

CODIFIED ORDINANCES OF VIENNA
PART THIRTEEN — PLANNING AND ZONING CODE

CHAPTER ONE — Zoning Administrations

- Art. 1305. Interpretation and Definitions.
- Art. 1309. Administration and Enforcement.
- Art. 1313. Board of Zoning Appeals.
- Art. 1317. Amendments.

CHAPTER THREE — Zoning Districts and Regulations Art. 1321. Districts Established; Zoning

- Map. Art. 1325. District Regulations.
- Art. 1329. Supplemental Regulations.
- Art. 1333. Nonconforming Uses and Structures. Appendix A Approved Plans for Group or Cluster Developments.

CHAPTER FIVE — Subdivision Regulations

- Art. 1351. General Provisions.
- Art. 1355. Procedures for Subdivision Approvals.
- Art. 1359. Requirements for Improvements,

Reservations and Design.

- Art. 1363. Regulations for Hillside Development.
 - Art. 1367. Conditions of Acceptance.
 - Art. 1371. Definitions.
-

CODIFIED ORDINANCES OF VIENNA
PART THIRTEEN - PLANNING AND ZONING CODE
CHAPTER ONE - Zoning Administration
Art. 1305. Interpretation and Definitions.
Art. 1309. Administration and Enforcement.
Art. 1313. Board of Zoning Appeals.
Art. 1317. Amendments.

ARTICLE 1305
Interpretation and Definitions

1305.01 Minimum requirements; conflict of laws.
1305.02 Definitions.

CROSS REFERENCES

Conflict of laws - see W. Va. Code 8-24-70
General definitions and interpretation - see ADM. 101.02 et seq.

1305.01 MINIMUM REQUIREMENTS; CONFLICT OF LAWS.

In their interpretation and application, the provisions of this Zoning Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards, shall govern. (6-24-65)

1305.02 DEFINITIONS.

(a) For purposes of this Zoning Ordinance, certain terms or words used herein shall be interpreted as follows:

(1) "Person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

(2) "Shall" is mandatory. "May" is permissive.

(3) "Used" or "occupied" include the words intended, designed or arranged to be used or occupied.

(b) (1) "Accessory use or structure" means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

(2) "Lot" means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of complete lots of record, of complete lots of record and portions of lots of record or of portions of lots of record;
- D. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

(3) "Lot frontage" means the front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this section.

(4) "Lot measurements."

A. "Depth" of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

B. "Width" of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided however that width between side lot lines at their foremost points, where they intersect with the street line, shall not be less than eighty percent of the required lot width except in the case of lots on the turning circle of cul-de-sac, where the eighty percent requirement shall not apply.

(5) "Lot of record" means a lot which is part of a subdivision recorded in the office of the County Court, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

(6) "Multiple dwellings" means dwellings designed for or occupied by three or more families, with separate housekeeping, toilet and cooking facilities for each, and includes apartment houses but does not include hotels. (11-18-82)

(7) "Special exceptions" means a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provisions for such special exceptions is authorized by the Board of Zoning Appeals.

(8) "Street line" means the right-of-way line of a street.

(9) "Structure" means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, bill-boards and poster panels, excluding however fireplaces and chimneys which do

not protrude over two feet beyond the main structure of the building of which they are a part and which are not less than three feet from the side property line. (10-14-82)

(10) "Variance" means a relaxation of the terms of the Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining divisions or districts.

(11) "Yard" means a required open space unoccupied and unobstructed by any structure or portion of a structure from thirty inches above the general ground level of the graded lot upward, provided however that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

(12) "Yard, front" means a yard extending between side lot lines across the front of a lot.

In any required front yard, no fence, wall, hedge or other vegetation shall be permitted which materially impedes vision across such yard above the height of **thirty-six inches**.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Mayor may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the Mayor shall determine the front yard requirements, subject to the following limitations:

- A. At least one front yard shall be provided having the full depth required generally in the district;
- B. No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

(13) "Yard, side" means a yard extending from the rear line of the required front yard to the rear lot line.

In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard, adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the full and half-depth front yards have been established shall be considered to be side yards. Width of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

(14) "Yard, rear" means a yard extending across the rear of the lot between inner side yard lines. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half-depth front yard. Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear yard line of a required rear yard shall be parallel to the straight line so established.

(15) "Interior lot" means a lot other than a corner lot with only one frontage on a street other than an alley.

(16) "Through lot" means a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as double frontage lots.

(17) "Reversed frontage lot" means a lot in which the frontage is at right angles, or approximately right angles, to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot (6-24-65)

"Zoning Ordinance" or "Ordinance" as used in Chapters One and Three of this Part Thirteen Planning and Zoning Code means the Zoning Ordinance adopted June 24, 1965, as amended.

ARTICLE 1309

Administration and Enforcement

1309.01 Enforcement; permits.

1309.03 Complaints regarding violations.

1309.02 Fee schedule.

1309.99 Penalty.

CROSS REFERENCES

Appeals - see W. Va. Code 8-24-56 et seq.

Enforcement provisions - see W. Va. Code 8-24-66 et seq.

1309.01 ENFORCEMENT; PERMITS.

A. Administration and Enforcement.

The Mayor shall administer and enforce this Zoning Ordinance. He shall be provided with the assistance of such other persons as Council may direct.

If the Mayor shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the persons responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structure; removal of illegal buildings or structures or of additions, alteration or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. (6-24-65)

B. Building Permits Required. It shall be unlawful to construct, enlarge, alter or demolish a structure, or change the occupancy of a building or structure requiring greater strength, exit or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is regulated by this Zoning Ordinance, without first filing an application with the Building Inspector in writing and obtaining the required permit therefor; except for repairs and maintenance, such that the premises may be maintained in a safe and sanitary condition as defined in the IBC and which does not involve any violation of this Code, shall be issued by the Building Inspector after conformity with the provisions of this Zoning Ordinance, except after written order from the Board of Zoning Appeals. No permit shall be issued until all fees have been paid as provided in Section **1721.03**.

(Passed 6-12-97)

C. Application for Building Permit. All applications for building permits shall contain information showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall also include such other information as lawfully may be required by the Building Inspector, including existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

At the time of filing the application, or at any time thereafter, the Building Inspector shall have the right to require the applicant to file with the Building Inspector detailed plans of the proposed building or alteration.

D. Expiration of Building Permit. If the work described in any building permit has not begun within ninety days from the date of issuance thereof, such permit shall expire; it shall be cancelled by the Building Inspector; and written notice thereof shall be given to the persons affected.

If the work described in any building permit has not been substantially completed within one year of the date of issuance thereof, such permit shall expire and be cancelled by the Building Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

E. Construction and Use to be as Provided in Applications, Plans, and Permits. Building permits, issued on the basis of plans and applications approved by the Building Inspector, authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction.

F. Conformity with Codes. No construction, alteration, installation or work shall be performed or permitted except in conformity with the building, plumbing and electrical codes adopted under Part Seventeen - Building Code. (6-24-65; Ord. 0-2-86. Passed 2-27-86.)

G. Occupancy Permit. No structure hereafter erected or structurally altered shall be occupied or used until an occupancy permit has been issued by the Building Inspector.

An occupancy permit shall state that the proposed use of a structure complies with the provisions of this Zoning Ordinance.

Within ten days after the erection or structural alteration has been completed and notice thereof given to the Building Inspector by the owner, the Fire Chief and Building Inspector shall make a final inspection of such structure and if the same is in compliance with the Zoning Ordinance, building codes and other ordinances of the City, the Building Inspector shall issue an occupancy permit. (10-14-82; Ord. 0-2-86. Passed 2-27-86.)

1309.02 FEE SCHEDULE.

See 1721.03 for the applicable fee schedule.

The schedule of fees listed in Section 1721.03 shall be posted in the office of the Mayor and may be altered or amended by Council.

No permit, special exception or variance shall be issued unless or until such costs, charges, fees or expenses listed in Section 1721.03 have been paid in full, nor shall any action be taken on proceedings before the Board of Zoning Appeals until preliminary charges and fees have been paid in full.

j. Proceedings before Board of Zoning Appeals.

1. For filing an appeal from any order, requirement, decision or determination made by the Mayor, the filing fee shall be \$10.00.
2. For filing an application for a variance or exception to the provisions of this section, the filing fee shall be \$15.00.

(k) Proceeding before Council.

For filing a petition by owners for amendment supplemental or change, as provided in Section 1317.01, the filing fee shall be \$20.00. (Ord. 0-25-97. Passed 8-14-97.)

1309.03 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this Zoning Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Building Inspector. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance. (6-24-65; Ord. 0-2-86. Passed 2-27-86.)

1309.99 PENALTY.

a. Any person who violates this Zoning Ordinance or fails to comply with any of its requirements shall be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00). Each day such violation continues shall be considered a separate offense.

b. Any building erected, raised or converted or land or premises used in violation of any provision of this Ordinance, is hereby declared to be common nuisance, and the owner of the building, land or premises shall be liable for maintaining a common nuisance. (6-24-65)

c. The Planning Commission, the Board of Zoning Appeals, or the Building Inspector may institute suit for injunction in the Circuit Court of Wood County, to restrain an individual or governmental unit from violation of the provisions of this Ordinance. The Planning Commission or Board of Zoning Appeals may also institute a suit for a mandatory injunction directing an individual or a governmental unit to remove a structure erected in violation of the provisions of this ordinance.

d. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. (6-24-65; Ord. 0-2-86. Passed 2-27-86.)

ARTICLE 1313

Board of Zoning Appeals

1313.01 Established; proceedings. 1313.04 Duties of City officials.

1313.02 Powers and duties.

1313.03 Appeals.

CROSS REFERENCES

Board of Zoning Appeals - see W. Va. Code 8-24-51 et seq.

Fee schedule for proceedings before Board - see P.8z Z. 1309.02(d)

District boundary interpretation - see P.& Z. 1321.02

1313.01 ESTABLISHED; PROCEEDINGS

A Board of Zoning Appeals is hereby established, which consists of five members to be appointed by Council. The members of the Board shall be residents of the City and three fifths of such members shall have been residents of the City for at least ten years preceding the time of their appointment. They shall be qualified by knowledge and experience in matters pertaining to the development of the City and shall include representatives from business, industry and labor. No member of the Board shall be a member of the Planning Commission nor shall any member hold elective or appointive office in the City Government. Members of the Board shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their official duties. (10-14-82)

Upon the creation of the Board, the members shall be appointed by Council for the following terms; one for a term of one year; two for a term of two years; and two for a term of three years. The terms shall expire on the first day of January of the first, second or third year, respectively, following their appointment. Thereafter, as their terms expire, each new appointment shall be for a term of three years.

If a vacancy occurs, by resignation or otherwise, among the members of the Board, Council shall appoint a member for the unexpired term.

(a) Proceedings. At the first meeting of each year, the Board shall elect a chairman and a vice-chairman from its members. The vice-chairman shall have authority to act as chairman during the absence or disability of the chairman. A majority of members of a Board shall constitute a quorum. No action of the Board is official, however, unless authorized by a majority of the Board. Council shall provide the Board with suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts, and shall provide by appropriation a sum sufficient to defray the reasonable expenses of the Board. The Board shall adopt such rules concerning the filing of appeals and applications for variance and exceptions, giving of notice and conduct of hearings as shall be necessary to carry out their duties under the terms of this Zoning Ordinance.

1313.02 PLANNING AND ZONING CODE

(a.) Minutes and Records. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions and shall record the vote on all actions taken. All minutes and records shall be filed in the office of the Board and shall be a public record.

(b). Hearings; Appeals; Notice. An appeal taken from the requirement, decision or the determination made by the Mayor relating to the enforcement of this Ordinance shall be filed with Board. The appeal shall specify the grounds thereof and shall be filed within such time and in such form as may be prescribed by the Board by general rule. The Mayor shall, upon request of the Board transmit to it all documents, plans and papers constituting the record of the action from which an appeal was taken.

The Board shall fix a reasonable time for the hearing of an appeal. Public notice shall be given of the hearing and due notice shall be given additionally to the interested parties.

The Board may require the party taking the appeal to assume the cost of public notice and due notice to interested parties.

Upon the hearing, any party may appear in person, by agent or by attorney.

(c). Stay of Proceedings. When an appeal from the decision of the Mayor has been taken and filed with the Board, all proceedings and work on the premises concerning which the decision was made shall be stayed unless the Mayor shall certify to the Board that, by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the circuit court of the county in which the premises affected are situated, on application, on notice to the Mayor from whom the appeal is taken and to the owner of the premises affected and on due cause shown.

(d.) Petitions Relating to Other Matters. All applications for exceptions, variances and other matters upon which the Board is authorized to act, shall be filed with the Board and shall be handled in the same manner as appeals. (6-24-65)

1313.02 POWERS AND DUTIES.

The Board of Zoning Appeals shall have the following powers and duties:

- a. Hear and determine appeals from and review any order, requirement, decision or determination made by the Mayor in enforcing the provisions of this Zoning Ordinance.
- b. Permit and authorize exceptions to the district regulations in particular situations where the exceptions are compatible with permitted uses in the districts involved.
- c. Hear and decide special exceptions to the terms of the Ordinance upon which the Board is required to act under the Ordinance.
- d. Authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the Mayor from whom the appeal is taken. (6-24-65)

1988 Replacement

1313.03 APPEALS.

Every decision of the Board of Zoning Appeals shall be subject to review by certiorari, in accordance with the provisions of West Virginia Code 8-24-59.(6-24-65)

1313.04 DUTIES OF CITY OFFICIALS.

It is the intent of this Zoning Ordinance that all questions of interpretation and enforcement shall be first presented to the Mayor, and that such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Mayor, and that recourse from the decisions of the Board shall be to the courts as provided by law and particularly by West Virginia Code Article 8-24.

It is further the intent of this Ordinance that the duties of Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Ordinance. Under this Ordinance Council shall have only the duties of:

- a. Considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law; and
- b. Establishing a schedule of fees and charges as stated in Section 1309.02. (6-24-65)

ARTICLE 1317
Amendments

1317.01 Procedure.

CROSS REFERENCES

- Amendment procedure - see W. Va. Code 8-24-45 et seq.
 - Amendment fee - see P. & Z. 1309.02 (e)
 - Amendment to Official Zoning Map - see P. & Z. 1321.01
-

1317.01 PROCEDURE.

Council may from time to time, amend, supplement or change the regulations and districts provided for herein.

Petitions, duly signed, may be presented to the City Recorder, requesting an amendment, supplement or change of the regulations of the Zoning Ordinance; and such petitions shall be signed and presented by the Planning Commission or by the owners of fifty percent or more of the area involved in the petition.

Any proposed ordinance for the amendment, supplement, change or repeal of the Zoning Ordinance not originating from petition of the Commission shall be referred to the Commission for the consideration and report before any final action is taken by Council.

