subject to the calculation methodology and adjustments set forth in subsections A and B below:

Table 10-1

Average Slope of Proposed Subdivided Lot (Percent)	Percentage of Proposed Subdivided Lot to be Maintained in a Natural Condition
0 – 9.9	0
10 - 14.9	25
15 - 19.9	40
20+	55

The developer may choose to apply the Percentage of Land to be Maintained in a Natural Condition from Table 10-1 on a lot-by-lot basis, or to all proposed subdivided lots with an average slope greater than ten percent (10%) on an aggregate basis. For example, if a ten-acre tract includes seven proposed subdivided one-acre lots with an average slope below ten percent (10%), and three proposed subdivided one-acre lots that each have an average slope greater than ten percent (10%), the developer may choose to leave in a natural condition (a) twenty-five percent (25%) of each of the three proposed lots with steep slopes, or (b) twenty-five percent (25%) of the combined three-acre area containing the three proposed lots with steep slopes.

**A. Required Technical Information**

- 1. Slope must be determined for the entire tract utilizing the Monongalia County GIS Slope Map. The tract must be divided into distinct slope categories per the Monongalia County GIS Slope Map:

- a. Dark Green: (0-9.9% slope), where development is strongly preferred.
- b. Green: (10-14.9% slope), where development is preferred.
- c. Yellow: (15-19.9% slope), where development is acceptable.
- d. Orange: (20- 24.9% slope), where development is discouraged.
- e. Red: (25% + slope), where development is strongly discouraged.

The slope categories of the tract, the average slope for each proposed subdivided lot, and the proposed method of compliance with Table 10-1 must be shown on all Land Development Plan and Final Subdivision Plan applications.

2. For any subdivision proposing one or more subdivided lots with an average slope greater than twenty-five percent (25%), the Final Subdivision Plan application must include a geotechnical investigation, prepared and signed by a licensed registered Professional Engineer, which supports a finding that the proposed subdivision represents an appropriate level of development, will not significantly harm the overall environmental quality of the site, and will not lead to unsafe conditions for built areas of the site.
3. For any subdivision proposing one or more subdivided lots with an average slope greater than ten (10) and twenty-five (25) percent, prior to release of any surety or the sale of any lot the applicant must submit a geotechnical assessment, prepared and signed by a licensed geotechnical engineer, which finds that (a) the project was built consistent with the approved plat; (b) all requirements of Article 10 are met; and (c) the final condition is consistent with principles of good access, proper drainage, and resource conservation.

#### **B. Deviation from Table 10-1**

The Planning Commission may allow the disturbance of additional small areas above the percentage specified in Table 10-1 if the Planning Commission finds that such disturbance will alleviate potential health or safety problems and will not significantly harm the overall environmental quality of the site. For large scale developments, the Planning Commission may allow the disturbance of higher percentages of steep slopes than specified in Table 10-1 if a geotechnical investigation prepared and signed by a licensed geotechnical engineer supports a finding that the proposed percentage of steep slopes is necessary to support an appropriate level of development and will not significantly harm the overall environmental quality of the site. In such cases, strong consideration must be given to hillside stability, drainage and aesthetics. A finding to support deviation from Table 10-1 may be made in conjunction with Planning Commission approval of a Land Development Plan or a Final Subdivision Plan. The Planning Director is not authorized to make such a finding.

## Article 11. Sanitary Sewage and Potable Water

### Section 11.1 Public Water Facilities

- A. Installation of Facilities.** Except where Article 3 of this Ordinance specifically permits an applicant to choose private water service, if MUB or the applicable public service district or water association determines that public water service is available to the subject property, the applicant must install adequate facilities to connect to public water, subject to applicable specifications of state or county authorities. All water mains and other equipment and facilities related to water service must be of a size and installed in a manner approved by the utility service provider. Fire hydrants must be installed if approved by and according to the spacing requirements and specifications of the utility service provider.
- B. Mapping and Easements.** To facilitate the above, the location of all fire hydrants, all water supply improvements, and any changes to public service district or water association boundary lines, indicating all improvements proposed to be served, must be shown on all final plats. The cost of installing same must be included in the performance bond to be furnished by the developer. Each subdivision must include easements for public water supply facilities as required in Article 3 of the Subdivision Regulations.
- C. Review of Construction Plans.** All construction plans for water facilities installation must be reviewed and approved by the Planning Director, the utility service provider, and any other required governmental inspection and approval agency before a NIF is issued to permit land development or construction activity, consistent with Table 6-1.
- D. Approval of Facilities.** All fire hydrants and water supply improvements must be approved by the applicable utility service provider, the Planning Director, and any other required governmental inspection and approval agency before release of any surety required under Section 7.2 and before the sale of any lot.

### Section 11.2 Individual Wells

- A. Requirement for Water Supply.** If a public water system is not available or if Article 5 of this Ordinance specifically permits an applicant to choose a private water supply, individual wells may be used with Health Department approval. Provisions for rural water supplies for fire protection shall be submitted to the Planning Commission in accordance with the West Virginia State Fire Code.
- B. Accessibility for Future Service.** Each subdivision must include easements for future potential public water supply as required in Article 3 of the Subdivision Regulations.

### Section 11.3 Public Sewerage Facilities

- A. Installation Requirements.** Where MUB or the applicable public service district determines that public sewer is available to serve the proposed subdivision, the applicant must install adequate sanitary sewer facilities to connect to public sewer services in a manner prescribed by the sewer service provider.

- B. Mapping and Easements.** The location of all sewerage facilities and sewer connection points must be shown on all Record Plats, and the cost of installing same must be included in any surety furnished by the developer. Each subdivision (Exempt, Minor and Major) and each Exempt Single-Ownership Development must include easements for public sewer supply facilities as required in Article 3 of the Subdivision Regulations.
- C. Review of Construction Plans.** All construction plans for sewerage facilities installation must be reviewed and approved by the sewer service provider, the Planning Director, and any other required governmental inspection and approval agency before a NIF is issued to permit land development or construction activity, consistent with Section 7.1 of the Subdivision Regulations.
- D. Approval of Facilities.** All sewer system improvements must be approved by the applicable sewer service provider, the Planning Director, and any other required governmental inspection and approval agency before release of any required under Section 7.2 and before the sale of any lot.

