FINAL DRAFT:

for
Public Hearings

June 6, 2017

Subdivision Ordinance

Martinsville
A CITY WITHOUT LIMITS

prepared for:

The Department of Community Development

prepared by:

The Cox Company

INTRODUCTION TO THE SUBDIVISION ORDINANCE UPDATE

Introduction to the Updated Subdivision Ordinance

Over two years in its preparation, the updated Subdivision Ordinance is intended to replace the existing ordinance and to introduce improved standards, organization and codification. Most importantly, the recommended ordinance is coordinated with the revised Zoning Ordinance, with the two documents combining to yield a unified development ordinance that will simplify and clarify the methods and means by which subdivisions are reviewed and approved in the City. Towards this end, the ordinance recognizes subdivision design standards that better address 21st century challenges posed by urban development.

The accompanying draft Subdivision Ordinance has undergone ongoing input by City Staff and Commission. During this current period during which the City Council is asked to review the revised document, questions and concerns will inevitably arise, even if only due to the fact that this has a different "look and feel" from the former ordinance. To aid in your review, the following narrative summarizes the key elements of each of the eleven new sections along with a brief discussion of the benefits of the various enhancements. Each section isolates particular topics of the ordinance, eliminating overlap. This approach establishes thorough categories that focus on authority, process, design standards, bonding, administration and the like. For example, Section 1 singularly focuses on the linkage between current State enabling subdivision statutes and the City's Subdivision Ordinance.

List of Subdivision Ordinance Sections

The update of the City's Subdivision Ordinance is proposed to contain eleven sections that update, reorganize and replace the ten sections in the current ordinance. These include:

1. **Constitution and Purpose**
2. **General Regulations**
3. **Requirements for Subdivision Improvements**
4. **Subdivision Design Standards**
5. **Subdivision Approval Process**
6. **Subdivision Bonds and Surety**
7. **Preliminary Subdivision Plat Requirements and Checklist**
8. **Final Subdivision Plat Requirements and Checklist**
9. **Residential Lot Development Plans**
10. **Violations, Penalties and Remedies**
11. **Definitions**

The following provides a summary of the content and relevant enhancements that will be found in your review of the updated ordinance:

Section 1: Constitution and Purpose

- The stated purposes of the ordinance and its relationship to overarching City objectives are expanded and include more thorough documentation of the rationale for the subdivision ordinance.
- The enabling authority of the ordinance and the definition of subdivision are more clearly presented and formatted.
- Topics that have a legal underpinning and supplement the foundation of the ordinance are expanded, better organized and codified this section.

Section 2: General Regulations

- The specific objectives sub-section of the ordinance are documented in a fashion consonant with enabling statutes.
- An expanded summary of the application and compliance expectations is presented.
- A separate sub-section (2.D) focuses on administrative and enforcement procedures. Existing documentation is unclear as to the plat submission and approval process. New documentation addresses the option and pathway for either the Zoning Administrator or the Planning Commission to review preliminary and final plats.
- An expanded treatment of "minor subdivisions" clarifies the definition and conditions that provide for more timely and efficient administrative approval.
- A separate sub-section (2.E) is incorporated to include requirements for cluster subdivisions. This includes a reference and linkage to zoning district requirements as well as the recognition and provisions for alternative design standards.
- A separate sub-section (2.F) is incorporated for future Traditional Neighborhood Development (TND) projects. It recognizes areas of flexibility required under subdivision regulations to achieve the TND principles included in the comprehensive plan and the zoning ordinance.
- Separate sub-sections are incorporated to recognize provisions of the State statutes, including pro-rata share funding options for water, sewer, drainage, and transportation improvements.
- A separate sub-section (2.M) is added to address opportunities and procedures for certain waivers, variances and substitutions to the otherwise fixed standards and regulations of the ordinance; flexibility is provided for the Zoning Administrator in making certain determinations.

- Additional sub-sections are added to more clearly organize regulations for plat revisions, re-subdivision of land, plat vacation, and location survey and plan requirements.

Section 3: Requirements for Subdivision Improvements

- The definition of and expectation for the range of public improvements associated with subdivision development is expanded, codified, and more clearly defined.

Section 4: Subdivision Design Standards

- The design standards for subdivisions are reorganized and presented in ten separate categories:

  B.1 Streets
  B.2. Blocks
  B.3. Lots
  B.4. Monuments and Lot Markers
  B.5. Easements
  B.6. Storm Drainage
  B.7. Water and Sewer Systems
  B.8. Floodplains
  B.9. Fire Protection and Hydrants
  B.10. Gas, Electric and Telephone

- Streets: Additional and enhanced standards are incorporated that apply to cul-de-sacs, interconnectivity of streets, half-street sections, hate strips, traffic volume criteria, roundabouts, design geometry, street gradients, service drives, street and right of way classification schemes, private streets and alleys, sidewalk and street light requirements, and sight distance criteria.

- Blocks: Standards for block length and depth are amended; irregular block waivers addressed; certain areas of flexibility introduced for administrative review.

- Lots: Flexibility language provided for TND-O district residential cluster development projects; expansion of pipestem lot standards; lot size and area; double frontage lots; double frontage lots; remnants and outparcels.

- Monuments: Installation requirements for subdivision monuments and lot markers.

- Drainage: Relationship to updated State stormwater management requirements; documentation of stormwater management and BMP easements.

- Water and sewer: Improved organization of design criteria expectations; flexibility for acceptance of design standards by the City Engineer.

- Floodplains: Expanded provisions for requiring submission of floodplain engineering studies that address both pre- and post-development analysis.

Section 5: Subdivision Approval Process

- Clarification of the subdivision application process for both preliminary and final plats and plans.
- Establish review and approval timeframes consistent with current State enabling legislation.
- Include statutory provisions for preliminary and final plan review by State and Federal agencies where appropriate (such as state stormwater management regulations and wetlands permits.)
- Introduction of changes to statutory preliminary plat requirements and waiver provisions to address subdivisions greater than 50 lots.
- Expansion of the requirements for and expectations of the Subdivision Pre-Application Conference; establishment of timeframes for scheduling of conferences.
- Documentation provided for eligible public sector participants on the Subdivision/Plan Review Committee.
- Documentation of authority of the Zoning Administrator to act to either (1) approve plats and plans administratively, or (2) forward them to the Planning Commission for public review and final approval.
- Documentation of authority of the Planning Commission to request, on its motion, the review of a preliminary or final plat and plan at a public meeting.
- Establish requirements for the Preliminary and Final Plat Checklists; Requiorements for certification of completeness of a mandatory application checklist by plat and plan preparer.
- Reorganization of the application process and timeframes to better reflect State enabling statutes.
- Introduction of a process for the evaluation of a “complete submission” prior to distribution of plats and plans to agencies.
- Incorporation of language reflecting State statutes for relationship of preliminary plat to the final plat; documentation for timeframe of plat validity, expiration and/or extension of approval lifetime of plats and plans.
- Incorporation of language linking the requirements for the final subdivision plat and the public improvements plan; expansion of requirements for exhibits to be included with the public improvements plan.
- Provision of a flow chart to summarize the application and approval process for preliminary and final subdivision plats.
- Clarification of approval conditions for the final subdivision plat.

Section 6: Subdivision Bonds and Surety

- Reorganization of surety requirements into a independent chapter.
- Clarification of what constitutes public improvements and infrastructure to be included in the bond amount estimate;
- Expanded provisions for the extension of the bond agreement; revised standards for bond releases.
- Requirements and provisions for maintenance (warranty) bonds subject to release of subdivision surety (performance) bonds.

Section 7: Preliminary Subdivision Plat Requirements and Checklist

- Expansion and clarification of matters to be discussed and determined at the Pre-Application Conference for the Preliminary Subdivision Plat.
- Requirement for and detailed listing of minimum information required on the Preliminary Subdivision Plat title sheet.
- Detailed listing of information required on the Preliminary Subdivision Plat submission exhibits.
- Provisions for surveyor or engineer's certification that the checklist and plat responds to Subdivision Ordinance requirements.

Section 8: Final Subdivision Plat Requirements and Checklist

- Expansion and clarification of matters to be discussed and determined at the Pre-Application Conference for the Final Subdivision Plat and Public Improvement Plans, as appropriate.
- Requirement for and detailed listing of minimum information required on the Final Subdivision Plat title sheet.
- Detailed listing of information required on the Final Subdivision Plat submission exhibits.
- Plan preparer's certification language to be included on the cover sheet of the final plat and public improvements plan.
- Language related to property owner's statements of consent and dedication to be included with the plat and public improvements plan.
- Provisions for surveyor or engineer's certification that the application checklist and final plat responds to Subdivision Ordinance requirements.

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Section 9: Single Family Residential Lot Plans

- Establish requirements for submission of a residential lot plan to accompany building permit applications for single family residences located on lots less than 20,000 square feet in area.
- Residential lot plans to be prepared by applicant and reviewed by the Zoning Administrator concurrently with the review of the building permit application by the Building Official.
- Specific requirements for the residential lot plan exhibits.

Section 10: Violations

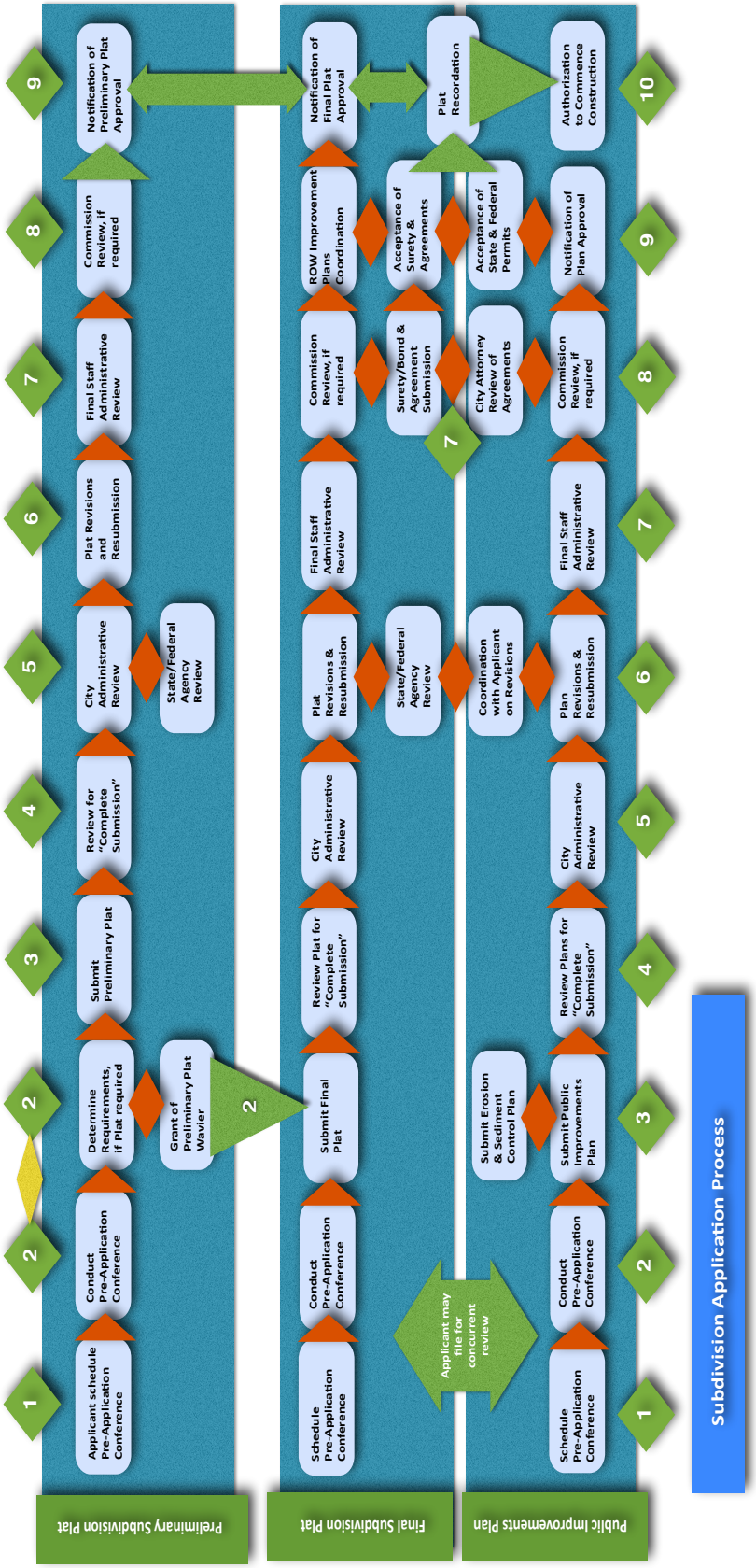
- Expansion, clarification and reorganization of topical matters related to violations, penalties and remedies.

Section 11: Definitions

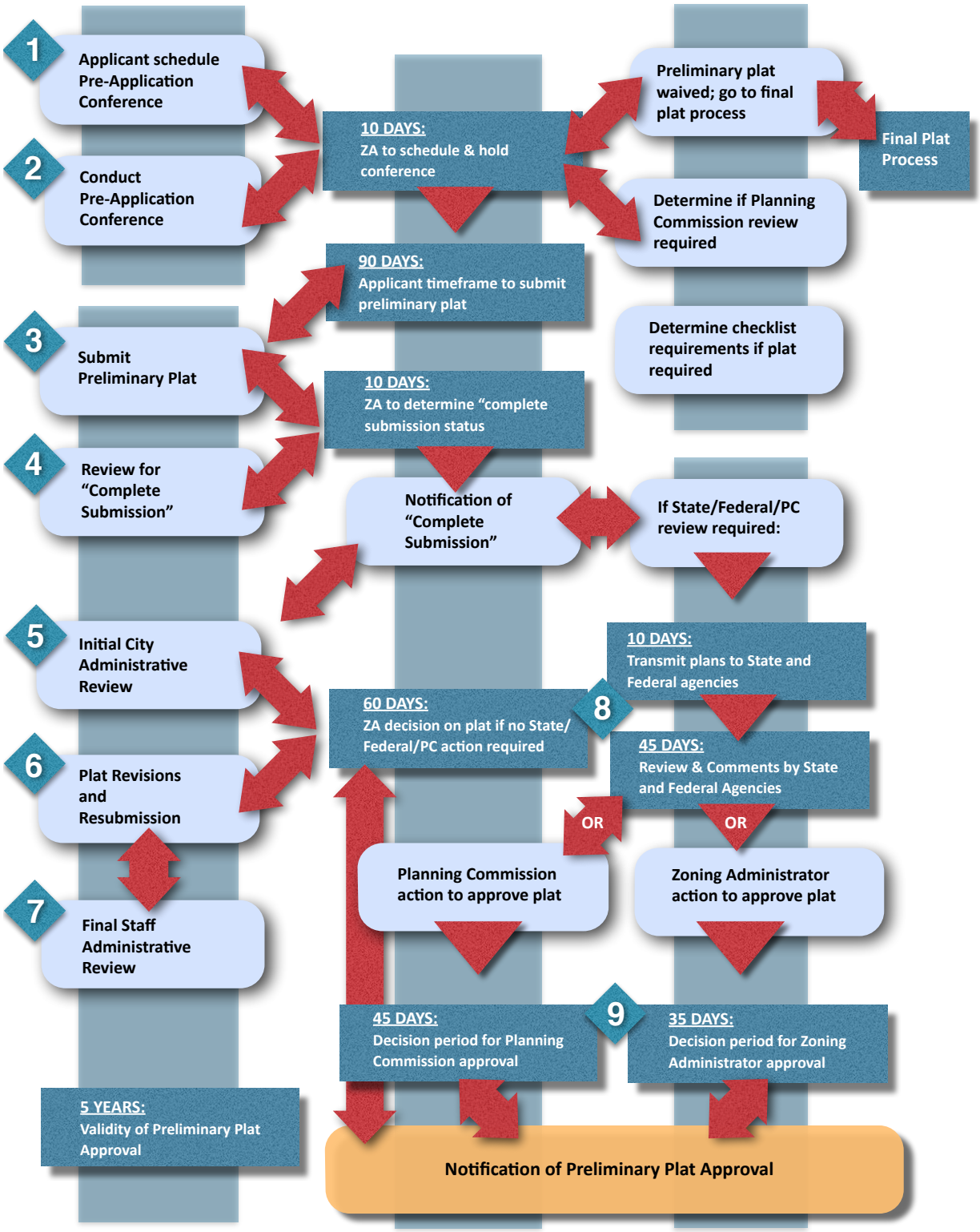
- Addition of additional words and concepts to the definition section; clarifications and corrections to certain existing definitions.

Appendix: Subdivision Application Process and Critical Path Graphics

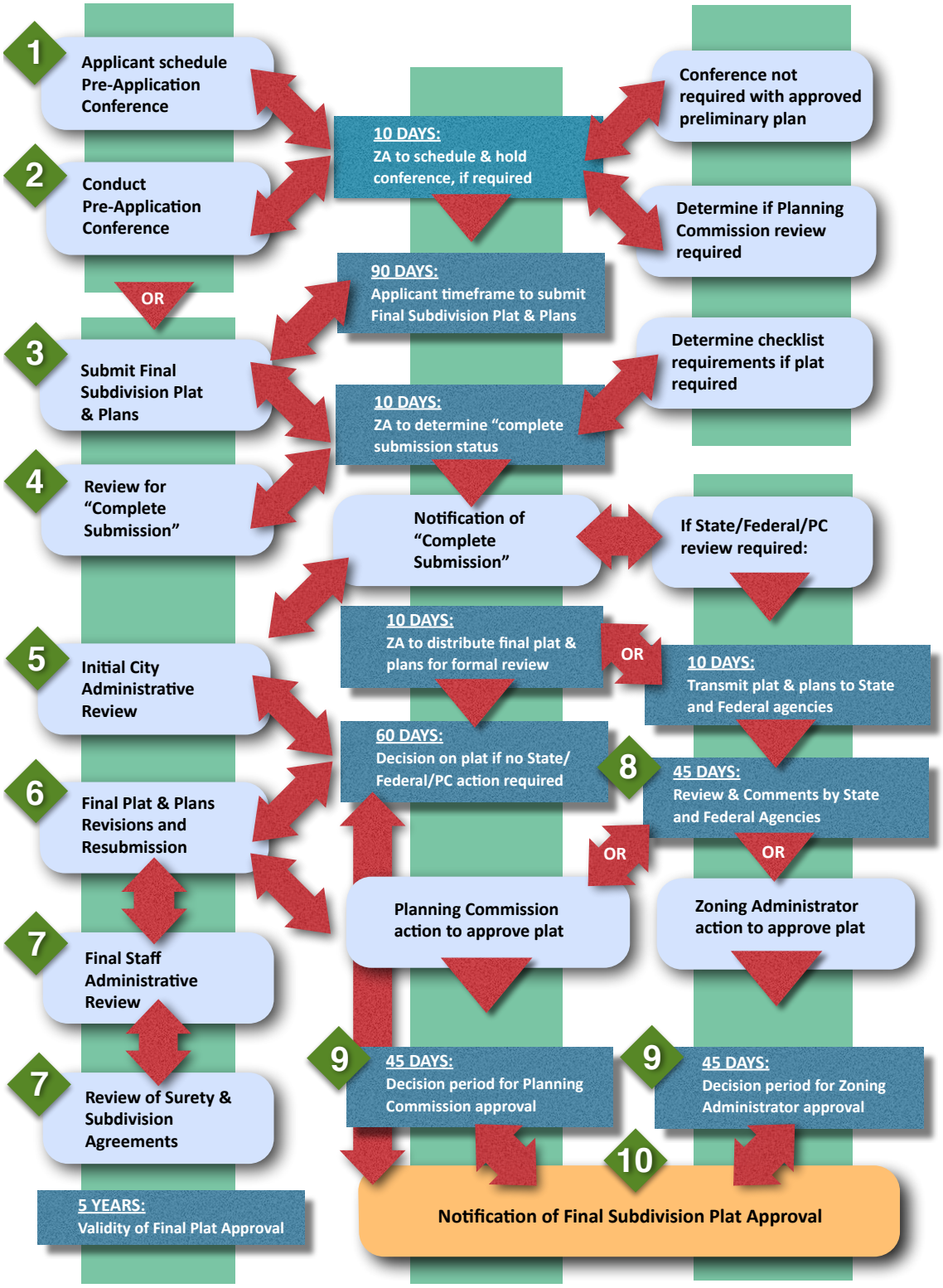
- The existing ordinance does not clearly present the process by which subdivisions are approved nor does it comprehensively offer review and approval procedures. As a result, in the past the Staff has been forced to "invent" optional procedures not covered by the ordinance. This process is now more clearly outlined to ensure that both applicant, Staff and the Planning Commission understand the sequence of reviews and approvals.
- See following pages for draft graphics summarizing the application and approval process to be inserted into the final document.
- The process diagrams provide an overview of the steps towards plat and plan approval but are not a substitute for the detailed documentation contained within the General Regulations (Section 2) and Subdivision Approval (Section 5) chapters of the ordinance.


