

SUBDIVISION REGULATIONS

MUNICIPAL PLANNING COMMISSION
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Subdivisions

CHAPTER 29

SUBDIVISIONS.

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Article I. In General.

For charter provisions as to authority of city council, for the purpose of promoting the health, safety, or general welfare of the city and community, to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, see Char.....Sec. 7.

For state law as to urban and rural planning and zoning generally, see W. Va. Code, Ch. 8, art. 24. As to subdivision control, see W. Va. Code, Sec. 8-24-28 et seq.

As to the Municipal Planning Commission, see Sec. 2-169 et seq... of this code.

Sec. 29-1 Short title.

This chapter shall be known and may be cited as the Subdivision Regulations of the City of Charleston, or simply as the Subdivision Regulations.

Sec. 29-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Alley or service drive. A passage or way affording generally a secondary means of vehicular access to abutting properties.

Commission. The Municipal Planning Commission of the City of Charleston, West Virginia.

Highways, primary and secondary thoroughfares. The highways, thoroughfares, boulevards and parkways designated as such under the Thoroughfare Plan of the commission.

Local street. A street intended to serve and to provide access to neighborhoods and sub-neighborhoods.

Minor street. Any street not a highway, primary or secondary thoroughfare or local street, and intended to serve and provide access exclusively to the properties abutting thereon.

Person. An individual; a private, public or quasi-public corporation whether operated for profit or nonprofit; a partnership; an association; a governmental body or agency; or any other similar entity.

Prints. Black line or blue line prints.

Subdivision. The division of a tract or parcel of land into two or more lots, plots, sites or other divisions of land, for the purpose, whether immediate or future, of: (a) transferring legal or equitable title, interest or ownership of buildings on one or more of the divisions of land. This definition shall include all changes in street or lot lines. However, this definition of a subdivision shall not include bona fide divisions of land for agricultural purposes in parcels of more than ten acres not involving any new street or easement of access. This definition shall also exclude and exempt grave sites or burial plots in cemeteries. (Ord. No. 678, 2-17-64, Sec. 2; Ord. No. 2757, 2-2-81; Ord. No. 2943, 6-7-82, Sec. 1; Ord. No. 2757, 2-2-81, Sec. 1.)

As to definitions applicable throughout this Code, see Sec. 1-2 of this Code.

Sec. 29-3. Territorial applicability.

The subdivision regulations contained herein shall apply within the corporate limits of the city. (Ord. No. 687, 2-17-64, Sec. 1.)

For charter provisions as to extraterritorial jurisdiction of city council, see Char., Sec. 7.

Sec. 29-4. Commission's approval required prior to conveyance of any land subdivided.

(a) No person, for the purpose of making or effecting a subdivision within the territorial limits of these regulations, shall make any deed, will, mortgage, trust deed or contract for the sale or other transfer of such subdivision or any part thereof, by metes and bounds description or otherwise, before obtaining from the commission the approval of the final plat of either such subdivision or the section thereof for all or part of which such deed, will, mortgage, trust deed or contract for sale or other transfer is to be made; provided, that a contract for sale which is expressly made contingent upon the obtaining of approval of such contract shall not be deemed prohibited by the foregoing provision.

City Council note.-- It is suggested that while the layout of the proposed subdivision is in sketch form, and before the preliminary plat is prepared, the subdivider or his engineer ascertain at the commission's office the location of proposed thoroughfares, parks, playgrounds, and other planned developments. It is suggested, in the interest of the most appropriate type of development, that the layout in sketch form, along with topography and such other exhibits as may be required, be submitted to the Charleston office of the federal housing administration with a request for land planning treatment which is an advisory service for which no fee is charged.

(b) No person proposing to make or have made a subdivision within the territorial limits of these regulations, shall offer to sell such proposed subdivision or any part thereof or shall proceed with any construction work on the approval or conditional approval of the preliminary plat of such proposed subdivision; provided, that an offer to sell which is expressly made contingent upon the obtaining of approval of the final plat aforesaid within one year from the date of the making of such offer shall not be deemed prohibited by the foregoing provision. (Ord. No. 687, 2-17-64, Sec. 3.)

Sec. 29-4.1. Penalties and insurance.

(a) Any person who violates, disobeys, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of these subdivision regulations, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars nor more than three hundred dollars. Each day's continuance of a violation shall be considered a separate offense; provided, that the aforesaid fine shall not begin to accrue so long as the guilty party continues to make a good faith effort to correct the violation and the guilty party has not violated the Subdivisions Law repeatedly or in a flagrant manner.

(b) Any person who engages in grading, clearing or other land disturbance without having first obtained preliminary plat approval from the Municipal Planning Commission, a building permit or written authorization from the City Engineer, shall be required to restore the land, to the extent possible, to its original condition, and shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined three hundred dollars. Each day's continuance of a violation shall be considered a separate offense. In this subsection activities

requiring authorization by the city engineer shall include but not be limited to grading an existing roadway to improve access, minor land filling on a lot, and grading or clearing for surveying purposes.

(c) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful clearing, grading, filling or construction, to recover damages, or to restrain correct or abate a violation. These remedies shall be in addition to the penalties described above.

(d) The approval of a preliminary plat may be revoked by a majority vote of the Municipal Planning Commission upon a finding that any of the provisions of these subdivision regulations have been or are being violated. The Municipal Planning Commission may reinstate approval of the preliminary plat when it is satisfied that the provisions of these regulations will be complied with. If approval of the preliminary plat is permanently revoked, a request to resume the subdivision shall be treated as a new application.

(e) In addition, in the case of an application for approval of the preliminary plat for a subdivision containing more than five lots, and which is within two thousand feet of an existing built-up area, it shall be necessary that the subdivider have in force a comprehensive general liability insurance policy issued by an insurance company authorized to do business in this state and providing the following coverages: (1) Premises operations, (2) independent contractors, and (3) completed operations. Also, the land owner (if other than the subdivider) shall be covered, only with respect to ownership of the land. The limits of liability for coverages under the policy shall be not less than two hundred fifty thousand dollars/five hundred thousand dollars personal injury and two hundred thousand dollars property damage or a combined single limit underground damage. If the developer intends to use explosives to install improvements, the policy shall not contain an exclusion for damages due to an explosion. Finally, if the city engineer determines that there is a real danger that the subdivision work may cause an existing house to collapse, the policy shall not contain an exclusion for damage due to collapse.