#### **Section 11.4 Individual Disposal System Requirements**

If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas must conform to the requirements of the State Health Laws, and percolation tests and test holes must be made as directed by the Health Department and the results submitted to the Health Department. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment device, must also be approved by the Health Department. Delineation of the approved reserve area for an individual sewage disposal system must be made on the final plat.

If sufficient information is not available for the Health Department to determine whether a lot classified under a Minor or Exempt Subdivision is suitable for an individual sewage disposal system, the Planning Commission may approve the subdivision with a condition of approval stating, "The Monongalia County Health Department has not determined if the \_\_\_\_\_ lot [identify lot] is suitable for an individual sewage disposal system. A structure requiring individual sewage disposal for sewer service may not be constructed until either the individual sewage disposal system is approved by the Health Department or public sewer service is available."

#### **Section 11.5 Design Criteria for Sanitary Sewers and Individual Disposal Systems**

All sanitary sewer systems and individual sewage disposal systems must comply with the provisions of the West Virginia Department of Health and Human Services Legislative Rules Title 64, Series 9, Sewage System Regulations, as may be amended or recodified from time to time.

## Article 12. Stormwater Management and Drainage Design

### Section 12.1 Drainage Systems: General Requirements

**A. Required Drainage System.** All subdivisions must make adequate provision for storm and surface water runoff by use of collection and conveyance systems, outlets and appurtenances, such as pipes, open channels, manholes, inlets, and, where needed, detention and retention facilities.

1. The stormwater drainage system must be designed to meet the requirements and standards stated in the Subdivision Regulations. A Registered Engineer must submit a written certification that the design of the stormwater drainage system meets the requirements and standards of the Subdivision Regulations.
2. The stormwater drainage system and facilities must be designed to comply with all applicable federal and state laws and regulations that are in effect at the time of subdivision approval. The Planning Commission may require evidence that the applicant has received approvals from federal and state agencies when wetlands or regulated floodplains are within the limits of the subdivision or impacted by the subdivision.
3. Subdivisions that have a negative impact on wetlands must not be approved, except as permitted by federal or state agencies. The existence of wetlands must be determined by, or according to standards established by, the appropriate federal or state agencies. Subdivisions must comply with all applicable federal, state and local laws regarding wetlands.
4. The stormwater drainage system must be designed and materials specified to provide adequate longevity and minimal maintenance requirements.
5. The stormwater drainage system must be designed to accommodate upstream drainage areas based on land use conditions within the watershed at the time of subdivision approval.
6. The stormwater drainage system must be designed taking into account the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. County drainage studies, together with any other studies that the Planning Office finds appropriate, must serve as a guide to needed improvements. Where the County Engineer anticipates that the additional runoff incident to the development of a subdivision may overload an existing downstream drainage facility, the Planning Commission or Planning Director may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in such sum or by such means as the Planning Commission or Planning Director determines. No subdivision may be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility as determined by the Planning Commission or Planning Director based on the recommendation of the County Engineer.

7. The stormwater drainage system should be designed to avoid hazardous conditions that may be caused by stormwater in or near a roadway.
8. Roadways, bridges and stormwater drainage systems should be designed to avoid adverse flooding impacts. When a Land Development Plan or Final Subdivision Plan is submitted for an area which is subject to a 100-year floodplain, as defined by the Floodplain Ordinance, the Planning Commission or Planning Director may approve such subdivision provided that the applicant submits a written determination from the Floodplain Coordinator that the proposed development complies with the provisions of the Floodplain Ordinance.
9. All stormwater drainage systems should be designed to minimize impacts to the environment and cultural resources.

**B. Hydrologic and Hydraulic Design.** Stormwater drainage systems must be designed to accommodate the discharge for the minimum specified design storm criteria. These design criteria must be used for the design of all stormwater drainage systems within a subdivision, including public roadways, private roadways, and systems located within drainage easements. All drainage systems must be designed to ensure that as little permanent harm as possible takes place when a flooding event occurs that is more severe than the applicable design storm.

1. Table 12-1 presents the minimum design criteria to protect roadways from flooding or damage based on the frequency of flooding, also known as the return period or annual probability of occurrence. The specified facility types must each be designed for the return period indicated in the table, e.g. roadside channels must be designed for a 10-year storm, while transverse culverts on local roads must be designed for a 50-year storm.

The Planning Commission or Planning Director may impose more stringent requirements when stream records show higher discharges or when potential property damage justifies a higher level of protection.

Facility Type	Description	Return Period (Probability of Recurrence)
Roadway Collection and Conveyance Facilities	Inlets Design	10-year (10%)
	Pipe System Design	10-year (10%)
	Collector Roads	10-year (10%)

Roadside Channels and Culverts Parallel to Roadways	Local Roads	10-year (10%)
	Side Roads	10-year (10%)
	Driveway Culverts	10-year (10%)
Transverse Roadway Culverts and Bridges	Collector Roads	50-year (2%)
	Local Roads	50-year (2%)
	Side Roads	50-year (2%)

2. The predicted elevation of the 100-year or base flood serves as the present engineering standard for evaluating flood hazards and as the basis for regulating floodplains under the National Flood Insurance Program (NFIP). Subdivisions located within or adjacent to the designated 100-year floodplain must conform to the NFIP regulations.

**C. Design Computations and Documentation.** As required in Table 6-1, the applicant must submit as part of its stormwater drainage plan design computations and documentation in accordance with the DOH Drainage Manual or the MUB Stormwater Design Manual, whichever contains more stringent requirements, including storm drain systems, ditches, channels, and culverts. These plans and computations must be prepared by a Registered Engineer. Where the DOH Drainage Manual (or the MUB Stormwater Design Manual, as applicable) establishes a return period greater than indicated in Table 12-1, the return period indicated in Table 12-1 may be used.