Preliminary Subdivision Plat
1
Applicant schedule Pre-Application Conference
2
Conduct Pre-Application Conference
2
Determine Requirements, if Plat required
Grant of Preliminary Plat Wavier
3
Submit Preliminary Plat
4
Review for "Complete Submission"
5
City Administrative Review
State/Federal Agency Review
6
Plat Revisions and Resubmission
7
Final Staff Administrative Review
8
Commission Review, if required
9
Notification of Preliminary Plat Approval
Final Subdivision Plat
Schedule Pre-Application Conference
Conduct Pre-Application Conference
2
Submit Final Plat
Review Plat for "Complete Submission"
City Administrative Review
Plat Revisions & Resubmission
State/Federal Agency Review
Final Staff Administrative Review
Commission Review, if required
Surety/Bond & Agreement Submission
7
Acceptance of Surety & Agreements
ROW Improvement Plans Coordination
Notification of Final Plat Approval
Plat Recordation
Applicant may file for concurrent review
Public Improvements Plan
1
Schedule Pre-Application Conference
2
Conduct Pre-Application Conference
Submit Erosion & Sediment Control Plan
3
Submit Public Improvements Plan
Review Plans for "Complete Submission"
4
City Administrative Review
5
Coordination with Applicant on Revisions
Plan Revisions & Resubmission
6
Final Staff Administrative Review
7
City Attorney Review of Agreements
Acceptance of State & Federal Permits
Commission Review, if required
8
Notification of Plan Approval
9
Authorization to Commence Construction
10
Subdivision Application Process

Preliminary Subdivision Plat Process



Final Subdivision Plat Process



Section 1:

CONSTITUTION AND PURPOSE

A. Title and Application

The regulations embraced in this document shall be known, cited and referred to as the "Subdivision Ordinance of the City of Martinsville, Virginia." The provisions of the Subdivision Ordinance (or "ordinance" shall apply to all subdivided land in the City of Martinsville.

B. Purpose and Intent

The Subdivision Ordinance of the City of Martinsville, Virginia (hereinafter "ordinance") is intended to guide and facilitate the orderly, beneficial growth of the community, to assure the orderly subdivision of land and its development, and for the general purpose of promoting the health, safety and general welfare of the public, and of further accomplishing the objectives of Section 15.2-2240 and other sections of the Code of Virginia, as amended.

This ordinance is adopted for the following purposes:

- *To ensure that the growth of the community is consonant with effective land use practices and the efficient and economical use of public funds;*
- *To ensure that residential developments are created to promulgate a healthy environment for family life;*
- *To improve the public health, safety, convenience, and welfare of the citizens of the City;*
- *To clearly establish the procedure which must be followed in order to subdivide land in the City, subject to this ordinance;*
- *To ensure that this process includes appropriate and applicable reviews; and*
- *To ensure that all improvements required by this ordinance will be designed, constructed, and maintained so as not to become an undue burden on the City and its citizens.*

C. Authority for Subdivision Ordinance

The City Council hereby exercises the police power conferred by Chapter 22 of Title 15.2 of the Code of Virginia to assure the orderly subdivision of land and to implement the Comprehensive Plan of the City.

D. Subdivision Definition

The term "subdivision" means the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land.

The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with this ordinance. The term shall also apply to the consolidation of lots into a newly defined lot.

E. Severability and Validity

Should any Section, section or part of this ordinance be decided by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part held unconstitutional or invalid.

F. Conflicting Ordinances

If another State or Federal statute or City of Martinsville ordinance or regulation contains conflicting provisions with this ordinance, the more restrictive of the provisions, ordinances, or regulations shall govern.

G. Minimum Requirements

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, or general welfare. It is not intended by this chapter to interfere with, abrogate or annul any subdivisions, recorded lots, easements, covenants, or other agreements between parties executed prior to the effective date of this ordinance.

H. Relation to Other Laws and Contracts

The requirements of this ordinance are separate from, but supplementary to, all other applicable requirements of the City Code as well as the zoning ordinance, the erosion and sediment control ordinance, other City land use regulations, adopted City design and construction standards, state and federal law, private agreements and covenants, proffers and conditions of zoning, other applicable ordinances and regulations, and specific standards which may be approved from time to time by the City Engineer and the Zoning Administrator.

I. Effective Date

This ordinance was adopted on _____ by the City Council of the City of Martinsville, Virginia, and became effective at 5:00 pm on the same date, at which time all previous subdivision provisions and ordinances applicable to the City of Martinsville were repealed.

J. Words Defined

Definitions of words not specifically defined in this ordinance shall be as defined in the "Definitions" of Section II of the City's zoning ordinance or as otherwise defined in other adopted City regulations, plans and standards. In absence of a definition or conflict in related definitions, the definition shall be provided by the Zoning Administrator, who may refer to other professional and creditable sources for the purposes of obtaining such definition.

K. Certified Copy

A certified copy of the ordinance, as may be amended, shall be filed in the Office of the Zoning Administrator and in the Office of the City Manager.

Section 2:
GENERAL REGULATIONS

A. General Effect

The effect of the Subdivision Ordinance shall be consonant with the objectives of the City:

- to assure the orderly subdivision of land and its development,
- to coordinate the development of streets within and contiguous to any subdivision,
- to establish adequate provisions for water, sewer, drainage, grading, flood control and other public purposes,
- to promulgate acceptable physical standards and criteria for subdivision improvements,
- to provide for dedication of public rights-of-way, and
- to serve in implementing the adopted Comprehensive Plan, Official Map, Zoning Ordinance, and other City adopted land use plans.

To ensure that these objectives are met for each proposed subdivision, a Preliminary Subdivision Plat *("preliminary plat")* and a Final Subdivision Plat *("final plat")* shall be required for review and approval.

B. Prior Approvals

Nothing in this ordinance shall be deemed to require any change in or invalidation of Final Subdivision Plats previously approved and of record prior to the effective date of this ordinance.

C. Application and Compliance

C.1 No person shall divide or subdivide, or cause a subdivision to be made, by deed or plat, of any tract of land located within the City of Martinsville, except in conformity with the approval process as presented in *Section 5* and other provisions of this ordinance.

C.2 Whenever the subdivider or owner of any tract of land located within the City desires to subdivide the same, the subdivider or owner shall submit a plat of the proposed subdivision with reference to known or permanent monuments to the Zoning Administrator of the City in accordance with the requirements of this ordinance.

C.3 No owner of property shall subdivide land without making and recording a Final Subdivision Plat of such subdivision in the office of the Clerk of the Circuit Court of the City of Martinsville, and no

such plat of any subdivision shall be recorded unless and until it shall have been submitted to the Zoning Administrator and approved in accordance with the regulations set forth in this ordinance.

C.4 No person, shall sell or transfer any land of a subdivision, before a plat of such subdivision has been duly approved and recorded with lot corners properly marked as provided herein.

C.5 This ordinance bears no relation to any private easement, covenant, agreement or restriction and the responsibility of enforcing such private easement, covenant, agreement or restriction is not implied to any public official.

C.6 Nothing in this ordinance shall affect the power of a court of equity to order that property be partitioned.

C.7 All references to any statute, regulation, guideline, manual, or standard shall be to that regulation, guideline, manual, or standard as it exists on the date of adoption of this ordinance and includes any amendment thereafter or reissue in a subsequent edition.

C.8 All references to the term "days" shall be to "calendar days" unless otherwise specified. Reference herein is also made to the term "business days".

D. Administration and Enforcement

D.1 Administration

The administration and enforcement of this ordinance shall be vested in the City Council and the Planning Commission. The Zoning Administrator is the delegated agent of the City Council and Planning Commission and is hereby authorized to administer this ordinance as provided herein after.

D.1.a The Zoning Administrator shall conduct a Pre-Application Conference with the subdivider prior to the acceptance for administrative review of a Preliminary Subdivision Plat, Minor Subdivision Plat, or a Final Subdivision Plat. A determination shall be made by the Zoning Administrator at the Pre-Application Conference as to whether the submission of a Preliminary Plat may be waived or shall be required before submission of a Final Plat.

D.1.b The Zoning Administrator shall have the authority to approve a Preliminary Subdivision Plat, Minor Subdivision Plat or a Final Subdivision Plat, provided that at his/her sole discretion, the Zoning Administrator may determine at the Pre-Application Conference that it is in the best interest of the City for Planning Commission to review, approve and/or disapprove a Preliminary Subdivision Plat or a Final Subdivision Plat. In such cases, the Zoning Administrator shall schedule a public meeting after the "complete submission" and initial administrative review of the plat. Further, the Planning Commission, at its sole discretion, may request at a regularly scheduled or called meeting that a Preliminary Subdivision Plat be placed on its agenda to review, approve and/or disapprove. Minor Subdivisions (as defined hereinafter) shall be reviewed and by the Zoning Administrator.

D.1.c The Zoning Administrator, upon completion of the administrative review process shall act to recommend approval, disapproval or conditions of Final Subdivision Plats and Public

Improvements Plans associated with the development of a subdivision in accord with the process outlined herein after.

D.1.d When a Preliminary Subdivision Plat is reviewed and approved by the Planning Commission at a public meeting, the Planning Commission, upon the recommendation of the Zoning Administrator, may act to: (1) delegate Final Subdivision Plat approval for a given subdivision to the Zoning Administrator, and/or (2) delegate Public Improvements Plan approval for a specific subdivision to the Zoning Administrator. Such delegation shall occur at a regularly scheduled or called meeting of the Planning Commission.

D.1.e The City Council, upon recommendation by the Zoning Administrator and review by the City Attorney, shall act to accept forms of required surety and shall act to approve bonds and subdivision agreements required by this ordinance, provided that it may delegate this authority to the Zoning Administrator at its discretion.

D.1.f In performance of their respective duties, the City Council and the Planning Commission shall request and consider the comments of the Zoning Administrator, the Subdivision Review Committee, the City staff, and other applicable public agencies and officials in making recommendations and decisions on all subdivision plats.

D.2 <u>Enforcement of Ordinance Provisions</u>

In addition to their duties to administer this ordinance, the City Council may act through its Zoning Administrator or its Planning Commission to the extent that the City Council finds appropriate grounds for the enforcement of this ordinance.

D.3 <u>Minor Subdivisions</u>

Minor subdivisions of land are recognized where a single lot or parcel of land, which (a) is proposed to be divided into not more than two (2) lots, or (b) where the lot lines of existing lots are proposed to be changed or vacated.

With respect to minor subdivisions, any one or more of the requirements of this ordinance may be waived in writing by and at the sole discretion of the Zoning Administrator provided that such division of land:

D.3.a conforms to all applicable zoning ordinance requirements and proffered conditions of zoning;

D.3.b does not involve any new public street, road, or easement of access;

D.3.c does not offer opportunity to obstruct the floodplain, marshes, rivers of the City or any planned highway, transportation, public facility, public infrastructure, or public use;

D.3.d does not adversely affect any part of the Comprehensive Plan or any other adopted plan; and

D.3.e does not in any way violate the intent of this ordinance or other applicable ordinances, agreements or conditions.

A minor subdivision plat, surveyed and prepared by a certified land surveyor licensed in the State of Virginia, showing the metes and bounds of the lots resulting from a minor subdivision of land under this section shall be presented to the Zoning Administrator, who shall act to approve or disapprove the plat within thirty (30) days of a "complete submission".

Upon approval by the Zoning Administrator, the minor subdivision plat shall be recorded in the Clerk's Office of the Circuit Court of the City of Martinsville, within the time period as set forth in this ordinance.

The minor subdivision plat shall include the following surveyor's certification:

> *"This minor subdivision known as _____ Subdivision is approved by the undersigned pursuant to the Subdivision Ordinance of the Martinsville City Code and may be admitted to record."*

D.4 <u>Cluster Subdivisions</u>

D.4.a Cluster subdivision development, an alternative to conventional residential subdivisions, is based on the land use planning concept of: (1) reducing lot size and shape requirements, (2) increasing development density in return for the provision of common open space and recreational areas within the development, and (3) promoting a higher quality and sustainability of neighborhood development than that which could be achieved under conventional (Euclidean) geometric regulations and design criteria.

D.4.b The purpose of the cluster residential development method of subdivision is to promote greater flexibility and creativity in the layout and variety of type in residential dwellings, common areas, and community facilities, while promoting neighborhood character and compatible residential densities. The goal is to protect environmentally sensitive areas, provide creative neighborhood amenities, and preserve open spaces of scenic and use value for common enjoyment and active recreational purposes.

D.4.c The use of the cluster method of subdivision is limited to those specific City zoning districts in which cluster development is permitted, either by-right or by special use permit, subject to the regulations of the specific district.

D.4.d Cluster subdivision projects may qualify for approval of alternative subdivision design standards and development criteria, subject to review and approval by the Zoning Administrator or by the Planning Commission, as applicable *(see Section 2.D.1, Administration).* It shall be the responsibility of the subdivider to demonstrate that the alternative standards will provide a level of service and design quality that meets or exceeds those of the related standards and requirements in this ordinance and the City design standards.

D.4.e With the approval of a cluster subdivision project, the specific alternative subdivision standards and design criteria shall apply only to the approved subdivision project and shall not constitute a precedent for application to any other cluster projects unless otherwise approved by the Zoning Administrator or by the Planning Commission, as applicable, *(see Section 2.D.1, Administration).*

D.4.f Cluster subdivision development shall be subject to the regulations of the Zoning Ordinance, this ordinance, and shall address the following additional requirements:

4.f.1 A detailed proposal setting forth the design and program for the post-development utilization of open space areas, including covenants, residential property owners' agreements or other specific documents, showing the ownership of and maintenance and utilization of those areas within the subdivision which are declared to be open spaces for common use, must be submitted and approved before Final Subdivision Plat approval.

4.f.2 The proposed method of ownership and maintenance in perpetuity of all common spaces must be acceptable to and approved by the Zoning Administrator upon recommendation by the City Attorney, and must be set forth in the deed of dedication at the time of recordation of the Final Subdivision Plat.

D.5 Traditional Neighborhood Development Subdivisions (TND)

D.5.a Traditional Neighborhood Development (TND), an alternative to conventional and cluster subdivision practices, is based on the land use planning concept of (1) promoting mixed uses within a single urban-scaled development, providing more flexible lot size and shape requirements, (2) permitting customized design standards and densities that best serve the public interest, (3) creating more attractive landscape and civic spaces, and (4) promoting a higher quality and variety of City scaled development than that which could be achieved under conventional development practices.

D.5.b The purpose of the Traditional Neighborhood Development method of subdivision is to permit an alternative to standard subdivision design which will provide the subdivider with greater flexibility and promote creativity in the layout and variety of type of residential and non-residential uses, common areas, and community facilities, while promoting an urban neighborhood character, increased residential densities, shared parking opportunities, and more intensive non-residential uses.

D.5.c The use of the Traditional Neighborhood Development method is regulated by the Zoning Ordinance as an overlay district, and its application is limited to specific locations in the City designated for the TND-O District on the Official Zoning Map as a companion to the underlying zoning district.

D.5.d Traditional Neighborhood Development projects may qualify for approval of alternative subdivision design standards and development criteria, subject to review and approval by the Zoning Administrator or the Planning Commission, as applicable *(see Section 2.D.1, Administration).* It shall be the responsibility of the subdivider to demonstrate that the alternative standards will provide a level of service and design quality that meets or exceeds those of the related standards and requirements in this ordinance and the City design standards.

D.5.e With the approval of a TND-O project, the specific alternative subdivision standards and design criteria shall apply only to the approved subdivision project and shall not constitute a precedent for other TND-O projects unless otherwise approved by the Zoning Administrator or the Planning Commission, as applicable *(see Section 2.D.1, Administration).*

D.5.f TND-O District subdivision and development projects shall be subject to the regulations and application requirements of the Zoning Ordinance and, specifically, the TND-O District, for this form of development, including the following:

5.f.1 A detailed proposal setting forth the design and post-development utilization of civic, recreational, and open space areas, including covenants, property owners' agreements or other specific documents, showing the ownership of and maintenance and utilization of those areas within the TND-O District subdivision which are declared to be open spaces for common use, must be submitted and approved before Final Subdivision Plat approval.

5.f.2 The proposed method of ownership and maintenance in perpetuity of all common spaces must be acceptable to and approved by the Zoning Administrator upon recommendation by the City Attorney, and must be set forth in the deed of dedication at the time of recordation of the Final Subdivision Plat.

E. Public Improvements--General

E.1 All required improvements shall be installed at the cost of the subdivider, unless City cost sharing or other means of City participation are first indicated and approved by the City Council. Such agreements shall be formally entered into prior to Final Subdivision Plat approval.

E.2 All construction and materials shall conform to current City and State design and construction standards and criteria in effect at the time of subdivision.

E.3 Any required subdivision bond shall not be released until required construction has been satisfactorily completed, wherein discharge and release of the subdivision bond shall be executed pursuant to the bonding procedures herein and in the Zoning Ordinance.

F. Right of Way Additions

F.1 Where the adopted Comprehensive Plan, the Official Map or any other adopted transportation plans indicates a right-of-way greater than that existing along the boundaries of the subdivision or lot, such additional right of way shall be dedicated to public use on the plat when it is recorded.

F.2 Where a subdivision has occurred on public streets with less than fifty (50) feet right-of-way width, additional right-of-way shall be dedicated in order that the total public right-of-way shall be no less than fifty (50) feet in width or as otherwise designated on the Martinsville Comprehensive Plan, other adopted transportation plans of the City, or as a width established by the Zoning Administrator or by the Planning Commission, as applicable *(see Section 2.D.1, Administration),* upon recommendation from the City Engineer.

G. Parks, Schools, Open Space and Public Land

G.1 In the subdividing of land, consideration shall be given to suitable sites for parks, open spaces, natural areas, schools, and other areas of public use as may be described in the Comprehensive Plan or other adopted plan.

G.2 The location, boundary, and size of such areas should be indicated on the Preliminary Subdivision Plat and Final Subdivision Plat in order that it may be determined if, when, and in what manner such areas will be dedicated to, reserved for, or acquired by the City for that use.

G.3 This provision shall not be construed to preclude the reservation or dedication of property for public use not included in the Comprehensive Plan or other adopted plan, provided such property is acceptable to the City for such dedication and maintenance.

H. Dedications for Public Use

H.1 No Final Subdivision Plat showing any public easement or public right-of-way shall be recorded, nor shall any such easement or right-of-way otherwise be accepted for dedication to public use until such dedication shall first be approved, accepted by the City, and evidence of such approval by signature of the City Clerk shown on the instrument to be recorded.

H.2 Recordation of the Final Subdivision Plan shall be accompanied by the appropriate deeds and plats of easement.

I. Pro-Rate Share Funding for Water, Sewer and Drainage Improvements

A subdivider or developer of land shall pay to the City Council its pro rata share of the cost of providing reasonable and necessary sewer, water and storm drainage improvements, located outside the boundary of the property which are necessitated or required, at least in part, by the construction or improvement of the subdivision, provided that:

I.1 no payment shall be required until the City establishes a general sewer, water and storm drainage improvements program and plan for an area having related and common sewer, water and drainage conditions, and within which the property is located or where the City Council has committed its to such a program, and

I.2 the program and plan comply with Section 15.2-2243 of the Code of Virginia.

J. Funding for Off-Site Transportation Improvements and Other Infrastructure

A subdivider or developer of land may voluntarily contribute and the City Council may accept funds for off-site street improvements and other infrastructure which may be substantially generated and

reasonably required by the construction or improvement of the subdivision. Contribution agreements may incorporate opportunities for cost (partial or whole) on a case-by-case negotiated basis.

The determination of whether the need for an improvement is substantially or partially generated by the subdivision shall be made by the Planning Commission. In determining whether the need for an improvement is substantially generated or partially generated by the subdivision, the Planning Commission shall consider whether:

J.1 the impact of the subdivision would create a threat to the public health, safety, or welfare if not addressed by the improvement;

J.2 the improvement is identified in the Comprehensive Plan, the adopted City transportation plans, adopted VDOT street construction plans for the City, or the Official Map of Martinsville;

J.3 the improvement is identified in the City's Capital Improvement Plan;

J.4 the improvement is identified in the VDOT Six Year Road Plan; and

J.5 the need generated is more than an incremental effect that would otherwise result, as determined by annual population growth vehicular, traffic or other appropriate criteria.

K. Waivers, Variances and Substitutions

K.1 An applicant may request a waiver, variation or substitution to a requirement related to a Preliminary Subdivision Plat, Final Subdivision Plat or Public Improvements Plan. A written request for a wavier, variation, or substitution shall state the rationale and justification for such request together with such alternatives as may be proposed by the subdivider.

K.2 Such request shall be submitted to the Zoning Administrator with the filing of a Preliminary Subdivision Plat, Final Subdivision Plat or Public Improvements Plan. For each requested individual waiver, variation or substitution, a letter of application for the request must be submitted, accompanied by relevant documentation. The Zoning Administrator may act independently on a request for wavier, variation or substitution, or, at its discretion, refer the request to the Planning Commission for review and action.

K.3 The Zoning Administrator or the Planning Commission, upon referral, may accept, at its discretion, the request for waiver, variation or substitution for any requirement in a particular case upon a finding that the waiver, variation or substitute of such requirement would advance the purposes of this ordinance and otherwise serve the public interest in a manner equal to or exceeding the desired effects of the requirements of the ordinance. Alternately, the Zoning Administrator or the Planning Commission may recommend a conditional modification to the request or the Zoning Administrator or the Planning Commission may deny the request.

K.4 Approval or conditional approval of a waiver, variation, or substitution shall be accompanied by a statement from the Zoning Administrator or Planning Commission as to the public purpose served by such waiver, variation, or substitution, particularly in regard to the purpose and intent of this ordinance, the Zoning Ordinance, and the Comprehensive Plan.

K.5 No such waiver, variation, or substitution shall be detrimental to the public health, safety or welfare, orderly development of the area, sound engineering practice, or to properties located within the project impact area.

K.6 The Zoning Administrator or by the Planning Commission, as applicable *(see Section 2.D.1, Administration),* in its deliberation on the request, may require the submission of a formal engineering report or other related technical documentation or graphic exhibits to support the applicant's request for waiver, variation, or substitution. At its discretion, the Planning Commission may solicit the input from a professional engineer or other consultant to assist in the review of the applicant's documentation.

K.7 The application for a waiver, variation, or substitution shall be deemed to be an acceptance by the applicant that the normal time period for subdivision plan review may be prolonged to allow for proper evaluation and consideration of the wavier.

K.8 The City shall adopt a schedule of fees for consideration of waivers, variances and substitutions, with said fee to be paid by the applicant upon submission of a request for waiver, variance or substitution.