Prior to submission to Council of a Commission petition or a report on a proposed Ordinance referred to it for an amendment, supplement, change or repeal of the Zoning Ordinance, the Commission shall give notice and hold a public hearing on the petition or proposed ordinance. At least fifteen days prior to the date set for hearing, the Commission shall publish in a newspaper of general circulation in the City a notice of the time and place of the hearing. (6-12-69)

CHAPTER THREE - Zoning Districts and Regulations

Art. 1321. Districts Established; Zoning Map.

Art. 1325. District Regulations.

Art. 1329. Supplemental Regulations.

Art. 1333. Nonconforming Uses.

Appendix A Approval Plans for Group or Cluster Development.

ARTICLE 1321

Districts Established; Zoning Map

1321. 01 Establishment of Districts; Map.

1321. 02 District boundary interpretation.

CROSS REFERENCES

Zoning districts generally - see W. Va. Code 8-24-40

Existing uses safeguarded - see W. Va. Code 8-24-50

1321.01 ESTABLISHMENT OF DISTRICTS; MAP.

a. Official Zoning Map. The City is hereby divided into zones or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Zoning Ordinance.

The Zoning Map shall be identified by the signature of the Mayor attested by the City Recorder, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1321. 01(a) of the Zoning Ordinance of the City of Vienna, adopted on June 24, 1965", together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance and West Virginia Code Article 8-24 changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by Council, together with an entry on the Official Zoning Map as follows: "On (date), by official action of council, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Mayor and attested by the City Recorder. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map. No amendment to this Ordinance which involves matters portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on the Zoning Map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 1309.99.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the City Recorder shall be the final authority as the current zoning status of land and water areas, buildings and other structures in the City.

b. Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Recorder, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption

of map being replaced) as part of the Zoning Ordinance adopted on the 24th day of June, 1965". (6-24-65)

1321.02 DISTRICT BOUNDARY INTERPRETATION.

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

- a. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines;
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- c. Boundaries indicated as approximately following City limits shall be construed as following City limits;
- d. Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (c) hereof shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the Zoning Map.
- e. Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by subsections (a) through (d) hereof, the Board of Zoning Appeals shall interpret the district boundaries. (6-24-65)
- f. Where a lot or parcel of land is bisected by a district boundary, if fifty percent (50%) or more of such lot is within District II (Business), then the entire lot shall be included within District II. (10-14-82)

ARTICLE 1325

District Regulations

1325.01 Application.

1325.03 District I area and yard

1325.02 District I uses. regulations.

1325.04 District II uses.

CROSS REFERENCES

Parking oversized vehicles in residential districts - see TRAF. 361.12

Keeping animals - see GEN. OFF. Art. 505

Junk vehicles - see GEN. OFF. 537.08

Street and sidewalk regulations - see GEN. OFF. Art. 541

Trailer parks prohibited in residential districts - see HLTH. & SAN. 1133.12

1325.01 APPLICATION.

The regulations set by this Zoning Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land and particularly, except as hereinafter provided:

a. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

b. No building or other structure shall hereafter be erected or altered:

1. To exceed the height;
2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, side yards or other open spaces; than herein required; or in any other manner contrary to the provisions of this Ordinance.

c. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

d. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

All territory which may hereafter be annexed to the City shall be considered to be zoned in the same manner as the contiguous territory inside previous City limits until otherwise classified. (6-24-65)

1325.02 DISTRICT I USES.

a. Within District I (Residential) land and buildings shall be used, and buildings shall be arranged, intended and designated to be used for one or more of the following specified uses:

1. Dwelling house uses, including dwellings for one-family;
2. Religious uses that is, churches and other places of worship and religious instruction;
3. Educational uses that is, public and private schools, public libraries and museums;
4. Social uses that is, social, recreational and community center buildings and grounds for games and sports, except those a chief activity of which is one customarily carried on for gain;
5. Recreational uses that is, public or school recreation buildings, playgrounds and parks;
6. Gardening, nurseries and greenhouses;
7. Temporary buildings in connection with new construction. (6-12-69; 10-30-69)

b. It is provided, however, that no multiple dwellings and apartment houses, except a dwelling designed for and occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit, shall be constructed in the following portions and areas comprising parts of such District I: (6-9-77)

Bounded on the south by the northerly line of 41st Street; on the east by Grand Central Avenue; on the north by the City limits; and on the west by the City limits. (10-14-82)

Bounded on the south by the northerly line of 46th Street; on the east by the City limits; on the north by the City limits; and on the west by the easterly line of Grand Central Avenue. (6-9-77)

1325.03 DISTRICT I AREA AND YARD REGULATIONS.

Within District I, each lot and yard shall conform to all of the following minimum requirements, except as provided in Article 1329.

- a. Area: 5000 square feet.
- b. Width at front: 50 feet, except lots of record which shall have a minimum width at front of 40 feet.
- c. Depth of front yard: 15 feet.
- d. Depth of rear yard: 10 feet, where rear lot line abuts upon a public alley, street or way; otherwise, 5 feet.
- e. Number of side yards: 2.
- f. Width of each side yard: 5 feet; except that a driveway may be roofed to provide a carport if the front and back of the carport are open and if there is not less than a two foot green strip between the carport and the side line of the property.
- g. Area free of all buildings and structures: 20 percent. (6-12-69; 10-30-69; 10-14-82)

1325.04 DISTRICT II USES.

Within District II (Business) land and buildings shall be used, and buildings shall be arranged, intended and designed to be used for one or more of the following specified uses:

- a. Any use permitted in District I;
- b. Boarding and lodging houses, hotels and tourist homes;
- c. Sales and show rooms for new automobiles;
- d. Barbershops and beauty shops;
- e. Convalescent and rest homes conducted and maintained for profit, but not for the care of persons with contagious diseases, nor for the care of drug or liquor addicts or patients, nor for the care of the insane or feeble minded;
- f. Clubs and lodges;
- g. Cleaning and pressing establishments;
- h. Garages;
- i. Filling stations;
- j. Offices;
- k. Restaurants and eating places;
- l. Shops and stores - wholesale or retail;
- m. Undertaking establishments or funeral parlors. (6-12-69; 10-30-69)
- n. Used motor vehicle businesses and sales. Use of land and conduct of such businesses and sales shall comply with the following requirements:
 1. Any person engaging in such business and sales shall comply with all of the requirements of West Virginia Code Article 17A-6 which Article is incorporated into and made a part of this section.
 2. No person engaged in such business shall keep, store, maintain or sell, or permit to be kept, stored, maintained or sold, upon any land used in connection with such business, any motor vehicle unless the equipment upon such vehicle is in good working order and in such safe

mechanical condition as not to endanger the driver or other occupant or any person upon any highway, all as required by West Virginia Code Article 17C-16, which Article is incorporated into and made a part of this section. (10-23-80)

o. House Trailer Parks. (3-22-84)

ARTICLE 1329

Supplemental Regulations

1329. 01 Visibility at intersections

1329. 02 Fences, walls and hedges

1329. 03 Signs.

1329. 04 Front yards.

1329. 05 Off-street parking.

1329.06

1329. 07

1329. 08

1329.09

Multiple dwellings and apartment houses.

Group development plan. Swimming pools.

Home occupations in residential zoning districts.

CROSS REFERENCES

Unauthorized signs - see TRAF. 313.06

Trees and shrubs overhanging streets and sidewalks - see GEN. OFF. 541.02

Plan for group or cluster developments - see P. & Z. Appendix A

1329.01 VISIBILITY AT INTERSECTIONS.

On a corner lot in the residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half and ten feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along the street lines fifty feet from the point of the intersection.

(6-12-69)

1329.02 FENCES, WALLS AND HEDGES.

Notwithstanding other provisions of this Zoning Ordinance, fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall, hedge or other vegetation along the sides or front edge of any front yard shall be erected, planted or maintained in such manner as to materially impede vision over **three feet (36 inches)** above the average grade of the front lot line. (6-12-69)

1329.03 SIGNS.

No sign intended to be read from off the premises shall be permitted except: In the Residential District, a trade, business or professional sign, not over two square feet in size not illuminated, is permitted as accessory to uses permitted; a sign not exceeding one square foot in size and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations, is permitted; a sign pertaining to lease or sale or a temporary sign displayed in connection with construction operations, not exceeding eight square feet in size, is permitted.

In the Business District, no sign shall be erected or maintained which shall constitute a danger to the public, unreasonably impede free passage or view (vision) or unreasonably obscure buildings, structures or other signs. (6-12-69)

1992 Replacement

1329.04 FRONT YARDS.

Within all districts, the following front yard regulations shall apply:

- a. Where on a side of a street between two intersecting streets, which is improved with buildings for which front yards are provided, the depth of front yards of such buildings now built, shall be the required depth of front yards for buildings hereafter constructed or extended on that side of such street between the two intersecting streets;
- b. In instances where there are minor irregularities in depths of existing front yards in a particular block, then no building hereafter erected or extended shall have less front yard than the average depth of such actual front yards of buildings to either side of the proposed building;

- c. In blocks where all of the present buildings have no front yards, and where there is not more than twenty percent of the lineal feet of such block now unimproved with buildings, front yards shall not be required hereafter in this block;
- d. Wherever, for a land subdivision, there are front yards, setbacks, or building lines established back of the street line by plats, deeds or covenants now recorded in a court of record, the front yards, setbacks or building lines thus required shall be deemed to be the front yard requirements of this Zoning Ordinance for such tract of land but the setback shall be not less than fifteen feet;
- e. Front yards shall be required for vacant land, and where any of the above rules do not establish a front yard depth, the front yard for buildings hereafter constructed, shall be not less than fifteen feet. (6-12-69)

1329.05 OFF-STREET PARKING.

Whenever a building or structure is hereafter erected, constructed, or enlarged, off-street parking spaces for motor vehicles to be used for such building or structure, shall be provided for in accordance with the provisions of this section.

A. Definitions and Regulations.

1. Minimum size. Each off-street parking space shall contain an area of not less than 160 square feet exclusive of access drives and aisles, and shall be in usable shape and condition.
2. Access. All access drives shall have a width of not less than nine feet.
3. Units of measurement. For the purpose of determining off street parking requirements, the following units of measurement shall apply:
 - a. Floor area. In case of uses where floor area is the unit for determining the required number of off-street parking spaces, such unit means the floor area used or intended to be used by tenants or for service to the public as patrons, patients, visitors, residents or persons in attendance, including the area used for non-public purposes such as storage and incidental repairs, for toilets or rest rooms and for utility rooms, but excluding outside walls, space used or intended to be used for mechanical equipment, stairways, elevator shafts, parking within the principal building and any other fire enclosed spaces.
 - b. Places of public assembly. In churches, stadiums and other places of public assembly in which those in attendance occupy benches, pews and other similar seating facilities, each twenty inches of seating facilities shall be counted as one seat for the purpose of determining off-street parking requirements.

B. Off-Street Parking Requirements. For residential, commercial, institutional community facilities:

1. Single-family dwellings. One—family dwellings on lots of more than 10,000 square feet, three off-street parking spaces. One-family dwellings on lots of less than 10,000 square feet, two off-street parking spaces.

2. Multiple family dwellings. One and one-half off-street parking spaces shall be provided for each dwelling unit.
3. Hospitals. One off-street parking space for each four beds, plus one for each five employees.
4. Public buildings, libraries and museums. One off-street parking space for each 500 square feet of floor area.
5. Personal care homes and nursing homes. One off-street parking space for each five beds.
6. Schools. One off-street parking space for each 17 classroom seats.
7. Churches and fraternal lodges. One off-street parking space for each four seats.
8. Funeral homes. Eight off-street parking spaces for each parlor.
9. Retail stores. One off-street parking space for each 300 square feet of floor space area. Minimum of two spaces for any store.
10. Offices. One off-street parking space for each 500 square feet. Minimum of two spaces for any office.
11. Bowling alleys. Five off-street spaces per alley.
12. Handicap parking. Any structure where the general public is to be served shall have at least one off-street parking space especially designed for handicap parking. This space shall be at least 11 feet wide and shall be located as close to the building entrance as practical.
14. Restaurants, taverns and clubs. One off-street parking space for each 100 square feet of gross floor area.
15. Machinery, sales, service garages and automobile agencies. One off-street parking space for each 800 square feet of gross floor space.
16. Industrial buildings, warehouses and wholesale businesses. One off-street parking space for every three employees of the largest shift.
17. Doctors and dentists. Three off-street parking spaces for each examining room.
18. Gasoline service stations. Two off-street parking spaces for each service bay.
19. Hotels, motels and boarding house rooms. One off-street parking space for each sleeping unit.
20. Shopping centers. One off-street parking space for each 300 square feet of gross floor area.
21. Shopping plazas. One off-street parking space for each 200 square feet of gross floor area.
22. Elderly high rise housing. One off-street parking space for each three dwelling units.

c. Development and Maintenance of Parking Areas.

1. Surfacing. Any off-street parking area and access drives thereto in any C1, C2, R2, R3, and/or R4, as well as any duplexes in any zone, shall be graded and surfaced. Any off-street parking area and access drives thereto shall be surfaced with an asphaltic concrete or soil cement binder so as to provide a dustless surface and shall be graded

and drained. Draining to sidewalks or other properties are prohibited. Any plan for a surface that is made of an impervious material must be submitted for review of its retention system to the Vienna Utility Board Director, the Vienna Planning Commission and be subject to an Engineering review. Any plan for a parking and/or parking access surface that is made of a pervious material must be submitted to the Utility Board Director for approval. Any comparative or alternative hard surface material, other than concrete or asphalt, need Planning Commission approval in addition to the approval of the Public Works Director.

2. Lighting. Any lighting used to illuminate any off-street parking area shall be arranged in such a way as to reflect light away from adjoining premises. Large off-street parking areas are required to illuminated.

3. Landscaping. Landscaping shall be provided on five percent (5%) of the total area used for parking where off-street area is more than twenty-five cars. (Ord. 0-9-88. Passed 7-14-88.)

4. Dumpster Screening Requirements

- a. Screening Required. In areas zoned C1, C2, R2, R3, and R4 where there are located three or more units, dumpsters in view of a public right of way shall be screened and gated.
- b. Location - The dumpster area shall be in a location accessible to sanitation vehicles and constructed in a manner such that the dumpster is not visible from a public right of way
- c. Maintenance of Screening - It shall be the responsibility of the property owner to maintain the screening wall in a good condition at all times.
- d. Alternative methods and construction of screening. The Mayor or his designee may grant approval of screening materials and construction methods provided in this section.
- e. Variances to screening requirements. The Planning Commission may grant variances to this section upon finding that:
 1. Such variance is in harmony with the intent and purpose of the municipal ordinances;
 2. Such variance will not adversely affect the health, safety or general welfare of the public;
 3. The variance sought is due to unique circumstances affecting the property or the owner's use of the property. Financial consideration alone shall not be grounds for a variance; and
 4. The owner has made provisions for alternative screening reasonably equivalent in value and utility to the requirement sought to be varied

1329.06 MULTIPLE DWELLINGS AND APARTMENT HOUSES.

In both District I (Residential) and District II (Business), all multiple dwellings, apartment houses and uses authorized or permitted by Section 1325.02(b) shall meet and conform to the following minimum requirements:

a. An off-street automobile parking lot area shall be provided adjacent to each multiple dwelling and apartment house sufficient in area to provide two parking spaces for each housekeeping unit. Each parking space shall comprise not less than 180 square feet of parking stall plus necessary maneuvering space. Space for maneuvering incidental to parking or embarking shall not encroach upon any public way. Every off-street parking space shall be accessible from a public way.