**D. Computer Software.** All computer programs acceptable to DOH may be utilized for the design of stormwater systems.

**Section 12.2 Hydrology**

**Hydrologic Analysis.** The applicant must submit as part of its stormwater drainage plan a hydrologic analysis in accordance with the DOH Drainage Manual or the MUB Stormwater Design Manual, whichever contains more stringent requirements. This hydrologic analysis must be prepared by a Registered Engineer. The engineer should select the most appropriate method for computing the peak rate of runoff, volume of runoff, and the time distribution of flow from those listed in the DOH Drainage Manual or the MUB Stormwater Design Manual, whichever contains more stringent requirements, based on the size of the subdivision and the stormwater drainage facility being designed.

**Section 12.3 Stormwater Drainage System Maintenance**

All swales, ditches, culverts, and other means of drainage must remain open and clear of debris at all times. Natural stream channels must be maintained in an undisturbed condition except as necessary to correct excessive erosion and to construct storm drain outfalls. All rooftop drainage in a residential subdivision must discharge directly on the ground and must not be piped to the stormwater drainage system or a street. In a residential subdivision, responsibility for stormwater drainage system maintenance lies with the Homeowners'

Association or, where there is no HOA, with all property owners in the subdivision as a joint obligation. In a non-residential subdivision, responsibility for stormwater drainage system maintenance lies with the property owner or Commercial Owners' Association. In a mixed-use subdivision or PUD, the developer must allocate responsibility for stormwater drainage system maintenance among HOA, COA, or property owner/management entity(ies).

#### Section 12.4 Drainage Easements

- A. General Requirements.** Where a subdivision is traversed by a watercourse, drainage-way, channel, or stream, a drainage easement or drainage right-of-way must be provided that conforms substantially to the lines of such watercourse, and is of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable to maintain the watercourse in a natural state and with adequate overbank width reserved for discharge of the base flood. The applicant must submit as part of its stormwater drainage plan a 100-year floodplain study of all watercourses with a drainage area of fifty (50) acres or greater.
- B. Drainage Easements.** Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width for such drainage facilities must be provided across property outside the road rights-of-way and with satisfactory access to a road. The Final Subdivision Plan and Record Plat must identify the location of easements and must indicate who will hold maintenance responsibility for stormwater facilities located within each easement or right-of-way. An inspection and maintenance agreement for such stormwater facilities must be filed in the land records contemporaneously with the Record Plat. Drainage easements must be carried from the road to a natural watercourse or to other drainage facilities. A ten (10) foot drainage easement for lot drainage must be required on lot lines (5' on each side), when not being used as part of the subdivision stormwater drainage facilities.
- C. Off-Site Easements.** When a proposed stormwater drainage system will discharge drainage across private land outside the subdivision, appropriate drainage easements must be secured by the applicant and indicated on the Final Subdivision Plan and Record Plat.

#### Section 12.5 Stormwater Management Systems

- A.** All subdivisions that are located within an area that is regulated by the DEP MS4 NPDES Multi-Sector Permit must provide stormwater management in compliance with applicable standards promulgated by the entity that administers the permit in that area.
- B.** All subdivisions that are not located within an area that is regulated by the DEP MS4 NPDES Multi-Sector Permit must provide a stormwater management system designed such that the post-construction peak runoff rate is less than or equal to the pre-construction peak runoff rate for the 2-year/24-hour, 10-year/24-hour, and 50-year/24-hour design storms for each sub-watershed within a new subdivision.

- C. For expansions to existing subdivisions that were originally designed without stormwater management systems, stormwater management systems must be designed such that the peak runoff rate of flow is reduced by ten percent (10%) from the current peak runoff rate; however, no additional reduction is required beyond the peak runoff rate that would occur from the area covered by the subdivision in its natural, undeveloped state.
- D. The Planning Commission or Planning Director may consider additional measures in critical area watersheds, which may be identified by the County Commission, Planning Commission, or County Engineer at any time before or after the adoption of this Ordinance.
- E. Applicants are strongly encouraged to consider stormwater management systems that infiltrate, evapotranspiration, and capture and use stormwater (referred to as runoff reduction techniques), which serve to mimic the way natural vegetated landscapes respond to precipitation events, in accordance with the DEP West Virginia Stormwater Management and Design Guidance Manual and the MUB Stormwater Design Manual (or the stricter of the two, in the event of a conflict). Applicants are strongly encouraged to use site design standards for all new development and redevelopment that require, in combination or alone, stormwater management measures that keep and manage on site the first one inch of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation. As described more fully in Appendix B, the recommendations of this paragraph are mandatory for any subdivision that exceeds its Impervious Surface Limit.
- F. It is desirable that stormwater detention and retention structures have a maximum of ten (10) feet of total water depth. Stormwater detention and retention systems and structures must be designed by a Registered Engineer. Stormwater detention and retention systems and structures must be constructed to meet the requirements and standards of the Subdivision Regulations as well as the DEP Erosion and Sediment Control Best Management Practices Manual as in effect at the time of subdivision approval.
- G. If an applicant proposes a structure that exceeds ten (10) feet of total water depth, it must be designed by a Registered Engineer with geotechnical experience and approved by the Planning Commission or Planning Director based on the recommendation of the County Engineer, in addition to meeting the construction standards of paragraphs B and C above.
- H. A Registered Engineer must submit a written certification that the design and construction of the stormwater management system and structures, including any structure that exceeds ten (10) feet of total water depth, meet the requirements and standards of the Subdivision Regulations and the DEP Erosion and Sediment Control Best Management Practices Manual as in effect at the time of subdivision approval.
- I. Stormwater management facilities that provide management for more than one (1) lot or roadway must be constructed on a separate lot or parcel within the subdivision and must be maintained by the applicant until the common area becomes the responsibility of the HOA, the COA, or, in a subdivision with less

than thirteen (13) lots, the property owners collectively. These stormwater management facilities must be set back from the property line a minimum distance equal to one-half (1/2) of the height of the embankment of the stormwater management facility, but in no case less than five feet (5') from the property line. The edge of the stormwater management facility is defined by the outside toe of the embankment.