L. Changes and Revisions to Preliminary Subdivision Plat and Final Subdivision Plat

L.1 Changes and revisions may be made to an approved Preliminary Subdivision Plat or Final Subdivision Plat provided that prior review and written authorization by the Zoning Administrator has been received, except when the change has been required by Zoning Administrator or the Planning Commission, as applicable *(see Section 2.D.1, Administration).*

L.2 The changes and revisions shall be submitted by the subdivider and reviewed in the same manner as a Preliminary Subdivision Plat or Final Subdivision Plat, provided that minor changes and revisions may be reviewed and approved by the Zoning Administrator, at its discretion, without referral to the Planning Commission or City Council.

L.3 A Final Subdivision Plat subject to a change or modification shall be signed by the subdivider of the land being subdivided.

M. Re-Subdivision of Land

M.1 Property may be re-subdivided to eliminate, relocate or otherwise alter a boundary line without the formal vacation of a recorded plat provided that the re-subdivision does not involve the relocation or alteration of streets, alleys, public rights of way, easements for public access, easements for utilities and public infrastructure, and easements for public use or common areas.

M.2 An application for the re-subdivision of land shall be submitted, reviewed and considered for approval by the Zoning Administrator or the Planning Commission, as applicable *(see Section 2.D.1, Administration),* in the same manner as a Final Subdivision Plat, provided that re-subdivisions involving minor changes and revisions may be approved by the Zoning Administrator, at its discretion, pursuant to the requirements of a Minor Subdivision.

M.3 The Zoning Administrator shall sign plats of re-subdivision.

M.4 The approval of a re-subdivision of land does not extend the period of validity of the Final Subdivision Plat in which the re-subdivided lot is located.

N. Vacation of Plat and Relocation of Boundary Lines

N.1 A duly recorded Final Subdivision Plat or any part thereof may be vacated, or its boundary lines may be relocated pursuant to Section 15.2-2271 through 15.2 2276 of the Code of Virginia.

N.2 An application for the vacation of a recorded plat shall be submitted, reviewed and considered for approval by the Planning Commission in the same manner as a Final Subdivision Plat.

N.3 The vacation of a recorded plat shall operate to destroy the force and effect of the recording of the plat so vacated, or any portion thereof.

O. Residential Lot Plan, House Location Survey, and Subdivision As-Built Plan Required

O.1 Residential Lot Plan

A residential lot plan shall be submitted prior to issuance of a building permit for a residential dwelling. Refer to *Section 8* of this ordinance for application and plan requirements for a residential lot plan.

O.2 Location Survey:

Prior to issuance of a certificate of occupancy for any new or replacement single-family detached dwelling or duplex dwelling built in accordance with a subdivision site plan, the applicant shall submit for approval a house location survey on sheets of 8.5" by 14" prepared in accordance with the rules and regulations adopted by the Commonwealth of Virginia, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects and shall also show the following:

O.2.a The distance from all structures to all lot lines;

O.2.b The elevation of the floor plate and the height of the building;

O.2.c The deed book and page number for the easements and conveyances shown on the plat.

O.3 Record Plans (As-Built Drawings):

O.3.a Upon completion of subdivision improvements, an as-built plan shall be submitted, certified by a registered professional engineer or certified land surveyor, as a condition precedent to acceptance of the subdivision improvements.

O.3.b Such as-built plan shall certify the installation of all public and private improvements per the specifications and locations shown on the approved subdivision plan.

O.3.c In addition to a hardcopy set of plans, a digital copy of the plans in a format compatible with the City's GIS mapping system shall be provided.

O.3.d Final release of subdivision bonding shall not be given until all site improvements are complete and the record (as-built) drawings are submitted to and approved by the City.

Section 3:
REQUIREMENTS FOR SUBDIVISION IMPROVEMENTS

A. General

A.1 The City shall require that the subdivider be responsible for making the improvements required for Final Subdivision Plat approval. Improvements shall be installed at the cost of the subdivider and in compliance with the requirements of any or all approved plans and plats.

A.2 No subdivider shall commence the construction of any such improvements without first submitting plans and specifications and obtaining the written approval and appropriate permits, as may be applicable, from the City, the Virginia Department of Environmental Quality, the Corp of Engineers, the Virginia Department of Transportation (VDOT), and any other applicable federal, state or local agency.

A.3 Public easements for storm drainage, water and sewer services shall be subject to approval by the Zoning Administrator or by the Planning Commission, as applicable *(see Section D.1, Administration)*, provided that easements for minor subdivisions of land may be approved by the Zoning Administrator.

A.4 Any subdivider commencing any construction in violation of this ordinance shall be guilty of a Class 1 misdemeanor.

A.5 Any person who should knowingly continue construction after the issuance of a STOP WORK order by the Zoning Administrator or other designated representative of the City shall be subject to penalty, for each day of said construction which should continue after issuance of the STOP WORK order.

A.6 Design standards for subdivision improvements shall be as prescribed by Section 4 of this ordinance.

B. Requirements for Improvements

No Final Subdivision Plat or Public Improvements Plan related thereto shall be approved until the Zoning Administrator or the Planning Commission, as applicable *(see Section D.1, Administration),* is assured that the following minimum improvements will be made:

B.1 Construction and right-of-way dedication as required for highways, streets, vehicular travel lanes, and service drives which permit vehicular travel within the subdivision as well as to and from adjacent properties.

B.2 Construction of new public streets or improved existing streets shall be in accordance with this ordinance, the Zoning Ordinance, the City's design and construction standards (or equivalent) and other applicable VDOT manuals, guidelines and regulations.

B.3 Construction and dedication for widening of existing roads, streets, and alleys, and existing roads, streets and alleys within new alignments, and proposed new subdivision roads, streets and alleys, all as may be indicated by the adopted Martinsville Comprehensive Plan, the City's transportation plan, the Official Map or other adopted plan, and, otherwise, where the need for such roads and streets is substantially generated by the proposed subdivision.

B.4 Construction of all utilities, fire protection improvements, community facilities, civic spaces and recreational spaces, landscaping, and other infrastructure necessary to serve the proposed subdivision.

B.5 Construction and extension of public water and sewer mains and laterals to all lots within the subdivision. Specifications, easements and dedications shall be in accordance with requirements of the City's adopted design and construction standards or to standards as may be otherwise approved by the City Engineer and the Zoning Administrator.

B.6 Dedication of easements or rights-of-way for all utilities and facilities within subdivisions which are intended to serve the public. Such easement or right-of-way shall be clearly defined on the plat or plan with the intended purposes clearly stated, and recorded as required by the City's design and construction standards.

B.7 Construction of improvements for an adequate storm drainage system for the disposition of storm runoff from the subdivision as well as from off-site properties which impact the subdivision, and, further, in accordance with the City's adopted design and construction standards for storm drainage.

B.8 Construction of comprehensive grading improvements and individual lot grading improvements at the time of implementation of the subdivision's public improvements to ensure that all lots, rights of way, and other improved areas within a subdivision are provided positive drainage and to ensure that public drainage improvements are engineered, coordinated, and aligned to provide adequate collection of runoff from developed properties.

B.9 Construction of stormwater management improvements to provide water quantity and water quality (Best Management Practices) controls in accordance with this ordinance, the Zoning Ordinance, the City's design and construction standards and related state regulations.

B.10 Construction of bicycle trails, pedestrian paths and/or sidewalks in accordance with the general location shown on the adopted Martinsville Comprehensive Plan or any other adopted planning study, together with such other connecting trails, paths, or walkways within the limits of the subdivision plat.

B.11 All other improvements required by the provisions of this ordinance to include, where applicable, but not to be limited to entrances to public streets, private streets, street lighting, screening and landscaping, and any other improvement to be constructed within the public right of way.

B.12 Improvements, rehabilitation, and stabilization of existing streams, natural channels, waterways, and adjacent embankments and landscaping to ensure adequate control of storm runoff and preservation of environmentally sensitive areas that may be impacted by storm runoff.

B.13 Installation of temporary and permanent erosion and sedimentation control measures in accordance with the City's Erosion and Sediment Control Ordinance, the State's Erosion and Sediment Control Manual, and the City's adopted design and construction standards.

B.14 Off site water, sewer and drainage improvements subject to the any City adopted facility programs and plans and pro-rate share funding agreements subject to Section 15.2-2243 of the Code of Virginia.

B.15 Off-site transportation improvements subject to Section 15.2-2242(4) of the Code of Virginia.

B.16 No land located within an identified dam break areas or within an 100-year floodplain shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with Ordinance No. 91-11, City of Martinsville Flood Plain Ordinance.

Section 4:
SUBDIVISION DESIGN STANDARDS

A. General

The quality of Martinsville's neighborhoods and communities are mutually interdependent on the physical characteristics of the City's individual subdivisions. Appropriate neighborhood design requires the coordination of the efforts of each subdivider or developer of land within the City. Therefore, the design of each subdivision shall be prepared so as to be consistent with the principles and recommendations established by the City's Comprehensive Plan for land use circulation, community facilities and public services, and in accordance with the following general principles:

A.1 The size of lots and blocks and other areas for residential, commercial, industrial, and public uses shall be designed to provide adequate light, air, open space, landscaping, and off-street parking and loading facilities.

A.2 The arrangements of lots and blocks and the street system shall be designed to protect and to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees shall, wherever possible and consistent with the provisions of this ordinance, be preserved.

A.3 The type, design, location, and capacity of subdivision facilities, utilities and other infrastructure shall be adequate to serve the needs of the public.

B. Subdivision Design Standards

In furtherance of the purposes of this ordinance, the following sub-sections address the minimum subdivision design standards for public infrastructure and other subdivision elements that shall be required and provided for with the Final Subdivision Plat and Public Improvements Plan for any subdivision.

B.1. Streets
B.2. Blocks
B.3. Lots
B.4. Monuments and Lot Markers
B.5. Easements
B.6. Storm Drainage
B.7. Water and Sewer Systems
B.8. Floodplains
B.9. Fire Protection and Hydrants
B.10. Gas, Electric and Telephone

B.1 Streets

B.1.a Street Location and Alignment

1.a.1 All subdivision street construction standards, right-of-way and pavement widths, and geometric design standards shall be in accord with those specified by the Martinsville Comprehensive Plan, the City's adopted design and construction standards, the Virginia Department of Transportation Subdivision Design Guidelines or other applicable standards as may be approved by the Zoning Administrator or the Planning Commission. Streets categories shall be developed consistent with the City street categories as addressed in Section B.1.f and B.1.g herein below.

Applicants may propose alternative street design and construction standards in conjunction with TND-O District projects and residential cluster development projects in locations where permitted within designated zoning districts.

1.a.2 The arrangement of streets in new subdivisions shall make provision for the alignment and continuation of existing streets in adjoining areas consistent with sound engineering practices and the guidelines for the City' street categories. The street arrangement shall be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where the Zoning Administrator or the Planning Commission determines it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property and improved in accordance with the regulations set forth herein for public streets.

1.a.3 All subdivisions must have direct access to public dedicated roads that the City or State of Virginia maintain. Private roads that access public streets may be permitted in accordance with the provisions of this ordinance. All subdivisions shall be designed so that no individual subdivision lots will have direct access to any road or street designated as controlled or limited access unless, or where, in the opinion of the Zoning Administrator or the Planning Commission, the physiography, shape, or size of the tract would preclude other methods of providing appropriate public street access.

1.a.4 Subdivisions with a single outlet are discouraged where opportunities exist for interconnecting streets. Where traffic generated from a commercial or industrial subdivision exceeds 1000 vehicles per day, or where a residential subdivision contains 100 or more dwelling units, such subdivision shall provide connectors to existing public streets at a minimum of two (2) locations. Where only one connection is physically achievable, the Zoning Administrator or the Planning Commission, may require that the connecting portion of the entrance roadway shall be developed as a four-lane divided standard existing into the development for a length of not less than 200 feet (including center median turn lanes). In such case, no internal public street or private driveway access connection shall be permitted to this four-lane divided entrance section into the development. If the storm elevation of a 100-year flood could be anticipated to inundate, block or obstruct a principal means of access to a residential subdivision, the principal means of access shall be designed and constructed so as to provide unobstructed access at the time of flooding.

1.a.5 The arrangement of streets in a subdivision shall be coordinated with and provide for the planned continuation of existing streets into adjoining properties. The design of such streets with respect to alignment, grading, drainage, retaining walls, street cross sections, and street grades shall not be such as to cause unnecessary hardship to the owners of adjoining property to carry out the future extension of such streets. Where prescribed by the Comprehensive Plan or a separately adopted Corridor Master Plan, street alignments, functional organization and configuration shall conform with the recommendations of those plans.

1.a.6 "Half street" sections (streets of less than the full street width or right-of-way required) or "partial street" sections along the property line of land proposed for subdivision shall not be permitted unless otherwise approved by the Planning Commission upon recommendation of the City Engineer and the posting of a bond for the unconstructed section, the conditions for such bond to be approved by the City Attorney.

1.a.7 Streets in predominantly residential subdivisions shall be designed to discourage through traffic that could encourage non-residential traffic patterns unless such street is specifically intended by the Comprehensive Plan or other City planning studies for an acceptable level of both residential and non-residential trips. In new subdivisions, traditional neighborhood (TND) transportation planning principles and transportation efficient street patterns shall be employed.

1.a.8 There shall be no buffer or reserve strips (referred to as *"hate strips"* or *"spite strips*, see Section 11. Definitions") that is determined by the Zoning Administrator or the Planning Commission to deliberately limit access to or from existing or planned (a) through streets, (b) public utility or infrastructure, or (c) other public improvements, so as to violate the intent of this ordinance, sound planning practices, the Comprehensive Plan or other City plans.

1.a.9 No plat shall be approved or recorded which does not provide public street access to an otherwise landlocked property, provided that an applicant may petition the City for such plat approval when the conditions of internal and external access can be otherwise justified from a physical and legal standpoint to the satisfaction of the Zoning Administrator or the Planning Commission. *(Example: the platting of a condominium property or a commercial shopping center outparcel with lot or parcel access and frontage limited to internal private roads, travelways or parking lots in cases where internal public access and private street easements have been legally and physically established to the satisfaction of the Planning Commission.)*

1.a.10 Cul-de-sac streets are discouraged but may be permitted by the Zoning Administrator or the Planning Commission upon justification by the subdivider where interconnecting streets are not feasible. Cul-de-sacs and dead-end streets, where permitted, shall provide a terminal turnaround having a right-of-way radius as prescribed by the City's adopted design and construction standards or other standard as may be accepted and approved by the City Engineer.

If cul-de-sacs cannot be otherwise avoided by the design and development of interconnecting interior public streets, cul-de-sac streets which have been approved shall be no longer than six hundred (600) feet to the beginning of the turnaround, unless warranted by unusual conditions and otherwise approved by the Zoning Administrator

or the Planning Commission. Unless an alternative design is approved for the cul-de-sac termination, each cul-de-sac must be terminated by a turnaround of a radius (measured face of curb to face of curb) of not less than forty-three (43) feet for residential subdivisions) or fifty (50) feet for non-residential subdivisions. Right of way geometry and other right of way considerations shall be subject to approval of the City Engineeer. A permanent turnaround shall be properly graded and provided with curb, gutters and proper drainage. In lieu of a cul-de-sac on certain terminus streets of limited length, an applicant may present an alternative design based on the street's proposed traffic volumes, terrain character, proposed land use, right of way requirements, and other factors. The alternative design shall be subject to the review and approval of the City Engineer.

1.a.11 Temporary cul-de-sacs or their equivalent shall be constructed for those streets within a subdivision, or section thereof, which are planned for future extension but which have been shown on a Subdivision Plat and have been approved by the Zoning Administrator or the Planning Commission to terminate temporarily in conjunction with the subdivision improvements subject to the plat approval.

The temporary turnaround or its equivalent shall be located within the platted street right-of-way, upon other abutting property of the subdivider, or on an easement established by the subdivider on lots within the subdivision. In the case of easements, appropriate agreements shall be filed with the City setting forth the terms of the easement agreements. These agreements shall be approved as to the form by the City Attorney.

1.a.12 Roundabouts (or "rotaries") may be employed as alternatives to conventional intersections in specific locations approved by and at the discretion of the Planning Commission upon recommendation by the Zoning Administrator and City Engineer when such roundabouts are conducive to and consistent with the City's transportation objectives.

Roundabouts shall be designed as prescribed by the City's adopted design and construction standards or otherwise in accord with commonly accepted roundabout design and construction guidelines. The geometry, lane configuration, and operational characteristics of the roundabout shall be based on the SYDRA roundabout traffic modeling technique or an equivalent modeling technique approved by the City Engineer and the Zoning Administrator.

1.a.13 At all points of intersection in street lines, curb returns and right-of-way lines shall be designed employing circular curve geometry. Curb returns shall be sized based on anticipated traffic conditions and mix of vehicular types. The curve best suited for the conditions shall be computed and dedicated as part of the public right-of-way, except that in no case shall the said right-of-way/property line curve have a radius less than fifteen (15) feet at the common right-of-way/property line. Required sidewalks shall be located within the dedicated public right-of-way at curb returns. (Refer to sub-section 3.c hereinafter.)

The applicant's engineer shall prepare graphic exhibits that sufficiently demonstrate intersectional turning movements for the types of vehicles (including fire and emergency vehicles) using individual streets in conjunction with the application for subdivision plat and public improvement plans.

1.a.14 The maximum grade of streets shall not exceed eight percent (8.0%) and the minimum grade of streets shall not be less than one-half percent (0.5%) unless otherwise approved on recommendation of the City Engineer.

1.a.15 The subdivider shall arrange, design and construct streets to conform with the street layout, where applicable and practical, of the City's Comprehensive Plan or other adopted planning studies.

1.a.16 Sidewalks, street lights, curbs and gutter, and complementary drainage conveyance systems shall be constructed with all new and redeveloped public streets.

B.1.b Service Drives

1.b.1 Whenever a proposed subdivision contains or is located adjacent to a controlled access arterial street, major highway or expressway, and where the frontage lots in such subdivision are proposed to front on such highway, sufficient land shall be reserved so as to provide for subsequent construction of service drives or service streets approximately parallel to such right-of-way; but the Zoning Administrator or the Planning Commission, upon acceptance of design criteria by the City Engineer, may, when consistent with the public convenience and necessity, waive the requirement of such provision.

1.b.2 Except where impractical by reason of topographic hardship, the area between the service drive and the major highway shall be sufficient to provide for landscape planting and screening. The dimension of the area between the service drive and a major highway and the points of access between the same shall be determined after due consideration of traffic safety requirements.

1.b.3 In locations where the City has an adopted Corridor Master Plan or other adopted transportation plan, the right-of-way design standards or other functional criteria provided in that plan shall be respected.

B.1.c Street Extensions

1.c.1 Proposed streets which will extend an existing street shall be improved by the subdivider, with the type of improvement and construction materials of such improvements in accord with the City’s adopted design and construction standards, adopted Corridor Master Plans, the VDOT Urban Highway Manual or other transportation design criteria as may be adopted by the City.

1.c.2 Where provision has been made for the future extension of a street or access to an adjacent parcel through extension of existing right-of-way either public or private, street extension notification signs shall be installed prior to final plat recordation for the subdivision or section thereof.

The location of such street extension notification signs shall be shown, with details, on construction plans. In those subdivisions where a homeowners association has been established, provision shall be made in the documents establishing the homeowners

association for the maintenance and repair of the street extension notification signs until such time as the street is extended.

B.1.d Street Signs and Names

At each street intersection, within or adjacent to the proposed subdivision, there shall be one street identification sign of a design as provided for in the City's adopted design and construction standards.

1.d.1 Proposed streets which are obviously in alignment with other already existing named streets, shall bear the names of the existing streets. Failing to meet the above stipulation, in no case shall the names of proposed streets duplicate or too closely approximate existing street names elsewhere in the City, irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, land or court.

1.d.2 Street names shall be indicated on all plats, and shall be approved by the City Council upon input from Zoning Administrator or the Planning Commission.

1.d.3 No street name shall contain more than twenty (20) letters, including such symbols as St., Ave., or other abbreviations.

1.d.4 Names of existing streets shall not be changed without approval of the City Council.

B.1.e Alleys

1.e.1 Privately maintained and properly documented alley easements may be permitted at the discretion of the City Council, upon recommendation of the Planning Commission and City Engineer, provided there are agreements and documentation acceptable to the City Council ensuring the intended access arrangements, adequate storm drainage improvements, grading, construction materials, locations for infrastructure, maintenance and upkeep of the alley easement.

1.e.2 No new alley easement shall be less than twenty (20) feet in width. Refer to Section 1.g.5 herein below for additional alley classification details.

B.1.f Street Right-of-way Classification, General

1.f.1 Streets shall be generally classified as either **Arterial** (Category 1), **Collector** (Category 2), and **Local** (Category 3). Sub-categories for streets, such as major and minor arterials, major and minor collectors, private alleys, and one- and two-way local streets, may be additionally classified and regulated according to specific subdivision design considerations and traffic characteristics. **Private Alleys** (Category 4) and **Private Streets** (Category 5) represent non-public street classifications, subject to case-by-case review and approval. Private alleys and private streets are not accepted for public maintenance by the City, and private alleys and streets shall require property owner maintenance agreements if approved.

1.f.2 The classification of street categories shall be determined by the City upon consideration of the following: (a) street location, (b) its relative importance within the City's transportation system, (c) existing traffic volumes, (d) projected traffic volumes, (e) design speed, (f) traffic distribution and assignment characteristics, and (g) opportunities for future interconnectivity of the City street system.

1.f.3 In the absence of a designated category for an existing or proposed street, the street category and traffic engineering design requirements shall be determined by the Zoning Administrator upon analysis and recommendation by the City Engineer. In such cases, a traffic impact assessment shall be performed by the subdivider/applicant in conjunction with the review of the subdivision plat and public improvement plans. The traffic impact assessment shall be prepared in accord with the City Engineer's specified criteria for such studies.