Such parking lot shall have a paved apron or approach at all entrances and exits to the parking lot or area from paved City streets or ways. The apron shall be of concrete or asphalt or a combination thereof, shall be not less than twenty-six feet in width abutting the street or way and may be reduced to not less than sixteen feet at a point six feet back from such paved street or way; the apron or approach shall be not less than twenty-four feet in depth, that is, extending from the paved portion of the street or way back into the parking lot. (6-23-83)

b. Each lot upon which a multiple dwelling or apartment house is located shall have:

1. Two side yards, each fifteen feet in width;
2. A front and rear yard, each thirty feet in depth;
3. An additional five feet shall be added to each side yard and the front yard and rear yard for each story such building exceeds two stories.

A green belt five feet in width shall be provided along the side and rear lot lines, such green belts shall be a part of the side and rear yards required above and not in addition thereto.

4. A green belt shall be planted with grass, flowers, vines, shrubs or similar vegetation, or combinations thereof.

c. Not more than fifty percent of the area of the yards provided for in subsection (b) hereof, but none of the portions restricted to green belts may be used for the off-street parking areas referred to in subsection (a) hereof, but shall be subject to all other provisions of the Zoning Ordinance relating to yards. (6-12-69)

d. Notwithstanding other provisions of this Ordinance, and so long as all other requirements are complied with, a multiple dwelling or apartment house may be located within five feet of one side line in order to provide access to parking facilities in the rear of the building, provided that the total footage of the two side yards shall be not less than the total footage required. (10-14-82)

1329.07 GROUP DEVELOPMENT PLAN.

Where dwelling houses, multiple dwellings or apartment houses, or combinations thereof, are proposed to be constructed in a group or cluster according to a development plan, upon a tract of land, or upon several lots or parcels which are to be treated as a single tract for the purpose of such development, and the regulations set forth in this Zoning Ordinance and particularly Section 1325. 03, do not permit the orderly and most suitable utilization of such land,

the owner of the real estate may file with the Planning Commission of the City his written application for approval of the plan which shall set forth in detail the plan of development together with a plat showing the tract, proposed streets, location, size and use of buildings, parking areas, lawns and open spaces.

If the Planning Commission determines that the development plan is compatible with other permitted uses in the zoning district involved and is compatible with the buildings and uses in the immediate vicinity and in the general neighborhood of the proposed development; that not less than twenty-five percent of the total area involved is free of all buildings and structures; that population density within the tract to be developed will not be excessive; that proper provision has been made for off-street parking; access for fire and police protection and utility services, the Planning Commission may approve such plan subject to such conditions and requirements as it shall deem advisable. The application, together with such conditions and requirements as the Planning Commission requires, shall be the special zoning regulations for such tract and shall constitute amendments to all other zoning regulations contrary thereto.

Until such time as a building permit is issued for construction of one or more of the structures included in the plan, an appeal may be filed with the Board of Zoning Appeals by the owner or other interested party in the same manner as set forth in Section 1313. 01(b) for appeals from requirements, decisions or determinations of the Mayor.

Changes and modifications in the development plan may be made only in the manner hereinbefore provided for original approval of the plan.

1329. 08 SWIMMING POOLS.

(a) No residential or commercial swimming pool shall hereafter be constructed, maintained or used except in conformity with the following regulations and requirements:

1. Residential and commercial swimming pools shall be completely enclosed with a fence at least six feet high and constructed in such a manner as to be difficult to climb. Each pool shall have a gate which shall be locked at all times when no responsible adult is present and supervising activities in the pool area.
2. Commercial pools shall provide at least one ladder at the deep end of the pool and one at the shallow end. Each ladder shall have steps that are at least three inches wide, have handrails on both sides of the ladder, which handrails shall be small enough for a child to grasp; water depths shall be conspicuously posted and a safety float line shall extend across the pool where the bottom. slope deepens.

(b) Enforcement of this section shall be in accordance with Article 1309. 99 of the Codified Ordinances. (10-14-82)

1329.09 HOME OCCUPATIONS IN RESIDENTIAL ZONING DISTRICTS.

a. Intent. The intent of this section is to allow, within District I zones or areas (residential), certain business uses of property heretofore prohibited in District I zones, more commonly referred to as "home occupation uses". Generally, a home occupation will be allowable if it is not likely to intrude on the residential character and nature of a District I zone.

b. Requirements. Any business or commercial activity conducted in a District I zone shall be a permitted use if such use complies with the following provisions:

1. A home occupation shall be incidental to the use of a dwelling unit for residential purposes. No more than twenty-five percent (25%) of the floor area or 500 square feet used in connection with a home occupation use or for storage purposes in connection with a home occupation use. Floor area of a dwelling unit shall include garages (attached or detached), basements and habitable attic space in addition to the floor area of all heated and ventilated rooms within the dwelling unit. No accessory buildings shall be constructed for the exclusive use of home occupation.
 2. In no case shall more than one person who is not a member of the immediate family residing on the premises assist in the conduct of the home occupation use. •
 3. In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 8:00 p.m.
 4. A home occupation shall produce no offensive noise, vibration, smoke, electrical interference, dust, odors or heat detectable beyond the property lines or beyond the walls of the dwelling unit, if the dwelling unit is part of a multi-family structure.
 5. There shall be no change in the outside appearance of the building or structure, other than one sign limited to one square foot in area, non-illuminated, non-animated and mounted flat against the wall of the principal structure.
 6. No display of goods or services pertaining to such home occupation use shall be visible from outside the premises.
 7. There shall be no storage or sale of merchandise or stock in trade on the premises except raw materials used on the premises and products finished on the premises by the person engaged in the home occupation, with the following exceptions:
Samples of products for which orders are taken,
Temporary storage (not to exceed sixty days) of merchandise prior to delivery for mail-order, home party and door-to-door sales.
 8. There shall be no outdoor storage of materials, equipment, tools, supplies or products.
 9. Parking generated by the conduct of such home occupation use shall be met off the street. Parking in the "front yard" as defined in the general zoning ordinance is prohibited. Only one truck, panel truck, van or similar type vehicle may be parked at a home occupation address.
 10. No more than two vehicles of customers and/or delivery persons may be present at any one time.
 11. All materials, storage and use shall comply with NFPA Chapter 30, Life Safety Code Chapter 31, and the BOCA Building Code.
- (Passed 7-11-91.)

12. The following are specifically prohibited as "home occupations": funeral homes, veterinary animal hospitals, any activity involving pet or animal cleaning or grooming, boarding kennels, grocery stores, commercial stables, boarding or rooming houses, commercial storage and commercial repair of vehicles or watercraft. (Passed 1-23-92.)

c. Permit.

Prior to beginning operation as a "home occupation use" as provided herein, the owner of the property upon which use is to be conducted shall obtain a permit from the City in accordance with the following:

1. Obtain an application form,
2. Submit the completed application to the Code Enforcement Officer of the City,
3. The Code Enforcement Officer shall review the application and verify compliance with this and all other City ordinances,
4. Either a permit or a rejection notice will be provided to the applicant within ten business days from receipt of the application by the City. A one-time processing fee of ten dollars (\$10.00) shall be paid by the applicant at the time of application. Nothing contained herein shall operate to prohibit any permitted District I use as contained in other ordinances.

d. Permit Revocation.

1. The Code Enforcement Officer of the City shall have authority, after thirty days notice in writing to any person holding a permit hereunder, to revoke any permit issued where it shall appear to the Code Enforcement Officer that the application for the permit contains false or misleading information or that the permit holder has violated any of the provisions of this section, unless such permit holder shall, before the expiration of the thirty days, correct such false or misleading information and comply with the provisions of this section. Such revocation shall be in writing and shall be accompanied by findings of fact upon which such action of revocation was made.
2. Any person adversely affected by any permit revocation by the Code Enforcement Officer shall be entitled to review thereof before the Board of Zoning Appeals; written request for such review shall be made within sixty days from the date of any such revocation. (Passed 1-23-92.)

ARTICLE 1333

Nonconforming Uses and Structures

1333.01 Intent.

1333.02 Lots of record.

1333.03 Uses of land.

1333.04 Structures.

1333.05 Uses of structures.

1333.06 Repairs and maintenance.

1333.07 Special exceptions.

CROSS REFERENCES

Existing uses safeguarded - see W. Va. Code 8-24-50

1333.01 INTENT.

Within the districts established by this Zoning Ordinance or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendment.

It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved. (6-24-65)

1333.02 LOTS OF RECORD.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Board of Zoning Appeals.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

(6-24-65)

1333.03 USES OF LAND.

Where at the effective date of adoption or amendment of this Zoning Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;

- b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
- c. If any such nonconforming use of land ceases for any reason for a period of more than thirty days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. (6-24-65)

1333.04 STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such structure maybe enlarged or altered in a way which increases its nonconformity.
- b. Should such structure be destroyed by any means or deteriorate to an extent of more than fifty percent (50%) of its replacement cost, it may be reconstructed so long as such reconstruction does not extend, add to or increase its nonconformance with the provisions of this Zoning Ordinance. (6-24-65; 10-14-82)
- c. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform, to the regulations for the district in which it is located after it is moved.
(6-24-65)

1333.05 USES OF STRUCTURES.

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Zoning Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions;

- a. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;
- c. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific

case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;

d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;

e. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for eighteen months during any three year period, the structure or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located;

f. Where nonconforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. (6-24-65)

1333.06 REPAIRS AND MAINTENANCE.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Zoning Ordinance shall not be increased.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(6-24-65)

1333.07 SPECIAL EXCEPTIONS.

Any use for which a special exception is permitted as provided in this Zoning Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district. (6-24-65)

APPENDIX A

Approved Plans For Group or Cluster Development

a. Adams Property

b. The owner of the property is Douglass H. Adams.

The legal description of the property is as follows:

BEGINNING at an iron pipe in the southerly line of 58th Street and running thence with the southerly line of 58th Street, N. 65° 35' W. 165.25 feet to an iron pipe; thence S. 24° 32' W. 233.43 feet to an iron pipe in the northerly line of 57th Street; thence with the northerly line of 57th Street, S. 65° 30' E. 163.44 feet to an iron pipe; thence N. 24° 59' E. 233.68 feet to the place of beginning, containing 0.88 acres, more or less, as shown upon a plat made by Chet Waterman, P. E., dated March 27, 1978, and being Lot No. 4 of Midway Addition to the City of Parkersburg.

c. The property was acquired by Douglass H. Adams from Susan J. Gates, widow, by deed bearing date the 16th day of April, 1979, recorded in the Office of the Clerk of the County Commission of Wood County, West Virginia, in Deed Book 719, at page 320.

d. The details of the plan are set forth in the Summary of Declaration attached to the Ordinance passed May 24, 1979, and made a part thereof.

e. A plat of the property prepared by Dominic I. K. Kim, Architect, showing the layout of the proposed development is attached to the Ordinance passed May 24, 1979, and made a part thereof. (5-24-79)

CHAPTER FIVE - Subdivision Regulations

Art. 1351. General Provisions.

Art. 1355. Procedures for Subdivision Approvals.

Art. 1359. Requirements for Improvements,
Reservations and Design.

Art. 1363. Regulations for Hillside Development.

Art. 1367. Conditions of Acceptance.

Art. 1371. Definitions.

ARTICLE 1351

General Provisions

1351.01 Title.

1351.02 Enactment.

1351.03 Policy.

1351.04 Purposes.

1351.05 Interpretation.

1351.06 Scope.

1351.07 Separability,

1351.08 Control.

1351.09 Saving provision.

1351.10 Recording, revising, and vacating plats.

1351.11 Resubdivision of land.

1351.12 Sale of Land within subdivision

1351.13 Variances

1351.14 Appeal

1351.15 Enforcement, violations and penalties

1351.16 Schedule of fees

1351.17 Frontage requirement for location improvement permits

1351.01 TITLE.

These Regulations shall be known and may be cited and referred to as the "Subdivision Regulations of the City of Vienna, West Virginia" and shall hereinafter be referred to as "these Regulations". (Passed 5-9-91.)

1351.02 ENACTMENT.

These Regulations shall become effective from and after the date of their approval and adoption by Council and certification to the Wood County Clerk. (Passed 5-9-91.)

1351.03 POLICY.

a. It is hereby declared to be the policy of the Municipality to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the Municipality pursuant to the official master plan (if applicable) of the Municipality for the orderly, planned, efficient and economical development of the Municipality.

b. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage and capital improvements such as schools, parks, recreation facilities, transportation facilities and improvements.

c. The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Master Plan, Official Map and the capital budget and program of the Municipality, and it is intended that these Regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, zoning ordinances, Master Plan, official Map and land use plan, and capital budget and program of the Municipality to the extent they currently exist or are subsequently adopted.

(Passed 5-9-91.)

1351.04 PURPOSES.

These Regulations are adopted for the following purposes:

a. To protect and provide for the public health, safety and general welfare of the Municipality;

b. To guide the future growth and development of the Municipality, in accordance with the Master Plan;

c. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population;

d. To protect the character and the social and economic stability of all parts of the Municipality and to encourage the orderly and beneficial development of all parts of the Municipality;

e. To protect and conserve the value of land throughout the Municipality and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;

f. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation and other public requirements and facilities;

g. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the Municipality, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the

various uses of land and buildings, and to provide for the proper location and width of streets and building lines;

h. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land;

i. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision;

j. To prevent 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 Municipality, and beauty of the community and the value of land;

k. To preserve the natural beauty and topography of the Municipality and to insure appropriate development with regard to these natural features;

l. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Zoning Ordinance of the Municipality.

(Passed 5-9-91.)

1351.05 INTERPRETATION.

The provisions of these Regulations shall be held to be minimum requirements to meet the above stated purposes. The provisions of these Regulations shall supplement all laws of the State of West Virginia, ordinances (resolutions) of the City of Vienna or any and all rules and regulations promulgated by authority of such law or ordinance (resolution) relating to the purpose and scope of these Regulations. Whenever the requirement of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive, or that imposing the higher standards shall govern.(Passed 5-9-91.)

1351.06 SCOPE.

These Regulations shall be applicable to all subdivisions of land within the City. The Planning Commission shall have the power of final approval of the plats. (Passed 5-9-91.)

1351.07 SEPARABILITY.

The provisions of these Regulations shall be separable, and if any section, clause, sentence, part or provision thereof shall be held to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such decision of the court shall not affect the validity of any of the remaining sections, clauses, sentences, parts or provisions of these Regulations.

(Passed 5-9-91.)

1351.08 CONTROL.

No subdivision of any lot, tract or parcel of land shall be effected; no street, sanitary sewer, storm sewer, water main or other facilities in connection therewith shall be laid out, constructed,

opened or dedicated for public use or for the common use of occupants of buildings abutting thereon except in strict accordance with the provisions of these Regulations. (Passed 5-9-91.)