- J. The edition of the DOT Standard Specifications for Roads and Bridges and Supplemental Revisions in effect at the time of subdivision approval is hereby referenced for material and construction specifications for activities governed by this Article.

### **Section 12.6 Soil Erosion and Sediment Control**

- A. Erosion and sedimentation control measures are required for all Minor and Major Subdivisions. Refer to the WVDOT Erosion and Sedimentation Control Handbook and DEP Erosion and Sediment Control Best Management Practices manual in effect at the time of subdivision approval for acceptable means and methods.
- B. All Minor or Major Subdivisions that disturb an area of one (1) acre or greater must submit a Soil Erosion and Sediment Control Plan as required in Table 6-1 and must receive appropriate NPDES General Permit coverage from the DEP. Subdivisions that are not required to obtain a state permit must submit a generic Soil Erosion and Sediment Control plan or narrative for approval as required in Table 6-1. This generic plan or narrative must address the general principles found in the DEP Erosion and Sediment Control Best Management Practices manual.

### **Section 12.7 Stormwater Drainage, Soil Erosion and Sediment Control, and Stormwater Management Plans**

- A. All Stormwater Drainage, Soil Erosion and Sediment Control, and Stormwater Management Plans submitted to the Planning Commission must follow the submissions requirements of Table 6-1.

## APPENDIX A DEFINITIONS

### Section 1.1 Usage

For the purpose of these regulations, certain numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Article 3. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular.

### Section 1.2 Words and Terms Defined

1. **AASHTO.** American Association of State Highway and Transportation Officials, a standards-setting body which publishes specifications, quality control protocols and guidelines that are used in highway design and construction throughout the United States.
2. **Adequate Public Facilities.** Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the County based upon specific levels of service, while not adversely affecting current levels of service for surrounding areas.
3. **Adjoining.** Next to; sharing a common boundary with.
4. **Adoption Date.** The date on which the Monongalia County Subdivision and Land Development Ordinance was adopted by the County Commission,  
\_\_\_\_\_.
5. **Aggrieved Person.** A person who:
  - (a) Is denied by the Planning Commission, the Subdivision Review Board, or the Board of Zoning Appeals, in whole or in part, the relief sought in any application or appeal;  
or
  - (b) Has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the County may suffer.
6. **Alley.** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
7. **Applicant.** The owner of land proposed to be subdivided or its representative or contract purchaser who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises. *See Developer, Subdivider.*
8. **Bond.** Any form of security in an amount and form satisfactory to the County Commission.
9. **Building.** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

10. **Certify.** Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the County by administrative rule may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.
11. **Clearing.** The removal of trees and any and all other vegetation from a construction site as part of preparing the site for construction of structures, buildings and roads. Clearing allows for removal of cleared items off site. Clearing includes grubbing.
12. **Common Ownership.** Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his/her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.
13. **Comprehensive Plan.** The Comprehensive Plan for Stewartstown, West Run, Cheat Lake, and Cheat Neck Planning Districts: Monongalia County, West Virginia, as amended from time to time, or any plan for physical development, including use, that is adopted by the County Commission, setting forth guidelines, goals and objectives for all activities that affect growth and development within the County that is under the jurisdiction of the Planning Commission.
14. **Contract Purchaser.** A person with a contractual right to purchase an identified lot, parcel, or tract of land.
15. **County Clerk.** Clerk of the Monongalia County Commission.
16. **County Engineer.** A Registered Engineer who is an employee of the County or is working under contract with the County to fulfill specified engineering duties. The County Engineer may be a different engineer or from a different engineering firm from time to time, or at the same time for different projects.
17. **Cul-de-Sac.** A local street with only one outlet that terminates in a vehicular turnaround.
18. **DEP.** The West Virginia Department of Environmental Protection.
19. **DHHR.** The West Virginia Department of Health and Human Resources.
20. **DOH.** The West Virginia Department of Transportation, Division of Highways.
21. **DOT.** The West Virginia Department of Transportation.
22. **Deck.** A flat surface attached to the exterior of a structure at floor level, intended for uses such as walking and sitting.
23. **De minimis.** See Section 8.3 of this Ordinance.
24. **Demolition.** The razing or destruction of any structure or accessory structure (including structures such as patios, pads or onsite septic systems) and removal of resulting material off site.

25. **Design Criteria.** Standards that set forth specific improvement requirements.
26. **Developer.** The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review or approval under this Ordinance. See *Subdivider*.
27. **Dwelling.** Any building or portion thereof containing one or more Dwelling Units. Does not include hotels, boarding or rooming houses, institutional homes or residence clubs.
28. **Dwelling, Accessory.** A subordinate dwelling or apartment located on the same lot as a principal dwelling, either within or detached from the principal dwelling and containing no more than one third as much habitable square footage as the principal dwelling.
29. **Dwelling, Duplex (Two-Family).** A building containing two (2) single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof.
30. **Dwelling, Garden Apartment.** One or more two- or three-story, multifamily structures, generally built at a gross density of ten to fifteen dwelling units per acre, with each structure containing eight to twenty dwelling units and including related off-street parking, open space, and recreation. See *DWELLING, MULTIFAMILY*.
31. **Dwelling, High-rise.** A multi-family building of eight or more stories.
32. **Dwelling, Mid-rise.** A multi-family building containing between four and seven stories.
33. **Dwelling, Multi-family.** A building containing more than four dwelling units, including units that are located one over the other. Multi-family buildings include garden apartments and mid- and high-rise apartment buildings.
34. **Dwelling, Patio Home.** A single-family dwelling on a separate lot with open space setbacks on three sides and with a courtyard, or a single-family dwelling on a separate, generally smaller lot, similar in concept to town homes (See *DWELLING, TOWNHOUSE*) situated without common walls.
35. **Dwelling, Quadruplex.** Four attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with an adjoining unit or units.
36. **Dwelling, Single-family Attached.** A single-family dwelling attached to two (2) or more single-family dwellings by common vertical walls.
37. **Dwelling, Single-family Detached.** A building containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards, provided that a Detached Single-family Dwelling may include an Accessory Dwelling.