1.f.4 Subdividers shall be required to reserve right-of-way for streets that have been designated as arterial streets as well as for other transportation facilities as may be depicted on the Comprehensive Plan, Corridor Master Plans, adopted transportation plans, or the Official Map.

1.f.5 Subdividers shall be required to construct service drives and access points on arterial streets as may be required by a traffic impact assessment or to otherwise satisfy the transportation goals of the City and as may be depicted on the Comprehensive Plan, Corridor Master Plans, VDOT plans, or the Official Map.

1.f.6 Subdividers shall be required to dedicate and construct all public streets directly serving the subject subdivision.

B.1.g Street Categories

New subdivision streets shall be designed and constructed to standards and criteria that comply with the City's street categories and the City classification criteria outlined in paragraph 1.f herein above. Subdivision streets shall conform to this ordinance and other geometric standards as may be approved by the City and guided by the Comprehensive Plan, the City's design and construction standards, and the Official Map.

If not otherwise approved by action of the Zoning Administrator or the Planning Commission in conjunction with the review of a subdivision application, the minimum right-of-way width, lane characteristics, on-street parking and other design elements for City street categories shall conform to the following guidelines:

1.g.1 **Arterial Street (Category 1):** The Category 1 Arterial Street serves the most intense regional traffic demands and may be assigned the sub-classification of Major and Minor Arterial streets. When located in an urban setting, arterials may also be referred to as thoroughfares, parkways, boulevards, and avenues.

Major and minor arterial streets generally represent roads that are designed to convey major inter-city, inter-county, and regional traffic patterns serving mixed traffic demands, origins, and destinations that are outside normal intra-city patterns. The design for a given arterial street shall comply with applicable State and Federal

standards for arterial streets at the time of development and as otherwise as determined by the Zoning Administrator or the Planning Commission upon analysis and recommendation of the City Engineer.

A major and minor arterial have traffic volumes that typically exceed fifteen thousand (15,000) vehicles per day (VPD). The major arterial is differentiated from the minor arterial in that it is designed primarily for through regional traffic movements. Further, access points are either fully or partially controlled and, in some cases, may have companion service streets to provide for intra-block and other non-through traffic movements. The major arterial is designed with significantly wider spacing of signalized intersections than minor arterial streets. The minimum right-of-way for a major arterial should be in the range of ninety (90) to one hundred (100) feet, but the right-of-way is typically wider. A minor arterial classification is typically assigned to a high traffic volume urban street that serves intra-county/city traffic patterns with carefully, but not restricted, controlled access but does not penetrate identifiable neighborhoods. The minimum right-of-way for a minor arterial street should not be less than eighty (80) feet.

For both arterial categories, the number of travel lanes, turning lanes, pavement widths and other geometric design factors for an arterial street shall be consistent with the City's Comprehensive Plan or adopted planning studies, VDOT street standards, and as otherwise determined by a traffic impact assessment prepared by the subdivider and approved by the Zoning Administrator or the Planning Commission upon recommendation by the City Engineer. Arterials often include sidewalks or a shared bike/sidewalk path. Divided, landscape center medians are typical. No on-street parking shall be permitted on an arterial street. Shared center turn lanes ("suicide lanes") shall not be permitted on new arterial streets.

1.g.2 **Collector Street (Category 2):** Collector streets generally serve as a feeder road to one or more major subdivisions connecting the subdivision to an arterial street. Collector streets may be sub-classified as Major Collectors and Minor Collectors.

A major collector street right-of-way width should be in the range of sixty (60) to seventy (70) feet, but may be wider based on local conditions. Its primary function is to provide intra-neighborhood linkages and aggregate traffic from a diverse group of City streets, carrying it to the arterial system and may serve as a major bus route. Generally, the traffic volumes on a major collector range between seven thousand (7000) and fifteen thousand (15,000) vehicles per day (VPD), providing an outlet for the minor collector streets connecting thereto.

A minor collector street is designed primarily to serve the collection function for a group of local streets. Its purpose is to provide direct access to individual abutting lots. It may connect directly to a major collector an arterial, but it is not intended to handle long, inter-neighborhood pass-through trips within a subdivision. The minor collector street right-of-way is typically in the range of fifty-four (54) feet to sixty (60) feet. Generally, the traffic volume on a minor collector is in the range of one thousand (1,000) to seven thousand (7,000) vehicles per day (VPD). On-street parking may be permitted on a collector street upon review and approval by the Planning Commission. Shared center turn lanes (also commonly referred to as "suicide lanes") shall not be permitted on new collector streets.

For both major and minor collector streets, the number of major travel lanes, turning lanes, pavement widths and other geometric design factors for a collector street shall be consistent with the City's Comprehensive Plan or adopted planning studies, VDOT street standards, existing traffic conditions, projected traffic volumes, sidewalk and landscape improvements, and as otherwise determined by a traffic impact assessment prepared by the subdivider and approved by the Zoning Administrator or the Planning Commission upon engineering analysis and recommendation by the City Engineer.

1.g.3 **Local Street, two-way (Category 3):** A local street represents the lowest category of the functional classification system for City streets. Its traffic is local in nature and extent, rather than intra-city or inter-regional. Generally the traffic on a local street should not exceed one thousand (1000) vehicles per day. When serving as a local two-way street within a subdivision, a local street right-of-way should not be less than fifty (50) feet. Roundabouts may be permitted on a case-by-case basis. On-street parking shall be permitted on a local street.

The number of travel lanes, turning lanes, pavement widths and other geometric design factors for a local street shall be consistent with the City's Comprehensive Plan or adopted planning studies, VDOT street standards, existing traffic conditions, projected traffic volumes, sidewalk and landscape improvements, and as otherwise determined by a traffic impact assessment prepared by the subdivider and approved by the Zoning Administrator or the Planning Commission upon analysis and recommendation by the City Engineer.

1.g.4 **Local Street, one-way (Category 4):** Conditions unique to the terrain, site design and traffic patterns of a subdivision may give rise to the need for a local one-way street. The pavement width and other geometric design factors for a one-way local street shall be consistent with the City's Comprehensive Plan or adopted planning studies, VDOT street standards, existing traffic conditions, projected traffic volumes, sidewalk and landscape improvements, and as otherwise determined by a traffic impact assessment prepared by the subdivider and approved by the Zoning Administrator or the Planning Commission upon analysis and recommendation by the City Engineer.

The minimum right-of-way for a one-way street is typically in the range of forty (40) to fifty (50) feet and the minimum pavement width for the travel lane shall be sixteen (16) feet. Roundabouts may be permitted on a case-by-case basis. On-street parking may be permitted on a local street on a case-by-case basis upon approval by the Planning Commission.

1.g.5 **Private Alley (Category 4):** Where permitted, private alleys shall be located within a minimum twenty (20) foot easement, and shall not have a paved travel lane less than twelve (12) feet for one-way traffic or less than eighteen (18) feet for two-way traffic. Dedicated public access easements shall be sized to accommodate the terrain and functional use characteristics of the alley. No parking shall be permitted on a private alley. Utilities and drainage improvements may be installed within a private alley, provided that utility or other easements are recorded with the subdivision or other plat for the private alley. Trash receptacles or any other potential obstruction to vehicular movement may not be placed on the alley pavement.

1.g.6 **Private Streets (Category 5):** Private streets are not encouraged but may be approved under special conditions. Roundabouts may be permitted on a case-by-case basis. Refer to Section 6 of this ordinance for private street regulations. See Section 1.l herein below.

1.g.7 **Traditional Neighborhood Development Street Option:** Not withstanding the above street categories and right-of-way standards, streets located within a Traditional Neighborhood Development may have reduced rights of way, provided that no right-of-way shall be less than forty (40) feet and shall otherwise be approved by the Zoning Administrator or the Planning Commission upon analysis and recommendation by the City Engineer. The use of roundabouts is encouraged at low traffic intersections. It shall be the responsibility of the applicant to provide traffic and transportation engineering documentation to support the recommended street section.

B.1.h Street Entrances and Sight Distance

1.h.1 The entrance of a new street onto any public road for vehicular traffic to and from such subdivision shall be subject to the approval of the Zoning Administrator or the Planning Commission upon analysis and recommendation by the City Engineer and shall be designed and constructed in accordance with the City's adopted design and construction standards and VDOT criteria. Horizontal separation between planned new and existing entrances shall be based on traffic impact analysis and evaluations.

1.h.2 Minimum vertical and horizontal sight distances between planned and existing entrances or between planned intersections within a new subdivision shall be a function of the appropriate design speed for the subject streets. Sight distance standards shall be as prescribed by the City Engineer.

An applicant's engineer shall demonstrate adequacy of intersectional sight distances (vertical and horizontal) and standard vertical sight distances in conjunction with the application for subdivision plat and public improvement plan approval.

1.h.3 Sight distance easements on private property shall be required where sight distances requirements cannot be met entirely within the public right-of-way. It shall be the responsibility of the property owner to maintain a clear line of sight on any lot where a sight distance easement has been documented or platted.

B.1.i Sidewalks and Curb and Gutter Improvements

1.i.1 Sidewalks and curbs and gutters shall be installed with all new streets by the subdivider in accordance with the City's adopted design and construction standards, VDOT Road and Bridge Specifications and Standards and any other pertinent regulations. Sidewalks as well as curbs and gutters with appropriate underground drainage structures shall be installed on both sides of each street in new subdivisions within every zoning district in the City of Martinsville.

1.i.2 Any decision to grant a waiver of the (a) sidewalk and/or (b) curb and gutter requirement shall be at the sole discretion of the Zoning Administrator or the Planning Commission upon analysis and recommendation by the City Engineer.

B.1.j Street Intersection Approach Angle

1.j.1 Subdivision streets shall intersect with existing or proposed streets at an angle as close to ninety (90) degrees as practicable, but in no case shall such angle be less than eighty (80) degrees, unless the Zoning Administrator or the Planning Commission upon recommendation of City Engineer shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

1.j.2 Roundabouts shall be evaluated as an potential alternative in cases where approach angles for a conventional intersection cannot otherwise be accommodated or where intersectional traffic movements would be benefited by the construction of a roundabout.

B.1.k Street Lighting

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1.k.1 Street lights shall be installed by the subdivider on one or both sides of the street as herein provided in accordance with the City's design and construction standards, VDOT Road and Bridge Specifications and Standards manuals or as per direction of the Zoning Administrator or the Planning Commission. Street lights may be required on one or both sides of the street depending upon the topography, intensity of the development, frequency of vehicular or pedestrian activity, location with respect to schools and other considerations the Planning Commission may determine in a particular case. Placement of street lights shall consider the location of sidewalks in relationship to the street in order to provide safe and efficient lighting for pedestrians.

1.k.2 For residential development, street lighting shall be installed which provides a minimum average of 0.3 foot candles at road grade. The location of required street lighting and related information shall be shown on [subdivision plats, site plans] and construction plans.

1.k.3 On streets offered for dedication into the City's public street system, the street lights and related facilities shall be located within public rights-of-way, or within dedicated public utility easements. Following installation, the costs of maintenance and operation of public street lighting shall be borne by the City.

1.k.4 Each developer must coordinate with the utility company providing electric power for the location and installation of lights. Lighting shall be either (a) a standard fixture offered for installation by the power company and approved by the Zoning Administrator or Planning Commission, or (b) a non-standard ornamental type light in accordance with the power company regulations and approved by the Zoning Administrator or Planning Commission.

1.k.5 Lighting plans for public streets shall be submitted by the subdivider and approved by the City Engineer.

1.k.6 On private streets, lighting may consist of street lights or individual lights at the front of each lot. No occupancy permit shall be issued by the building official for a development, or a phase within a development, until all required street lights are installed according to approved plans and are functioning in proper working condition. The cost of installation of the street lighting shall be borne by the subdivider. The City shall incur no maintenance or operational responsibility for street lighting on private streets.

B.1.l Private Streets, General

All subdivisions shall be served by public streets, provided that this requirement may be waived subject to conditions and restrictions imposed by Zoning Administrator and/or the Planning Commission. A waiver will be considered only in cases where the applicant can demonstrate that:

(1) the benefits of the private street meet or exceed those of the public street,

(2) the residents served by the private street will be provided with an equivalent level of access, both pedestrian and vehicular, as provided by public streets,

(3) property owners' association documents establish adequate fiscal and maintenance requirements for the private street, and

(4) private streets are compatible with the community which they serve.

All subdivisions and developments must have access to either City of Martinsville or State maintained roads. This access may be via such private streets as may be approved by the Planning Commission provided that:

1.l.1 The Final Subdivision Plat and all deeds of subdivision, or similar instruments, for any single family subdivision containing private street(s) shall clearly designate the streets which are to be private and shall contain the following note:

"The following street(s), _____ , in this subdivision are privately owned and maintained by the lot owner(s), do not meet City requirements for a public street, and will not be maintained by either the State of Virginia or the City of Martinsville."

Grantors of any subdivision lot(s) to which such statement applies must include the statement on each deed of conveyance thereof. The Final Subdivision Plat shall provide adequate easements across private streets for ingress, egress, drainage, maintenance of utilities, and access by public agencies.

1.l.2 All lot owners must be assured perpetual right of access via the private street to the State of Virginia maintained road;

1.l.3 No private roadways in non-residential developments shall carry in excess of five hundred (500) vehicles per day or serve residential subdivisions of over fifty (50) dwelling units unless otherwise approved by the Planning Commission.

1.l.4 All permitted private roadways shall carry a street name approved by the City. Individual lots shall carry a street address.

1.l.5 On-street parking spaces may be permitted on private streets provided that the street design provides for appropriately designed and clearly marked spaces.

1.l.6 Private street designs shall be reviewed on a case-by-case basis as a Category 6 street (refer to Section 4). The approval of a design section for a specific private street shall not be construed as a precedent for the design criteria of any other private street in a subsequent subdivision application.

1.l.7 Plats of record, deeds, and property owners' documents state that (a) the maintenance, renewal and upkeep of the private street is the sole responsibility of a property owner's association, and (b) neither the City nor the State will maintain such private streets.

1.l.8 The above does not preclude (1) the property owners' association from petitioning and (2) the City from accepting a private street into the public system at a future point in time. Such acceptance shall be subject to and meet the following requirements.

(a) the private street be brought into compliance with applicable public street standards of the City in effect at the time of petition and without cost to the City,
(b) the petition for acceptance meets all by-laws and other property owners' association requirements,
(c) all necessary deeds, plats and property ownership agreements signifying appropriate request for the City to accept and maintain the street have been approved by the appropriate parties and have been legally recorded,
(d) a maintenance bond of duration recommended by the City Engineer has been duly posted, and
(e) the City Council, at its sole discretion, upon recommendation by the Planning Commission, agrees to accept the street into the public system.

B.1.m Private Street Standards

1.m.1 The applicant shall provide engineering plans, profiles, details, design sections and construction standards consistent with the requirements of a Public Improvements Plan for all private streets and related infrastructure.

1.m.2 Geometric design requirements for private streets and parking areas shall conform with the private street design standards provided in City's design standards or as otherwise approved by the Planning Commission upon recommendation by the City Engineer and the Zoning Administrator.

1.m.3 The methods of pavement engineering design, construction practices, and materials used in the construction of private street improvements shall conform to the current City design and construction standards and VDOT criteria as would be applied to a public street of similar traffic volumes and characteristics.

1.m.4 Signs and striping of private roads and streets shall be provided and paid for by the developer. Signs shall meet the requirements of the City's Design and Construction Standards and be designated on the Public Improvements Plan.

B.1.n Maintenance of Private Streets

1.n.1 A bona fide property owners' association must be established and given the responsibility of ownership and perpetual maintenance of private roadways and, where appropriate, sidewalks and/or trails. Maintenance agreements shall include provisions for periodic and scheduled maintenance as well as snow removal.

B.2 Blocks

B.2.a Block Length

2.a.1 The length of a block in a proposed subdivision shall be not less than two hundred fifty (250) feet nor more than eight hundred (800) feet, provided that the Planning Commission may approve a block which is less than two hundred fifty feet (250) and which exceeds eight hundred (800) feet in length, wherever physiography, access considerations, or other functional limitations can be demonstrated to the satisfaction of the Zoning Administrator or the Planning Commission .

2.a.2 In projects planned for Traditional Neighborhood Development, flexible individual block length requirements for the project may be approved with the approval of the code of development and regulating street plan for the TND-O zoned property.

B.2.b Block Width

2.b.1 The width of a proposed subdivision block shall be sufficient to allow two tiers of lots of minimum depth (as prescribe by the applicable zoning district), except where fronting on controlled access streets; provided that the Zoning Administrator or the Planning Commission, as applicable *(see Section 2.D.1, Administration),* and upon recommendation by the City Engineer, may approve a single tier of lots of minimum depth wherever physiography, access requirements, location, environmental factors, or other design factors support such approval.

2.b.2 In projects planned for traditional neighborhood development and applied for under the requirements of the TND-O District, individual block width requirements for the project may be approved with the approval of the code of development and regulating street plan for the property.

B.2.c Block Orientation

Where a proposed subdivision adjoins a controlled access street, major arterial highway, or collector street, the Zoning Administrator or the Planning Commission may require either:

(1) public service streets or private driveways parallel to such arterial or collector street, or

(2) reverse frontage lots, to facilitate safe ingress or egress to the subdivision.

B.2.d Non-Conforming Blocks

Any proposed blocks of irregular shape or otherwise not conforming to the dimensions required in this section that cannot otherwise be approved by the Zoning Administrator or the Planning Commission may be submitted to the Board of Zoning Appeals for consideration under BZA regulations.

B.3 Lots

B.3.a Relationship to Street

Each lot shall front on a public street dedicated by the subdivision plat or deed of dedication, or on an existing approved public street.

B.3.b Corner Lots

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Corner lots shall be designed to meet front setback line requirements on both streets on which the corner lot abuts, unless otherwise specifically prescribed by the individual zoning district in which the lot is located. Corner lot design and building placement within subdivisions approved for Traditional Neighborhood Development shall be subject to development plan and code of development approval.

B.3.c Right-of-way/Property Lines

3.c.1 Property lines at street intersectional curb returns shall be rounded with a radius of not less than fifteen (15) feet, provided that at an intersectional curb return of any street with a major or minor arterial street, or at other locations where traffic hazards and congestion may be anticipated, common right-of-way/property lines shall be of a circular curve radius of not less than twenty-five (25) feet, or greater if deemed necessary by Zoning Administrator or by the Planning Commission, as applicable *(see Section 2.D.1, Administration),* upon review of traffic analysis .

3.c.2 Smaller radii for property lines coinciding with street rights of way may be considered for approval by the Zoning Administrator or the Planning Commission where such radii are consistent with the City's objectives for community planning and land use.

3.c.3 In projects planned for traditional neighborhood development and applied for under the requirements of the TND-O District, individual intersectional curb return and right-of-way curve geometry for proposed streets may be approved with the approval of the code of development and regulating street plan for the property.

B.3.d Lot Size and Area

Each lot shall have at least one building site, the minimum size and area of which shall be as set forth in the Zoning Ordinance for the individual zoning district in which the lot is located. In projects planned for traditional neighborhood development and applied for under the requirements of the TND-O District, individual lot size and area requirements shall be established with the approval of the code of development and regulating street plan for the property.

B.3.e Double Frontage and Reverse Frontage Lots

Double frontage or reverse frontage lots shall be permitted where essential to provide separation of residential development from streets, to overcome disadvantage of topography, or where exceptional site design permits.

B.3.f Lot Shape and Pipestem Lots

1.f.1 Each lot shall be of a shape which provides a satisfactory and desirable building site. No lot shall contain peculiarly shaped elongations or other geometrical configuration which are designed solely to provide the necessary square footage of area or frontage on a public street.

1.f.2 No "flag lots" or "pipestem lots" shall be permitted unless otherwise in accord with the provisions for such lots within a cluster subdivision or within a TND-O District project. In cases where pipestem lots have been approved, the Final Subdivision Plat, related property owners' documents, deeds and easement agreements must ensure that the lot owner and contiguous lot owners are informed of and accept certain responsibilities related to ownership and maintenance of access.

1.f.3 The final subdivision plat for the pipestem lot and contiguous lots or open space as well as any subsequent homeowners' documents, lot transfer agreements and deeds shall address the following:

(i) the pipestem driveway providing access to this lot is a driveway privately owned and privately maintained by the lot owner or by a designated community or homeowner's association,

(ii) the owners of abutting lots utilizing pipestem driveways automatically assume an obligation for maintenance of the pipestem driveway, which obligation is a condition of their ownership of the property and runs with the land, and

(iii) an adequate easement for ingress, egress, construction, maintenance of utilities, and access by town, county and other emergency vehicles shall be provided where common driveway construction is used.

B.3.g Remnants and Outparcels

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Remnants or outparcels (property smaller than minimum zoning district lot size) shall not be created by the subdivision of land, provided that remnant lots may be approved for where the ownership and maintenance of such remnants are accepted for public use or are provided for in the property owners' association articles of incorporation and subject to approval by the Zoning Administrator or the Planning Commission under the following circumstances:

1.g.1 the remnant or outparcel is intended for a specific accessory use for the subdivision, and the subdivision plat contains a notation restricting the use and development of the remnant or outparcel to that specific use; or

1.g.2 the remnant or outparcel is intended to be reserved as open space set-aside, and the subdivision plat contains a notation restricting the use and development of the remnant or outparcel to open space use, or

1.g.3 upon a finding by that the proposed remnant or outparcel is accepted by the City for a public use that will benefit the public (e.g. public water, sewer, stormwater or similar utility facilities), and the subdivision plat contains a notation restricting the use and development of the remnant or outparcel to that specific use.