1351.09 SAVING PROVISION.

These Regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the Municipality under any section or provision existing at the time of adoption of these Regulations, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the Municipality except as shall be expressly provided for in these Regulations.

(Passed 5-9-91.)

1351.10 RECORDING, REVISING AND VACATING PLATS.

a. Recording of Plat. No plat of any subdivision shall be recorded by the County Clerk of Wood County or have any validity until such plat has received final approval in the manner prescribed in these Regulations.

b. Revision of Plat After Approval. No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after approval has been given by the Planning Commission and endorsed in writing on the plat, unless such plat is first resubmitted to and approved by the Commission.

c. Vacation of Plats.

1. Any plat or any part of any plat may be vacated by the owner of the premises, at any time before the sale of any lot therein, by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated.

2. Such an instrument shall be approved by the Planning Commission in like manner as plats of subdivisions. The Governing Body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

3. Such an instrument shall be executed, acknowledged or approved, and recorded or filed, in like manner as plats of subdivisions; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

4. When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing. (Passed 5-9-91.)

1351.11 RESUBDIVISION OF LAND.

a. Procedure for Re-subdivision. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the Planning Commission by the same procedure, rules and regulations as for a subdivision.

b. Procedure for Subdivisions Where Future Re-subdivision is Indicated. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be re-subdivided into smaller building sites, the Planning Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

(Passed 5-9-91)

1351.12 SALE OF LAND WITHIN SUBDIVISIONS.

No owner or agent of the owner of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of or by the use of a plat of the subdivision before such plat has been approved and recorded in the manner prescribed in these Regulations. The description of such lot or parcel of metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these Regulations.

(Passed 5-9-91.)

1351.13 VARIANCES.

a. General. Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these Regulations and/or the purposes of these Regulations may be served to a greater extent by an alternative proposal, it may approve variances to these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these Regulations; and further provided the Planning Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property;
2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letters, of these Regulations are carried out;
4. The variances will not in any manner vary the provisions of the Zoning Ordinance, Master Plan or Official Map.

b. Conditions. In approving variances, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these Regulations.

c. Procedures. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

(Passed 5-9-91.)

1351.14 APPEAL.

Any person who believes he has been aggrieved by the regulations or the action of the City Planning Commission has all the rights of appeal. (Passed 5-9-91.)

1351.15 ENFORCEMENT, VIOLATIONS AND PENALTIES.

a. General. It shall be the duty of the Planning Commission to enforce these Regulations and to bring to the attention of the governing body of the City any violations or lack of compliance herewith.

b. Enforcement.

1. No person, firm or corporation for the purpose of making or effecting a subdivision within the territory subject to these regulations shall make any conveyance including without limitation any deed, 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 Planning Commission the approval of, and recording in the County Clerk's office, the final plat of either such subdivision or the section thereof for all or part of which such deed, mortgage, trust deed or contract for sale or other transfer is to be made. An offer to sell or otherwise transfer subdivision land 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.

2. The filing and recording in the County Clerk's office of a plat involving the subdivision of lands in the territory subject to these Regulations shall be without legal effect unless approved by the Planning Commission; provided however, that failure to comply with these Regulations shall not invalidate or affect title to any land within the areas of such plat, and provided further that if such plat shall bear the seal of the Commission it shall be presumed to have been approved thereby.

No building permit shall be issued for any part of the subdivision for which final plat approval has not been obtained.

c. Penalty. A person who violates these Regulations shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00); and each day's failure of compliance with any such provision shall constitute a separate violation. Each sale or transfer of land in violation of these Regulations shall constitute a separate offense. In addition, the Planning Commission or any designated enforcement official may institute a suit for injunction in the Circuit Court of the County to

restrain an individual or a governmental unit from violating the provisions of these Regulations.
(Passed 5-9-91.)

1351.16 SCHEDULE OF FEES.

Council may establish a uniform schedule of fees proportioned to the cost of checking and verifying proposed plats. An applicant shall pay the specified fee at the time of filing his application.

Council will establish a schedule of fees, charges and expenses, and a collection procedure for same, and other matters pertaining to these Regulations. The schedule of fees shall be posted in the office of the City Recorder, and may be altered or amended only by Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. (Passed 5-9-91.)

1351.17 FRONTAGE REQUIREMENT FOR LOCATION IMPROVEMENT PERMITS.

No permit for the erection of any building within a subdivision shall be issued unless the road giving access to the lot upon which such building is proposed to be located shall have received the legal status of a public road or shall have been dedicated to public use at the time of the taking effect of these Regulations or corresponds in its exact location with the road shown on a subdivision plat approved by the Commission, or with a road plan or plat adopted by the Commission, or is on a private right of way or easement approved as adequate by the Commission.

(Passed 5-9-91.)

ARTICLE 1355
Procedure for Subdivision Approval
1355.01 Introduction.
1355.03 Pre-application.

1355.02 General procedure.
1355.04 Preliminary plat.

1355.01 INTRODUCTION.

The procedures hereinafter specified provide for a pre-application procedure, for conditional approval of a preliminary plat, and for the approval of a final plat. The pre-application procedure and the conditional approval of the preliminary plat are optional to the applicant and are not a prerequisite to the approval of the final plat. However, these optional procedures are strongly recommended in that they provide the subdivider with an opportunity to resolve problems early in the proceedings and to make necessary modifications and revisions prior to incurring the expense of preparing a final plat.

(Passed 5-9-91.)

1355.02 GENERAL PROCEDURE.

(a) Classification of Subdivision. Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedure, which includes basically one step for a minor subdivision and two steps for a major subdivision:

1. Minor subdivision.
 - A. Final subdivision plat.
2. Major subdivision.
 - A. Preliminary plat.
 - B. Final subdivisions plat.

(b) Official Submission Dates.

1355.03 PRE-APPLICATION.

(a) Procedure for Pre-Application. The subdivider may meet with the Planning Commission or its designated representative prior to submitting the preliminary plat. The purpose of this meeting is to discuss early and informally the purpose and effect of these Regulations and the criteria and standards contained therein; to familiarize the developer with the Comprehensive Plan, the Major Thoroughfare Plan, the Parks and Public Open Space Plan, the Zoning Ordinance and the drainage, sewerage and water system of the City.

- (1)The subdivider may submit the following plans and data to the Commission:
 - a. General information. Written description of existing covenants, land characteristics, community facilities and utilities, the number of lots and sizes, price range, business area, playgrounds and proposed protective covenants, utilities and street improvements.

b. Location map. Map shall show relationship of the proposed subdivision to existing community facilities which serve or influence it and shall include development name, location, title, scale, north arrow and date.

c. Sketch plan. Sketch plan on a topographic map shall show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions and may be drawn free hand. The plan shall include all topographic data the Commission deems necessary for its consideration of the plan.

(2) After review and discussion with the subdivider, the Commission shall indicate the suitability of the plan for development into preliminary plans. (Passed 5-9-91.)

1355.04 PRELIMINARY PLAT

a. Application.

On reaching conclusions informally as recommended or required in Section 1355.03 regarding the subdivision program and objectives, the subdivider may submit the preliminary plat, together with three copies of the plat and the supplementary information specified in this section inclusive, to the Planning Commission, at least twenty days prior to the meeting of the Planning Commission.

b. Preliminary Plat Requirements.

The preliminary plat shall be drawn at scale not less than 100 feet to the inch and shall be one or more sheets 24 x 36 inches in size.

The preliminary plat shall contain the following information:

1. Proposed name of the subdivision, which shall not duplicate or closely approximate the name of any other subdivision in the City.
2. Location by section, range and township or other surveys.
3. Names, addresses and phone numbers of the owner, subdivider and professional engineer and registered surveyor who prepared the plat, and appropriate registration numbers and seals.
4. Date of survey.
5. Scale of the plat, north point.
6. Boundaries of the subdivision and its acreage.
7. Names of adjacent subdivisions, owners or adjoining parcels of unsubdivided land, and the location of their boundary lines.
8. Locations, widths and names of existing streets, railroad rights of way, easements, parks, permanent buildings, and corporation and township lines; location of wooded areas and other significant topographic and natural features within and adjacent to the plat for a minimum distance of 200 feet.
9. Zoning classification of the tract and adjoining properties and a description of proposed zoning changes, if any.

10. Existing contours at an interval of not greater than two feet if the slope of the ground is fifteen percent (15%) or less; and not greater than five feet where the slope is more than fifteen percent (15%).
11. Existing sewers, water lines, culverts and other underground structures, and power transmission poles and lines, within or adjacent to the tract.
12. Location, names and widths of proposed streets and easements.
13. Building setback lines with dimensions.
14. Location and dimensions of all proposed utility and sewer lines, showing their connections with the existing system.
15. Layout, numbers and approximate dimensions of each lot. When a lot is located on a curved street or when side lot lines are not at ninety degree angles, the width of the property line shall be shown.
16. Parcels of land in acres to be reserved for public use or to be reserved by covenant for residents of the subdivision.
17. A vicinity map at a scale of not less than 2,000 feet to the inch shall be shown on, or accompany, the preliminary plat. This map shall show all existing subdivisions, roads and tract lines and the nearest existing thoroughfares. It shall also show the most advantageous connections between the roads in the proposed subdivision and those of the neighboring areas.

(c) Supplementary Information. The following information shall be supplied in addition to the requirements in subsection (b) hereof.

1. State proposed use of lots, giving type and number of dwelling units and type of business or industry.
2. Location and approximate dimensions of all existing buildings.
3. For commercial and industrial development, the location, dimensions and approximate grade of proposed parking and loading areas, alleys, pedestrian walks, streets, and the points of vehicular ingress and egress to the development.
4. Description of proposed covenants and restrictions.

(d) Filing. The preliminary plat shall be considered officially filed on the day it is received by the Planning Commission and shall be so dated. A filing fee shall be charged, as indicated in Section 1351.16.

(e) Public Hearing. The Planning Commission on its own initiative or upon petition by a citizen or neighboring property owner may, prior to acting on a preliminary plat of a subdivision, hold a public hearing thereon at such time and upon such notice as the Commission may designate.

(f) Conditional Approval of Preliminary Plat.

1. The Planning Commission shall forward copies of the preliminary plat to such officials and agencies as may be necessary for the purpose of study and recommendation. These shall include at least the City Public Works Director and the County Health Departments. After receipt of reports from such officials and agencies, the Planning Commission shall determine whether the preliminary plat shall be approved, approved with modifications or disapproved. If a plat is

disapproved, the reasons for such disapproval shall be stated in writing. The Planning Commission shall act on the preliminary plat within thirty days after filing unless such time is extended by agreement with the subdivider. When a preliminary plat has been approved by the Planning Commission, the chairman shall sign all copies and return one to the subdivider for compliance with final approval requirements. Approval of the preliminary plat shall be conditional upon compliance with all other applicable statutes, ordinances, resolutions and regulations of the City and the Planning Commission.

2. Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for final approval of the Planning Commission.

(g) Final Plat.

1. Procedure for final plat.

a. The Subdivider shall submit a final plat of the subdivision and drawings and specifications of the improvements required therein. The final plat shall have incorporated all changes in the preliminary plat required by the Planning Commission. Otherwise, it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time.

b. A written application for approval for the final plat shall be submitted on forms provided by the Planning Commission, together with five copies of the plat and the supplementary information specified, shall be submitted to the Planning Commission. A filing fee shall be charged, as indicated in Section 1351.16.

c. Such application shall be submitted at least four weeks prior to a regular meeting of the Commission in order that a public hearing may be scheduled and the required fifteen days notice given. The date of the regular meeting of the Commission at which the public hearing on final approval including any adjourned date thereof is closed shall constitute the official submittal date of the plat for the purposes of these regulations.

d. The final plat drawings and specifications of improvements shall be a set of construction and utility plans prepared by a registered professional engineer. The plans shall include typical sections, plans and profile views, construction details and estimates of quantities. Prior to the granting of approval of the final plat the subdivider shall have installed the minimum required improvements, or shall have furnished a performance bond for the amount of the estimated construction cost of the ultimate installation and the initial maintenance of the improvements.

e. The application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks and easements, in a form approved by the City Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication as follows:

The owner, or his representative, hereby irrevocably offers for dedication to the City of Vienna all the streets, local government uses, easements, parks and required utilities shown in the within subdivision plat and construction plans in accordance with an irrevocable offer of

dedication dated _____, and recorded in the County Clerk's Office.

By _____
Owner or Representative

Date _____

The applicant shall deliver a full covenant and warranty deed to all such lands in proper form for recording, together with a title policy for the City in a sum not less than \$10,000 dollars, which sum shall be determined by the City Attorney before signing of the final subdivision plat.

f. The application shall be accompanied by the performance bond, if required, in a form satisfactory to the City Attorney and in an amount established by the Planning Commission and shall include a provision that the principal of the bond shall comply with all the terms of the resolutions of final subdivision plat approval as determined by the Planning Commission and shall include, but not be limited to, the performance of all required subdivision and off-site improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to the City free and clear of all liens and encumbrances on the premises.

g. The application shall be accompanied by stamped No. 10 envelopes addressed to each owner of property immediately adjacent extending 100 feet from the street frontage of such opposite property owners as are correct within the knowledge of the applicant as shown on the latest tax assessment roll.

h. The applicant shall pay the current cost of each street sign shown in the construction plans, which street signs shall be installed by the City.

2. Endorsement of health authorities. The final subdivision plat shall be properly certified by the Health Department or Health Officer as required by West Virginia Department of Health regulations and policies, with respect to all sewer and water facilities and that same comply with all rules, regulations and requirements of local government, regional, State and national authorities.

3. Notice of Public Hearing. Upon receipt of formal application and all accompanying material, the Planning Commission shall call a public hearing for the next scheduled meeting of the Planning Commission to be held at least four weeks after the date of the application. The Planning Commission will submit a notice for publication in one newspaper of general circulation to be published at least fifteen days prior to the public hearing and mail notices to all property owners, (as noted in subsection (g)(1)G. hereof), and will maintain file copies of the plat and construction plans for public review prior to the public hearing.

4. Public hearing and determination. At the public hearing, the applicant shall furnish an affidavit as to placement of posters, and the Planning Commission will give an opportunity to any interested persons to examine or comment upon the plat and construction plans. Within thirty days after closing of the public hearing, the Planning Commission shall approve, approve with conditions, or disapprove the subdivision application by resolution which shall set forth in

detail any conditions to which the approval is subject, or reasons for disapproval. In the final resolution the Planning Commission shall stipulate the period of time when the performance bond shall be filed or the required improvements installed, whichever is applicable. In no event shall a performance bond be submitted later than six months from the date of final resolution, together with all required documents and completion of required procedures. In no event shall the period of time stipulated by the Planning Commission for completion of required improvements exceed two years from the date of the final resolution. One copy of the final subdivision plat shall be returned to the subdivider with the date of approval, conditional approval or disapproval noted thereon, and the reasons therefore accompanying the plat.