38. **Dwelling, Single-family Semidetached.** A single-family dwelling attached to one other single-family dwelling by a common vertical wall, with each dwelling located on a separate lot. See *DWELLING, DUPLEX*.
39. **Dwelling, Site-built.** A dwelling that is constructed on the site where it will be used..
40. **Dwelling, Townhouse.** A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common unpierced walls.
41. **Dwelling, Triplex.** A building containing three dwelling units, each of which has direct access to the outside or to a common hall.
42. **Dwelling Unit.** One or more rooms designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.
43. **Easement.** Authorization by a property owner for another to use the owner's property for a specified purpose such as access or utilities.
44. **Effective Date.** The date on which the Monongalia County Subdivision and Land Development Ordinance took effect, \_\_\_\_\_.
45. **Escrow.** A deposit of cash with a local government or escrow agent to secure the promise to perform some act.
46. **Exempt Land Development.** A land development project that does not involve the division of a lot, parcel or tract of land into two or more lots, or the recombination of existing lots, parcels, or tracts, and therefore is exempt from the Subdivision Regulations under Article 3 thereof.
47. **Exempt Subdivision.** A subdivision that is exempt from the Subdivision Regulations under Article 3 thereof.
48. **FAA.** Federal Aviation Administration.
49. **FEMA.** The Federal Emergency Management Administration.
50. **FHWA Lighting Handbook.** Federal Highway Administration Lighting Handbook, which provides guidance to site designers and state, city, and local officials concerning roadway lighting.
51. **Factory-Built Home.** Modular home, mobile home, house trailer or manufactured home.
52. **Fire Marshal.** Office of the West Virginia Fire Marshal.
53. **Flood Hazard Area.** Any land within the County adjoining any river, stream, or watercourse as delineated in the Flood Boundary & Floodway Map, Monongalia County, West Virginia prepared by the Federal Emergency Management Agency.

54. **Floodplain Ordinance.** The Monongalia County Floodplain Ordinance.
55. **Grade.**
- (a) General - The slope of a road, street, other public way, driveway or access to any structure, specified in percentage terms.
  - (b) Existing – The average grade of the ground surface prior to any disturbing of the soil.
  - (c) Finished – The final elevation of the ground surface after manmade alterations such as grading, grubbing, filling or excavating have been made on the ground surface.
  - (d) Preliminary – The grade that allows basic access on a construction site.
56. **Grading.** Movement of soil and earth to ensure a level base, or one with a specified slope, for construction work such as a foundation or other structure, the base course for a road, surface drainage and storm water management, a retaining wall, or other improvements.
57. **Grubbing.** The removal of shrubs, tree stumps, and rubbish from a construction site in order to better facilitate primary engineering and parcel mockups. Grubbing does not include removal of grubbed items off site. Grubbing does not include clearing.
58. **Guidelines.** The Monongalia County Subdivision Guidelines and Toolkit, which must be adopted by the Planning Commission by the later of the Effective Date of this Ordinance or six months after adoption of this Ordinance by the County Commission.
59. **Health Department.** The Monongalia County Health Department.
60. **Home Owners Association (Property Owners Association).** An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision - be it a lot, condominium, or any other interest - is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, condominium, or other interest of the member.
61. **House trailer.** A trailer designed or intended for human occupancy and commonly referred to as a mobile home or house trailer, including fold down camping and travel trailers as these terms are defined in W. Va. Code §17a-6-1, but only when such camping and travel trailers are located in a Mobile Home Park, as defined in the Subdivision Regulations, on a continual, nonrecreational basis.
62. **Impervious Surface Allocation.** The base amount of impervious surface permitted within any development, calculated as the amount of impervious surface needed to provide the minimum number of parking spaces required by the Subdivision Ordinance or any applicable zoning regulation, plus the amount of additional pavement needed for safe, adequate, and efficient vehicular access and internal circulation.
63. **Individual Residential Lot.** A lot that was created as part of an approved Major Subdivision for which a Record Plat has been recorded, and which has been acquired by an individual owner for purposes of constructing a residential dwelling unit.

64. **Individual Sewage Disposal System.** A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.
65. **Infill Development.** Development designed to occupy scattered or vacant parcels of land which remain after the majority of development has occurred in an area.
66. **Infrastructure.** *SEE Improvements*
67. **Installment Sales Contract for Land.** An installment sales contract is a written agreement for the sale of land, with payment to be made in installments over a period of time, and with title to the land not to pass until the final payment is made or as otherwise stipulated in the contract.
68. **Improvements.** Those physical additions, installations and changes required, such as roads, curbs, sidewalks, parking areas, water mains, street lights, sewers, drainage facilities, public utilities and recreational areas, and any other physical changes deemed appropriate by the Planning Commission, to render land suitable for the use proposed.
69. **LOS.** The Level of Service on a road or roadway segment, as defined and measured by AASHTO standards.
70. **Land Development.** Depending on the context, (a) the process of preparing raw or developed land for the construction of one or more buildings on the site, including clearing, grading, construction or installation of infrastructure such as roads, utilities, sewer and water systems, and stormwater management, or any other non-farming activity that results in a change in existing site conditions; or (b) a project involving the construction of one or more buildings on a site for residential or non-residential use.
71. **Length/Width Ratio.** The comparison of the length of a lot to its width.
72. **Lot.** A contiguous area of land that is described in a subdivision plat in the land records and whose boundaries are established by the filing of said plat.
73. **Lot Area.** The area contained within the property lines of a lot as defined on a subdivision plat, including all easement areas but excluding any area of existing or proposed public right-of-way or other area in existing or proposed public ownership.
74. **Lot, Corner.** A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 115 degrees.
75. **Lot Line, Front:** The boundary of a lot which abuts an existing or proposed street.
76. **Lot Frontage:** The horizontal distance between side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered frontage. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.
77. **Lot Line, Rear:** The boundary of a lot which is opposite the front lot line. In the case of an irregular or triangular-shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the lot line.