B.3.h Side Lot Lines

Side lot lines should be approximately perpendicular to the centerline bearing of the street on which the lot has frontage. Side lot lines on cul-de-sacs should be radial to the circular curvature of the cul-de-sac unless otherwise constricted by special terrain conditions, landscape design considerations, or unique lot access requirements.

B.3.i Residential Lot Development Plans

Residential development on individual subdivision lots shall respect drainage patterns and other subdivision improvements established by the approved subdivision plat and public improvements plans. Building permits for individual lots shall not be issued unless and until a Lot Development Plan, prepared in accord with the requirements of this ordinance, shall be submitted to and approved by the Zoning Administrator.

B.3.j Lot Grading

3.j.1 Subdivisions and subdivided lots contained therein shall be designed and graded so as to provide positive drainage in accord with a master grading and storm drainage plan for the subdivision.

3.j.2 Streets, public infrastructure, mass grading, individual lot grading, dwelling placement and other improvements shall be engineered and coordinated to ensure that the storm runoff from all improved properties within the subdivision can be adequately collected, conveyed, and treated without adversely impacting adjoining lots and properties.

B.3.k Lot Sewerability

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3.k.1 All lots shall be provided with sewer laterals with adequate and necessary access to public sewer to be constructed with the subdivision improvements. Sewer main and lateral design shall anticipate the planned building elevation of the intended structure for a given lot, and, to the greatest extent practicable, the sewer main and lateral installations to all structures shall provide gravity service.

3.k.2 A lateral schedule shall be provided with all subdivision plats and public improvements plans. It shall be the responsibility of the lot owner to maintain sewer laterals on private property.

B.3.l Lot Water Service

3.l.1 All lots shall be provided public water service, with laterals and meters installed at the time of subdivision development.

3.l.2 Public water improvements shall be designed to ensure adequate pressure and flow consistent with the City's adopted design and construction standards to the elevation of the highest story of a structure on the property which would be permitted by the underlying zoning district.

3.l3 It shall be the responsibility of the lot owner to maintain water laterals on private property. The subdivider's engineer shall provide documentation as to adequacy of water pressure for domestic water supply and fire protection for each lot in the proposed subdivision. The City Engineer, at its discretion, may require hydrant pressure tests in conjunction with the review and approval of subdivision plats and public improvements plans.

B.4 Monuments and Lot Markers

B.4.a Monument Location and Type

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Permanent reference monuments shall be placed as required by City standards.

B.4.b Lot Corner Location and Type

All other lot corners shall be marked with permanent reference markers. Lot corners shall be placed by a certified land surveyor prior to the recordation of any subdivision plat. Any lot corners which are removed during the installation of required subdivision improvements shall be reinstalled prior to the issuance of an Occupancy Permit on any lot.

B.4.c Visibility of Monuments and Markers

Upon completion of all streets and other improvements in the subdivision, all monuments and pins required shall be clearly visible or marked with a guard stake and flag for inspection and use prior to the release of subdivision bond.

B.5 Easements

B.5.a Easement Geometry

5.a. 1 Minimum easement widths for public improvements, utilities, and related subdivision infrastructure shall be delineated on the Final Subdivision Plat in accord with provisions and criteria of this ordinance and the City's adopted design and construction standards or as otherwise approved or established by the City Engineer.

5.a.2 Easements of different public or private utilities or infrastructure may overlap each other with the approval of (1) easement characteristics and (2) any additional required design elements by the City Engineer.

B.5.b Easement Agreements and Dedication Documents

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Easement agreements and dedication documentation shall be provided in accord with the standard form provided by the Zoning Administrator.

B.5.c Maintenance of Easement Areas

Easements on individual subdivision lots shall be maintained by the lot owner or the applicable homeowners' or property owners' association unless otherwise provided for by separate agreement.

B.6 Storm Drainage

B.6.a Storm Drainage Improvements

6.a.1 Storm drainage systems shall be provided in accord with the City's design and construction standards or as otherwise required by the City Engineer.

6.a.2 Public improvements plans shall provide drainage calculations (including hydraulic grade lines), plan and profile designs, and construction details and specifications.

B.6.b Stormwater Management & BMP Improvements

6.b.1 Stormwater management (water quantity) systems and BMP, Best Management Practices, (water quality) facilities shall be provided for storm runoff in accord with the City's adopted design and construction standards and in compliance with the State's Stormwater Management Regulations.

6.b.2 Stormwater management and Best Management Practices improvements to be located on private property shall require a public improvements plan or a site plan pursuant to the requirements of the zoning ordinance.

6.b.3 The applicant shall provide the City with all necessary and required state and federal permits that relate to stormwater management, wetlands protection, and other water quality and water quality considerations.

6.b.4 No subdivision plat or public improvement plan shall be approved prior to requisite state and federal permit approvals.

B.6.c Stormwater Easements

6.c.1 Dedicated private and/or public easements shall be provided for storm drainage, stormwater management facilities and best management practices (such as rain gardens and bio-retention facilities) in accord with the City's adopted design and construction standards and Virginia stormwater management requirements.

6.c.2 In lieu of dedication, the Zoning Administrator or the Planning Commission may require that stormwater management facilities be maintained privately.

6.c.3 For any lot on which a required privately maintained stormwater facility, bio-retention facility, rain garden or like facility is located, Final Subdivision Plat shall include a note that contains the following information pertaining to any such lot:

(i) ***"The lot contains a required, privately maintained stormwater management or Best Management Practice improvements that shall be maintained by and at the expense of the owner or property owners' association in accordance with City regulations"*** **and**

(ii) ***"The facility shall be made accessible and available for periodic inspection by City officials upon proper notice. "***

(iii) ***"If the City determines that a private stormwater facility (SWM or BMP) required maintenance and after proper notice to the property, the City may provide necessary maintenance and the lot owner shall be responsible to reimburse the City for any expenses incurred.***

B.7 Water and Sewer Collection Systems

B.7.a Authority

The City Council shall have authority over sewer and water connections in Martinsville. No individual private well and septic service is permitted to provide domestic service for any residential or non-residential use.

B.7.b General Design and Construction Requirements

Water and sewer infrastructure shall meet the minimum requirement to provide adequate public facilities and that it be designed to accommodate the full build-out capacity requirements for the proposed subdivision. Refer to the City's design and construction standards or standards as otherwise may be approved by the City Engineer.

B.7.c Contributing Population for Design

Refer to water and sewerage recommendations and demographic projections outlined in the Martinsville Comprehensive Plan, the City's Water and Sewer Master Plan, and the City's adopted design and construction standards.

B.7.d Other Design Criteria

Refer to the City's adopted design and construction standards, the Martinsville Comprehensive Plan, the Virginia Department of Health's regulations, and design standards or as may otherwise be required by the City Engineer.

B.7.e Location of Water Mains, Sewer and Appurtenances

Refer to water and sewerage standards and criteria as outlined in the City's Water and Sewer Master Plan, the City's adopted design and construction standards, the State Department of Health guidelines, and as otherwise required and approved by the City Engineer.

B.7.f Acceptance Tests

Criteria for acceptance of sanitary sewer and water mains shall be as specified in the City's design and construction standards or standards as otherwise approved by the City Engineer.

B.7.g Easements

Minimum easement widths shall be in accord with City standards or as otherwise approved by the City Engineer. Shared or overlapping easements are subject to approval by the City Engineer.

B.8 Flood Plains

B.8.a Floodplain Delineation

The Planning Commission, in the interest of the health, safety, and general welfare of the present and future inhabitants of the City of Martinsville, shall establish controls for the subdivision of any property which lies within a 100-year floodplain in accordance with the following provisions and the City's floodplain ordinance:

8.a.1 In a proposed subdivision that includes property within a FEMA-designated floodplain along a stream, wetlands, marsh or other watercourse, the 100-year floodplain shall be shown on the public improvements plans and the subdivision plat.

8.a.2 FEMA map source information, including elevation datum and date of preparation, shall be included on all subdivision exhibits.

B.8.b Supplemental Floodplain Study

An engineering floodplain study shall be required if an area located with in a proposed subdivision contains a stream, wetlands, marsh, or other watercourse which:

8.b.1 is subject to periodic flooding and has not had a 100-year floodplain specifically delineated by FEMA, or

8.b.2 where there is an indication that the FEMA floodplain study does not accurately reflect existing conditions, provided that the subdivider may be required at the discretion of the City Engineer to prepare an engineering floodplain study which establishes the flood elevations and contours for both the pre-development and post-development property conditions.

B.8.c Floodplain Engineering Criteria

8.c.1 The calculated 100-year pre-development and post-development floodplain elevation shall be shown on the subdivision plat of the property to be subdivided including the location and delineation of the floodplain elevations on contiguous property outside the limits of the subdivision.

8.c.2 If required, the floodplain study shall be based on contour mapping prepared at a minimum scale of 1" = 100' with 2' contour intervals. The hydraulic analysis of the floodplain shall be based on standard HEC modeling (or equivalent floodplain engineering analysis technique) with minimum analysis sections of 100' (preferably 50').

8.c.3 A certified engineering report shall be submitted that includes calculations for the pre-development and post-development water surface elevation impacts, with appropriate plans, profiles, and cross-sections.

The analysis shall include the hydraulic post-development impact of proposed stormwater management (for both stormwater quantity and quality) facilities.

8.c.4 Floodplain studies shall be prepared by a registered professional engineer qualified to perform such work.

B.9 Fire Protection and Hydrants

B.9.a Hydrant Location

Adequate fire hydrants shall be installed by the developer in a subdivision at locations as required by the City Engineer, the City's adopted design and construction standards, and located as necessary to provide adequate overlapping fire protection coverage.

B.9.b Easement Required

Fire hydrants shall be installed within the public right-of-way or public access easement at the cost of the developer.

B.9.c Design Standards

All water mains shall be designed to provide hydrant flows and residual pressures to established standards set by the City Engineer, the City's adopted design and construction standards and otherwise in accord with the Virginia Department of Health's design standards.

B.10 Gas, Electric, Telephone and Cable

B.10.a Coordination Responsibility

The subdivider shall coordinate with local power, gas and telephone providers prior to submission of the Final Subdivision Plat and Public Improvement Plans (and site plans, if required by zoning) to ensure adequate location, alignments, easements, maintenance access, and other design criteria can be provided.

Approved and coordinated engineering design shall be depicted on Final Subdivision Plats with plan and profile engineering details provided on accompanying Public Improvements Plans.

B.10.b Easements Required

All proposed utilities that are to be maintained by the City after construction and installation shall be located in easements dedicated to the City and recorded with the record plat of the subdivision. These easement areas are to be of the form and size described by the City's design and construction standards or as otherwise specified by the City Engineer.

B.10.c Shared Easements

The owner of property proposed for subdivision or development shall convey common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision or development, as set forth within Code of Virginia Section 15.2-2241(6).

B.10.d Underground Installation Required

All subject electric, telephone and cable alignments within new subdivisions shall be installed underground with any necessary above-ground connections, meters, and related devices installed to the rear of lots to the extent feasible.

Section 5:
SUBDIVISION PLAT APPROVAL PROCESS

A. General

A.1 All subdivision design criteria and construction standards shall be in accordance with this ordinance, the City's design and construction standards, and other design criteria in effect at the time of subdivision plat and plan application.

A.2 All subdividers for major subdivision approval shall be subject to an evaluation process that leads to Final Subdivision Plat and Public Improvements Plan approval and as further conditioned in *Section 2.D.1, Administration*.

The process may include some or all of the following tasks:

A.2.a **Pre-Application Conference:** A Pre-Application Conference with the Zoning Administrator and the Subdivision/Plan Review Committee shall be conducted prior to the submission of any subdivision plat.

A.2.b **Preliminary Subdivision Plat:** A Preliminary Subdivision Plat shall be reviewed by the Subdivision/Plan Review Committee and approved by the Zoning Administrator or the Planning Commission, as applicable *(see Section 2.D, General Regulations),* for all subdivisions, provided the requirement for a Preliminary Subdivision Plat shall be waived for:

(1) subdivisions of fifty (50) or fewer lots, and

(2) subdivisions submitted under the requirements of the TND-O zoning district.

A.2.c **Final Subdivision Plat:** A Final Subdivision Plat shall be administratively reviewed and approved by the Zoning Administrator for all subdivision plats.

A.2.d **Public Improvements Plan:** A Public Improvements Plan shall be approved by the Zoning Administrator upon recommendation of the Zoning Administrator or the Planning Commission, as applicable.

A.2.e **Subdivision Street Names:** Subdivision street names shall be approved by the City Engineer in conjunction with the approval of the Final Subdivision Plat.

A.2.f **Bonds and Agreements:** Subdivision bond and subdivision agreements shall be reviewed by the City Attorney and accepted by the City Council in conjunction with the approval of a Final Subdivision Plat.

B. Subdivision Pre-Application Conference

B.1 Purpose of Conference

Prior to the submission of the Preliminary Subdivision Plat, Minor Subdivision Plat, or Final Subdivision Plat, the subdivider shall contact the Zoning Administrator to schedule a Subdivision Pre-Application Conference.

During the meeting with the Subdivision Pre-Application Conference, the Zoning Administrator and subdivider will address issues related to the specific subdivision location and site planning considerations, utility and infrastructure considerations, other regulations and provisions which are found to be supportive of this ordinance, as well as contributive to the subdivider's understanding of the general requirements as well as any special circumstances which may be related to subsequent subdivision approval.

The purpose of the conference is to establish the following:

B.1.a consistency with conditions of zoning conditions and proffer agreements, as applicable.

B.1.b to provide clarity to the expectations of the City regarding the subdivision application and the process related to approval of plats and public improvements plans.

B.1.c to advise the subdivider as to the course of subsequent approval action by the City, to include a decision or as to whether (1) the Preliminary Subdivision Plat and/or Final Subdivision Plat will be initially reviewed with final approval by action of the Zoning Administrator, or (2) the Zoning Administrator will conduct only administrative review and subsequently present the Preliminary Subdivision Plat and/or Final Subdivision Plat to the Planning Commission for its approval action.

B.1.d to evaluate relationship of the subdivision application in relation to other companion City ordinances as well as potential state and federal permit requirements.

B.1.e to indentify the intended use, scope, type, density, physical characteristics, and phasing of proposed subdivision.

B.1.f to ensure coordination of the proposed subdivision application with any adopted facilities or infrastructure plans, the Comprehensive Plan, the City's capital improvements program, existing or proposed plans for development of neighboring properties.

B.1.g to indentify the need for and scope of transportation improvements with existing and planned streets within the vicinity of the proposed subdivision and as otherwise may be prescribed by the Comprehensive Plan, the Official Map or the City's adopted corridor master plans and other transportation plans.

B.1.h to identify regulations and provisions uniquely applicable to the proposed subdivision as related to physiography, public utility and facilities service, drainage and flood control, transportation, environmental and historic impact, economic development, and facilitation of the creation of a convenient, attractive, and harmonious development.

B.1.i to advise the applicant as to whether an application for a Preliminary Subdivision Plat will be (1) required, (2) waived, or (3) recommended to be submitted on a voluntary basis prior to submission of the Final Subdivision Plat.

B.2 Conference Scheduling and Information Required for Pre-Application Conference

B.2.a The Zoning Administrator shall schedule the Subdivision Pre-Application Conference to be held not later than fifteen (15) working days from the date of request by the subdivider.

B.2.b At the Pre-Application Conference, the subdivider shall provide graphic concept plans, sketches, draft plat exhibits, or other materials (including documentation as subdivider's authority and rights as subdivider) as deemed sufficient by the Zoning Administrator to adequately describe the proposed subdivision.

B.2.c Refer to Section 10, Preliminary Plat Requirements and Checklist of this ordinance for supplemental information pertaining to the Pre-Application Conference.

B.2.d If the subdivider does not submit the preliminary plat within ninety (90) days of completion of the Subdivision Pre-Application Conference, the Zoning Administrator, at its discretion, may require a second pre-application meeting.

B.3 Other Subsequent Requirements

B.3.a At the Pre-Application Conference, the Zoning Administrator shall determine if the application requirements shall be reviewed and approved (1) administratively or (2) by action of the Planning Commission.

B.3.b The Subdivision Pre-Application Conference does not replace the requirement for the submission of a Preliminary Subdivision Plat, a Final Subdivision Plat, a Public Improvements Plan, or any other provisions of this ordinance, the Zoning Ordinance or any other requirement of the City.

B.4 Subdivision/Plan Review Committee

The Subdivision/Plan Review Committee comprised of members chosen by the Zoning Administrator and who are qualified to represent the City at the Subdivision Pre-Application Conference and during the plan review period to determine compliance with applicable laws and regulations in relation to a proposed subdivision.

The composition of the Subdivision/Plan Review Committee may vary from time to time. The invited committee attendees shall be determined at the discretion of the Zoning Administrator based on the review requirements of a particular project. The Committee may include any or all of the following:

- City Manager or its designee
- Zoning Administrator and Staff
- Building Official
- Health Official

- Fire Chief
- City Engineer
- Water and Gas Department Representative
- City Attorney or Representative
- Planning Commission Chairperson or Representative
- Electric, Telephone or Cable company Representative
- VDOT Representative (as required)
- State, Federal or other Local agency (as may be required)
- Professional consultant retained by the City
- City Real Estate Assessor

B.5 Waiver of the Preliminary Subdivision Plat; Option for Voluntary Review

B.5.a Upon completion of the Pre-Application Conference, the Zoning Administrator shall waive the requirement for a Preliminary Subdivision Plat involving either:

(1) a subdivision or fifty (50) or fewer lots, or

(2) a project to be reviewed and approved under the requirements of the TND-O zoning district.

B.5.b Upon completion of the Pre-Application Conference, a subdivider may voluntarily elect to request and submit for review a Preliminary Subdivision Plan under the requirements of this ordinance. The voluntary review process will be conducted in the same manner as with the normal process for preliminary plat review as outlined herein after.

C. Preliminary Subdivision Plan

C.1 <u>Submission of Preliminary Subdivision Plat</u>

C.1.a Application for any required Preliminary Subdivision Plat approval shall be submitted to the Zoning Administrator, provided that the requirement for a preliminary plat may be waived by the Zoning Administrator pursuant to *<u>Section 15.2-2260 of the Code of Virginia</u>* and determinations resulting from the required Pre-Application Conference.

C.1.b Any required Preliminary Subdivision Plat which lacks any information required by this ordinance or which is not consistent with the requirements of the Preliminary Subdivision Plat Checklist shall be deemed to be an incomplete submission and the subdivider shall be notified by mail of deficiencies within ten (10) calendar days of the submittal and the plats shall be returned.

C.1.c The resubmission of a corrected Preliminary Subdivision Plat which has been previously determined to be incomplete shall be considered a new submission.

C.1.d Once a Preliminary Subdivision Plat which has been determined by the Zoning Administrator to be complete, it shall be deemed a “complete submission” and the

preliminary plat and other applicable exhibits shall be transmitted to the appropriate agencies and members of the Subdivision/Plan Review Committee.

C.1.e The Zoning Administrator shall notify the subdivider within ten (10) business days from date of initial Preliminary Subdivision Plat submission as to whether a Planning Commission public hearing will be required for approval of the Preliminary Subdivision Plat.

C.1.f Refer to *Section 7, Preliminary Plat Requirements and Checklist* of this ordinance for Preliminary Subdivision Plat application requirements and an official copy of the Preliminary Subdivision Plat Checklist. A checklist for individual subdivision applications may be obtained from the office of the Zoning Administrator.

C.2 Approval Procedures and Timeframes for Preliminary Subdivision Plats

C.2.a Initial Submittal

C.2.a.1 Whenever the owner of any tract of land in the City desires to apply to subdivide the same and a Preliminary Plat is required, the subdivider shall submit a Preliminary Subdivision Plat, a Preliminary Subdivision Plat Checklist, and other relevant information, as may be required, related to the proposed subdivision to the Zoning Administrator.

C.2.a.2 This Preliminary Subdivision Plat shall be in compliance with the provisions of the Subdivision Ordinance, the Preliminary Plat Checklist, the Zoning Ordinance, and, further, shall be in accord with the proceedings of the Pre-Application Conference.

C.2.a.3 The subdivider shall pay a fee at the time when the Preliminary Subdivision Plat is filed. Such fee shall be in the form of cash or check, the amount thereof is to be determined in accordance with a schedule set and adopted by resolution by the City Council.

C.2.a.4 The Zoning Administrator will undertake an initial review of the Preliminary Subdivision Plat to determine whether or not it constitutes a "complete submission" within ten (10) business days.

C.2.a.5 A "complete submission" is deemed to be a submission of the Preliminary Subdivision Plat and supplemental information that fully addresses: (1) the requirements of *Section 10, Preliminary Plat Requirements and Checklist,* of this ordinance and (2) the agreements reached as the Pre-Application Conference. The subdivider will be notified in writing if the preliminary plat does not meet the requirements of a "complete submission". Any subsequent filing of preliminary plat for the same subdivision will reviewed as an initial submission until such time that the application is deemed a "complete submission" by the Zoning Administrator. At such time as the Zoning Administrator determines that the Preliminary Subdivision Plat is in compliance with the application Preliminary Subdivision Check List and other application requirements of this ordinance, it shall be deemed an "official submission", whereupon the Zoning Administrator shall transmit the Preliminary Subdivision Plat and other application requirements, together

with the recommendations of the Subdivision/Plan Review Committee, comments and recommendations to the applicable City and State agencies for review.

C.2.a.6 A decision to approve or disapprove the Preliminary Subdivision Plat shall be rendered by the Zoning Administrator within sixty (60) calendar days from the date of a "complete submission" provided that: (1) no approval by a State agency or a public authority authorized by State law is required to review one or more portions of the submission, or (2) unless the timeframe for approval is waived or extended by mutual consent and agreement by the subdivider and the City of Martinsville, or (3) the Zoning Administrator has determined that the Preliminary Subdivision Plat requires review by the Planning Commission.