5. Submission and review. Subsequent to the resolution of the Planning Commission, three paper copies of the construction plans, and one copy of the original of the subdivision plat on tracing cloth, and/or reproduction mylar, and two copies of the subdivision plat on sepia paper and two copies of the subdivision plat on paper shall be submitted to the Planning Commission for final review. A check payable to the County Clerk in the amount of the current filing fee shall be provided. No final approval shall be endorsed on the plat until a review has indicated that all requirements of the resolution have been met.

6. Vested rights. No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the Chairman of the Planning Commission. All requirements, conditions or regulations adopted by the Planning Commission applicable to the subdivision or on all subdivisions generally shall be deemed a condition for any subdivision prior to the time of the signing of the final plat by the Chairman of the Planning Commission. Where the Planning Commission has required the installation of improvements prior to signing of the final plat, the Planning Commission shall not unreasonably modify the conditions set forth in the final approval.

Final plat requirements. The final plat shall be legibly drawn in waterproof ink on tracing cloth or other material of equal permanence. It shall be drawn at a scale not less than 100 feet to the inch, and shall be one or more sheets 24 x 36 inches in size. If more than one sheet is needed, each sheet shall be numbered and the relation of one sheet to another clearly shown.

7. The final plat shall contain the following information:

a. Name of the subdivision, location by section, range and township, or by other survey number; date, north point, scale and acreage.

b. Name and address of the subdividers, and the professional engineer and/or registered surveyor who prepared the plat and appropriate registration numbers and seals.

c. Plat boundaries, based on accurate traverse, with angular and lineal dimensions. All dimensions, both linear and angular shall be determined by an accurate control survey in the field which must balance and close within the limit of one in 10,000.

d. Bearings and distances to nearest established street lines or other recognized permanent monuments.

e. Exact locations, right of way, and names of all streets within and adjoining the plat, and building setback lines.

f. Radii, internal angles, points of curvature, tangent bearings, lengths of arcs and lengths and bearings of chords of all applicable streets within the plat area.

g. All easements and rights of way provided for public services or utilities.

h. All lot numbers and lines with accurate dimensions in feet and hundredths.

When lots are located on a curve, the lot width at the building setback line shall be shown.

i. Accurate location and description of all monuments as required by Section 1359.03(0).

j. Accurate outlines of areas to be dedicated or reserved for public use, or any area to be reserved for common use of all property owners. The use and accurate boundary locations shall be shown for each parcel of land to be dedicated.

k. A copy of any restrictions and covenants the subdivider intends to include in the deeds to the lots in the subdivision.

l. Certification by a registered surveyor to the effect that the plat represents a survey made by him and that the monuments shown thereof exist as located and that all dimensional details are correct.

m. Notarized certification by the owner or owners of the adoption of the plat and the dedication of streets and other public areas.

n. Typical sections and complete profiles of streets and other related improvements to be constructed in the proposed subdivision.

8. Supplementary information. The following information shall be supplied in addition to the requirements in subsection (g)(2) hereof:

If a zoning change is involved, certification from the City Attorney shall be required indicating that the change has been approved and is in effect.

Certification shall be required showing that all required improvements have been either installed and approved by the proper officials or agencies, or that a bond or other surety has been furnished assuring installation of the required improvements.

9, Filing. The final plat shall be filed with the Planning Commission not later than twelve months after the date of conditional approval of the preliminary plat; otherwise it will be considered void unless an extension is requested by the developer and granted in writing by the Planning Commission.

10. Approval of final plat. The Planning Commission shall approve or disapprove the final plat within thirty days after the public hearing. Failure of the Commission to act upon the final plat within such time shall be deemed as approval of the plat. If the plat is disapproved, the grounds for disapproval shall be stated in the records of the Commission, and a copy of such record shall be forwarded to the subdivider. The Commission shall not disapprove the final plat if the developer has done everything that he was required to do and has proceeded in accordance with the conditions and standards specified in the conditional approved preliminary plat. If disapproved the subdivider shall make the necessary corrections and resubmit the final plat within thirty days to the Commission for its final approval.

11. Transmittal of copies. When the final plat has been approved by the Planning Commission, the original tracing shall be returned to the subdivider, for filing with the County Clerk after all necessary certifications are received.

12. Minor subdivisions (lot splits). Approval without a plat of a minor subdivision may be granted by the Planning Commission if the proposed division of a parcel of land meets all of the following conditions:

a. The proposed subdivision is located along an existing public road and involves no opening, widening or extension of any street or road;

b. No more than two lots are involved after the original parcel has been completely subdivided;

c. The proposed subdivision is not contrary to applicable subdivision or zoning regulations;

d. The property has been surveyed and a sketch and legal description of the property is submitted with the application. If the above conditions are met, the Planning Commission shall within 30 working days after submission approve such proposed division and, upon presentation of a conveyance for such parcel, shall stamp "Approved by the City of Vienna Planning Commission; no plat required." The authorized representative of the Commission shall sign the conveyance. (Passed 5-9-91.)

Article 1359

Requirements for Improvements, Reservations and Design

1359.01 General requirements

1359.02 Construction procedure and material

1359.03 General improvements.

1359.04 Lot Improvements

1359.05 Streets

1359.06 Blocks

- 1359.07 Drainage and Storm Sewers
 - 1359.08 Water facilities
 - 1359.09 Sewerage facilities
 - 1359.10 Sidewalks
 - 1359.11 Utilities
 - 1359.12 Public Uses
 - 1359.13 Preservation of Natural features and amenities
 - 1359.14 Non-residential subdivisions
 - 1359.15 Over-size and off-site improvements
 - 1359.16 Final Inspection
-

1359.01 GENERAL REQUIREMENTS.

The design standards in this article are the regulations for the manner in which streets, lots and other elements of a subdivision shall be arranged on the land. These standards will help to insure convenient and safe streets, creation of usable lots, provision of space for public utilities, reservation of land for recreational uses, and minimize the undesirable features of unplanned, haphazard growth. The Planning Commission has the responsibility for reviewing the design of each subdivision to insure that all of the requirements in this article are met.

(Passed 5-9-91.)

1359.02 CONSTRUCTION PROCEDURE AND MATERIAL.

The subdivider shall design and construct improvements to not less than the standards outlined in these regulations.

A complete set of construction plans, including profiles, cross sections, specifications and other supporting data, for the hereinafter required public streets, utilities and other facilities shall be submitted to the Public Works Director for review and approval. All construction plans shall be prepared in accordance with the following public improvement standards or specifications.

(Passed 5-9-91.)

1359.03 GENERAL IMPROVEMENTS.

(a) Conformance to Applicable Rules and Regulations. In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations:

1. All applicable statutory provisions.
2. The City Zoning Ordinance, Building and Housing Codes, and all other applicable laws of the appropriate jurisdictions.
3. The Official Master Plan, Official Map, Public Utilities Plan and Capital Improvements Program of the local government, including all streets, drainage systems and parks shown on the Official Map or Master Plan as adopted.

4. The special requirements of these Regulations and any rules of the Health Department and/or appropriate state agencies.
5. The rules of the State Highway Department if the subdivision or any lot contained therein abuts a State highway or connecting street.
6. The standards and regulations adopted by all boards, commissions, agencies and officials of the City.
7. Plat approval may be withheld if a subdivision is not in conformity with the above guides or policy and purpose of these Regulations established in Section 1351.04.

(b) Self—Imposed Restrictions. If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Ordinance or these Regulations, such restrictions or reference thereto may be required to be indicated on the subdivision plat, or the Planning Commission may require that restrictive covenants be recorded with the County Clerk.

(c) Plats Straddling Municipal Boundaries. Whenever access to the subdivision is required across land in another local government, the Planning Commission may request assurance from that attorney that access is legally established, and from that City Engineer that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

(d) Character of the Land. Land which the Planning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations or topography, utility easement, or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Commission to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

(e) Subdivision Name. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these Regulations. The Planning Commission shall have final authority to designate the name of the subdivision which shall be determined at sketch plan approval.

(f) Monuments. Markers and Pins.

1. Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shall be required by the County Surveyor or the City. The monuments shall be of such material, size and length as may be approved by the County Surveyor or the City.

2. Iron pins shall be placed at all lot corners and lot line angles and such other points as required by the County Surveyor or the City. The pins shall be of such size and length as approved by the County Surveyor or the City.

(Passed 5-9-91.)

1359.04 LOT IMPROVEMENTS.

(a) Regulations. All lots in the subdivision shall be designed and laid out in accordance with the following regulations:

1. All lots shall provide satisfactory building sites, properly related to topography and the character of surrounding development.
2. Each lot shall front on a public thoroughfare. The minimum lot sizes, widths and setbacks shall be as specified in **1325.03**. For slope areas where the average topographic slope is fifteen percent (15%) or greater, refer to the regulations for hillside development in Article 1363.
3. All side lot lines shall be at right angles to street lines and radial to curved street lines, except where the Commission determines that a variation to this rule would provide a better layout.
4. Lots with double frontage shall be avoided except where the Commission determines that it is essential to provide separation of residential development from arterial streets.
5. No corner lot shall have a width at the building line of less than seventy-five feet.
6. No lot should have an average depth which is more than three times its average width, nor shall it have a depth of less than 120 feet except that whenever a lot fronts upon an exterior curved portion of a street, the centerline radius of which is 100 feet or less then the required minimum lot depth may be reduced to not less than 100 feet.

(b) Debris and Waste. No cut trees, timber, debris, earth, rocks, stones, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of same shall be required prior to issuance of any certificate of occupancy on a subdivision. Nor shall any be left or deposited in any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements, whichever is sooner.

(c) Fencing. Each subdivision and/or developer shall be required to furnish and install fences wherever the Planning Commission determines that a hazardous condition may exist. The fences shall be constructed according to standards established by the City Engineer and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until such fence

improvements have been duly installed.

(d) Waterbodies and Watercourses. If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots. The Planning Commission may approve an alternative plan where by the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a local government responsibility. No more than twenty—five percent (25%) of the minimum area of a lot required under the Zoning Ordinance may be satisfied by land which is under water. Where a watercourse separates the buildable area of a lot from the street by

which it has access, provisions shall be made for installation of a culvert or other structure, of design approved by the City Engineer.

(e) Performance Bond to Include Lot Improvements. The performance bond shall include an amount to guarantee completion of all requirements contained in this section of these Regulations including, but not limited to, soil preservation, final grading, lot drainage, lawn—grass seeding, removal of debris and waste, fencing and all other lot improvements required by the Planning Commission.

Whether or not a certificate of occupancy has been issued, at the expiration of the performance bond, the local government may enforce the provisions of the bond where the provisions of this section or any other applicable law, ordinance or regulation have not been complied with.

(Passed 5-9-91.)

1359.05 STREETS.

A. General Requirements. All streets and roads of the subdivision shall conform with City Comprehensive Plans or Thoroughfare Plans, currently existing or hereafter adopted, and also meet the design standards in this article.

B. Regulations for Street Improvements.

1. A street sub—base shall be accurately graded to the required contour of the finished roadway and shall be compacted to at least ninety—eight percent (98%) of the original earth. During compaction, the moisture shall be such that proper compaction can be obtained.

2. All fill of more than twelve inches shall be filled in eight—inch layers and shall be properly compacted. All fill of more than four feet shall be put in under the supervision of a certified test laboratory technician who shall certify that the compaction is within allowable tolerance. Special attention shall be given to compaction over utilities that are under the paved portion of the street. All embankments, whether cut or fill, shall maintain a slope no greater than two feet of run to each one foot of rise. A berm of at least three feet shall be provided on all streets.

3. When the grade of the street is greater than two percent (2%), a French drain with a rear outlet shall be provided on each side of the street. This drain shall consist of a trench at least one foot wide and at least thirty inches deep. This trench shall be accurately sloped and shall be excavated so that the sides and bottom are straight and properly cleaned of any loose earth. The trench shall then be lined with typar cut long enough that the sides will turn over the top of the gravel fill to keep earth from filling into the gravel. A four-inch perforated PVC pipe shall be laid at the bottom of the trench, inside of the typar, and the trench shall be two-inch river gravel. Extreme care shall be exercised at all times that no earth shall wash into the T and gravel during construction. Other drains or drainage shall be provided when signs of water is encountered. On steep grades, a cross ditch of the French drain shall be provided at least every forty feet.

4. The above under-street drainage may be varied to fit the existing conditions but the described system shall follow the design

concept exactly.

5. All earth surfaces shall be wet down immediately before placing concrete and shall be kept damp at all times that concrete work is in progress.

6. All streets shall be at least twenty-six feet wide and shall be at least six inches thick, constructed of air entraining Portland cement concrete having an ultimate strength of 4,000 pounds per square inch in twenty-eight days. All streets shall have an integral cast curb six inches high. The concrete for this curb shall be placed before the street concrete shall have taken its initial set.

7. The strength requirement shall be determined by making three standard six-inch by twelve-inch cylinders for each day's pour. These cylinders shall be made by the method recommended by the Portland Cement Association, in the presence of the City Inspectors. These cylinders shall be broken at seven days and at twenty-eight days. The third cylinder may be broken to determine when to let traffic on the street. Traffic may be allowed when the concrete reaches eighty-five percent (85%) of the required **twenty-eight days** strength.

8. All streets shall have a chamber of at least three inches.

9. No concrete shall have a slump of more than six inches. This is to be measured by a standard slump cone test.

10. The surface of the street shall be finished with a rough broom finish. No troweling shall be permitted on the concrete before brooming.

11. As soon as the concrete has set enough, a heavy coat of an approved curing compound shall cover all surfaces. In no case shall the curing compound wait until the next morning to be applied to edges as soon as the form is stripped.

12. A one—half inch non—extruding expansion joint shall be installed at intervals of no more than fifty feet. Also, an expansion joint shall be provided at each tangent point of a major change of directions such as street corners or sharp curves. No "L" shaped pieces of pavement will be permitted at any time.

13. The concrete shall have a deep joint cut at intervals of no more than eleven feet with a deep jointer tool. This jointer shall have a depth of at least one and one—half inches. The center joint in the street may exceed this interval by two feet.

14. The City Inspector may, when he deems it necessary, have the street slab core drilled to determine the thickness and the strength of the concrete. If it is determined that the slab is in compliance, then the City shall pay for the test.

15. All slopes shall be seeded as soon as possible to eliminate erosion.

16. No concrete shall be poured in streets when the temperature is below thirty—eight degrees or when the temperature is forecast to go below thirty—two degrees within the next twenty—four hours.

17. Any concrete poured on frozen ground shall be removed and replaced.

18. Concrete shall be protected from freezing for at least seven days and no traffic shall be permitted for fourteen days. The total time that is below thirty—five degrees shall be added to the fourteen days. Exception to the above time will be permitted when a laboratory test of the concrete indicates that the strength is above eighty—five percent (85%) of the twenty—eight day ultimate required strength.