78. **Lot Line, Side:** Any boundary of a lot that is not a front or rear lot line.
79. **Lot Width:** The horizontal distance between the side lot lines of a lot, measured within the lot boundary at the front lot line or at the setback line of a cul-de-sac lot.
80. **MECCA 911.** Monongalia County Centralized Communications Agency 911. MECCA 991 does addressing for the County.
81. **MS4 General Permit.** The DEP General West Virginia National Pollution Discharge Elimination System Water Pollution Control Permit.
82. **Manufactured Home.** Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as HUD (U.S. Department of Housing and Urban Development) code. *Other names include: Modular, Mobile Home, or Single/Double/Triple Wide.*
83. **Metes and Bounds.** The boundaries of a piece of land as defined by reference to lines and/or points on the land. Natural or man-made features may be used as points of reference in the description but are not to be used in lieu of boundary points.
84. **Mixed-Use Development.** Land development combining residential, commercial, cultural, institutional, or entertainment uses, often mixed in a single building, and located on one or more lots with shared parking.
85. **Mobile Home.** A transportable structure that is wholly or in substantial part made, fabricated, formed or assembled in a manufacturing facility for installation, or assembly and installation, on a building site, and was designed for long-term residential use and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C. §5401, et seq.), effective on June 15, 1976. Such units are usually built to the voluntary industry standards of the American National Standards Institute (ANSI)--A119.1 standards for mobile homes.
86. **Model Home.** A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision and which will not be permanently occupied during its use as a model. Such dwelling units may be erected, at the discretion of the Planning Commission, by permitting a portion of a major subdivision involving no more than two lots to be created according to the procedure for minor subdivision, as set out in these regulations.
87. **Modular Home.** Any structure that is wholly or in substantial part made, fabricated, formed or assembled in a manufacturing facility for installation, or assembly and installation, on a building site and is designed for long-term residential use and certified as meeting the standards contained in the state fire code encompassed in the legislative rules promulgated by the state Fire Commission under W. Va. Code §29-3-5b.
88. **MUB.** The Morgantown Utility Board.
89. **NIF.** Notice of Improvement Form which must be obtained by a property owner or developer pursuant to West Virginia Code Section 8A-4-2 and Section 7.1 of the

Subdivision Ordinance.

90. **Nonresidential Subdivision.** A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivisions shall comply with the applicable provisions of these regulations.
91. **Notification List.** A list of all properties located within 250 feet of any property line of the subject property, identified by lot, block and subdivision name if applicable, or by tax map and parcel numbers or deed references if not subdivided. The list must also provide, for each property:
  - (a) The name and address of each owner as of record in the office of the Monongalia County Assessor.
  - (b) Tax map and parcel numbers.
  - (c) The name of any applicable homeowners' association or condominium association and its president.
92. **NPDES.** National Pollutant Discharge Elimination System as created by the Clean Water Act and administered by the DEP in the jurisdiction of this ordinance.
93. **Owner.** The record owner or owners of the fee title to a piece of land.
94. **Pad Site:** An area of ground leveled, graveled, and compacted to provide a well-drained, stable area on which to set a Factory-Built Home, typically with a level surface about four (4) to six (6) inches in height and at least one (1) foot larger on each side than the home intended to be place there.
95. **Parent Tract.** A tract of land that is subdivided, thereby creating two or more lots.
96. **Parcel.** A contiguous area of land that is described by deed or plat recorded in the land records.
97. **Perimeter Street.** Any existing street that abuts a tract of land to be subdivided on at least one (1) side.
98. **Person.** Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.
99. **Planned Unit Development (PUD).** A development constructed on a tract that meets a stated minimum size under common ownership, planned and developed as an integral unit and consisting of a combination of residential and/or nonresidential uses.
100. **Planning Commission.** The Monongalia County Planning Commission.
101. **Planning Director.** The Director of the Monongalia County Planning Office.
102. **Planning Office.** The Office of the Monongalia County Planning Commission, staffed by the Planning Director and planning staff.

103. **Plat.** A drawing indicating the layout of a subdivision.
104. **Preferred Design.** Development standards identified in the Guidelines as sufficient to make a subdivision application eligible for Expedited Review under the Subdivision Ordinance.
105. **Public Hearing.** An adjudicatory proceeding held by the Planning Commission, preceded by published notice and actual notice to certain persons, and at which certain persons, including the applicant, may call witnesses and introduce to demonstrate that plat approval should or should not be granted.
106. **Public Improvement.** Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.
107. **Public Meeting.** A meeting of the Planning Commission or County Commission preceded by notice, open to the public and at which the public may be heard, at the discretion of the body holding the public meeting.
108. **RDU.** See Dwelling Unit.
109. **Registered Engineer.** An engineer properly licensed and registered in the State of West Virginia. Properly licensed engineers must meet the requirements outlined in W. Va. Code §30-13-13.
110. **Registered Land Surveyor.** A land surveyor properly licensed and registered in the State of West Virginia. Properly licensed land surveyors must meet the requirements outlined in W. Va. Code §30-13A-9 and are allowed all scopes of practice as outlined in W. Va. Code §30-13A-10.
111. **Residue Parcel (Remainder).** The portion of a parent tract that may remain after the division of one (1) or more new lots from the parent tract by subdivision, to be subdivided later or remain undeveloped.
112. **Re-subdivision.** Any change in an approved or recorded subdivision plat drawing that affects any street layout on the map, any area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the Effective Date.
113. **Retail/Service Use.** Space within any structure or portion thereof intended or primarily suitable for occupancy by persons supplying goods or services to customers on the premises.
114. **Right-of-Way.** A strip of land occupied or intended to be occupied by public infrastructure such as a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or shade trees.
115. **Right-of-Way Grading Limits.** Width of grading that must be performed within the right-of-way to accommodate all required infrastructure, including but not limited to the vehicular travelway, pedestrian and bicycle lanes or sidewalks, and utilities, whether the

infrastructure is currently required or may be needed by future development as identified in the Subdivision Regulations.