C.2.a.7 In the event the approval is required of a one or more features of the preliminary plat by an agency of the State of Virginia or a public authority authorized by State law, the Zoning Administrator within ten (10) business days of receipt of the "complete submission" of a Preliminary Subdivision Plat shall distribute a copy of the "complete submission" (Preliminary Subdivision Plat, Preliminary Plat Checklist, and supporting documents) to such State agencies as well as the individual members of the Subdivision/Plan Review Committee and City staff as appropriate.

C.2.a.7 Any State agency or public authority authorized by State law making a review of a preliminary plat shall complete its review within forty-five (45) days of receipt of the preliminary subdivision plat upon first submission and within forty-five (45 days) for any proposed preliminary plat that has previously been disapproved by such agency or agencies.

C.2.a.8 Upon receipt of the approvals from all State agencies and in the absence of a decision by the Zoning Administrator to conduct a Planning Commission review and hearing on the preliminary plat, the Zoning Administrator shall act upon a Preliminary Subdivision Plat within thirty five (35) days if Planning Commission review is not required.

C.2.a.9 In cases where the Planning Commission has (1) the responsibility of review of preliminary plats, and (2) conducts a public meeting for that purpose, the Planning Commission shall act on the preliminary plat within forty-five (45) days after receiving written notice of approval from all State agencies.

C.2.a.10 In the event the Zoning Administrator or the Planning Commission, as applicable, does not approve the preliminary plat, the Zoning Administrator shall set forth and communicate to the subdivider in writing the reasons for such denial.

The communication shall state what corrections or modifications will permit approval by the Zoning Administrator or the Planning Commission, provided that the Zoning Administrator or the Planning Commission shall not be required to approve a preliminary plat in less than sixty (60) days from the date of its original "complete submission", and, further provided, that all actions on preliminary plats shall be completed by the Zoning Administrator

or the Planning Commission and, if necessary, supporting State agencies, within a total of ninety (90) days of the date of a "complete submission" unless this timeframe is otherwise waived by the subdivider.

C.2.a.11 If the the Zoning Administrator or the Planning Commission, as applicable, fails to approve or disapprove the preliminary plat within ninety (90 days) after acceptance of a "complete submission", the subdivider after ten (10) days' written notice to the Zoning Administrator may petition the Circuit Court of Martinsville to enter an order with respect the actions the subdivider deems proper. This petition may include directing approval of the preliminary plat.

C.2.a.12 If the Zoning Administrator or the Planning Commission disapproves a preliminary plat and the subdivider contends that the disapproval was not properly based on the applicable City ordinance or was arbitrary or capricious, the subdivider may appeal on behalf of the City to the Circuit Court of Martinsville and the court shall hear and determine the case as soon as may be, provided that the appeal is filed with the circuit court within sixty (60) days of the written disapproval by the Zoning Administrator or the Planning Commission.

C.2.a.13 Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider:

(1) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and

(2) thereafter diligently pursues approval of the final subdivision plat. ("Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto.)

However, no sooner than three (3) years following such preliminary plat approval, and upon ninety (90) days' written notice by certified mail to the subdivider, the Zoning Administrator may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the Final Subdivision Plat.

The Zoning Administrator or the Planning Commission, as applicable, may grant, upon written request by the subdivider, one or more extensions of the Preliminary Subdivision Plat for a period not to exceed twelve (12) months per extension period.

C.2.a.14 Once an approved Final Subdivision Plat for all or a portion of the property is recorded pursuant to Virginia Code Section 15.2-2261, the underlying preliminary plat shall remain valid for a period of five (5) years from the date of the latest recorded plat of subdivision for the property. The five (5) year period of validity shall extend from the date of the last recorded plat.

C.2.a.15 The approval of the Preliminary Subdivision Plat does not guarantee approval of the Final Subdivision Plat and Public Improvements Plan; nor does Preliminary Subdivision Plat approval constitute acceptance of the subdivision, or public dedications of areas within, nor does it establish authorization to proceed with construction or improvements within the subdivision.

C.2.a.16 No property shall be transferred or offered for sale, nor shall a permit be issued on the basis of an approved Preliminary Subdivision Plat.

C.3 Required Preliminary Subdivision Plat Information

C.3.a Preliminary Subdivision Plats, when required, shall include all information and certifications as required by Preliminary Plat Checklist (an official copy of the checklist requirements and form is contained in *Article 10, Preliminary Subdivision Plat Requirements and Checklist* of this ordinance.)

C.3.b It shall be the responsibility of the subdivider and the subdivider's engineer or surveyor to complete and return two (2) copies of the Preliminary Plat Checklist with the submission and any subsequent resubmission of the Preliminary Subdivision Plat.

C.3.c The Preliminary Plat Checklist shall be prepared by the subdivider's engineer or surveyor, and the checklist shall be certified for completeness by the preparer of the plat in the signature block provided thereon.

C.3.d When the intended uses of all or part of a platted area, as indicated by a preliminary plat and as shown on that plat, would place the land proposed to be platted in a more restrictive zoning district classification than that which exists at the time the final plat is filed with the City, a condition to the approval of the preliminary plat shall be a change in zoning of the affected area to a classification consistent with the use to be made of the proposed platted land.

C.3.e No final plat may be submitted prior to the completion of any required rezoning the area subject to a final plat.

C.3.f If a zoning of a portion or all of property identified by the preliminary plat requires a map amendment to the Zoning Ordinance, the review of the preliminary plat shall be suspended until proper application is made for a zoning map amendment, and a final plat shall not be recorded until the rezoning is effective.

D. Final Subdivision Plat and Public Improvements Plans

D.1 Submission of Final Subdivision Plat and Public Improvements Plan

D.1.a The application for Final Subdivision Plat approval shall be submitted to the Zoning Administrator. Two copies of the Final Subdivision Plat Checklist shall be submitted with each application. All Final Subdivision Plats shall be accompanied by or preceded by a

Public Improvements Plan. The checklist shall be signed by the plat preparer. The subdivision review fee shall be submitted at the time of initial application.

D.1.a The Public Improvements Plan shall provide engineering design plans, profiles, details and specifications for required subdivision improvements. Two copies of the Final Public Improvements Plan Checklist shall be submitted with each application. The checklist shall be signed by the plan preparer.

D.1.b Any Final Subdivision Plat which lacks any information required by this ordinance, the Zoning Ordinance, and the Final Subdivision Plat Checklist (an official copy contained in Article 11 of this Ordinance) shall be deemed to be an "incomplete submission" and shall be rejected by the Zoning Administrator within ten (10) calendar days of initial submission, otherwise the plat shall be deemed a "complete submission."

D.1.c Any Public Improvements Plan relevant to a Final Subdivision Plat which lacks any information required by this ordinance, the Zoning Ordinance and the Final Site Plan Checklist, shall be deemed to be an "incomplete submission" and shall be rejected by the Zoning Administrator within ten (10) calendar days of initial submission, otherwise the plan shall be deemed a "complete submission."

D.2 Approval Procedures and Timeframes for Final Subdivision Plat

D.2.a Initial Submittal

2.a.1 Five (5) copies of the Final Subdivision Plat and Public Improvements Plan (in clearly legible and bound hardcopy; such as *Xerox* copies, blue line, or black line copies) shall be submitted to the Zoning Administrator. The City may establish a schedule of deadlines and cycles for the submission and review of plats.

2.a.2 The Final Subdivision Plat and Public Improvements Plan shall be accompanied by payment of a fee for review and processing, with fee based on a fee schedule adopted by resolution of the City Council.

2.a.3 The Final Subdivision Plat shall be prepared by a certified land surveyor licensed by the State of Virginia and shall contain the signature and original professional seal of the land surveyor.

2.a.4 The accompanying Public Improvements Plans shall have been previously approved, or it shall be submitted and concurrently processed for approval in the manner prescribed by this ordinance and, where applicable, the site plan regulations of the Zoning Ordinance.

2.a.5 The Public Improvements Plan shall be prepared by a registered professional engineer or a B-class surveyor licensed by the State of Virginia within the qualifications and experience of its professional practice, and the plan shall contain the signature and original professional seal of the engineer or B-class surveyor.

2.a.6 Two (2) copies of the Final Subdivision Plat Checklist, as updated based on the findings of the Pre-Application Conference, shall be submitted.

D.2.b Relationship of Final Subdivision Plat to Preliminary Plat

If, in the opinion of the Zoning Administrator, there are substantial differences between the Preliminary and Final Subdivision Plats, the review process shall be suspended until such point in time that the subdivider revises the plat or revises such plats to warrant conformity, provided that the subdivider, at his discretion, may revise and resubmit the Preliminary Subdivision Plat to conform with the Final Subdivision Plat.

D.2.c Staff, Agency and Subdivision/Plan Review Committee Review

2.c.1 Within ten (10) calendar days of receipt, copies of a "complete submission" of a Final Subdivision Plat or Public Improvements Plan, the Zoning Administrator shall distribute submission materials to the appropriate members of the Subdivision/Plan Review Committee, City Staff and State agencies for review and comment on the compliance with this ordinance and all applicable City standards.

2.c.2 City Staff, State agency and/or the Subdivision/Plan Review Committee comments on the final subdivision plat shall be completed within thirty (30) calendar days from a the date of a "complete submission" of the Final Subdivision Plat.

D.2.d Revisions to Staff Review by Subdivider

2.d.1 In cases where Final Subdivision Plat and Public Improvements Plan revisions, deletions, or additions are necessary to complete and satisfy the agency review process, the subdivider shall be so notified in writing. The Zoning Administrator shall provide the subdivider with a summary of review comments and recommendations within ten (10) calendar days upon receipt of all City Staff, Subdivision/Plan Review Committee, and State agency comments.

2.d.2 The subdivider or developer shall revise the Final Subdivision Plat and Public Improvements Plan to address all review requirements and shall submit such revisions to the Zoning Administrator within thirty (30) days of receipt of the City's review comments. The resubmission shall be accompanied by a revised and updated Final Subdivision Plat Checklist and correspondence from the subdivider's engineer or surveyor addressing each matter presented in the City's summary review comments.

2.d.3 Where the revised final plat or public improvements plan does not include required revisions or is not resubmitted within the thirty (30) day period, the Zoning Administrator shall suspend the review period and shall notify the subdivider in writing that the plat and plan review shall not proceed until the required revisions are submitted per the determination of the Zoning Administrator.

2.d.4 Nothing contained herein shall obligate the subdivider to revise the Final Subdivision Plat to include recommendations from Staff and/or the Subdivision/Plan Review Committee. However, in such case in which the

subdivider does not revise the Final Subdivision Plat and Public Improvements Plan to include or address administrative review findings, the subdivider shall submit in writing to the Zoning Administrator a statement as to the reasons and justification for not incorporating such recommendations in the revised plat and plan.

D.2.e Complete Administrative Review

Pursuant to the the Zoning Administrator's determination that the Final Subdivision Plat and Public Improvements Plan are in full compliance with the technical and design requirements of the City Staff, the Subdivision/Plan Review Committee, State agencies and the requirements of this ordinance and other City ordinances, the Final Subdivision Plat and Public Improvements Plan shall be deemed a "complete administrative review".

D.2.f Action on Final Subdivision Plat

2.f.1 Upon determination of a "complete administrative review" and in accord with the provisions herein below, the Zoning Administrator shall either (1) make a decision to approve or disapprove the Final Subdivision Plat and/or Public Improvements Plans, or, based on its determination at the Pre-Application Conference, (2) elect to submit the Final Subdivision Plat and/or Public Improvements Plans to the Planning Commission for review and final action. In the event of the latter, the Zoning Administrator shall transmit the Final Subdivision Plat and/or Public Improvements Plan, together with a report containing the findings and recommendations of the "complete administrative review", to the Planning Commission for its consideration.

2.f.2 If State and/or Federal review of the Final Subdivision Plan is not required, a decision to approve or disapprove the Final Subdivision Plat or Public Improvements Plan shall be rendered by the Zoning Administrator or Planning Commission, as applicable, within sixty (60) calendar days from the date of determination of the "complete administrative review" pursuant to Section 15.2-2259 of the Code of Virginia, unless the timeframe is waived by mutual consent agreement by the subdivider and the City of Martinsville.

2.f.3 A decision to approve or disapprove the Final Subdivision Plat shall be rendered by the Zoning Administrator within sixty (60) calendar days from the date of a "complete submission" provided that: (1) no approval by a State agency or a public authority authorized by State law is required to review one or more portions of the submission, or (2) unless the timeframe for approval is waived or extended by mutual consent and agreement by the subdivider and the City of Martinsville, or (3) the Zoning Administrator has determined that the Final Subdivision Plat requires review by the Planning Commission.

2.f.4 In the event the approval (or additional approval not secured at time of Preliminary Subdivision Plat review) is required of a one or more features of the Final Subdivision Plat by an agency of the State of Virginia or a public authority authorized by State law, the Zoning Administrator within ten (10) business days of receipt of the "complete submission" of a Final Subdivision Plat shall distribute a copy of the "complete submission" (Final Subdivision Plat,

Final Plat Checklist, and supporting documents) to such State agencies as well as the individual members of the Subdivision/Plan Review Committee and City staff as appropriate.

2.f.5 Any State agency or public authority authorized by State law making a review of a Final Subdivision Plat shall complete its review within forty-five (45) days of receipt of the final plat upon first submission and within forty-five (45 days) for any proposed Final Subdivision Plat that has previously been disapproved by such agency or agencies.

2.f.6 Upon receipt of the approvals from all State agencies and in the absence of a decision by the Zoning Administrator to conduct a Planning Commission review and hearing on the Final Subdivision Plat, the Zoning Administrator shall act upon a Final Subdivision Plat within forty five (45) days if Planning Commission review is not required.

2.f.7 In cases where the Planning Commission has (1) the responsibility of review of the Final Subdivision Plat, and (2) conducts a public meeting for that purpose, the Planning Commission shall act on the Final Subdivision Plat within forty-five (45) days after receiving written notice of approval from all State agencies.

2.f.8 The approval of the Final Subdivision Plat or the Public Improvements Plan by the Zoning Administrator or the Planning Commission, as applicable, does not constitute acceptance of the public facilities.

2.f.9 The Zoning Administrator or the Planning Commission, as applicable, shall act to either approve or disapprove a final plat that it has previously disapproved within forty-five (45) calendar days after the plat and/or public improvements plan has been modified, corrected and resubmitted under the requirements of a "complete administrative review" and such modifications, corrections, and revisions have been further completed to the satisfaction of the Zoning Administrator. The failure of the Zoning Administrator or the Planning Commission, as applicable, to approve or disapprove the resubmitted plat or plan within the forty-five (45) day period, the final plat shall be deemed approved.

2.f.10 No final plat may be submitted unless all proposed uses are allowed for inclusion in the zoning district in which the subdivision is to be located. If a portion or all of property requires a map or text amendment to the Zoning Ordinance, a Final Subdivision Plat shall not be submitted until the rezoning is legally effective.

2.f.11 No lot consolidation plat shall receive final approval unless (1) the properties subject to such lot consolidation share the same zoning district classification, or (2) the mix of zoning districts applicable to the consolidation plat has been reviewed and conditionally approved by the Zoning Administrator.

D.2.g <u>Appeal to the Circuit Court</u>

2.g.1 Appeal based on failure to act: If the Zoning Administrator or the Planning Commission, as applicable, fails to approve or disapprove a final plat within

sixty (60) days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval, or within 35 days of receipt of any agency response, the subdivider, after ten (10) days' written notice to the Zoning Administrator, may appeal to the circuit court.

2.g.2 The circuit court may decide whether the plat should or should not be approved. The court shall give the petition priority on the civil docket, hear the matter expeditiously in accordance with the procedures prescribed in *Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 of the Code of Virginia* and make and enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

2.g.3 Appeal based on alleged improper decision making: If the Zoning Administrator or the Planning Commission, as applicable, disapproves a plat and the subdivider contends that the disapproval was not properly based on the ordinances applicable thereto, or was arbitrary or capricious, the subdivider may appeal to the circuit court.

2.g.4 The court shall hear and determine the case, provided that the subdivider's appeal is filed with the circuit court within sixty (60) days of the written disapproval by the Zoning Administrator or the Planning Commission, as applicable.

D.2.h <u>Approval Conditions for Final Subdivision Plat</u>

2.h.1 The Final Subdivision Plat shall not be recorded until the subdivider has:

(1) the Public Improvements Plan related to the subdivision has been approved by the Zoning Administrator or the Planning Commission, as applicable, and

(2) the subdivision surety (bond) and all subdivision agreements have been reviewed by the City Attorney and accepted by the City Council.

2.h.2 Approval of the Final Subdivision Plat and protective covenants (if applicable), shall be shown by attaching a signature panel to be signed by the clerk of the City's circuit court. The subdivider shall be responsible for recording the covenants with the clerk of court and shall provide the Zoning Administrator with one copy of the covenants affixed with the stamp of the clerk of the City's circuit court certifying the date of recordation.

2.h.3 Nothing herein shall require the approval of any subdivision or any part or feature thereof which shall be found to constitute a nuisance or to constitute a danger to the public health, safety, or general welfare, or which shall be determined by either the Planning Commission or Zoning Administrator, as applicable, to be a departure from or a violation of sound engineering design or standards.

D.2.i Expiration and Extension of Approval of a Recorded Final Subdivision Plat

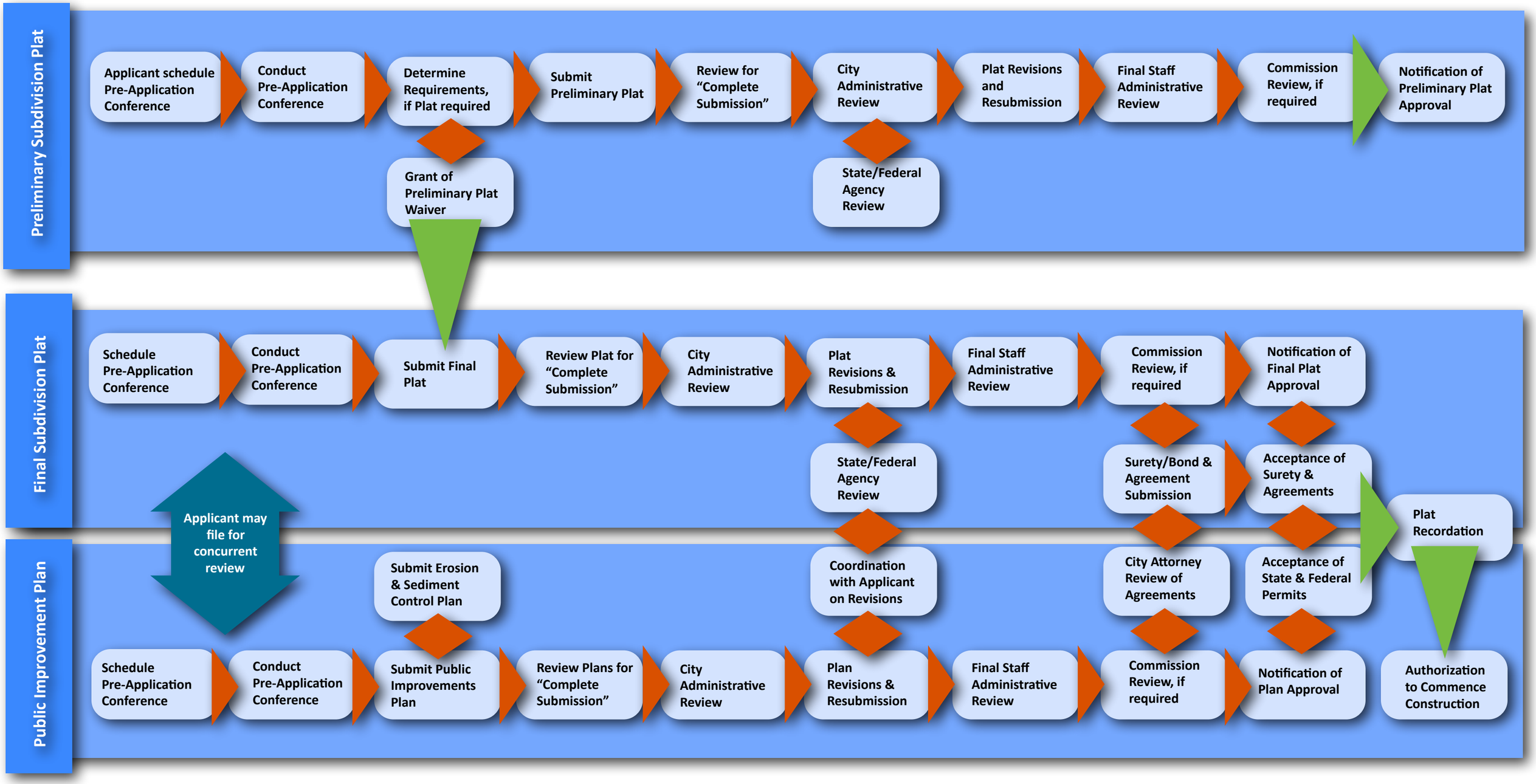
2.i.1 An approved Final Subdvision Plat which has been recorded shall be valid for a period of not less than five (5) years from the date of approval or for such longer period as the Zoning Administrator, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development.

2.i.2 Upon application of the subdivider filed prior to expiration of a recorded final plat or public improvements plan, the Zoning Administrator may grant one or more extensions of such approval for additional periods as the Zoning Administrator may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

2.i.3 If the Zoning Administrator denies an extension requested as provided herein above and the subdivider contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, the subdivider may appeal to the circuit court, provided that such appeal is filed with the circuit court within sixty (60) days of the written denial by the Zoning Administrator.

2.i.4 For so long as the final recorded plat for five (5) years after approval, no change or amendment to any City ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the recorded plat shall adversely affect the right of the subdivider or his successor in interest to commence and complete an approved subdivision in accordance with the lawful terms of the recorded plat or plan unless the change or amendment is required to comply with state or federal law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

2.i.5 Application for minor modifications to recorded plats or final site plans made during the periods of validity of such plats or plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or plans.