A certificate of insurance shall be required to be on file with the Municipal Planning Commission prior to commencement of work on the subdivision. The required insurance coverage shall remain in effect at least until approval of the final plat.

(f) The City Engineer, by written order setting forth the reasons therefor, may stop all work on a subdivision if he finds that a major violation of the subdivision regulations has occurred, creating an immediate or imminent threat to public health or safety such as danger to life or limb or damage to property of the city or neighboring property owners in excess of one thousand dollars. After work is stopped, no work on the subdivision, except to correct the problems specified by the City Engineer, may proceed until written authorization is given by the City Engineer or the Municipal Planning Commission. While work is stopped, the subdivider may appeal the City Engineer's stop order to the Municipal Planning Commission which shall meet within two weeks to consider the matter. The Municipal Planning Commission, after hearing both sides, may reverse or modify the City Engineer's order if the Municipal Planning Commission finds that the engineer has been unreasonable or arbitrary. The burden of proof in such an appeal shall be upon the subdivider. (Ord. No. 2280, 2-6-79.)

Sec. 29-5. Prerequisites for issuance of building permits.

The building commissioner shall not issue any building permits for any part of a subdivision for which final plat approval prescribed hereunder has not been obtained, unless the commission in case of exceptional or undue hardship shall direct otherwise. The Building Commissioner shall not issue a building permit for any new structure or extension of an existing structure, without first submitting the application for such permit, together with one set of all accompanying plans and papers to the Planning Director or the secretary of the commission for search of the records of both the commission and the Board of Zoning Appeals for the purpose of finding whether the grant of such permit is in keeping with these Subdivision Regulations and, if applicable, the group housing project provisions specified in the Zoning Ordinance. The Planning Director or secretary as the case may be, may require of the applicant such map or further information as may be requisite for the Planning Director or secretary to make such finding. Such finding shall be made and communicated in writing by the Planning Director or the secretary to the Building Commissioner as promptly as may be without disrupting other work of the commission and its staff, and in no event shall such finding be made and so communicated later than the second working day after the day on which such application and accompanying plans and papers are so submitted and such other map or further information as may be requisite furnished. (Ord. No. 687, 2-17-64, Sec. 3.)

Sec. 29-6. General principles, requirements and procedures for planning and development of subdivision.

In planning and developing a subdivision, the general principles and requirements set forth in article IV of this chapter shall be observed, and the following procedure shall be pursued:

(a) The subdivider shall file with the commission an application in writing for the approval of the proposed subdivision, together with eight prints of the preliminary plat thereof prepared in accordance with requirements set forth in article II of this chapter, accompanied by the requisite fee and other items as therein provided, at least three weeks prior to a regularly scheduled meeting of the commission.

(b) The commission will check the preliminary plat as to its conformity with the official Thoroughfare Plan and other adopted parts of the Comprehensive Plan of Charleston and environs, along with the principles, standards and requirements hereinafter set forth; and copies of the preliminary plat and other items will be referred by the commission for recommendations or other action as follows:

- (1) To the city engineer, for the checking of and report on matters within his jurisdiction such as layout, paving and storm water drainage, as well as utilities, fire hydrants, street signs and the like and for approval of the construction plans and specifications of improvements proposed to be installed; and

(2) To the sanitary board, pertaining to and for report on matters within its jurisdiction and for approval of the construction plans and specifications of sanitary sewerage improvements proposed to be installed, such approval to be made in light of approval, as required, of the state health department and/or Kanawha-Charleston health department, the latter approval to be secured by the subdivider for the sanitary board if and as required by the sanitary board.

(c) The commission, pursuant to the reports set out in subsection (b) last above, upon tentative approval of the application, will set a date for hearing, notify the subdivider in writing, and notify by general publication or any person or governmental unit having, in the opinion of the commission, a probable interest in the proposed plat.

(d) The commission, in the light of such hearing, and the recommendations and advice of action concerning matters indicated in subsection (b) above from the city engineer, the sanitary board, and through the sanitary board, approve or disapprove the preliminary plat, or conditionally approve it with modifications, noting thereon any changes that will be required; and will return one copy to the subdivider with the date of the approval or disapproval endorsed thereon. Similar copies also will be transmitted to the city engineer and the sanitary board and, where appropriate, to the state health department and/or Kanawha-Charleston health department.

City council note.-- The approval of the preliminary plat by the commission is to be considered as approval of the layout, with the understanding that the city engineer or other officials having jurisdiction will examine during the course of construction the grades of streets, the types of improvements, the drainage, sewerage and water systems, and may modify any engineering or construction details whenever required for the protection of the public interest.

Such approval or conditional approval of the preliminary plat shall be deemed to expire and the application for approval of the proposed subdivision be deemed withdrawn unless final plat of the entire subdivision is submitted by the divider to the commission within eighteen months after the date of such approval or conditional approval; provided, that where such subdivision is to be developed by appropriate sections for each of which a final plat is to be submitted, the commission may extend such approval or conditional approval for such portion of such subdivision and for such period of time as the commission may determine.

(e) The subdivider, after the approval of the preliminary plat, shall then secure from the city engineer, sanitary board and/or state health department necessary permits or other authority to proceed with the street and sanitary improvements, subject to the subdivider's specifications if and as approved or subject to their specifications, and, in any case, their inspection.

(f) The subdivider, upon completion of all improvements required by these regulations and the inspection thereof by the city engineer, sanitary board or state health department, as the case may be, shall file with the commission the final plat of the subdivision for final approval at least one week before a regularly scheduled meeting of the commission,

which plat shall conform in every respect with the requirements specified in article V of this chapter. The final plat of any portion of a larger subdivision, the preliminary plat of which has been approved or conditionally approved by the commission, may be submitted for final approval.