C. Street Surrounding Improvement.

1. Driveways. Driveways shall have a maximum grade of ten percent (10%/0). Driveways and curb cuts shall be located not less than three feet from the side lot line. Curb cuts for straight curbs and the flare for rolled curbs shall be three feet wider than the driveway pavement on each side.
2. Sidewalks. All sidewalks shall be constructed as set out in Article 909.02 of the Vienna Municipal Ordinances.
3. Street and walkway lighting.
 - A. The subdivider shall install street lights at each entrance (streets and walkways) to the subdivision and in each street intersection within the subdivision. In addition, whenever the distance between two adjacent street (walkway) lights would exceed 300 feet, then additional street lights shall be installed in such a manner that proper light intensity shall be provided and maintained.
 - B. New subdivision street (walkway) lighting shall be installed with all associated wiring underground.
4. Street trees. Trees should be provided by the subdivider in all subdivisions where sidewalks are required. The trees shall be species which are resistant to damage or disease and which do not cause interference with underground utilities, street lighting or visibility at street intersections. Existing trees should be retained in new subdivisions wherever possible.

D. Street Name Signs and Street Naming.

- (1) The applicant shall pay the actual installed cost for each street sign shown in the construction plans, which street signs shall be installed by the City.
- (2) For purposes of street naming, the following suffixes shall apply:
 - A. Avenue shall be used only for streets that run in a generally north-south direction;
 - B. Boulevard or Drive shall be used only for a large meandering type street;
 - C. Circle or Court shall be used only for cul-de-sac type streets that run in a generally east-west direction;
 - D. Lane or Place shall be used only for cul-de-sac type streets that run in a generally north-south direction;
 - E. Road or Way shall be used only for streets that run in a diagonal manner, either a generally northwest-southeast direction or a northeast-southwest direction;
 - F. Street shall be used only for thoroughfares that run in a generally east-west direction;
 - G. The words north, south, east or west should be avoided as part of a street name whenever possible.
- (3) Whenever a new street is constructed along the approximate alignment or extension of an existing street, its name shall be the same as that of the existing one.

(4) Whenever a street alignment changes direction more than seventy-five degrees without a return to the original alignment within a distance of 500 feet, then the name of the street shall be changed at the point of curvature.

(5) Whenever a cul-de-sac street serves not more than three lots, the name of the intersection shall apply to the cul-de-sac.

(6) To avoid duplication and confusion, the proposed name of all streets shall be approved by the Planning Commission prior to such names being assigned or used.

E. Local Street Design Standards.

1. The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Development Plan for the City adopted or amended, and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

2. Where such is not indicated in the Comprehensive Plan, the arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas, or conform to a major Thoroughfare Plan approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

3. All local streets shall be laid out that their use by through traffic will be discouraged, and all such streets shall be designed and constructed in accordance with the standards of width, length, grade and stopping sight distance as specified **AASHTO Design Standards**.

4. Cul-de-sac and loop type streets. All dead end street (cul-de-sac) and loop type local streets shall be designed and constructed in accordance with the standards as specified in **AASHTO Design Standards**.

5. Collector street design. All collector streets shall be designed and constructed in accordance with the standards as specified in **AASHTO Design Standards**.

6. Horizontal alignment. When there is an angle of deflection of more than ten degrees between two centerline tangent sections of a street, a curve of adequate radius shall connect them. Between reverse curves a minimum tangent of 100 feet shall be introduced.

7. Vertical alignment. All changes of grade shall be connected by vertical curves of a minimum length in feet equal to twenty times the algebraic difference in the rate of grade for arterial and industrial streets; for collector and local streets, fifteen times. No street grade shall be less than six-tenths of one percent (0.6%) and in no case shall a street grade be more than three percent (3%) within 100 feet of an intersection.

F. Special Street Design Standards.

1. Dead-end street. Permanent dead-end streets shall not be permitted. Temporary dead-end streets shall be permitted only as part of a continuing street plan, and only if a temporary

turnaround satisfactory to the Commission in design, is provided, and provisions for maintenance, and removal are advanced. Temporary dead-end streets longer than 200 feet shall not be permitted.

2. Half-streets. Dedication of new half-streets shall not be permitted. Where a dedicated or platted half-streets exists adjacent to the tract being subdivided, the other half shall be platted.

3. Marginal access street. Where a subdivision adjoins an arterial street, a marginal access street shall be designed, if the subdivision design is such that residential lots would require direct vehicular access onto the arterial highway. Points of access to the arterial street shall be spaced at a minimum of 1,320 feet. A planting strip having a minimum width of twenty feet shall be provided between the pavement of the arterial street and the pavement of the marginal access street. The minimum width of the marginal access right of way shall be fifty feet.

4. Alleys. Alleys shall not be approved in residential subdivisions, except where justified by extreme conditions. Alleys may be required in commercial and industrial districts if other provisions cannot be made for adequate service access. The minimum width for alleys shall be twenty feet for the right of way and eighteen feet for the pavement width.

5. Streets for commercial subdivisions. Streets having business developments and accessory parking areas shall be planned to connect with arterial streets so as not to generate traffic on local streets. The intersections of driveways from parking areas with arterial or collector streets shall be located so as to cause the least possible interference with traffic movement on the streets, and shall be located not less than 100 feet from the intersection of an arterial or collector street with any other street, and shall be spaced not less than 200 feet from each other. The Commission may require marginal access streets to provide maximum safety and convenience.

6. Streets for industrial subdivisions. Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively and shall connect with arterial streets so that no industrial traffic will be directed into any residential streets. The intersections of service streets from parking areas with arterial or collector streets shall not be less than 100 feet from the intersection of the arterial or collector street with any other street. Streets shall be planned to be extended to the boundaries of any adjoining land planned for industry, except for severe physical conditions or if the Commission finds such extension is not in accord with the approved plan of the area.

7. Sidewalks.

a. Sidewalks shall be required on both sides of the street in all residential subdivisions where the predominant lot width is less than 100 feet and on one side where the predominant lot width is greater than 100 feet but less than 150 feet. No sidewalks will normally be required where the predominant lot width is greater than 150 feet.

b. Public sidewalks shall be required for all commercial lots.

c. Public sidewalks may be required for industrial lots, subject to the approval of the Planning Commission.

G. INTERSECTION AND STREET DESIGN STANDARDS

1. The geometry of all streets and intersections of the above mentioned streets shall be designed and constructed in accordance with the current American Association of State Highway and Transportation Officials (AASHTO) and **AASHTO Design Standards**. **If the design standards stated in paragraphs (E), Local Street Design Standards and (F), Special Street Design Standards, immediately above conflict with AASHTO policies, the AASHTO policies shall govern unless otherwise approved by the planning commission. All plans involving the design of streets or intersections shall be prepared by an engineer registered by the State of West Virginia.**
2. Multiple intersections involving junctions of more than two streets shall be avoided.
3. Four-way intersections of local streets should be avoided and three-way or T-intersections should be encouraged wherever possible.

H. Bridges. Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the full expense of the applicant without reimbursement from the local government. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the Planning Commission, will be fixed by special agreement between the governing body and the applicant. Such costs shall be charged to the applicant pro-rata as the percentage of his land developed and so served.

I. Railroads. Railroad rights of way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

1. In residential districts a buffer strip at least twenty-five feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right of way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structure hereon is prohibited."
2. In districts zoned for business, commercial or industrial uses the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
3. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right of way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

J. Road Dedications and Reservations.

1. New perimeter streets. Street systems in the new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-streets is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.
2. Widening and realignment of existing roads. Where a subdivision borders an existing narrow road or when the Master Plan, Master Map or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his expense such areas for widening or

realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his own expense to the full width as required by these Subdivision Regulations. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the Zoning Ordinance whether the land is to be dedicated to the Municipality in fee simple or an easement is granted.

(Passed 5-9-91.)

K. Planning Commission Approval

The Planning Commission shall not be prohibited from approving a subdivision plat upon the basis that such plat contains streets not intended to be dedicated to the City, which streets may be designated thereon as "private streets", "private drive", "private way" or words of similar meaning, except that any such streets shown upon such plat shall conform, in all [expects, to the rules, regulations and ordinances governing the width, size and construction specifications of public streets then in effect at the time such plat is submitted for approval. (Ord. 17-98. Passed 10-8-98.)

1359.06 BLOCKS.

All blocks in the subdivision shall be designed and laid out in accordance with the following regulations:

- a. The arrangement of blocks shall be designed and arranged to accommodate lots and building sites of the size and character required in these Regulations or the Zoning Ordinance and to provide for the required community facilities.
- b. Irregularly shaped blocks, those intended for cul-de-sacs or loop streets, and those containing interior parks or playgrounds, may be approved by the Commission if properly designed and located and if the maintenance of interior public spaces is covered by agreements.
- c. No block shall be longer than 1,500 feet and the block width shall accommodate two tiers of lots, except where unusual topography or other exceptional physical circumstances exist.
- d. Where blocks are over 900 feet in length, a crosswalk easement not less than ten feet in width at or near the halfway point may be required, if necessary, to provide proper access to schools, recreational areas, shopping centers and other facilities. (Passed 5-9-91.)

1359.07 DRAINAGE AND STORM SEWERS.

a. General Requirements. The Planning Commission shall not recommend for approval any plat of subdivision which does not make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, and any other item, instrument, device, implementation or system related to stormwater management or surface water discharge and/or control, where required, shall be designed so as to meet the requirements for approval as set out in the Stormwater Management and Surface Water Discharge Control Ordinance found in Article 937 of the Vienna Codified Ordinances or its successor ordinance or ordinances.

1359.08 PLANNING AND ZONING CODE

(a.) Dedication of Drainage Easements.

1. General requirements. Where a subdivision is traversed by a watercourse, drainageway, channel or stream there shall be provided a storm water easement or drainage right of way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

2. Drainage easements.

a. 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 fifteen feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to natural watercourse or to other drainage facilities.

b. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

c. The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the Planning Commission.

d. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedure nor for computing the area requirement of any lot.

(Passed 5-9-91.)

1359.08 WATER FACILITIES.

(a) General Requirements.

1. Necessary action shall be taken by the applicant to extend a water supply system capable of providing domestic water use and fire protection.

2. Where a public water main is accessible the subdivider shall install adequate water facilities (including fire hydrants) subject to the specifications of the State or local authorities. All water mains shall be at least six inches in diameter.

3. Water main extensions shall be approved by the City Engineer and the Health Department.

4. To facilitate the above, the location of all fire hydrants and all water supply improvements, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing same shall be included in the performance bond to be furnished by the developer.

(b) Individual Wells and Central Water Systems.

1. In low-lying zoning districts, in the discretion of the Planning Commission, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the Health Department for its approval, and individual wells and central water systems shall be approved by the appropriate health authorities. Orders of approval shall be submitted to the Planning Commission.

2. If the Planning Commission requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the applicant shall make arrangements for future water service at the time the plat receives final approval. Performance or cash bonds may be required to insure compliance.

(c) Fire Protection Improvements. Fire hydrants shall be required for all subdivisions except those coming under subsection (b) hereof.

1. Fire hydrants with two and one-half inch outlets and one large pumping connection shall be provided by the subdivider in all subdivisions with public water supplies. The hydrants should be located between property lines and curbs with all outlets facing or parallel to the street. Hydrants shall be placed at the corners of all blocks and at mid-block for blocks exceeding 800 feet in length. Hydrants shall also be required at the entrance and end of all cul-de-sacs exceeding 400 feet in length.

2. The type of hydrant and control valves and the location of the hydrant shall be approved by the Fire Chief. The minimum size of any water line serving any hydrant shall not be less than six inches in diameter and should be circulating water lines. The size and location of water lines must be approved by the City Engineer. (Passed 5-9-91.)

1359.09 SEWERAGE FACILITIES.

(a) General Requirements. The applicant shall install sanitary sewer facilities in a manner prescribed by the approved plans. All plans shall be designed in accordance with the rules, regulations and standards of the Public Works Department, Health Department and other appropriate agencies. The Planning Commission shall not approve a subdivision unless the plans have been approved by the above agencies.

1992 Replacement

(b) High-Density Residential and Nonresidential Districts. Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot and to grades and sizes required by approving officials and agencies. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted. Sanitary sewerage facilities (including the installation of laterals in the right of way) shall be subject to the specifications, rules, regulations and guidelines of the Health Officer, City Engineer and appropriate State agency.

(c) Low— and Medium—Density Residential Districts. Sanitary sewerage systems shall be constructed as follows:

(1) Where a public sanitary sewerage system is reasonably accessible the applicant shall connect with same and provide sewers accessible to each lot in the subdivision.

(2) Where public sanitary sewerage systems are not reasonably accessible but will become available within a reasonable time (not to exceed fifteen years), the applicant may choose one of the following alternatives:

a. Central sewerage system, the maintenance cost to be

assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the applicant shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains; or

b. Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be laid from the house to the street line, and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer system shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.

(3) Where sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen years, the applicant may install sewerage systems as follows:

a. Medium—Density Residential Districts. A central sewerage system only. No individual disposal system will be

permitted. Where plans exist for a public sewer system to be built for a period in excess of fifteen years, the applicant shall install all sewer lines, laterals and mains to be in permanent conformance with such plans ready for connection to such public sewer main.

b. Low—Density Residential District. Individual disposal systems or central sewerage systems shall be used.

(d) Mandatory Connection to Public Sewer System. If a public sanitary sewer is accessible and a sanitary sewer is placed in a street or alley abutting upon property, the owner thereof shall be required to connect to such sewer for the purpose of disposing of waste, and no owner or occupant shall maintain upon any such property an individual sewage disposal system.

(e) Individual Disposal System Requirements. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Ordinance (if applicable) and percolation tests and test holes shall be made as directed by the local Health Officer and the results submitted to the Health Department. The individual disposal system, including the size of the septic tank and size of the tile fields or other secondary treatment device, shall also be approved by the Health Officer.

(f) Design Criteria for Sanitary Sewers.

1. These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where considered justified by the City Engineer.

2. Design factors. Sanitary sewer systems should be designed for the ultimate tributary population. Due consideration should be given to current zoning regulations and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewerage and industrial waste together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented hereinafter should be adequate in each case for the particular type of development indicated.

Sewers shall be

designed for the total tributary area using the following criteria:

One-and Two-Family Dwelling.

.02 cubic feet per second (c.f.s.)/acre.

Apartments

One-and Two story

.02 c.f.s./acre

Three-through six-story

.03 c.f.s./acre

Commercial

Small stores, offices, and

Miscellaneous business

.02 c.f.s./acre

Shopping centers

.02 c.f.s./acre

High Rise—As directed by City Engineer

Industrial-As directed by City Engineer

These design factors shall apply to watersheds of 300 acres or less. Design factors for watersheds larger than 300 acres and smaller than 1,000 acres shall be computed on the basis of a linear decrease from the applicable design factor for an area of 300 acres to a design factor of .01 c.f.s./acre for an area of 1,000 acres unless otherwise directed by the City Engineer. Design factors for watersheds larger than 1,000 acres shall be .01 c.f.s./acre unless otherwise directed by the City Engineer.