Subdivision Application Process

Section 6:
SUBDIVISION BONDS AND SURETY

A. Completion of Improvements and Bonding

In order to obtain guarantee of performance to assure timely completion and competent construction of subdivision and related public improvements, the subdivider is required to post surety(ies) in the form of bond, escrow, letter of credit or other acceptable surety under the provisions contained in this article. Such surety(ies) shall be posted by the subdivider and approval by the City Attorney prior to recordation of the Final Subdivision Plat to which the bond applies.

B. Requirements for Surety and Bond Agreements

The surety (or performance bond) agreement(s) shall apply to streets, utilities, drainage improvements, erosion and sediment control, landscaping and other required physical improvements and infrastructure located within the existing or proposed public right-of-way or within public or private easements or as are connected to any public utility or facility in form and substance as approved by the City.

C. Bond Amount Estimate

C.1 The subdivider's engineer shall submit an itemized, component cost estimate of improvements planned for the subdivision, including:

c.1.a subdivision improvements, including but not limited to streets, water improvements, sewer improvements, storm drainage improvements, street lighting and sidewalks.

c.1.b erosion and sediment control measures (refer to Erosion and Sediment Control Ordinance and Section 6.C.3 hereinbelow),

c.1.c stormwater management facilities and best management practices infrastructure,

c.1.d landscaping improvements,

c.1.e other public or private infrastructure, as determined by the City Engineer, to be dedicated to and maintained by a public agency,

c.1.f proffered improvements and financial commitments related to conditional zoning approvals for the subdivision, and

c.1g other items as may be required for subdivision bonding by the Zoning Administrator.

C.2 In lieu of a subdivider's engineer's bond estimate, the Zoning Administrator may accept a bond estimate based on an executed contract for the construction of required improvements. Acceptance of the bond estimate shall be at the sole discretion of the Zoning Administrator upon review and recommendation by the City Attorney. The contractor shall be required to post a performance bond with like surety, in like amount and so conditioned as to comply with all other requirements in this section.

C.3 The bond amount estimate shall be submitted to and reviewed by the City Engineer (1) prior to the final review of the surety (bond) agreements by the City Attorney and formal acceptance by the City Council (or its agent) and (2) prior to approval of the public improvements plan. The component cost estimate for bonding shall be based upon industry norms within the region and/or City standard unit prices. The bond amount estimate shall include a reasonable allowance for administrative costs, inspection and fees, inflation over the expected duration of construction, potential damage to existing streets or utilities during the construction and occupancy period, provided that this allowance shall be equal to not less than twenty (20) percent of the total estimated construction costs.

C.3 The erosion and sediment control bond shall be issued as a separate bond instrument from the subdivision improvements bond.

D. Period of Bond Agreement

D.1 When an subdivider enters into a bond agreement with the City, it is understood that all necessary physical improvements must be completed in the specified period of time. If all of the improvements are not completed to the sole satisfaction of the City within the period of the bond, and no extension has been obtained, or a replacement bond has not been approved, the bond agreement shall be deemed in default.

D.2 The maximum period of the performance bond agreement shall be eighteen (18) months, unless the initial bond period is extended by the Zoning Administrator upon recommendation of the City Engineer and City Attorney at the time of Final Subdivision Plat approval.

D.3 The subdivider and approved surety will be notified by the Zoning Administrator within sixty (60) calendar days prior to the end of the period of bond agreement. For sureties which contain an expiration date, the subdivider and surety will be notified within sixty (60) calendar days prior to expiration that an approved extension or new bond will be required and approved by the City Council.

E. Extension of Bond Agreement

The subdivider may request and be granted by the City Council, an extension of the expiration date of the performance bond for a period not to exceed one (1) year, provided that:

E.1 All surety agreements have been acquired and accepted by the City.

E.2 The subdivider has submitted an acceptable program of completion to the Zoning Administrator and City Engineer.

E.3 Inspection of existing physical improvements is found satisfactory.

E.4 There have been no undue and unattended complaints lodged against the subdivider or the subdivision.

E.5 The subdivider's request for extension of the bond sufficiently addresses the reasons which have precluded the completion of the project within the original bond period.

E.6 The bond cost estimate has been updated to the satisfaction of the City Engineer.

E.7 The subdivider's extension request is received by the City Engineer thirty days (30) prior to the end of the period of the bond agreement.

F. Acceptable Forms of Surety Guarantees

Forms of surety guarantees shall be limited to the following:

F.1 Cash escrows at an insured financial institution approved by the City.

F.2 Letters of credit from an insured lending institution approved by the City.

F.3 Cashier's or certified check.

F.4 Other surety as may be approved by the Zoning Administrator upon review and recommendation by City Attorney, including a contractor's performance bond.

G. Maintenance (Warranty) Bonds

G.1 Prior to (1) the release of the subdivision performance bond and (2) the City or state acceptance of streets and other public facilities subject to initial surety requirements, a maintenance (or warranty) bond shall be required for such subdivision improvements.

G.2 The subdivider shall furnish surety in the same manner as a subdivision bond, in an amount sufficient for and conditioned upon the maintenance of the improvements until such time as the improvements are accepted. The form and type of surety shall be approved by the Zoning Administrator upon review and recommendation by the City Attorney.

G.3 The maintenance bond shall apply to streets, roads, curbs, guttering, street lighting, storm drainage improvements, stormwater management facilities, utilities, other related improvements as may be required by the City, including the reconstruction and repaving of any public street or road before the road may be accepted into the public system.

G.4 The maintenance bond shall be equal to or greater in value than an amount equaling twenty (20) percent of the total construction cost of the subdivision improvements.

G.5 The timeframe for the duration of the maintenance bond shall be determined by the Zoning Administrator upon recommendation of the City Engineer at the time of the release of the surety bond.

H. Release of Subdivision (Performance) Bond

H.1 A subdivider may make a request for a bond release upon the following terms and conditions.

The bond shall be released only upon:

H.1.a the findings of the City (and State, if applicable) that support satisfactory completion of improvements, and

H.1.b upon the placement of a maintenance bond per the requirements of this ordinance, the City's design and construction standards, and other standards and criteria upon which the approval of the Final Subdivision Plat and Public Improvements Plan, erosion and sediment control plan, stormwater management plan, and landscape plan were based.

H.2 Upon written request by the subdivider or developer, the City shall make periodic partial performance bond releases for satisfactory subdivision performance and otherwise in accord with the Code of Virginia. Upon the City's review of request and upon satisfactory inspection and approval of improvements subject to the release request, such periodic and/or partial releases shall be made within thirty (30) days of request.

H.3 Surety releases shall be based upon the percentage of the facilities completed and approved by the City, provided that such releases may not occur before the completion of at least thirty (30) percent of the infrastructure and facilities covered by any bond, escrow, letter of credit, or other approved performance guarantee.

H.4 The City shall be not execute more than three (3) periodic and/or partial releases in any twelve-month period. Upon final completion and acceptance of said facilities by the City and state, the City shall release any remaining bond, escrow letter of credit, or other performance guarantee (surety) to the subdivider or developer.

H.5 For the purpose of final release, the term "acceptance" is deemed to mean the following: when the said public facility is accepted by and taken over for operation and maintenance by the City. For the purpose of erosion and sediment control, acceptance shall be warranted upon final stabilization of the site as determined by the Zoning Administrator, and for the purpose of landscaping, acceptance shall be warranted upon final installation of all required landscaping measures as determined by the Zoning Administrator.

H.6 If the City does not responds within forty-five (45) days of a request for partial release or within sixty (60) days of a request for final release, then the release is deemed approved.

I. Bond Default

I.1 If the subdivider or owner of property subject to the bond fails to complete the require improvements within the specified timeframe of the bond agreement, the subdivider and owner shall be deemed in default.

I.2 The subdivider, owner and surety will be mailed a copy of the Zoning Administrator's report on the default and will be advised of their right to be heard on the matter at a scheduled public hearing of the Planning Commission.

I.3 The subdivider, owner and surety shall have thirty (30) days to correct the default and to otherwise complete an agreement with the City to complete improvements subject to the default.

I.4 If satisfactory action is not made within the prescribed period, the City shall proceed with the completion of the default action by the City against the subdivider and owner, and the City shall take any and all necessary legal actions to call the bond and secure monetary proceeds related thereto.

I.5 In the event of default, the City shall take appropriate steps to initiate action to complete the improvements with money secured from the default action pursuant to prior approved plans or revisions thereto as recommended by the City Engineer and/or Zoning Administrator which may be in the best interest of the City and existing or future residents of the subdivision.

Section 7:
PRELIMINARY SUBDIVISION PLAT REQUIREMENTS AND CHECKLIST

A. Requirement for Preliminary Subdivision Plat Submission

1. A Preliminary Subdivision Plat (or "*preliminary plat*") shall be required for any subdivision that creates more than fifty (50) lots in the City, provided that the Zoning Administrator has granted the waiver of a preliminary plat.

2. The following sections provide the information that is required in the preparation and submission of a Preliminary Subdivision Plat and the Preliminary Subdivision Plat Checklist. The requisite items to be incorporated into any required Preliminary Subdivision Plat and to be addressed on the Preliminary Subdivision Plat Checklist are outlined in sub-sections 10.C, 10.D, and 10.E herein below.

3. Five copies of the Preliminary Subdivision Plat and the Preliminary Subdivision Plat Checklist shall be prepared and certified by the person(s) preparing the plat and shall be submitted with any initial application or resubmission for a preliminary plat.

4. The application shall be accompanied by the application review fee and a document of declaration of property ownership signed by the property owners.

B. Pre-Application Conference

1. A Pre-Application conference shall be required prior to submission of a preliminary plat. The applicant shall contact the office of the Zoning Administrator to schedule the Pre-Application conference. Preliminary plats may not be submitted for review either prior to or at the Pre-Application conference.

2. The purpose of the Pre-Application conference is to discuss any necessary issues and questions that may be relevant to the subsequent plat application, provided that the requirement for the submission of the preliminary plat is not waived at the Pre-Application conference. Application requirements as specified in this section shall be reviewed at the Pre-Application conference.

3. At the conference, the applicant or its representative may demonstrate and request that one or more application requirements may be waived or modified. The Zoning Administrator may, at its sole discretion, determine which, if any, requirements are not applicable for subsequent plat submission and may be waived.

4. At the conclusion of the Pre-Application conference, the applicant will be provided with a copy of the checklist indicating which, if any, requirements have been determined to be *not applicable* and may be waived. These shall be referenced and noted as "**N/A**" on the checklist accompanying the subsequent submission of the preliminary plat.

4. Preliminary plats which lack information required by this ordinance, the Preliminary Subdivision Plat Checklist, and/or the City's design and construction standards shall be deemed to be incomplete and shall be rejected. The checklist shall be deemed "incomplete" if all items are not fully addressed.

5. Those items which have been determined by the Zoning Administrator to be not applicable or waived at the Pre-Application conference shall be noted as "**N/A**" on the checklist. Those items noted as "**YES**" indicate that the plat preparer has or will have to fully addressed those items with the subject plat application.

C. Minimum Information Required on the Preliminary Plat Title Sheet

		YES	NO	N/A
1.	Title Block			
	a.) Subdivision name and address.	___	___	___
	b.) City of Martinsville tax map and parcel number.	___	___	___
	c.) Deed book reference and source of title.	___	___	___
	d.) Names and addresses of the owners of the property, the subdivider/developer, and the plat preparer.	___	___	___
	e.) Names and address of surveyor or engineer preparing the plat.	___	___	___
	f.) Scale of plat (1"=100' or larger).	___	___	___
	g.) Date of plat preparation.	___	___	___
	h.) Project number (to be assigned by the City).	___	___	___
2.	Surveying and mapping control information.	___	___	___
3.	Vicinity map at a minimum scale of 1"=1000'.	___	___	___
4.	General information to include the number of plat sheets and an index showing the locations of the various sheets.	___	___	___
5.	Reference any proffers, special use permit conditions, waivers or variances granted. Copies of all are to be attached.	___	___	___
6.	Seal and signature (on each sheet) by a Virginia certified land surveyor or professional engineer.	___	___	___
7.	Owner's dedication and consent properly worded and notarized.	___	___	___
8.	Signature panel for City approval.	___	___	___
9.	Sheet size requirements (18" x 24" maximum)	___	___	___

D. Information Required on Preliminary Subdivision Plat Exhibits

		YES	NO	N/A
1.	North arrow, match lines and sheet numbers.	___	___	___
2.	Topography: Existing and proposed contours at two (2) foot intervals.	___	___	___
3.	Current boundary survey; bearings and distances to the nearest existing street lines or bench marks or other permanent monuments (not less that three) shall be accurately described on the plat.	___	___	___
4.	Present zoning and land use, proposed zoning, and land use and owners of all abutting or contiguous parcels.	___	___	___
5.	Location of all existing lot lines and total acreage in each.	___	___	___
6.	Location and number of all proposed lots, building setback lines, approximate acreage of each lot, approximate dimensions of all lots, proposed grading and approximate right-of-way acreage.	___	___	___
7.	Locations of existing and proposed streets, easements and other rights-of-way within and adjoining the subdivision, including right-of-way and roadway widths, approximate grades and proposed street names.	___	___	___
8.	Location of existing and proposed domestic water mains, fire hydrants, sanitary sewer mains, gas, telephone, cable, electric and other infrastructure adjacent to the tract to be subdivided.	___	___	___
9.	Proposed design and method of water supply, drainage provisions, sanitary sewer layout or other accepted sanitary plan. Connections with existing facilities, preliminary sizes of proposed facilities and any accessory structure shall also be shown.	___	___	___
10.	Existing storm drainage and stormwater management improvements.	___	___	___
11.	Holders of any easements affecting the property.	___	___	___
12.	Location of existing easements showing width and use.	___	___	___
13.	Location of all existing buildings within subdivision.	___	___	___
14.	Location of any natural or cultural features, cemeteries, and landmarks.	___	___	___
15.	Locations of proposed drainage and stormwater management facilities.	___	___	___

		YES	NO	N/A
16.	Location of the RPA and RMA boundaries.	___	___	___
17.	One-hundred year floodplain limits and the source of data.	___	___	___
18.	Existing and proposed open spaces, recreation areas and buffer areas, indicating proposed ownership.	___	___	___
19.	Designation, location and area of watercourses and wetlands.	___	___	___
20.	Proposed travelways, pedestrian systems and bike trails.	___	___	___
21.	Locations and dimensions of all proposed private alleys.	___	___	___
22.	Private street design proposals.	___	___	___
23.	Elements shown on Comprehensive Plan or Official Map.	___	___	___
24.	Proposed phasing plans and timeframe for completion.	___	___	___
25.	Designation, location and area of land with slopes in excess of 30%	___	___	___
26.	Legal description of the subdivision.	___	___	___
27.	Soils study and geotechnical report.	___	___	___
28.	Additional documentation and technical reports (copies attached.)	___	___	___
29.	Application for waiver, modification or substitution (copies attached.)	___	___	___

E. Surveyor or Engineer's Certification of Checklist Completion

"I have fully reviewed the City's requirements and certify this application to be a complete submission to the best of my knowledge. I understand that an incomplete plat or incomplete checklist shall be deemed an incomplete submission and shall be returned to the applicant upon determination of such by the Zoning Administrator."

_____

Name

_____

Print Name

_____ _____

Name of firm preparing plat *Date/Seal/Registration #*

Section 8:
FINAL SUBDIVISION PLAT REQUIREMENTS AND CHECKLIST

A. Requirement for Final Subdivision Plat Submission

A.1 A Final Subdivision Plat (or "*final plat*") shall be required for the subdivision of any lot or parcel of land in the City. The following sections represent an official copy of the information that is required in the preparation and submission of a Final Subdivision Plat, Public Improvements Plans, and the Final Plat Checklist.

A.2 The required items to be incorporated into the Final Subdivision Plat and to be addressed on the Final Subdivision Plat Checklist are outlined in sub-sections C, D, and E herein below.

A.3 Five copies of the Final Subdivision Plat, Public Improvements Plans, and the Final Plat Checklist shall be prepared and certified by the person(s) preparing the plat and shall be submitted with any initial application or resubmission for a preliminary plat.

A.4 The application shall be accompanied by the application review fee and a document of declaration of property ownership signed by the property owners. The declaration shall consent to and designate the legally entitled owner's representatives, plat preparer and contract owner, if applicable, of the property. The declaration shall be notarized.

B. Pre-Application Conference

B.1 A Pre-Application conference shall be required prior to submission of a final plat and public improvements plans if not otherwise waived by the Planning Commission at the time of Final Subdivision Plat review. If an applicant desires a waive any requirements of the final plat, a Pre-Application conference shall be conducted in advance of submission of the final plat.

B.2 The purpose of the Pre-Application conference is to discuss additional issues and questions raised subsequent to the preliminary plat approval that may be relevant to the final plat application. Application requirements as specified in this section shall be further reviewed at the Pre-Application conference.

B.3 At the conference, the applicant or its representative may request that one or more application requirements may be waived and provide rationale for such waiver. The Zoning Administrator may, at his/her sole discretion, determine which, if any, requirements are not applicable for subsequent plat submission and may be waived.

B.4 At the conclusion of the Pre-Application conference, the applicant will be provided with a copy of the checklist indicating which, if any, requirements have been determined to be not applicable and may be waived. These shall be referenced and noted as "**N/A**" on the checklist accompanying the subsequent submission of the final plat.

B.5 Final plats which lack information required by this ordinance, the Final Subdivision Plat Checklist, and/or the City's adopted design and construction standards shall be deemed to be incomplete and shall be rejected. The checklist shall be deemed "incomplete" if all items are not fully addressed.

B.6 Those items which have been determined by the Zoning Administrator to be not applicable or waived at the Pre-Application conference shall be noted as "**N/A**" on the checklist. Those items noted as "**YES**" indicate that the plat preparer has fully addressed those items with the subject application. Those items that the plat preparer has noted as "**NO**" on the checklist shall be accompanied by a written statement indicating the reason that the item was not addressed.

C. Minimum Information Required on the Final Plat Title Sheet

		YES	NO	N/A
1.	Title Block			
	a.) Subdivision name.	___	___	___
	b.) City of Martinsville tax map and parcel number.	___	___	___
	c.) Names and addresses of the plat preparer and preparation firm.	___	___	___
	d.) Scale (1"=100' or larger).	___	___	___
	e.) Date of preparation	___	___	___
2.	Surveying and mapping control information.	___	___	___
3.	Vicinity map at a scale of 1"=1000'.	___	___	___
4.	General information section provided, including the number of sheets comprising the final plat and an index showing the locations of the various sheets.	___	___	___
5.	Original seal and signature (on each sheet) by a Virginia certified land surveyor.	___	___	___
6.	Surveyor's or engineer's certificates.	___	___	___
7.	Owner's dedication and consent properly worded and notarized.	___	___	___
8.	Information contained on approved Preliminary Subdivision Plat.	___	___	___
9.	Signature panel for City approval.	___	___	___
10.	Sheet size requirements (18" x 24" maximum)	___	___	___

D. Information Required on Final Subdivision Plat Exhibits

		YES	NO	N/A
1.	North arrow (VSC north and true), sheet match lines and sheet numbers.	___	___	___
2.	All dimensions shown in feet and decimals of a foot to the closest one hundredth (0.01) of a foot; all bearings in degrees, minutes and seconds to the nearest second; areas to the nearest 0.01 square foot	___	___	___
3.	Topographic mapping with two (2) foot contour intervals.	___	___	___
4.	Current boundary survey; bearings and distances to the nearest existing street lines or bench marks and all corner monuments and breaks shall be accurately described on the plat.	___	___	___
5.	Parcel and subdivision boundaries with bearing and distances.	___	___	___
6.	City tax map and parcel number and zoning classification.	___	___	___
7.	Number of lots and area of each new parcel listed by parcel number. with property owner and pin number.	___	___	___
8.	Total site or lot acreage, to nearest 0.01 square foot	___	___	___
9.	Separate parcels shall be individually identified with a separate and sequential number.	___	___	___
10.	Location, dimensions and purposes of any easements (designate whether public or private).	___	___	___
11.	When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines, and identification of the respective tracts shall be placed on the final plat.	___	___	___
12.	Location and dimension of proposed streets, rights-of-way, alleys, lots and building lines.	___	___	___
13.	Street right-of-way boundaries with bearings and distances.	___	___	___
14.	Locations of all monuments placed or found and type of monument.	___	___	___
15.	All curve data (in a complete curve table.)	___	___	___
16.	Sources of data used in preparing the final plat, including, but not limited to, plats of record and the deed book and page number citation of the last instrument in the chain of title whereby the parcel to be subdivided was created.	___	___	___

		YES	NO	N/A
17.	Watercourses and their names.	___	___	___
18.	Location of one-hundred year floodplain boundaries.	___	___	___
19.	Location, centerline and names of all existing or platted City streets within, adjacent, or providing access to the subdivision.	___	___	___
20.	Vacated streets or parcels showing areas vacated and area amounts reverted to adjacent parcels.	___	___	___
21.	Adjacent property owners, zoning, tax map and parcel numbers.	___	___	___
22.	Exact boundary lines of the tract, determined by a field survey, giving distances to the nearest one-hundredth (1/100) foot and angles to the nearest one-half second, which shall be balanced and closed with an error of closure not to exceed 1 to 20,000.	___	___	___
23.	When one (1) or more temporary turnarounds are shown, the following note shall be included on the plat: *"The area on this plat designated as cul-de-sac will be constructed and used as other streets in the subdivision until (insert street name) is/are extended to (insert street name if possible, otherwise insert the following note: "A connecting street or to another cul-de-sac which is approved by plat by the Planning Commission") at which time the land in the temporary turnaround area will be abandoned for street purposes and will revert to adjoining lot owners in accordance with specific provisions in their respective deeds."*	___	___	___
24.	Locations, widths, and names of all proposed streets. Indicate all angles of deflection, angles of intersection, radii and lengths of tangents.	___	___	___
25.	All dimensions, both linear and angular, for location of lots, streets, alleys, public easements and private easements, the linear dimensions shall be expressed in feet to the nearest hundredths of a foot and all angular measurements shall be expressed by bearings expressed to the nearest one second. All curves shall be defined by their radius, arc length, chord distance and chord bearing. Curve data shall be tabulated and numbered to correspond with the respective numbered curve shown throughout the plat.	___	___	___

		YES	NO	N/A
26.	A statement, either directly on the plat or in an identified attached document, of any private covenants or homeowners' association agreements.	___	___	___
27.	Legal description of subdivision.	___	___	___
28.	Statement of availability of public utilities and services.	___	___	___
29.	Master phasing plan for subdivision.	___	___	___
30.	Storm drainage study and stormwater management report.	___	___	___
31.	Traffic impact assessment.	___	___	___
32.	Environmental impact assessment.	___	___	___
33.	Floodplain engineering study and source documentation.	___	___	___
34.	Engineering studies for bridges, retaining walls, and special structures.	___	___	___
35.	Accompanying documentation indicating reference to deeds of easement either existing or to be recorded with the subdivision.	___	___	___
36.	Public improvements plans for right of way and subdivision infrastructure improvements (See *Chapter V, Site Plan and Public Improvement Plan Requirements, Zoning Ordinance*)	___	___	___
37.	Subdivision lot grading plan (including a preliminary subdivision grading plan to demonstrate feasibility of proposed public improvements to adequately provide water and sewer service, ensure positive drainage, lot access and building location feasibility)	___	___	___
38.	Every use requiring the establishment of a buffer yard or screening area shall note the following restriction regarding the use of such buffer on a plat or other instrument recorded among the land records: *"Land designated as required buffers or landscape screening shall be landscaped and may only be used for structures, uses, or facilities in accord with the Zoning Ordinance."*	___	___	___
39.	The following note shall be included on the plat for all site plans or subdivisions that require a landscape plan: *"The owner of fee title to any property on which plant materials have been established per an approved plan shall be responsible for the maintenance, repair, and replacement of the approved plant material as required by the Zoning Ordinance."*			

___ ___ ___

		YES	NO	N/A
40.	Soils study and geotechnical report.	___	___	___
41.	Additional documentation and technical reports (copies attached.)	___	___	___
42.	Verification of adequate public facilities (copies attached.)	___	___	___
43.	Location of cemeteries, dam break zones, and historic or cultural features	___	___	___
44.	Application for waiver, variance or substitution (copies attached.)	___	___	___
45.	Public improvements bond estimate (copies attached.)	___	___	___
46.	Erosion and sediment control bond estimate (copies attached.)	___	___	___

47. The plat and plan preparers' signature, certification, date of preparation and the following note shall be affixed to the cover sheet of all plat and plan exhibits:

"I hereby certify that to the best of my knowledge and belief, all of the requirements of the City Staff, the Planning Commission and City Council, the ordinances of the City of Martinsville, Virginia, and the State of Virginia regarding the platting of subdivisions within the City have been complied with.