116. **Road, Arterial.** A road intended to move through traffic to and from major attractors such as central business districts, regional shopping centers, colleges and/or universities, major industrial areas, and similar traffic generators within the County; and/or as a route for traffic between communities or large areas and/or which carries high volumes of traffic.
117. **Road, Collector.** A road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.
118. **Road, Dead-End.** A road or a portion of a road with only one (1) vehicular-traffic outlet.
119. **Road, Local.** A road whose function is to provide access to abutting properties, to provide access from individual properties to other roads, and to provide right-of-way adjacent to it for sewer, water, and storm drainage pipes.
120. **Road Right-of-Way Width.** The distance between property lines measured at right angles to the center line of the street.
121. **Screening.** Either (a) a strip of densely planted (or having equivalent natural growth) shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year-round dense screen at least six (6) feet high; or (b) an opaque wall, barrier or uniformly painted fence at least six (6) feet high.
122. **Setback.** The distance between a building or other site element and the nearest property line.
123. **Site Work.** Land development activities necessary to prepare a site for construction, including grubbing, clearing, grading, construction of retaining walls, and installation of below-ground utilities, sewer and water systems, stormwater drainage systems and stormwater management systems. It does not include other above-ground infrastructure such as roads, curb, gutter, sidewalks, and any above-ground utilities, sewer and water systems, stormwater drainage systems and stormwater management systems other than connection points to below-ground infrastructure.
124. **Structure.** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.
125. **Structure, Accessory.** A structure located on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed as an accessory structure.
126. **Subdivide.** The act or process of creating a subdivision.
127. **Subdivider.** Any person who, directly or indirectly, causes a tract of land to be divided into a subdivision.

128. **Subdivision.** Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots for the purpose of transfer of ownership, sale, lease, or development, whether immediate or future. Subdivision includes lot mergers and resubdivision, and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided.
129. **Subdivision Fee Schedule.** A schedule of filing fees for applications under the Subdivision Regulations, to be established by the County Commission contemporaneously with or soon after the adoption of this Ordinance.
130. **Subdivision Improvement Agreement.** A contract entered into by the applicant and the Planning Commission on behalf of the County by which the applicant promises to complete the required public improvements within the subdivision within a specified time period following final subdivision plat approval.
131. **Subject Property.** Land area within the boundaries of a proposed subdivision or land development.
132. **Temporary Improvement.** Improvement built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.
133. **UCIOA.** Uniform Common Interest Ownership Act codified in W. Va. Code §36B-1-101 *et seq.*, as amended from time to time
134. **Tract.** A contiguous area of land under common ownership.
135. **USDA.** United States Department of Agriculture.
136. **Utility, Private or Public.** Any agency that, under public franchise or ownership, or under certificate of convenience and necessity, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service.
137. **Utility, Required.** Those utilities as regulated by the West Virginia Public Service Commission.
138. **Utility, Voluntary.** Those utilities which are not regulated by the West Virginia Public Service Commission.
139. **West Virginia Code** The acts of the West Virginia Legislature codified in the Code of West Virginia of 1931, as amended, and sometimes abbreviated in this Ordinance as "W. Va. Code".
140. **Zoning Ordinance.** The Zoning Ordinance for the West Run Zoning District of Monongalia County and other additional zoning ordinance for any part or all of the County that the Monongalia County Commission might adopt and enact after the Effective Date as amended from time to time.

141. **Zoning District** A geographic division of part or all of the County that is made part of and subject to the Zoning Ordinance for the purpose of regulating the use of land, establishing performance standards for various land uses when division is not desired or any combination thereof
142. **Zoning Map.** The map or maps that are a part of the Zoning Ordinance and delineate the boundaries of the zoning districts.

### **Section 1.3 Words and Terms Not Defined**

For the purpose of these regulations, only a limited number of definitions shall be provided as set forth in this Appendix A. If additional verbiage is in need of definition, the Planning Office shall first consult the Zoning Ordinance (or updates thereof), and then Article 2, Definitions of the Model Subdivision Regulations, 2<sup>nd</sup> Edition (or subsequent editions). Any definition not found in either place shall be determined by the Planning Office.

DRAFT

**APPENDIX B PARKING STANDARDS**

**Section 1. Off-street Parking Requirements**

- A. This Appendix B establishes minimum requirements for parking facilities under the Subdivision Ordinance. In the event of a conflict between this Appendix B and any applicable zoning regulation, the zoning regulation controls.
- B. Off-street parking requirements under the Subdivision Ordinance are based on the following categories of land uses:
  1. **P1 - Building with Tenants/Residents** (e.g. residential, lodging). The number of required parking spaces is based on dwelling units or lodging rooms.
  2. **P2 - Building with Employees and Visitors** (e.g. retail, office, medical, services, industrial). The number of required parking spaces is based on gross square foot or employees.
  3. **P3 - Building with Visitors** (e.g., institutional, recreational,). The number of required parking spaces is based on gross floor area or seats.
  4. **P4 – Overflow parking** (use of public parking or other special arrangement such as contractual shared parking or valet parking) for special events such as concerts and sports events.