(g) The subdivider shall file with the commission eight prints of the final plat, one being a cloth print and another being a reproducible copy on cloth or cronoflex, these to be accompanied by an affidavit certifying the ownership of all lands to be dedicated to public use and that the title thereof is free and unencumbered, or as the case may be, which affidavit shall be made by such person and in such form and with such averments as the city solicitor may require.

(h) The commission will transmit prints of the final plat (a) to the city engineer for the purpose of checking, and, if found satisfactory, to be returned to the commission, together with a two-fold certificate showing (1) that the layout and technical details of the plat itself have been checked and found satisfactorily completed, including all paving and storm drainage improvements and such other improvements as utilities, fire hydrants, street signs and the like as may be requisite; and (b) to the sanitary board, and, through the sanitary board, or by the subdivider on behalf of the sanitary board, as the sanitary board may require, to the state health department for certificate or certificates that all required sanitary improvements under their jurisdiction have been satisfactorily completed, or in the case of individual sewerage disposal systems, that private restrictions, covenants and/or conditions entered on the final plat and/or incorporated in an apt and proper deed or other effective declaration duly of record in the county clerk's office provide satisfactorily for the installation on each lot of such individual sewage disposal systems meeting fully the requirements stipulated by the state health department and/or Kanawha-Charleston health department.

(i) The commission, after the prints of the final plat together with such certificates have been received by the commission from the city engineer and the sanitary board, and, further, provided that the final plat is found to conform with the preliminary plat as approved, will enter such approval on five prints of the final plat, including the cloth print and the reproducible copy, all signed by its president, together with the seal of the commission affixed thereto. Except where no proposed dedications are involved, the commission then will transmit the five prints of said final plat, including the cloth print and the reproducible copy with the affidavit certifying title, together with the recommendations of the commission, to the mayor and city council for necessary action on any proposed dedications. Thereupon, after acceptance by the mayor and council, such acceptance and the date thereof will be indicated on the five prints of said final plat, including the cloth print and the reproducible copy, by the city clerk. The commission will distribute the five prints of said final plat as follows: The cloth print for the city engineer, the reproducible copy for the commission's files, one print for the records of city council on file with the city clerk and two prints for the subdivider.

City council note.-- Also, where called for, certificate from the state health department, through the sanitary board, the same to be secured by the subdivider from the state health department, as the board may require. The approval of the final plat by the commission shall not be deemed to constitute or effect an acceptance by

the public of the dedication of any street or other proposed public way, space, or area shown on said plat.

(j) The subdivider then shall file for recordation, within one year after the date of such approval by the commission, the final plat of the subdivision or portion thereof so approved in the office of the county clerk; and, in the event such final plat is not so recorded within one year after the date of such approval the building commissioner shall not thereafter issue a building permit on the basis of such final plat, irrespective of subsequent recordation, for the erection of any structure upon any lot in any part of the entire subdivision for which preliminary plat approval or conditional approval was given, other than a lot for which a building permit for the principal structure located or to be located thereon has been properly issued within such one year period, unless the commission in case of exceptional or undue hardship shall direct otherwise.

(k) All subdivisions and all owners and developers of subdivisions must comply with the applicable flood zone requirements of the Building Code of the city. Any appeals from decisions of the building commissioner relating to the flood zone requirements must be made pursuant to the provisions of the administrative manual of the building department of the mayor's office of economic and community development, not pursuant to the provisions of section 29-9. (Ord. No.687, 2-17-64, Sec. 3; Ord. No. 3663, 3-5-84, Sec. 2.)

Sec. 29-7. Connection of subdivisions with city streets or sewers.

The streets, sidewalks and sewers of any subdivision of property in the city shall not connect in any way whatsoever with the streets, sidewalks or sewers of the city, until and unless the owner of such streets, sidewalks or sewers shall first have filed with the city engineer a map showing plainly the size, location, dimensions, material and connection of such street, sidewalks or sewers and not then unless and until the owner shall have first obtained the written approval and permission of the city engineer to do so; and provide further, that the city engineer shall not approve or grant such permission unless the streets, sidewalks or sewers are of the construction, material, size, dimensions and location as are called for by the city requirements. (Code 1957, pt. 9, art. 1, Sec. 1.)

Sec. 29-8. Fees for plats.

All plats and/or subdivisions shall be accompanied by a fee, payable to the city treasurer, to offset the expense of notification, checking and processing, in the amount as follows:

- (a) Preliminary plat.....\$45 plus \$1 per lot.
- (b) Final plat.....\$10 or \$1 per lot (whichever is larger)
- (c) Administrative
Subdivision.....\$10

- (d) Final plat without preliminary plat.....\$45 plus \$1 per lot
(Ord. No. 687, 2-17-64, Se. 4; Ord. No. 1385, 6-4-73.)

Sec. 29-9. Modifications and exceptions.

(a) The general principles of design and minimum requirements for the laying out of subdivisions, set forth in article IV of this chapter, may be varied by the commission in the case of a subdivision large enough to constitute a more or less self-contained neighborhood which is to be developed in accordance with a comprehensive plan safeguarded by appropriate restrictions, and which, in the judgement of the commission, makes adequate provision for all essential community requirements; provided, that no modifications shall be granted by the commission which would conflict with the proposals of the official Thoroughfare Plan or with the other features of the Comprehensive Plan of Charleston and environs, or with the intent and purposes of said general principles of design and minimum requirements.

(b) In the case of a subdivision of small size and minor importance, situated in a locality where conditions are well defined, the commission may exempt the subdivider from complying with some or all of the requirements stipulated in article II of this chapter pertaining to the preparation of the preliminary plat.

(c) In any particular case where the subdivider can show that, by reason of exceptional topographic or other physical conditions, strict compliance with any requirement of these regulations would cause practical difficulty or exceptional and undue hardship, the commission may relax such requirements to the extent deemed just and proper, so as to relieve such difficulty or hardship; provided, that such relief may be granted without detriment to the public good and without impairing the intent and purposes of these regulations or the desirable General development of the neighborhood and the community in accordance with the Comprehensive Plan and the Zoning Ordinance of the City of Charleston and environs. Any modification thus granted shall be entered in the minutes of the commission setting forth the reasons which, in the opinion of the commission, justified the modifications. (Ord. No. 687, 2-17-64, Sec. 7.)