3. Maximum size. The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by the City Engineer.

4. Minimum size. No public sewers shall be less than eight inches in diameter.

5. Minimum slope. All sewers shall be designed to give mean velocities when flowing full of not less than 2.7 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an N value of 0.013. The design slopes shall be evenly divisible by four. The slopes shall be minimum for the size indicated. Exceptions to these minimum slopes shall be made at the upper end of the lateral sewers serving under thirty houses. Such sewers shall have a minimum slope of 0.76 percent. Where lateral sewers serve less than ten houses, the minimum slope shall be not less than one percent. (See Table 4).

TABLE 4: Minimum Slopes for Sewer Size Indicated

Sewer Size (in Inches)	Minimum Slope in Feet Per 100 Feet
8	0.60
10	0.44
12	0.36
15	0.28
18	0.24
21	0.20
24	0.16

6. Alignment. All sewers shall be laid with straight alignment between manholes.

7. Manhole Location. Manholes shall be installed at the end of each line; at all changes in grade, size or alignment; at all intersections; and at distances not greater than 400 feet for sewers fifteen inches and smaller, and 500 feet for sewers eighteen inches in diameter and larger.

8. Manholes. The difference in elevation between any incoming sewer and the manhole invert shall not exceed twelve inches except where required to match crowns. The use of drop manholes will require approval by the City Engineer. Inside drop manholes will require special considerations; however, in no case shall the minimum clear distance be less than that indicated above. When a smaller sewer joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.

9. Sewerage locations. Sanitary sewers shall be located within street or alley rights of way unless topography dictates otherwise. When located in easements on private property, access shall be to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley right of way where possible. Imposed loading shall be considered in all locations. Not less than six feet of cover shall be provided over top of pipe in street and alley rights of way or three feet in all other areas.

10. Cleanouts and lampholes. Cleanout and lampholes will not be permitted.

11. Water supply interconnections. There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into a potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

12. Relation of sewers to water mains. Relation of sewers to water mains must conform to Health Department regulations and policies. (Passed 5-9-91.)

1359.10 SIDEWALKS.

(a) Required Improvements.

1. Sidewalks shall be included within the dedicated non-pavement right of way of all roads.

2. Sidewalks shall be improved as **set out in 909.02** of these Regulations. A median strip of grassed or landscaped areas at least two feet wide shall separate all sidewalks from adjacent curbs.

(b) Pedestrian Accesses. The Planning Commission may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds or other nearby roads, perpetual unobstructed easement at least twenty feet in width. Easements shall be indicated on the plat. (Passed 5-9-91)

1359.11 UTILITIES.

a. Location. All utility facilities, including but not limited gas, electric power, telephone and CATV cables, shall be located underground throughout the subdivision. Wherever existing utility facilities are located aboveground, except where existing on public roads and rights of way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Commission the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

b. Easements.

1. Easements centered on rear lot lines shall be provided for utilities private and municipal); such easements shall be at least ten feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility in adjoining properties.

2. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat. (Passed 5-9-91.)

1359.12 PUBLIC USES.

(a) Parks, Playgrounds and Recreation Areas.

1. Recreation standards. The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated in the Master Plan or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography and general character and shall have adequate road access, for the particular purposes envisioned by the Planning Commission. The area shall be shown and

marked on the plat, "Reserved for Park and/or Recreation Purposes." When recreation areas are required, the Planning Commission shall determine the number of acres to be reserved on the basis of providing three acres of recreation area for every 100 dwelling units. The Planning Commission may refer such proposed reservations to the local government official or department in charge of parks and recreation for recommendation. The developer shall dedicate all such recreation areas to the local government as a condition of final subdivision plat approval.

2. Minimum size of Dark and playground reservations. In general, land reserved for recreation purposes shall have an area of at least four acres. In no case shall an area of less than two acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Where recreation land in any subdivision is not reserved, or the land reserved is less than the percentage in this subsection (a), the provisions of subsection (a)(4) hereof shall be applicable.

3. Recreation sites. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the performance bond. A recreation site shall have a total frontage on one or more streets of at least 200 feet, and no other dimension of the site shall be less than 200 feet in depth. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the local government official or department in charge of parks and recreation for a recommendation. All land to be reserved or dedicated to the local government for park purposes shall have prior approval of the governing body and shall be shown marked on the plat "Reserved for Park and/or Recreation Purposes."

4. Alternative procedure: money in lieu of land. Where, with respect to a particular subdivision, the reservation of land required pursuant to this section does not equal the percentage of total land required to be reserved in subsection (a)(1) hereof, the Planning Commission shall require, prior to final approval of the subdivision plat, that the applicant deposit with the governing body a cash payment in lieu of land reservation. Such deposit shall be placed in a Neighborhood Park and Recreation Improvement Fund to be established by the governing body. Such deposit shall be used by the local government for improvement of a neighborhood park, playground or recreation area including the acquisition of property. Such deposit must be used for facilities that will be actually available to and benefit the persons in such subdivision, if possible and be located in the general neighborhood of such subdivision. The Planning Commission shall determine the amount to be deposited, based on the following formula: two hundred dollars (\$200.00) multiplied by the number of building lots, less a credit for the amount of land actually reserved for recreation purposes, if any, as the land reserved bears in proportion to the land required for reservation in subsection (a)(1) hereof, but not including any lands reserved through density zoning.

5. Other recreation reservations. The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

(b) Other Public Uses.

1. Plat to provide for public uses. Except when an applicant utilizes planned unit development or density zoning in which land is set aside by the developer as required by the provisions of the Zoning Ordinance, whenever a tract to be subdivided includes a school, recreation uses (in excess of the requirements in subsection (a) hereof), or other public use as indicated on the Master Plan or any portion thereof, such space shall be suitably incorporated by the applicant into his sketch plat. After proper determination of its necessity by the Planning Commission and the appropriate local government official or other public agency involved in the acquisition and use of each such site and a determination has been made to acquire the site by the public agency, the site shall be incorporated by the applicant into the preliminary and final plats.
2. Referral to public body. The Planning Commission shall refer the sketch plat to the public body concerned with acquisition for its consideration and report. The Planning Commission may propose alternate areas for such acquisition and shall allow the public body or agency thirty days for reply. The agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.
3. Notice of property owner. Upon a receipt of an affirmative report the Planning Commission shall notify the property owner and shall designate on the preliminary and final plats that area proposed to be acquired by the public body.
4. Duration of land reservation. The acquisition of land reserved by a public agency on the final plat shall be initiated within twelve months of notification, in writing, from the owner that he intends to develop the land. Such letter of intent shall be accompanied by a sketch plan of the proposed development and a tentative schedule of construction. Failure on the part of the public agency to initiate acquisition within the prescribed twelve months shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with these regulations.

(Passed 5-9--91.)

1359.13 PRESERVATION OF NATURAL FEATURES AND AMENITIES.

a. General. Existing features which would add value to residential development or to the local government as a whole, such as trees, watercourses and falls, beaches, historic spots and similarly irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be welled and protected against change of grade. The sketch plat shall show the number and location of existing trees, as required by these Regulations and shall further indicate all those marked for retention, and the location of all proposed shade trees required along the street side of each lot as required by these Regulations.

b. Shade Trees Planted by Developer.

1. As a requirement of subdivision approval the applicant shall plant shade trees on the property of the subdivision. Such trees are to be planted within five feet of the right of way of the road or roads within and abutting the subdivision, or, at the discretion of the Planning

Commission, within the right of way of such roads. One tree shall be planted for every forty feet of frontage along each road unless the Planning Commission shall grant a waiver. Such waiver shall be granted only if there are trees growing along such right of way or on the abutting property which in the opinion of the Planning Commission comply with these Regulations.

2. New trees to be provided pursuant to these Regulations shall be approved by the Vienna Tree and Beautification Commission and shall be planted in accordance with the regulations of the Vienna Tree and Beautification Commission.

a. Such trees shall have a minimum trunk diameter (measured twelve inches above ground level) of not less than two inches.

b. Only oak, honey locust, hard maples, ginkgo, or other long—lived shade trees, acceptable to the Vienna Tree and Beautification Commission and to the Planning Commission, shall be planted.

c. Shade Tree Easement and Dedication. The preliminary plat and final plat shall reserve an easement authorizing the local government to plant shade trees within five feet of the required right of way of the local government. No street shall be accepted for dedication until the Vienna Tree and Beautification Commission shall inform the Planning Commission and the governing body that compliance, where necessary, has been made with these Regulations. (Passed 5-9-91.)

1359.14 NONRESIDENTIAL SUBDIVISIONS.

(a) General. If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the Planning Commission may require.

A nonresidential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Ordinance. Site plat approval and nonresidential subdivision plat approval may proceed simultaneously at the discretion of the Planning Commission. A nonresidential subdivision shall be subject to all the requirements of these Regulations, as well as such additional standards required by the Planning Commission, and shall conform to the proposed land use and standards established in the Master Plan, Official Map and Zoning Ordinance.

(b) Standards. In addition to the principles and standards in these Regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

1. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
2. Street rights of way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
3. Special requirements may be imposed by the local government with respect to street, curb, gutter and sidewalk design and construction.

4. Special requirements may be imposed by the local government with respect to the installation of public utilities, including water, sewer and storm water drainage.
5. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.
6. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas. (Passed 5-9-91.)

1359.15 OVER—SIZE AND OFF—SITE IMPROVEMENTS.

- a. The utilities, pavements and other land improvements required for the proposed subdivision shall be designed of over—size and/or with extensions provided to serve nearby land which is an integral part of the neighborhood service or drainage area as determined by the Planning Commission.
- b. Over—size Improvements. The subdivider shall be required to pay for only that part of the construction costs for the arterial streets, trunk sewers or water lines which are serving the proposed subdivision as determined by the City Engineer. The City shall pay the difference between the cost of required improvements for the proposed subdivision and improvements required to service the surrounding areas.
- c. Extensions to Boundaries. The subdivider may be required to extend the necessary improvements to the boundary of the proposed subdivision to serve adjoining unsubdivided land, as determined by the Planning Commission.
- d. Off—site Extensions. If streets or utilities are not available at the boundary of a proposed subdivision, and if the Planning Commission finds the extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a municipal expense until some future time, the subdivider may be required, prior to approval of the final plat, to obtain necessary easements or rights of way and construct and pay for such extensions. Such improvements shall be available for connections by subdividers on adjoining land. (Passed 5-9-91.)

1359.16 FINAL INSPECTION.

After completing all the improvements as required in these Regulations, the subdivider shall request, in writing, a final inspection by the City Engineer or designated authority of the City. (Passed 5-9-91.)

ARTICLE 1363

Regulations for Hillside Development

1363.01 General purpose.

1363.02 Minimum lot requirement for single family.

1363.03 Minimum hillside requirements.

1363.04 Requirement for grading plan.

1363.05 Requirement for cuts, fills and retaining walls.

1363.06 Requirements for street alignment, driveways and sidewalks.

1363.07 Other public facilities and utilities requirements.

1363.08 Undeveloped land.

1363.01 GENERAL PURPOSE.

All hillside areas shall be developed and constructed in accordance with these Regulations. A hillside area as referred to herein is defined as one with an average slope of more than fifteen percent (15%). The subdivider shall submit sufficient detailed information as to geologic conditions, soil types and underground water level in order that a determination can be made by the Planning Commission as to the safety of development of the particular location. (Passed 5-9-91.)

1363.02 MINIMUM LOT REQUIREMENT FOR SINGLE FAMILY.

All single family developments on a hillside area shall have a minimum lot size, width and depth as described in 1325.03. The slope, lot size, width and depth will be determined by the Planning Commission on an area-by-area basis. Deviation from these Regulations may be allowed subject to determination by the Planning Commission where exceptional circumstances warrant. (Passed 5-9-91.)

1363.03 MINIMUM HILLSIDE REQUIREMENTS.

The dimensions set out in 1325.03 are the minimum requirements governing the front yard, side yard, street right of way and pavement in a hillside subdivision with alternative paving methods submitted to the planning commission, forwarded to the City Engineer for review, acceptance by the Public Works Director and final approval by City Council.

(Passed 5-9-91.)

1363.04 REQUIREMENT FOR GRADING PLAN.

The grading plan shall show contour lines at five foot intervals where average slopes exceed fifteen percent (15%) and at two foot intervals where slopes are less than fifteen percent (15%). Elevations are to be based on the sea level datum (USGS), if available. The approximate lot layout and the approximate dimensions shall be shown for each lot and each building site. Where pads are utilized or proposed for building sites, engineering data shall show the existing topography and the approximate finished grades, location and size of each building site, and finished grade of streets prior to consideration of the final plat.

(Passed 5-9-91.)

1363.05 REQUIREMENT FOR CUTS, FILLS AND RETAINING WALLS.

a. No land shall be graded, cut or filled so as to create a slope exceeding a vertical rise of one foot for each two and one-half feet of horizontal distance between abutting lots, unless a retaining wall of sufficient height and thickness is provided to retain the graded bank. Major cuts, excavation, grading and filling, where the same materially changes the site and its relationship with surrounding areas or materially affects such areas, shall not be permitted if such excavation, grading and filling will result in a slope exceeding a vertical rise of one foot for each two and one-half feet of horizontal distance between abutting lots or between adjoining tracts of land, except where adequate provision is made to prevent slides and erosion by cribbing and retaining walls.

b. All fill shall be compacted to a density of ninety percent (90%) or greater. The City shall have the right to require such testing as is necessary to assure compliance.

c. Retaining walls may be required whenever topographic conditions warrant or where necessary to retain or cut slopes within the right of way. Such improvements shall require the approval of the Public Works Director. (Passed 5-9-91.)

1363.06 REQUIREMENTS FOR STREET ALIGNMENT, DRIVEWAYS AND SIDEWALKS.

(a) Street Alignment.

All vertical profile grades of streets shall be connected by vertical curves up to twenty percent (20%), but only for short, straight stretches.

Waiver of visibility and vertical curve requirements may be given subject to the approval of the Planning Commission.

(b) Driveways. The maximum grade on driveways shall not exceed ten percent (10%). Each drive shall provide sufficient space and distance to turn around prior to entering the street.

(c) Sidewalks. Concrete sidewalks having a minimum width of four feet and having a minimum thickness of four inches shall be installed along the uphill side of Group 1 (15-25%) subdivisions.

(Passed 5-9-91.)

1363.07 OTHER PUBLIC FACILITIES AND UTILITIES REQUIREMENTS.

All other public facilities such as water supply, sanitary sewer, drainage, storm sewer, culverts and bridges, fire protection, pipe lines and wires, shall be installed by the subdivider in accordance with the regulations from Article 1359 and meet with the State Department of Health's requirements.

(Passed 5-9-91.)

1363.08 UNDEVELOPED LAND.

Land subject to flooding, land with excessive slope and land deemed by the Planning Commission to be undesirable for development shall not be platted for residential occupancy, nor for such other uses as may involve danger to health, life or property or to aggravate erosion or flood hazard.

(Passed 5-9-91.)

ARTICLE 1367
Conditions of Acceptance
1367.01 Recording.
1367.02 General.
1367.03 Conditional approval (performance bonds)

1367.01 RECORDING.

Within thirty days after the date of approval of the final plat, the subdivider shall submit the plat to the County for recording. The County shall record the plat with the County Clerk and the recording fee shall be paid by the subdivider. Approval shall not become final and effective until such certificate has been filed.