**Table 1 Off-Street Parking Requirement**

<b>LAND USE CATEGORY</b>	<b>MINIMUM PARKING REQUIREMENT</b>	<b>MAXIMUM PARKING REQUIREMENT</b>
P1. Building with Tenants/Residents	1 space/ 1 dwelling unit or lodging room	2 spaces/1 dwelling unit or lodging room
P2. Building with Employees and Visitors	1 space/2 employee or 1.5 spaces/1000 sq. ft.	1 space/1 employee or 3 spaces/1000 sq. ft.
P3. Building with Visitors	1 space/4 seat or 1 space/1000 sq. ft. (indoor), or 10,000 sq. ft. (outdoor, i.e., park)	1 space/2 seats or 5 spaces/1000 sq. ft. (indoor) or 10,000 sq. ft. (outdoor, i.e., park)
P4. Special Events	0	Requires parking study or approved parking arrangement such as valet parking, contractual use of private parking, or permitted use of public parking

- C. The Planning Commission or, in the case of a Minor Subdivision, the Planning Director, may approve a reduction of the minimum parking requirement by 10% up to ten (10) spaces based on proximity of any development within 1000 feet of a bus stop or any transit center with pedestrian connections (e.g. sidewalks or multi use path) to the site.
- D. The Planning Commission or, in the case of a Minor Subdivision, the Planning Director, may approve a reduction of the minimum parking requirement of up to twenty percent (20%) for any mixed use development other than a PUD (see PUD parking requirement and reduction) based on the availability of shared parking if the applicant satisfies at least one of the following conditions, and may require the applicant to submit a parking study to support a shared parking reduction:
1. Two (2) or more adjacent nonresidential uses are proposed with distinct and differing peak parking usage periods (e.g., a theater and a bank).
  2. Property owners propose the joint use of parking facilities based on a signed reciprocal access agreement approved by and filed with the Planning Office.
- E. The Planning Commission or, in the case of a Minor Subdivision, the Planning Director, may approve a reduction of the minimum parking requirement of up to twenty percent based on submission of a parking study that meets with the approval of the Planning Commission as determining the required parking for that particular subdivision. Monongalia County Subdivision and Land Development Ordinance Guidelines and Toolkit provides recommendations as how a parking study should be prepared.
- F. The amount of off-street parking allowed for each subdivision may be increased to 120% of the maximum parking requirement provided that the following conditions are met to the satisfaction of the Planning Commission or the Planning Director.
1. Additional parking requested cannot be accommodated by off street parking available on abutting properties, contractual and valet parking, or nearby public parking areas.
  2. Shuttle bus or other arrangements cannot properly address peak parking needs.
  3. The need is demonstrated by a parking study.
- G. Any subdivision with 40 (forty) or more parking spaces required can reduce the required minimum parking spaces by up to 10 (ten) spaces by providing bicycle parking according to the formula shown below:

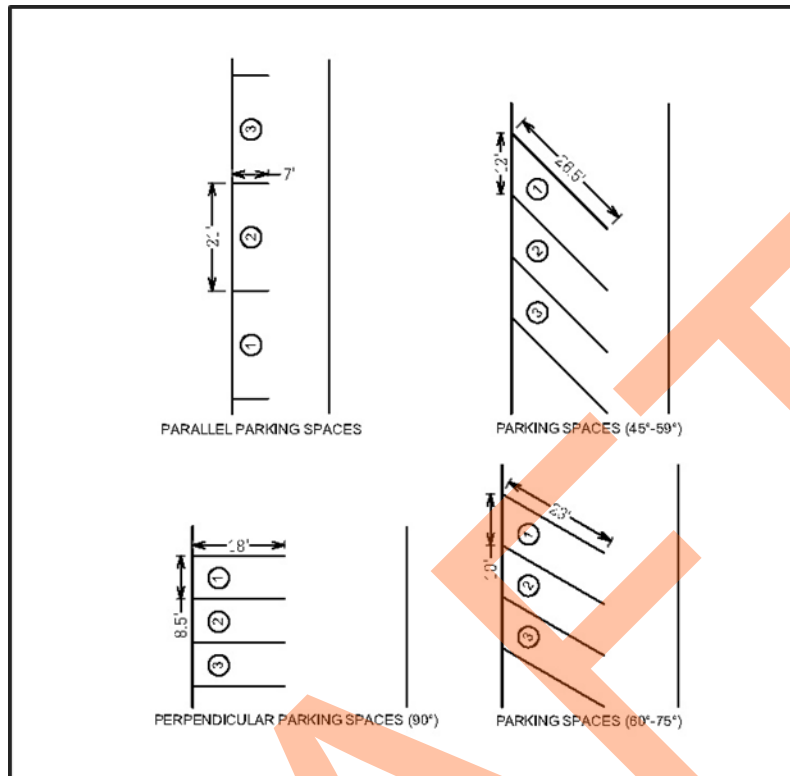
Bicycle parking spaces must equal or exceed 10 percent (10%) of the minimum required vehicular parking spaces;

1. The minimum number of required parking spaces may be reduced by 1 (one) vehicular parking space for every 10 (ten) bicycle parking spaces provided.
- H. If impervious surfaces exceed the Impervious Surface Limit for the subdivision, by exceeding the minimum number of required parking spaces, or by providing a drive-through lanes, the approach to stormwater management that is described in Section 12.5 of the Subdivision Ordinance as “encouraged” will be considered mandatory.
- I. Stacking lanes and loading dock spaces do not count towards meeting minimum parking requirements but impact impervious surface exceeding the run off for the parking lot area.

## Section 2. Parking Lot, Loading, Drive-Through Design Requirements

- A. Parking should be provided principally to the rear or to the side of buildings, unless dictated otherwise by topography or other special considerations. No more than one driveway and one aisle of parking will be permitted between the building and the street. An exception can be made to allow a second aisle of parking if the applicant dedicates the land where the second aisle of parking is located to DOH, and agrees to relinquish that row of parking when and if DOH desires to use that right-of-way to make improvements to the corridor.
- B. Design of ingress and egress for parking lots as well as drive aisles should follow the standards in the WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way.
- C. Parking Space Dimensions

*This space intentionally left blank*



D. Parking Spaces Accessible to Persons with Disabilities

Table 2. Accessible Parking for Persons with Disabilities

Total Number of Spaces in Parking Lot	Minimum Number of Accessible Parking Spaces Required
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of Total
1001 and more	20 plus 1 for each 100 over 1000

E. Loading and Stacking

Monongalia County Subdivision and Land Development Ordinance Guidelines and Toolkit provides recommendations for number of loading areas and design of stacking for drive through services.