Sec. 29-10. Forms.

The commission shall adopt the use by, and shall furnish to the subdivider, the city engineer, the sanitary board, and the commission itself all such forms as will simplify the procedures hereunder and standardize the reports and certificates required by these Subdivision Regulations. (Ord. No. 687, 2-17-64, Sec. 8.)

Article II. The Preliminary Plat.

Sec. 29-11. General requirements; vicinity sketch; scales.

Requirements relating to the preliminary plat shall be as follows:

(a) The preliminary plat of a proposed subdivision (eight prints), prepared by a registered professional civil engineer, shall accompany an application in writing to the commission for the approval of the subdivision.

(b) A vicinity sketch at a scale of approximately four hundred feet to the inch shall be drawn on the preliminary plat. Such vicinity sketch shall show the tract lines and the street lines immediately adjoining the proposed subdivision and between it and the nearest highways or thoroughfares.

(c) The horizontal scale of the preliminary plat shall be one hundred feet or less to the inch. (Ord. No. 687, 2-17-64, Sec. 4.)

Sec. 29-12. Detailed information required.

The preliminary plat shall clearly contain and show the following features and information:

(a) The proposed name of the subdivision, which shall not duplicate or closely approximate the name of any other subdivision in Kanawha County;

(b) The tract designation according to real estate records in the office of the county clerk;

(c) The names and address of the owner or owners, the subdivider, and the engineer who prepared the plat, along with the engineer's seal;

(d) The location and names of adjoining subdivisions and, if obtainable without the necessity of costly search of the records in the county clerk's office, the names and addresses of record owners of adjoining parcels of land; an outline of all adjoining lands owned by the subdivider or the owner or owners of the tract to be subdivided, designating the same as such; and a description of the use of adjoining parcels, or the intended use, if known;

(e) The boundary lines of the tract to be subdivided, accurate in scale and bearing;

(f) The location, widths and names of all existing or platted streets, public ways, pavement and all easements, within and adjacent to the tract, and other important features such as existing permanent buildings, large trees, railroad lines, watercourses, etc.;

(g) The location of existing and proposed sanitary sewers and sewerage facilities,

storm sewers, catch basins, culverts and other drainage structures, water mains and other utilities and underground structures within the tract and immediately adjacent thereto; together with pipe sizes, grades, width of easement and other specifications designated as to the “existing” and approximated as to the “proposed”;

(h) Contours, normally with intervals of five feet, referenced to a permanent benchmark, or as may be required by the commission, including such projection of such contours onto adjoining lands as may be necessary to indicate the desirability or likelihood of extension of streets and other improvements to or from adjoining lands;

(i) The layout, proposed names and widths of proposed streets, public ways, pavement and all easements, with the pavement width to be centered upon the center line of each such street and with all easements for sewers and other utilities customarily to be at least five feet on each side of the center line of such sewer or other utility; and the layout, numbers and approximate dimensions of proposed lots;

City council note.-- Proposed street names shall not duplicate or closely approximate existing street names in Charleston and environs, except extensions of existing streets.

(j) Zoning boundary lines if they border upon or cross any part of the proposed subdivision; proposed uses of property and proposed front yard setback and other setback lines;

(k) All parcels of land intended to be dedicated or reserved for public use, or to be reserved in the deeds for the use of property owners in the subdivision, with the purpose, conditions or limitations of such dedications or reservations indicated;

(l) North-point, scale and date;

(m) Copies of any private restrictions, covenants and/or conditions proposed to be included in the deeds. (Ord. No. 687, 2-17-64, Se. 4.)

Sec. 29-13. Construction plans for improvements.

Construction plans, including the following, for improvements to be installed shall be furnished in accordance with specifications of the officials having jurisdiction and shall receive approval of these officials before improvements are installed:

(a) The profile of each street, at a horizontal scale of fifty feet or less to the inch, with tentative grades indicated;

(b) The cross-section of each proposed street, at a scale of ten feet or less to the inch, showing a width and thickness, as well as type of pavement and base, the location, width and thickness of sidewalks and the location, composition and size of utility mains;

(c) The plans and profiles of proposed sanitary sewers and storm sewers, at a scale of fifty feet or less to the inch, with grades, composition and sizes indicated, or method of sanitary sewage or storm water disposal in lieu of sanitary sewers or storm water sewers, respectively;

(d) A plan of the proposed water distribution system, showing pipe sizes and the location of valves and fire hydrants.

(e) If, in the opinion of the city engineer, there are indications of a potential runoff problem, such as steep topography, hillside areas to be graded, or neighboring built-up areas below the proposed subdivision, a grading plan identifying:

- (1) Land areas to be disturbed, shown by hatching or specking such areas which will be graded, cut or filled for streets or lot development.
- (2) Stages of grading showing the limits of sections to be graded and indicating the approximate order of development. It is suggested that grading be performed in only one section at a time, and that work be completed in a section before additional sections are developed.
- (3) The extent of cuts and fills, shown by drawing a dashed line along the top of the cut and toe of the fill and marking the lines "C" and "F".
- (4) Unusual material or soils in land areas to be disturbed. If there are any surface indications of unusual materials or soils that would cause street or lot instability, such as nonvertical tree growth, old slides, seepage, depressions in the soil, caves or old mine entrances, they should be noted and accompanied by the engineer's recommendation for correcting such problem areas.
- (5) Outside material to be used for fills. If there are any surface indications that local material is not suitable for fills, such as those listed in paragraph (4), those areas to be filled with outside material should be identified and the type and source of the fill material noted.
- (6) Measures to control runoff, erosion and sedimentation during the process of construction (designed for a storm of five year frequency), noting those areas where control of runoff will be required during construction and indicating what will be used, such as straw bales, silt dams, brush check dams, lateral hillside ditches, catch basins, etc.
- (7) Measure to protect neighboring built-up areas and city property during the process of construction, noting work to be performed, such as cleaning existing ditches, storm culverts and catch basins or raising existing curbs in neighboring areas.
- (8) Provisions to stabilize soils and slopes after completion of streets, sewers

and other improvements, noting on the grading plan when and where ground cover will be planted, also noting any other means to be used such as placement of stone embankments and riprap or construction of retaining walls.