- a. After an approved subdivision plat shall have been officially recorded, the streets, parks and other public improvements shown thereon shall be so considered to be a part of the official road map of the Municipality.
- b. Streets, parks and other public improvements shown on a subdivision plan to be recorded shall be offered for dedication to the Municipality.
- c. Every street, park or other improvement shown on a subdivision plan shall be deemed to be a private street, park or improvement until such time as the same shall have been offered for dedication and accepted by the Municipality, or until it shall have been condemned for use as public street, park or other improvement. (Passed 5-9-91.)

1367.02 GENERAL.

- a. The Commission shall not approve any subdivision plan except in conformance with the provisions of these Subdivision Regulations.
- b. The Commission may specify alterations, changes or modifications to our subdivision plan which it deems necessary and may make its approval subject to such alterations, changes or modifications.

c. No road, street, alley or related improvement shall be accepted as a part of the street system of the Municipality for maintenance unless opened, laid out, graded and improved in strict accordance with the provisions of these Subdivision Regulations. (Passed 5-9-91.)

1367.03 CONDITIONAL APPROVAL (PERFORMANCE BONDS).

(a) The Commission may approve a plat for a subdivision in which the improvements and installations have not been completed as required by the ordinance for the approval of plats if the applicant provides a bond which shall:

1. Run to the City of Vienna;
2. Be in an amount determined by the Commission to be sufficient to complete the improvements and installations in compliance with the ordinance;
3. Be with surety satisfactory to the Commission; and
4. Specify the time for the completion of the improvements and installations.

(b) Any funds received from any such bonds shall be used by the legally constituted body charged with making public improvements for the Municipality only for completion of the improvements and installations for which such bonds were provided, and without prior appropriation. The Municipality is hereby authorized to make these improvements and installations.

(Passed 5-9-91.)

ARTICLE 1371

Definitions

1371.01 General.

1371.02 Interpretation of terms or Words

1371.03 Definitions.

1371.01 GENERAL.

Unless a contrary intention clearly appears, the following words and phrases shall have, for the purposes of these Regulations, the meanings given in the following clauses. (Passed 5-9-91.)

1371.02 INTERPRETATION OF TERMS OR WORDS.

For the purpose of these Regulations, certain terms or words used herein shall be interpreted as follows;

- a. Words used in the present tense include the future.
- b. The singular includes the plural, and the plural number includes the singular.
- c. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- d. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, the word "should" is a preferred requirement.
- e. The words "used" or "occupied" includes the words "intended, designed or arranged to be used or occupied".
- f. The word "lot" includes the word "plat" or "parcel".
- g. The word "building" includes the word "structure" and shall be construed as if followed by the phrase "or part thereof".
- h. The word "street" means a way for vehicular traffic, whether designated as a court, boulevard, avenue, expressway, highway, lane and road or however otherwise designated.

i. The word "watercourse" includes channel, creek, ditch, drain, dry run, spring and stream.
(Passed 5-9-91.)

1371.03 DEFINITIONS.

1. "Administrative Assistant to the Planning Commission" means the officer as appointed by the governing body to administer these Regulations and to assist administratively other boards and commissions.
2. "Alley" means a minor street used primarily for vehicular service access to the back or side of properties abutting on another street.
3. "Applicant" means the owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.
4. "Arterial street" or "primary road" means a general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous route.
5. "Block" means a piece or parcel of land entirely surrounded by public highways or public streets, railroad, right of way, parks, streams, lakes or bodies of water or a combination of aforesaid bounds.
6. "Building site" means that portion of the lot or parcel of land upon which the building and appurtenances are to be placed, or are already existing, including adequate areas for sewage disposal, clearance, proper drainage and appropriate easements.
7. "Central sewer system" means an approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.
8. "Central water system" means the City public water treatment and distribution facilities.
9. "City Engineer" means any individual or firm, which is hired or contracted with by the City and who is licensed and registered by the State of West Virginia as an engineer in an appropriate field or discipline.
10. "Collector streets" means a thoroughfare, whether within a residential, industrial, commercial or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
11. "Comprehensive Development Plan" means a plan, or any portion thereof, adopted by the Planning Commission and/or Council showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, major streets, parks, schools and other community facilities. This plan establishes the goals, objectives and policies of the community.
12. "Covenant" means a written promise or pledge.
13. "Crosswalk" means a right of way which cuts across a block to facilitate access to adjacent streets and properties.
14. "Culvert" means a transverse drain that channels under a bridge, street or driveway.
15. "Cul—de—sac" means a local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.

16. "Dead-end street" means a street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.
17. "Density" means a unit of measurement; the number of dwelling units per acre of land.
 - a. "Gross density" means the number of dwelling units per acre of the total land to be developed.
 - b. "Net density" means the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.
18. "District I" (residential) - refers to any area zoned as residential, commonly designated as with the letter "R" including, but not limited to, areas zoned and designated as R1, R2, R3, and R4 as defined in the Codified Ordinances of the City of Vienna
19. "District II" (commercial) - refers to any area zoned as commercial, commonly designated with the letter "C" including, but not limited to, areas zoned and designated as C1 and C2, as defined in the Codified Ordinances of the City of Vienna.
20. "Dwelling unit" means space, within a building, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one family and its household employees.
21. "Easement line" means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.
22. "Expressway" means a major highway designed for high speed traffic with access limited to grade separated intersections.
23. "Feeder" means community-to-community connecting highways designed to carry a moderate volume of traffic from local streets to trunklines, with access to abutting properties unrestricted.
24. "Frontage" means that side of a lot abutting on a street or way and ordinarily regarded as a front of the lot, but it shall not be considered as the ordinary side of a corner lot.
25. "Governmental attorney" means the licensed attorney designated by the governing body to furnish legal assistance for the administration of these Regulations.
26. "Governmental engineer" means the licensed engineer designated by the governing body to furnish engineering assistance for the administration of these Regulations. When the City has not designated a City Engineer, the Public Works Director shall be substituted for the governmental engineer.
27. "Grade" means the slope of a road, street or other public way, specified in percentage (%/0) terms.
28. "High density residential" means land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed thirty-two dwelling units per gross acre.
29. "Improvements" means street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping and other related matters normally associated with the development of raw land into building sites.
30. "Individual sewage disposal system" or "on—site sewer" means a septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or

equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

31. "Local street" means a street primary for providing access to residential, commercial or other abutting property. It is not intended for through traffic.
32. "Loop street" means a type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of the 180 degree system of turns are not more than such 1,000 feet from such arterial or collector street, nor normally more than 600 feet from each other.
33. "Lot" means for purposes of these Regulations, a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of
 - a. A single lot of record
 - b. A portion of a lot of record;
 - c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
34. "Lot frontage" The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining the yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yard" in this section.
35. "Lot measurements" A lot shall be measured as follows:
 - a. Depth of a lot shall be considered to be the distance between the mid—points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
 - b. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line, provided, however, that the width between side lot lines at their foremost points (where they intersection with the street line) shall not be less than eighty percent (80%) of the required lot width.
36. "Lot, minimum area of" The area of a lot is computed exclusive of any portion of the right of way. of any public or private street.
37. "Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
38. "Lot types" Terminology used in these Regulations with reference to corner lots, interior lots and through lots is as follows:
39. A "corner lot" is defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the site lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.
40. An "interior lot" is a lot other than a corner lot with only one frontage on a street.

41. A "through lot" is a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
42. A "reversed frontage lot" is a lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.
43. "Out lot" is property shown on a subdivision plat outside of the boundaries of the land which is to be developed and which is to be excluded from the development of the subdivision.
44. "Low density residential" means land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed two dwelling units per gross acre.
45. "Major Thoroughfare Plan" means the comprehensive plan indicating the general location recommended for arterial, collector and local thoroughfares within the corporate limits of the City and/or unincorporated areas within three miles thereof.
46. "Marginal access street" means a local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and 'protection from arterial or collector streets. (Also called frontage street.)
47. "Medium—low density residential" means land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed four dwelling units per gross acre. For the purposes of street design requirements, the medium—low density residential classification shall be considered as medium density.
48. "Medium density residential" means land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed eight dwelling units per gross acre.
49. "Medium—high density residential" means land to be utilized for residential purposes, including public housing and industrialized units, which does not exceed sixteen dwelling units per gross acre. For the purposes of street design requirements, the medium—high density residential classification shall be considered as high density.
50. "Minor subdivision" means a division of a parcel of land that does not require a plat for approval by the Planning Commission. Also known as lot split.
51. "Monuments" means permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary lines, corners, and points of change in street alignment.
52. "Neighborhood Park and Recreation Improvement Fund" means a special fund established by the governing body to retain monies contributed by developers in accordance with the "money in lieu of land" provisions of these Regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.
53. "Nonresidential subdivision" means a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these Regulations.
54. "Open Space" means an area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming

- pools, tennis courts, and any other recreational facilities that the Planning Commission deems permissive. Streets, structures for habitation, and the like shall not be included.
55. "Pad" means a building site prepared by artificial means, including, but not limited to, grading, excavation or filling, or any combination thereof.
 56. "Parking space, off-street" For the purposes of these Regulations, an off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right of way.
 57. "Performance bond" or "surety bond" means an agreement by a subdivider or developer with the City for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.
 58. "Perimeter street" means any existing street to which the parcel of land to be subdivided abuts on only one side.
 59. "Planned unit development" means an area of land, in which a variety of housing types and/or related commercial and industrial facilities are accommodated in a pre-planned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these Regulations. The procedure for approval of such development contains requirements in addition to those of the standard subdivision, such as building design principles, and landscaping plans.
 60. "Plat" means the map, drawing or chart on which the developer's plan of subdivision (preliminary) is presented to the Planning Commission for approval and after such approval, to the County Clerk (final) for recording.
 61. "Public way" means an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right of way, road, sidewalk, street, subway, tunnel, viaduct, walk or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.
 62. "Registered engineer" means an engineer properly licensed and registered in the State.
 63. "Registered land surveyor" means a land surveyor properly licensed and registered in the State.
 64. "Right of way" means a strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.
 65. "Roads" and "streets". See "alley", "arterial street", "collector street", "cul—de—sac", "dead—end street", "expressway", "feeder", "local street", "loop street", "marginal access street" and "trunkline".
 66. "Setback line" means a line established by the Subdivision Regulations and/or Zoning Ordinance (resolution), generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in such Codes (See "Yard").

67. "Sewers" See "central sewer system" and "individual sewage disposal system".
68. "Sidewalk" means that portion of the road right of way outside the roadway, which is improved for the use of pedestrian traffic. See "Walkway".
69. "Subdivision" means:
- a. The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or
 - b. The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.
70. "Subdivider" or "developer" means any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these Regulations to effect a subdivision of land hereunder for himself or for another.
71. "Terrain classification": Terrain within the entire area of the preliminary plat is classified as level, rolling, hilly or hillside for street design purposes. The classifications are as follows:
- a. Level is that land which has a cross slope range of four percent (4%) or less;
 - b. Rolling is that land which has a cross slope range of more than four percent (4%) but not more than eight percent (8%);
 - c. Hilly is that land which has a cross slope range of more than eight percent (8%) but not more than fifteen percent (15%);
 - d. Hillside is that land which has a cross slope range of more than fifteen percent (15%).
72. "Trunkline" means major city-to-city connecting highways designed for high speed traffic with access to abutting properties partially restricted.
73. "Variance" means a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.
74. "Vicinity map" means a drawing located on the plat which sets forth by dimensions of other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services in order to better locate and orient the area in question.

75. "Walkway" means a dedicated public way, four feet or more in width, for pedestrian use only, whether along the side of a road or not.
76. "Watershed" means the drainage basin in which the subdivision drains or that land whose drainage is affected by the subdivision.
77. "Yard" means a required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three feet above the general ground level of the graded lot upward, provided accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
78. "Yard, front" means a yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.
79. "Yard, rear" means a yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal buildings.
80. "Yard, side" means a yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.
81. "Zoning Ordinance" means the part of the Comprehensive Plan, now or hereafter adopted, including an ordinance and zone map which divides the jurisdiction of the Commission into zones, with regulations, requirements and procedures for the establishment of land use controls. (Passed 5-9-91.)

909.02 REQUIREMENTS GENERALLY.

All sidewalks or footways hereafter constructed along and beside any street in the City shall:

(a) Be of uniform width with other sidewalks of the street and in no event to be less than four feet in width.

(b) Be constructed of concrete material unless permission is given by Council for the use of some other material.

(c) Be constructed so that the inside line of the sidewalk is the outside line of the lot abutting on the street where the sidewalk is constructed, or constructed on a line as plotted by the City Engineer and adopted by Council.

(d) Be constructed on a line with all other sidewalks along the street and free of offsets and steps and on the same grade with the street and curb along which the sidewalk is constructed. (1965 Code §18-9)

(e) Be at a minimum depth of four inches.

Amendment to Article 537.04 - Safety and Sanitation - Duty of Owner to Cut Weeds

a. It shall be the duty of the owner of any lot, tract or parcel of land adjacent to any street or sidewalk within the City to cause the grass, weeds and foreign growth thereon to be cut at least once each month so that the grass, weeds, and foreign growth does not obtain a height of more than six inches during the months of April, May, June, July, August and September of each year, and at such other times as the Mayor may direct, to prevent such lot, tract or parcel of land from becoming unsightly, unwholesome, offensive or a menace to health or safety.

Public grass strips.

b. Public grass strips.

1. All unpaved spaces of ground between the property line on any street or alley, whether opened for traffic or not, or any public place, and the abutting sidewalk and/or street; and all unpaved spaces of ground between any such sidewalk and the curb are declared to be public grass strips and shall be under the immediate control, care and keeping of the owners or occupants of the abutting premises;

2. Such owners and occupants shall be held responsible for the care and preservation of the premises.

3. The owner shall sprinkle grass seed or place sod and carefully mow the grass whenever it has attained a height of ten inches and shall, whenever necessary, keep it sprinkled; and they shall see that there is no accumulation of paper, trash, filth or dirt on the premises.

4. Property owners shall be permitted to plant flowers and shrubs in the public grass strips whenever the width will permit this to be done, and to put up such temporary wire net fencing or other protection as may be approved by the Code Enforcement Director for the protection of flowers, grass, shrubbery or flower seeds planted in the public grass strips.

5. Subject to approval by the Vienna Tree and Beautification Commission, the Code Enforcement Director may also grant permits to abutting property owners to plant trees of approved kind in any of the public grass strips where the strip is sufficiently wide to allow trees and they will not injure the street paving, sidewalks or sewers, but only such trees as shall be approved by the director of public grounds shall be so planted.

6. No hedges exceeding the limits as set out in 1329.02 of the Codified Ordinances of the City of Vienna shall be allowed in any public grass strip; and if any hedge is planted in any such strip, it shall always be kept neatly trimmed and vacant spaces replanted by the abutting property owner or occupant. No public grass strip shall be lowered below the grade

of the sidewalk except by permission of the Code Enforcement Director and the Public Works Director.