Given under my hand this _____ day of _____ , 20 ____ ."

___ ___ ___

48. The property owner's statement of consent and dedication shall be notarized and accompany the Final Subdivision Plat and Public Improvements Plan application:

"Know all men by these presents, that the subdivision of land as shown on this plat, containing _____ acres, more or less, and designated as _____ Subdivision situated in _____ _____ Martinsville, Virginia, is with the free consent and in accordance with the desires of the undersigned owners, proprietors, and trustees, if any, thereof; that all streets on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations and covenants as contained in a writing executed by the undersigned, under date of _____ , 20___, and recorded in the Clerk's Office of the Circuit Court of the City of Martinsville, Virginia, in Deed Book _____, on Page _____. The said _____ acres of land hereby subdivided having been conveyed to _____ by _____ by deed dated _____ , 20___, and recorded in the Clerk's Office of the Circuit Court of the City of Martinsville, Virginia, in Deed Book_____, Page _____.

Given under our hands this_____day of_____, 20 _____ ."

___ ___ ___

E. Surveyor or Engineer's Certification of Checklist Completion

"I have fully reviewed the City's requirements and certify this application to be a complete submission to the best of my knowledge. I understand that an incomplete plat or incomplete checklist shall be deemed an incomplete submission and shall be returned to the applicant upon determination of such by the Zoning Administrator."

_____
Name

_____
Print Name

_____ _____
Name of firm preparing plat *Date/Seal/Registration #*

Section 9:
SINGLE FAMILY RESIDENTIAL LOT PLANS

A. Requirement for a Residential Lot Plan

A single family residential lot plan for each subdivision lot is required to ensure that single family uses and certain related lot development activities are compatible with approved subdivision plats and public improvements plans as well as to ensure consistency with the zoning regulations.

1. single family detached residences on lots less than 20,000 square feet in area;

   and, at the discretion of the Zoning Administrator:

2. accessory buildings or apartments, accessory uses.
3. private detached garages.
4. rental uses of a portion of a single family detached residential dwelling.
5. on-site parking areas or other lot improvements.

B. Purpose, Intent and Process

B.1 The plan shall provide necessary and sufficient information to ensure that:

- the lot and the siting and use of the intended structure(s) are in conformance with the approved subdivision plat and public improvements plans for the subdivision in which the lot(s) is located,
- site grading, stormwater drainage improvements and storm runoff patterns for the subject lot meet or exceed contemporary requirements for residential lot development and do not adversely impact adjoining lots and properties,
- easements and rights of way, yard and setback requirements, and other appropriate site planning initiatives are incorporated into the lot development plan,
- the development of the lot and the siting and use of the intended structure(s) will not adversely impact or encroach upon adjoining properties,
- adequate erosion and sediment controls are provided to protect adjoining properties and public rights of way, and
- lot access and driveway arrangements that connect to a public or private street meet City standards.

B.2 The residential lot plan shall be submitted either in advance of or concurrently with the application for a building permit.

B.3 The residential lot plan shall be submitted to, reviewed by, and acted upon by the Zoning Administrator within ten (10) business days upon receipt and application for a zoning permit and building permit, provided that if the residential lot plan is submitted concurrently with the building permit application, the Zoning Administrator shall notify the Building Official of action taken on the residential lot plan not later than the Building Official's mandatory building permit review timeframe but not less than five (5) business days from the date of concurrent application.

B.4 The Zoning Administrator may request the input of the City Engineer, Building Official or other City Staff in the review of the residential lot plan.

B.5 In the event of denial of the residential lot plan by the Zoning Administrator, the Zoning Administrator shall notify the Building Official of action taken.

B.6 If the residential lot plan is denied by the Zoning Administrator, the applicant may either (a) revise and resubmit the plan or (b) petition the matter to be heard by the Planning Commission at their next regularly scheduled meeting.

B.7 The applicant shall submit five (5) copies of the residential lot plan on a sheet not to exceed 11" x 17", unless otherwise approved by the Zoning Administrator.

B.8 The lot development plan shall be prepared by a certified engineer, surveyor, architect, or landscape architect qualified to do such plans unless otherwise waived by the Zoning Administrator.

C. Information Required

The contents of the residential lot plan shall include the following:

1. Address and tax map reference number of lot, deeded name of subdivision plat in which the lot is located, and deed reference for the subject lot.
2. North arrow; dimensions of the lot drawn to scale of 1" = 20' or greater, with metes and bounds of lot and yard, and yard setback lines for front, rear and side yards established by zoning district.
3. Location and dimensions of both the existing structure(s) and the structure(s) to be erected on the lot.
4. Geotechnical evaluation and certified engineering design for building foundation for lots that contain shrink/swell soils or other geological attribute(s) that could impact construction.
5. Dimensional setbacks from property lines to any structure or improvement, including porches, decks, stairwells, garages, swimming pools, accessory uses, etc.
6. Square footage of lot per recorded subdivision plat.
7. Easements contained within the lot or physical improvements which impact the lot or contiguous lots.
8. Existing topography and lot improvements, if any, and proposed finished lot grading shown with two foot (2') contour intervals and spot elevations.

9. Certification of public domestic water and sewer availability.
10. Location and design of all required off-street parking, parking access, street entrances, and driveways, where applicable.
11. Location of all existing natural or man-made drainage channels and storm sewer facilities, as well as location of proposed drainage improvements, to ensure the adequate conveyance of stormwater on and through the property.
12. Location and boundaries of any existing stormwater management improvements, water features and 100-year floodplain limits that impacts the subject lot(s). In the absence of existing or proposed stormwater management improvements within the subdivision, the lot developer shall address alternative Low Impact Development (LID) measures.
13. Location of utility service connections to public water and sewer, including meter placement for domestic water.
14. Location and design of driveway improvements, including provisions for shared driveways, alleys, and lanes, where approved for construction.
15. Location of temporary construction entrance, if required.
16. Limits of clearing and lot disturbance.
17. Location and design of retaining walls.
18. Location and design of erosion and sediment practices to protect adjoining properties, public rights of way, and utility infrastructure during the construction period.
19. Name, address and telephone number of plan preparer and lot owner.
20. Certification of the residential lot plan by a professional engineer, surveyor, architect or landscape architect licensed in the State of Virginia.

Section 10:
VIOLATION, PENALTIES AND REMEDIES

A. Any person (owner, applicant, subdivider, or agent) who sells or transfers any land of a subdivision before (1) the Final Subdivision Plat has been duly approved and recorded, and (2) the bond(s) for the subdivision have been posted and approved by City Council shall be guilty of a Class 1 (one) misdemeanor.

B. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who subdivides any land, constructs any improvements, erects any building, or uses any land in violation of any Preliminary or Final Subdivision Plat or Public Improvement Plan submitted by such person and approved under the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided by law.

C. Each lot that constitutes a violation and each day that a violation continues shall be deemed a separate offense subject to cumulative fines and other penalties.

D. The Zoning Administrator may initiate injunction, mandamus, or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this Ordinance. Such action may also be instituted by any citizen who may be aggrieved or particularly damaged by a violation of any provisions of the ordinance.

E. Upon becoming aware of any violation of any provisions of this ordinance, the Zoning Administrator shall serve notice of such violator on the person committing or permitting the same, and if such violation has not ceased within such reasonable time as the Zoning Administrator has specified in such notice, he shall institute such action as may be necessary to terminate the violation.

F. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by the law.

Section 11:
DEFINITIONS

A. General

For the propose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows:

1. Words used in the present tense include the future tense; words used in the plural number, and words in the plural numbers include the singular number, unless the obvious construction of the wording indicated otherwise.
2. The Zoning Administrator shall interpret and further define any definition included herein below that is found to be inconsistent with any related definition found in any other City ordinance.
3. The word "lot" includes the word "parcel".
4. The word "shall" is mandatory; "may" is permissive.
5. The word "approve" shall be considered to be followed by the words "or disapprove".
6. Any reference to this ordinance includes all ordinances amending or supplementing the same.
7. All distances and areas refer to measurement in a horizontal (linear) plane.

B. Definitions

The following words and terms when used in this ordinance shall have the meaning respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

1. Adequate Public Facilities
Facilities and infrastructure determined to be capable of supporting and servicing the physical area and designated intensity of the propose subdivision as determined by the Planning Commission based on availability of and sufficient levels of service and capacity.

2. Administrator, Zoning
The Zoning Administrator, the City official charged with the enforcement of this ordinance. The Zoning Administrator may appoint deputies and seek the input of a plan review committee to support assigned review responsibilities.

3. Alley
A right-of-way which provides secondary service access for vehicles to the side or rear of abutting property.

4. As-built Plans

Engineering plans and drawings, showing streets, cubs, gutters, sidewalks, utilities and infrastructure submitted by the subdivider and prepared by the engineer to depict the three-dimensional locational information and relevant sizing for all improvements as they have been constructed.

5. **Block**

An area of land within a subdivision, consisting of one or more lots, which is bounded by rights of way , another subdivision, a water body or a combination thereof.

6. Bond

A form of surety bond in an amount and form satisfactory to the City.

7. Buffer

A portion of a lot or outlot intended to create or provide physical separation between potentially incompatible land uses or sensitive natural resources.

8. Building Line (Setback)

The minimum distance by which any building must be separated from the street right-of-way line or adjoining property line. The building line may refer to and include a "front", "rear", or "side" building line (or setback).

9. City Engineer

The City Engineer of the City of Martinsville, Virginia. The City Engineer shall be responsible for the determination and designation of appropriate City design and construction standards for subdivision utilities, infrastructure, streets, easements, and other subdivision appurtenances.

10. **Cluster Development**

A subdivision planning and design technique which allows lots to be reduced in size and building sited closer together, provided that the development density does not exceed that which is specified in the zoning district in which the property is located. Cluster development includes mandatory provisions for common open space and amenities.

11. Commission

The Planning Commission of the City of Martinsville, Virginia.

12. Complete Administrative Review

A finding of "complete administrative review" by the Zoning Administrator represents the final administrative approval of application plats, plans, and supporting materials for a Final Subdivision Plat or Public Improvements Plan based on the findings and recommendations of the City Staff, the Subdivision/Plan Review Committee, and State agencies.

13. Complete Submission

A "complete submission" is the package of application plats, plans, and supporting materials for a Preliminary Subdivision Plat, a Minor Subdivision Plat, a Final Subdivision Plat, or a Public Improvements Plan that is deemed by the Zoning Administrator to meet the applicable initial application requirements, the preliminary or final plat check list, and the findings and recommendations of the pre-application conference.

14. Comprehensive Plan

The comprehensive plan adopted by the city council of the City of Martinsville with amendments thereto as may be adopted from time to time.

15. Condominium

A common ownership interest community in which (a) portions of the real estate are designated as units, (b) the remainder are of the real estate is designated for common ownership solely by the owners of the units, and (c) undivided interested in the common elements are vested by the unit owners.

16. Cul-de-Sac

A street configuration with only one outlet and terminating with a turnaround (rotary) with a right-of-way radius of not less than fifty (50) feet and a paved radius of not less than forty (40) feet or as otherwise prescribed by the City's design standards to ensure safe traffic movements consistent with anticipated traffic volumes and vehicular use characteristics.

17. Day

The word "day" shall refer to calendar days unless otherwise specified. The terms "calendar day" and "business day" are both used in this ordinance.

18. Design and Construction Standards (also Design Standards)

The design and construction standards of the City of Martinsville, other subdivision design and engineering standards as provided in this ordinance, or as may be otherwise determined acceptable by the City Engineer.

19. Developer

An owner of property being subdivided, whether or not represented by an agent.

20. Easement

A grant by a property owner of the use of land to others for a specific purpose or purposes. An easement may be either public or private. Public easements are authorizations between a private landowner and the City or other public agency.

21. Engineer

An engineer licensed by the Commonwealth of Virginia who is entitled by virtue of one's experience and qualifications to prepare subdivision plats, public improvements plans, and other design documents.

22. Fire Chief

The Fire Chief of the City of Martinsville, Virginia.

23. Floodplain

A relatively flat or low land area adjoining a river, stream, wetland, or watercourse, which is subject to partial or complete inundation.

24. Frontage

The boundary of a lot or parcel which abuts a street, common area parcel, or other defined land area.

25. Governing Body
The City Council of the City of Martinsville.

26. "Hate Strips" (or "Spite Strips")
A geometric configuration of land, typically associated with a right-of-way, street utility, or infrastructure extension that is (a) intended to preclude, limit, or otherwise restrict the reasonable extension, connection or other functional aspect of a right-of-way, street, utility, or infrastructure extension, or (b) does not demonstrate reasonable adherence to the intent of the City's Comprehensive Plan, transportation plans, utility and infrastructure plans, and sound and cooperative development practices between contiguous property owners.

27. Health Official
The health director or sanitarian of the Martinsville/Henry County Health Department.

28. Highway (or Transportation) Engineer
The engineer appointed by the State of Virginia and employed by the Virginia Department of Transportation (VDOT) whose professional and administrative responsibilities include the City of Martinsville.

29. Jurisdiction
The area or territory subject to the legislative control of the governing body: the geopolitical boundary of the City of Martinsville or land over which the City has legal control.

30. Lot
A numbered and recorded portion of a subdivision intended for the legal transfer or ownership or for building development, provided that such lot meets or exceeds the minimum requirements of this ordinance and the Zoning Ordinance.

31. Lot, corner
A lot abutting upon two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front (for the purpose of determining required setbacks) shall be deemed to be the shorter of the two (2) sides fronting on streets.

32. Lot, depth of
The average linear distance between the front and rear lot lines.

33. Lot, double frontage
An interior lot having frontage on two (2) sides.

34. Lot, interior
A lot other than a corner lot.

35. Lot of record
A lot, depicted on a record plat, or legal description, which has been duly recorded in the clerk's office of the circuit court.

36. Lot, width of
The horizontal distance between side lot lines at the required front yard setback line.

37. Monument

Any permanent material object or collection of objects, either natural or man-made, that indicates the position on the ground of a survey station, public land survey corner or accessories, or a land boundary corner established by a qualified surveyor.

38. Outlot

Any lot which does not comply with the minimum frontage, lot width, lot area, or shape factor requirements of the Zoning Ordinance or the City's design standards.

39. Plat (or Plat of Subdivision)

A schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, Code of Virginia, and other applicable statutes. "Plat" includes the terms: map, plan, plot, re-plat or re-plot; a map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide".

40. Plat, Final Subdivision

A plat prepared for an intended for recording in the permanent land records of the City.

41. **Plat, Preliminary Subdivision**

The proposed schematic representation of development or subdivision that established how the provisions of §§ 15.2-2241 and 15.2-2242, Code of Virginia, and other applicable statutes will be achieved. This term is synonymous with preliminary subdivision plan.

42. **Public Improvement Plans**

A detailed engineering plan of construction and associated documents, including right of way plans and profiles, prepared and approved in accordance with the provisions of this ordinance, and containing detailed and certified drawings prepared by an engineer or an architect, landscape architect or land surveyor qualified to produce such plans. The public improvements plans are submitted following approval of the preliminary subdivision plat and prior to approval of the final subdivision plat and deed. The Public Improvements Plans typically show proposed land uses; landscaping; street alignment, existing and finished grades, related geometric details; alignment and widths of easements and rights-of-way for drainage; engineering plans, profiles and design sections for sanitary sewers, water mains, storm drainage, stormwater management, best management practices, floodplain studies, gas, telephone, other public utilities, streets, roads, pedestrian ways; and the arrangement and orientation of lots; locations of buildings; and provisions for refuse, mail, and other services. Public Improvements Plans may be referred to as Subdivision Site Plans.

43. **Right-of-way, street**

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, sidewalks, landscaping, water mains, sanitary sewers, storm drains, or any other use involving maintenance by the City or other public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established as determined and approved by the City. The term "right-of-way" as used herein shall not

include or relate to utility easements or to drainage easements.

44. Road

A road shall be defined as a street without differentiation.

45. Street

A dedicated public transportation corridor, including arterial streets, collector streets, and local streets; serving as the principal means of access to property.

46. Street or alley, public use of

The unrestricted use of a specific area or right-of-way that is dedicated, accepted and recorded by the City for ingress and egress to two (2) or more abutting properties.

47. Street, Category

A specific street category, including terms and definitions, that reference the type of street and right of way characteristics that would be acceptable to the City for the construction of a public street and related infrastructure for subdivision streets. Individual subdivision street categories are based on existing traffic volumes, projected traffic generation, design and operating speed, and relative importance and location within the City. Street categories for the City are generally consistent with those included in the Virginia Department of Transportation "Subdivision Street Requirements" (specific to streets with sidewalks, curb and gutter, pavement design); with additional criteria and standards for each category as otherwise specified by the City's design standards or City Engineer. Street categories may be specified by the Comprehensive Plan, the official map, or other adopted transportation plans.

48. Street, service drive

A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

49. Street, width

The total width of the improved portion of the street right-of-way, which would include pavement, curb, and gutter; the distance between curb faces.

50. Subdivision

The division or re-division of a tract, plot or parcel of land, including condominium development or condominium conversion, where there is any division or re-division of real property; provided, this shall not include any division or re-division where each tract, plot, or parcel is five (5) acres or greater, provided that any division or re-division of land in which a new street is involved shall be deemed a subdivision. The term "subdivision" refers to a division of land whether by deed, metes and bounds description, devise, intestacy, map, plat, or other recorded instrument, provided that no subdivision recorded after the date of adoption of this ordinance may be recorded without a final subdivision plat prepared and certified by an engineer or surveyor.

51. Subdivider

An individual, corporation or registered partnership, owning any tract, lot or parcel of land to be subdivided, or a group of two (2) or more persons owning or having an ownership interest, directly or indirectly, in any tract, lot or parcel of land to be subdivided, who have given their agency power of attorney to one of their group or to another individual to act

on their behalf as an applicant in planning, negotiating for, in representing or executing the legal requirements of the subdivision. The terms "owner" or "applicant" as used herein are synonymous with the term "subdivider".

52. Surveyor

A certified land surveyor licensed by the Commonwealth of Virginia who is entitled to prepare subdivision record plats, easement plats, public improvements plan within the limits of their qualifications and experience.

53. Traditional Neighborhood Development (TND)

A land use planning and design technique that is permissible for the subdivision of land within those areas designated by the Zoning Ordinance in TND-O zoning district. Traditional Neighborhood Development projects may be entitled to more flexible and creative subdivision design standards based on the approval of a code of development, plats, plans and conditions. With the approval of a TND project, the specific alternative subdivision standards and design criteria shall apply only to the approved subdivision project and shall not constitute a precedent for other TND projects**.**

54. Zoning Ordinance

The zoning ordinance adopted by the City Council of the City of Martinsville, as may be amended from time to time.