Requirements of section 105.1 of the Building Code relating to items in this subsection shall not apply to any subdivision being developed under the provisions of these subdivision regulations. (Ord. No. 687, 2-17-64, Sec. 4; Ord. No. 2280, 2-6-79; Ord. No. 2453, 8-6-79.)

Article III. Improvements.

Sec. 29-14. Improvements installed at subdivider's expense, constructed by licensed contractors; time limit for completion.

Improvements shall be installed at the subdivider's expense, in accordance with the minimum requirements and regulations set out in this article.

All of the improvements required under these regulations shall be constructed by licensed contractors and completed, or an appropriate performance bond therefor acceptable to the commission submitted prior to the filing with the commission of the final plat for final approval, in accordance with the specifications of the subdivider if and as approved, or in accordance with the specifications and, in any case, under the supervision and subject to the inspection of the officials having jurisdiction. (Ord. No. 687, 2-17-64, Sec. 5.)

Sec. 29-15. Streets– Construction Specifications.

Streets shall be graded to a width on either side at least six (6) feet wider than the required paving width. However, the extra six (6) feet of graded width shall not be required for access roads when no building sites adjoining such roads. Minimum berm width shall be three (3) feet. Paving width shall be a minimum of twenty-one (21) feet on minor streets and twenty-four (24) feet on major streets. The width is face to face of the curb, where curbing is required.

Streets shall be designed by a Registered Professional Civil Engineer. The Engineer shall prepare an Engineering Report which shall include documentation supporting the design or selection of typical section, grades, pavement type and thickness, guardrail, subsurface drainage, surface drainage, subgrade material, specifications and other elements required for the construction of streets. The Engineering Report shall be approved by the City Engineer prior to construction.

In lieu of an Engineering Report, the Developer may use the following pavement designs:

- (a) Portland Cement Concrete:

Method of construction and material shall conform to Section 501, West Virginia Department of Highways Standard Specifications, Road and Bridges, Adopted 1982:

- (1) Class B Concrete shall have a minimum twenty-eight (28) day design strength of 3,000 psi compression;
- (2) Concrete pavement shall have a seven (7) inch thickness;
- (3) Class 1 or 2 crushed aggregate base course meeting the requirements of Section 307, West Virginia Department of Highways Standard Specifications, Roads and Bridges, Adopted 1982, with a minimum depth of six (6) inches under the entire concrete pavement with suitable lateral drainage to prevent entrapment of water in the aggregate;
- (4) Temperature reinforcement shall equal 0.15 square inches of grad 60 reinforcement steel per one foot of slab width, both dimensions (i.e. #3 rebars on 8 inch centers both ways or an equivalent ASTM standard wire reinforcement);
- (5) Load transfer units at all contraction and expansion joints as detailed in the West Virginia Department of Highways Standard Details Book, 1982 Sheets L.T. 1 through 14; and
- (6) Curbs along both road edges with curb type inlet for storm water control as required. Curbs may be integral or plain concrete curbing as detailed in West Virginia Department of Highways Standard Details Book, 1982, Sheet MPI-A.

(b) Bituminous Pavement:

Method of construction and material shall conform to Divisions 300 and 400 of the West Virginia Department of Highways Standard Specifications, Roads and Bridges, Adopted 1982:

- (1) Four (4) inches of bituminous concrete;
- (2) Nine (9) inches of Class 1 or 2 crushed aggregate base meeting the requirements of Section 307, West Virginia Department of Highways Standard Specifications, Roads and Bridges, Adopted 1982, with suitable lateral drainage to prevent entrapment of water in the aggregate;
- (3) Plain concrete curbs as detailed in the West Virginia Department of Highways Standard Details Book, 1982 Sheet MPI-A, along both road edges with curb-type inlets for storm water control as required.

All types shall be constructed as specified by and in conformance with the construction specifications for street improvements on file in the office of the City Engineer regarding

grubbing, grading, fill, slope, drainage, base, berm and paving, and pursuant to the inspection of the subgrade and paving forms by the City Engineer prior to paving, or as modified in the approved Engineering Report. (Ordinance #687, 2-17-64, Ordinance #1602, 12-2-74 and Ordinance #2670, 9-2-80)

Sec. 29-15.1. Same– Maintenance bonds.

The subdivider shall file a maintenance bond, or similar guarantee, prior to acceptance of street dedication, in an amount considered adequate by the city engineer and in a form approved by the city solicitor, in order to assure the satisfactory condition of subdivision streets for a period of two years after the date of acceptance of dedication. The bond shall cover street repair and maintenance costs resulting from faulty construction of streets, as determined by the city engineer. (Ord. No. 1754, 1-19-76, Sec. 1.)

Sec. 29-16. Sidewalks.

Sidewalks of such width as may be required by the commission and of such type of construction as may be specified by the city engineer shall be constructed on one or both sides of streets where, in the opinion of the commission, these are necessary to protect the safety of pedestrians. (Ord. No. 687, 2-17-64, Sec. 5.)

Sec. 29-17. Storm water sewer; drainage system.

Every subdivision shall be provided with a storm water sewer and drainage system adequate to serve the area being platted and otherwise meeting the approval of the city engineer.

All metal storm water drainage pipes and bands shall be a minimum of 16- gauge and shall be asphalt or bituminous coated with a paved invert. Reinforced concrete or vitrified clay pipe may be used. O-rings must be used on all joints to prevent leakage. The minimum pipe size shall be twelve inches unless a smaller size is approved by the city engineer. (Ord. No. 687, 2-17-64, Sec. 5; Ord. No. 2747, 2-2-81, Sec. 2.)

City council note.-- Helpful data concerning block and lot grading may be secured from the federal housing administration.

Sec. 29-17.1. Drainage control while installing improvements; stabilization of soils; control of mud, dirt and dust.

During the process of installing improvements, the subdivider shall control runoff, erosion and sedimentation to prevent flooding of neighboring built-up areas, keep mud off of existing city streets, and protect both city and private properties. Temporary measures to stabilize the soil, such as seeding, shall be established (as noted in the grading plan) on disturbed

areas as each stage of grading is completed. Also, the subdivider shall be responsible for keeping mud and dirt from construction vehicles and equipment off city streets and minimizing mud and dust in neighboring built-up areas. Mud, dirt and debris which is carried onto city or private property shall be removed within twenty-four hours.

Upon completing improvements, the subdivider shall stabilize soils through revegetation of disturbed areas or by other means as shall be approved by the planning director. (Ord. No. 2280, 2-6-79.)

Sec. 29-17.2. Maintenance bond required for acceptance of drainage system.

The subdivision shall be required to file a maintenance bond, or similar guarantee, prior to city acceptance of dedication of the subdivision's drainage system. The bond or similar guarantee shall be in an amount considered adequate by the city engineer and in a form approved by the city solicitor. The bond or similar guarantee shall assure the satisfactory condition of the drainage system for a period of two years after the date of acceptance of dedication. The bond shall cover repair and maintenance costs resulting from faulty construction of the drainage system, as determined by the city engineer. (Ord. No. 2989, Sec. 2, 9-7-82.)

Sec. 29-18. Water distribution system; fire hydrants.

Every subdivision shall be provided with a complete water distribution system adequate to serve the area being platted, including a connection for each lot and appropriately spaced fire hydrants. The entire water system shall be designed to meet the approval of the officials having jurisdiction. Fire hydrants, and required water lines to such hydrants, shall be installed by the subdividers. (Ord. No. 687, 2-17-64, Sec. 5; Ord. No. 1528, 7-1-74.)

Sec. 29-19. Sanitary sewage disposal.

In every subdivision, provision shall be made for the satisfactory disposal of sanitary sewage, as follows:

(a) Where a public sanitary sewer main is reasonably accessible, in the opinion of the sanitary board, the subdivision shall be provided with a complete sanitary sewer system connected with such sewer main, including a lateral connection for each lot.

(b) Where a public sanitary sewer main is not reasonably accessible, in the opinion of the sanitary board, proper provision shall be made for the disposal of sanitary wastes by one or the other of the following methods:

- (1) In the case of a subdivision in which the typical size of lots is less than one-half acre, the subdivision shall be provided with a community sewer system, including a lateral connection for each lot, and a community

sewage treatment plant or other means of disposal of a type meeting the approval of the sanitary board and the state health department, unless it is found by percolation and other tests that individual systems will prove satisfactory, in which case the provisions of paragraph (2) following shall be observed;

City council note.-- The right of the sanitary board to charge the actual cost of operating and maintaining any such community treatment plant shall be entered upon the final plat, if required by the commission.

- (2) In the case of a subdivision in which the average size of lots is on-half acre or more in area, and where it is deemed appropriate by the sanitary board and the state health department and/or Kanawha-Charleston health department in consideration of soil and other conditions a determined by percolation and other tests, private restrictions shall be entered on the final plat and /or incorporated in an apt and proper deed or other effective declaration duly of record in the county clerk's office calling for the installation on each lot of an individual sewage disposal system meeting fully the requirements of the sanitary board and the state department of health and /or Kanawha-Charleston health department. (Ord. No. 687, 2-17-64, Sec. 5.)

Sec. 29-20. Poles and underground conduits for electric lights and telephones.

Poles or underground conduits for electric lights or telephone lines shall be placed in easements provided along rear or side lot lines, as agreed upon with the public utilities concerned, wherever this is practicable. (Ord. No. 687, 2-17-64, Sec. 5.)

Sec. 29-21. Monuments.

Monuments shall be placed in accordance with the requirements of the city engineer and the laws of the State of West Virginia. (Ord. No. 687, 2-17-64, Sec. 5.)

Sec. 29-22. Street name signs.

Street name signs, of a type established by the city and at the locations designated by the officials having jurisdiction, shall be erected at each highway, thoroughfare and street intersection. (Ord. No. 687, 2-17-64, Sec. 5.)

**Article IV. General Principles of Design: Minimum
Requirements for Layout.**

Sec. 29-23. Compliance with article and with Comprehensive Plan, including Thoroughfare Plan; parks, playgrounds and recreational areas; open spaces.

In laying out a subdivision, the subdivider shall comply with the general principles and requirements set out in this article; and the layout shall conform to the official Thoroughfare Plan and other parts of the adopted Comprehensive Plan of Charleston and environs.

Whenever a tract to be subdivided embraces any part of a highway, primary or secondary thoroughfare or parkway, so designated on the Thoroughfare Plan, such part of such public way shall be platted by the subdivider in the location and at the width indicated on the plan.

Where a proposed park, playground or other recreational area, proposed school site or other public ground, under the adopted Comprehensive Plan of Charleston and environs, is located in whole or in part within the proposed subdivision, such proposed public ground or part, if not dedicated to the City of Charleston or the Kanawha County board of education, shall be reserved for a period of not less than two years from the date of final approval of the final plat by the commission, for acquisition by the city or board of education by purchase or otherwise.

Where held appropriate by the commission, open spaces suitably located and of adequate size for parks, playgrounds, or other recreational purposes for local or neighborhood use shall be provided for in the proposed subdivision, and, if not dedicated to the public, shall be reserved for the common use of all property owners in the proposed subdivision by covenant in the deeds. (Ord. No. 687, 2-17-64, App.)

As to the comprehensive plan, see chapter 9 of this Code.

Sec. 29-24. Street and block layout– Must conform generally to plan for development of neighborhood.

The street layout of the subdivision shall be in general conformity with a plan for the most advantageous development of adjoining areas and the entire neighborhood:

- (a) Where appropriate to the design, proposed streets shall be continuous and in alignment with existing, planned or platted streets with which they are to connect;
- (b) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layouts or the most advantageous future development of adjacent tracts; and where the extension of a street to an undeveloped or partially developed adjacent tract results in the dead-ending thereof while awaiting the full development of such adjacent tract, there shall be provided a temporary turnaround therefor as the commission may

require;

City council note.-- Dead-end streets (courts) of reasonable length will be approved where necessitated by topography, or where, in the opinion of the commission, they are appropriate for the type of development contemplated. (Note requirements regarding turn-arounds or "T" or "Y" shaped paved spaces under section 29-27, subsec. (a), par. (4).)

(c) Proposed streets shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit;

(d) Wherever there exists adjoining the tract to be subdivided a dedicated or platted and recorded half-width of such street or alley shall be platted, if the commission so requires;

(e) Alleys shall be platted (1) in the rear of all lots to be used for business; (2) in the rear of residential lots fronting on highways and primary thoroughfares (unless service roads are provided in front thereof) as a means of safe access thereto;

City council note.-- Alleys will not be approved in other locations in residential areas, unless required by unusual topography or other exceptional conditions.

(f) Lands abutting highways or thoroughfares shall be platted with the view of making the lots, if for residential use, desirable for such use by cushioning the impact of heavy traffic on such traffic ways; and with the view also of minimizing interference with traffic on such traffic ways as well as the accident hazard. This may be accomplished in several ways:

- (1) By platting the lots abutting such traffic ways at very generous depth, with set-backs or front yards at least ten feet greater or deeper than otherwise required; and providing vehicular access to them by means of either alleys or service drives in the rear, or frontage access roads next to the traffic way, connected therewith at infrequent intervals;
- (2) By not fronting the lots on the highway or thoroughfare but on a parallel minor street at a distance of a generous lot depth, in which case private driveways shall connect with such minor street;
- (3) By a collector street platted more or less parallel with the highway or thoroughfare, six hundred to one thousand feet distant therefrom, from which loop streets or dead-end streets would extend toward the highway, the ends of which provide access to the lots abutting the highway to their rear.

The foregoing, or other methods for accomplishing the purposes in view, must necessarily be done in consideration of topography and other physical conditions, the character

of existing and contemplated developments and other pertinent factors that apply in each case. (Ord. No. 687, 2-17-64, App.)

Sec. 29-25. Same-Width and length of blocks.

Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, unless, in the opinion of the commission, prevented by exceptional topography or other physical conditions; and

(a) The lengths of blocks shall be such as are appropriate, in the opinion of the commission, for the locality and the type of development contemplated, but shall not exceed eighteen hundred feet where the average size of lots does not exceed two acres in area;

(b) In any block over nine hundred feet in length the commission may require that a crosswalk or pedestrian way, not less than ten feet wide, be provided near the center and entirely across such block;

(c) The number of intersecting streets along highways, primary or secondary thoroughfares or parkways shall be held to a minimum, and where practicable, blocks along such traffic ways shall be not less than twelve hundred feet in length. (Ord. No. 687, 2-17-64, App.)

Sec. 29-26. Fire hydrants.

Blocks shall be laid out so as to provide fire hydrants at a rate of one hydrant for every one thousand feet of street or fraction thereof when the fractional portion exceeds five hundred feet, such fire hydrants shall be capable of producing five hundred gallons per minute with a twenty pound per square inch residual pressure. However, such hydrant shall be installed within one thousand feet of adjacent hydrants, and no hydrant shall be closer than five hundred feet to another hydrant. Location of such fire hydrants shall be approved by the fire chief. (Ord. No. 1529, 7-1-74.)

Sec. 29-27. Minimum right of way widths of streets, alleys and easements for utilities.

- (a) The minimum width of rights of way shall be:
- (1) Highways and primary thoroughfares, as designated by the Thoroughfare Plan, but not less than eighty feet wide in any case.
 - (2) Secondary thoroughfares and parkways, as designed by the Thoroughfare Plan, but not less than sixty feet wide in any case.
 - (3) Local streets, forty or fifty feet, depending on location, length and relative importance.

- (4) Minor streets and dead-end streets (courts), forty feet. All dead-end streets shall terminate in a circular turn-around having a minimum right of way diameter of seventy feet, unless the commission approves a “T” or “Y” shaped paved space in place of the required turning circle.

City council note.-- In certain cases, such as where there will be frontage on only one side of the street due to topographic conditions, a width of thirty or thirty-five feet may be permitted.

- (5) Alleys and service drives, twenty feet.
- (6) Easements for utilities, where provided, within the subdivision, shall be at least ten feet wide centered on rear or side lot lines.

(b) A private easement shall not be permitted as a means of vehicular or pedestrian access to a proposed subdivision or to a lot within a subdivision or to property adjoining such subdivision. (Orc. No. 687, 2-17-64, App.)

Sec. 29-28. Minimum turn-around widths.

The pavement of a turning circle at the end of a dead-end street shall have a minimum outside diameter of sixty feet wherever practicable, but not less than fifty feet in any case. A “T” or “Y” shaped paved space, when approved by the commission in place of a turning circle, shall extend entirely across the width of the street right of way and shall be at least ten feet wide with the flared portion rounded by a minimum radii of twenty feet. (Ord. No. 687, 2-17-64, App.)

Sec. 29-29. Street grades, curves and sight distances.

(a) The grades of streets shall be not less than five-tenths per cent and shall not exceed the following:

- (1) Highways, primary and secondary thoroughfares, or parkways, designated as such by the official Thoroughfare Plan: five per cent;
- (2) Local streets of major importance, ten per cent; local streets of minor importance, twelve per cent; minor streets, fifteen per cent; service drives and alleys, where required or permitted, fifteen per cent;
- (3) Pedestrian ways or crosswalks, twenty per cent, unless steps of an acceptable design are to be constructed.

(b) All changes in street grades above one per cent shall be connected by vertical curves of a minimum length equal to fifteen times the algebraic difference in the rate of grade for

highways, thoroughfares and parkways, and one-half of this minimum for all other streets.

- (c) The radii of curvature on the center line shall not be less than the following:
 - (1) Highways, thoroughfares and parkways: three hundred feet;
 - (2) Local streets, minor streets, service drives and alleys: fifty feet. (Ord. No. 687, 2-17-64, App.)

Sec. 29-30. Intersections.

(a) At street and at alley intersections, property line corners shall be rounded by an arc; the minimum radii of which shall be ten and five feet, respectively.

City council note.-- In business districts, this requirement may be waived by the commission or a chord may be substituted for such arc.

- (b) Street curb intersections shall be rounded by radii of at least twenty-five feet.
- (c) The above minimum radii shall be increased when the smallest angle of intersection is less than sixty degrees. (Ord. No. 687, 2-17-64, App.)

Sec. 29-31. Lots.

(a) The size, area, dimensions, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated and all such lots and the use contemplated thereof shall meet the minimum standards specified by the Zoning Ordinance for the district in which located.

(b) Excessive depth in relation to width shall be avoided.

City council note.-- A proportion of not to exceed three to one normally shall be considered appropriate.

- (c) Every lot shall front on a street.
- (d) Lots for single one-family detached dwelling unit in a residence "B" or less restricted district shall have an area of not less than five thousand square feet and shall be at least fifty feet wide at the building set-back line.
- (e) Every lot for residence purposes shall be at least one hundred feet in depth.
- (f) Corner lots for residential use shall be platted at least five feet wider than interior lots in order to permit conformance with the set-back required by the Zoning Ordinance on the

side street.

(g) Residential lots fronting on highways, thoroughfares and parkways should have extra depth to permit deep set-backs for the buildings.

(h) Double-frontage lots shall not be platted, except in such manner and subject to such conditions and safeguards as may be specified by the commission so as to provide an appropriate and attractive development of the whole of such lots compatible with single-frontage lots in the vicinity.

(i) Side lot lines shall be approximately at right angles to the right of way line of the street on which the lot fronts. (Ord. No. 687, 2-17-64, App.)

Article V. The Final Plat.

Sec. 29-32. Number and type to be submitted to commission for approval.

Eight prints, including one cloth print and one reproducible copy on cloth or cronoflex, of the final plat of the subdivision, or of any part of a larger subdivision, shall be submitted to the commission for approval. (Ord. No. 687, 2-17-64, Sec. 6.)

City council note.-- This should first be cleared with the federal housing administration, at least in all cases where this agency may be concerned with the financing of building development in the subdivision.

Sec. 29-33. Scale; features and information to be shown.

The final plat shall be drawn at the scale of one hundred feet or less to the inch, and shall clearly show the following features and information:

(a) All plat boundary lines with lengths of courses to hundredths of a foot and bearing to minutes- these boundaries to be determined by an accurate survey in the field which shall be balanced and closed with an error of closure not to exceed one to three thousand;

(b) The exact locations and the widths along the property lines of all existing or recorded streets intersecting or paralleling the boundaries of the tract;

(c) True bearings and distances to nearest established street bounds, other established survey lines, or other official monuments, which monuments shall be located or accurately described on the plat;

City council note.-- Any established survey of corporation lines shall be accurately monument- marked and located on the plat, and their names shall be lettered on them.

(d) The accurate location and material of all permanent monuments;

City council note.-- Permanent monuments shall be placed at such critical points (at least two in each block) as will enable any skilled surveyor to lay out correctly any lot in the subdivision.

(e) The exact layout including: (1) street and alley lines- their names, bearings and widths (including widths along the line of any obliquely-intersecting street); (2) the lengths and bearings of all chords, radii, points of curvature and tangent bearings; (3) all easements or rights of way, when provided for or owned by public utilities or services (with the general purpose, width and location of such easement designated on the plat); (4) all lot lines with dimensions in feet and hundredths, and with bearings or angles to minutes if other than right-angles to the street and alley lines;

(f) Lots numbered in numerical order, and blocks numbered in numerical order or lettered in alphabetical order;

(g) The accurate outline, fully platted, of all property which is offered for dedication for public use, together with a clear statement or designation of the public use for each area which is the subject of such dedication; and the accurate outline, fully platted, of all property reserved for the common use of the property owners in the subdivision, together with a clear statement or designation of such common use for any area which is the subject thereof, including all private restrictions, covenants and/ or conditions in connection therewith; provided, that all such statements, designations, private restrictions, covenants and/ or conditions may instead be incorporated in an apt and proper deed or other effective declaration duly of record in the county clerk's office, to the extent permitted by the commission;

(h) Front yard set-back building lines as fixed by the Zoning Ordinance or at a greater depth and any other set-back lines or street lines established by public authority and those which may be stipulated by restrictions, covenants and/ or conditions in the deeds;

(i) Private restrictions, covenants and/ or conditions, if any, concerning (1) boundaries of each type of use, or (2) other provisions for each definitely-restricted section of the subdivision; provided, that all such restrictions, covenants and/ or conditions may, in lieu of entry thereof on the final plat, be incorporated in an apt and proper deed or other effective declaration duly of record in the county clerk's office;

(j) Name of the subdivision and name or number of the largest subdivision or tract of which the tract being subdivided forms a part;

(k) Names and locations of adjoining subdivisions, and locations and ownership of adjoining property;

(l) Names and addresses of the owner or owners of record, the subdivider, and the engineer who prepared the plat, along with the engineer's seal;

(m) North-point, scale (both numerical and graphic), and date;

(n) Certificate by the registered professional civil engineer who prepared the plat to the effect that (1) the plat represents a survey made by him, that all monuments and improvements indicated thereon actually exist and that their location, size and material are correctly shown; and (2) that he is familiar with all requirements of these Subdivision Regulations and that, to the best of his knowledge and belief, all requirements of the Subdivision Regulations have been fully complied with. (Ord. No. 687, 2-17-64, Sec. 6.)

Sec. 29-34. Administrative subdivision.

Whenever an application accompanied by an adequate plat shall be made to the commission for adjustment of a boundary line between two contiguous lots or the division of an existing lot into not more than two lots and it appears to the planning director that the resulting lots meet all the requirements of law and the subdivision regulations and are such that the commission would be compelled to grant the application after public hear, the planning director may tentatively approve the proposed line adjustment or lot division.

Upon approval the president of the commission is authorized to sign and seal the plat in the name of the commission without public hearing and without approval of the commission, and shall report his action to the commission at its next meeting.