

MORGAN COUNTY
COMMERCIAL & INDUSTRIAL
IMPROVEMENT LOCATION PERMIT ORDINANCE

AN ORDINANCE REGULATING THE ISSUANCE OF IMPROVEMENT LOCATION PERMITS FOR COMMERCIAL & INDUSTRIAL SITES IN MORGAN COUNTY, WEST VIRGINIA.

ARTICLE I - PURPOSE

The purpose of this Ordinance is to require an Improvement Location Permit and site plan approval for any commercial or industrial development in Morgan County, West Virginia. For the purpose of this Ordinance; commercial or industrial development shall include commercial, industrial, multi-family residential, mobile home park and institutional sites such as schools, libraries, churches, fire halls, etc. Multi-family residential means sites, buildings or developments with more than two dwelling units.

ARTICLE II - GENERAL PROVISIONS

The Morgan County Planning Commission in its consideration of Improvement Location Permits for commercial and industrial uses shall pay particular attention to the proposed location of structures, proposed use of structures, areas reserved for parking and number of parking spaces, points of access from existing roads and distances from those access points, internal streets and circulation patterns for shoppers, customers, clients or other patrons, existing and/or proposed street and circulation pattern for shipping and receiving, final grading plan of the entire area proposed for development, utility improvement plans for water distribution, fire hydrant locations, sanitary and storm sewers, surface drainage plan, outdoor advertising, outdoor lighting, landscaping, and potential nuisance protective measures proposed for buffer strips between the commercial or industrial area and adjacent areas.

ARTICLE III - CRITERIA FOR ISSUANCE

Subdividers or developers of commercial or industrial areas shall comply with the same requirements as residential subdividers or developers as set forth in the Morgan County Subdivision Ordinance. In addition, the following information is required prior to the issuance of Improvement Location Permits for commercial or industrial uses.

Section 3.1 Site Plans

(A) New Development: A professionally prepared site plan shall be submitted for review by the Planning Commission for all new commercial and industrial developments.

Major Additions: A professionally prepared site plan shall be submitted for review by the Planning Commission for all major additions. A major addition shall constitute only those additions to the use of the site and physical expansions of on-site structures which will directly affect the function of the site or potentially affect the surroundings. Any substantial change of use classification, alteration of on-site parking requirements, potential adverse impacts of off-site stormwater drainage, increased demand for public water and sewage or additions which will cause the rerouting of traffic circulation shall be construed as a "major addition".

(C) Submission Procedure for all cases:

1. Site plans shall be prepared by a registered professional engineer, registered architect, registered landscape architect, or registered land surveyor; all to be licensed to practice in West Virginia.
2. The consultant, agent, and/or property owner may arrange for a preliminary consultation with the Planning Department to discuss the general concept, use, and design of the proposal. If consultation is desired, a generalized sketch or plat of the proposed site plan shall be submitted with five (5) copies at least one (1) week prior to the scheduled consultation and shall consist of location map, boundary, topography, and general proposed land uses drawn to scale.
3. In those cases where subdivision of land is not required, a minimum of six (6) copies of the site plan shall be submitted to the Morgan County Planning Department. The Planning Commission shall approve or disapprove the site plan within sixty (60) days from the date of a completed submission.
4. Where the subdivision of land is required, a site plan which includes all information required for a preliminary plat submission may be considered by the Planning Commission as meeting the requirements of both site plan and preliminary subdivision plats.

Section 3.2 Site Plan Format

The site plan format and informational requirements shall be the same as that of a preliminary subdivision plat (Article 13, Section 13.1 of the Morgan County Subdivision Regulations) for residential subdivisions involving single family dwellings. The following additional information shall be addressed before site plan approval of commercial, industrial, multi-family residential, mobile home park and institutional sites.

1. Landscaping Plan.
2. Fencing.
3. Exterior Lighting (location and height).
4. Interior Roadways and Off-Street Parking.
5. Pedestrian Walkways and Sidewalks.
6. Provisions for Solid Waste Collection.
7. Open Space and Recreational Facilities.
8. Communications Antennas (TV, Radio, Satellite).
9. Transit/School Bus Waiting Areas.

10. Signs (location, size, height, and design).
11. Proposed Land Uses, Showing Building Locations.
12. Location of Material Storage.
13. Location of Special Facilities for Refuse Collection, Mail Delivery, etc.
14. Storm Water Management Provisions/ Sediment Erosion Control to be in compliance with the requirements of the Morgan County Stormwater Management Plan.
15. Traffic Flow and Control Devices.

(A) In those cases where the eventual site use is not known, the Planning Commission may waive the requirements for those data that are a function of specific use and may approve the site plan in preliminary form in order that construction may proceed. The applicant is encouraged to submit as much data as is available in order that the Planning Commission may render a thorough review of the site plan in preliminary form. The preliminary review should contain enough information to establish the building setbacks, the proposed ingress and egress, the general areas devoted to parking, the proposed floor area, and any information available that may be used for computation of storm water runoff or other data pertaining to impervious surface. That information which is not known at the time of preliminary site plan review may be deferred by the Commission until final review and approval as a second phase of site plan review.

(B) Approval of the preliminary version of the site plan is good for six (6) months only after which time the final site plan shall be submitted for review and approval by the Commission. The final review shall provide for signs, outdoor lighting, the specific parking arrangements, and all other features required for site plan review not included on the preliminary form. Final review and approval of the site plan containing all the required information shall be granted by the Planning Commission prior to the issuance of an Improvement Location Permit.

ARTICLE IV - DISTANCE REQUIREMENTS

Any commercial or industrial buildings, mobile homes in mobile home parks, or multi-family residential buildings shall be located no closer than ten (10) feet from the property line of the said parcel.

ARTICLE V - ADMINISTRATION

Section 5.1 Improvement Location Permits and Site Plan Approvals Required

It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken, any development or new construction, major improvement or relocation of any structure of a commercial or industrial use unless an Improvement Location Permit has been obtained from the Planning Commission. The terms "commercial or industrial use" shall be interpreted to include institutional buildings such as schools and libraries, multi-family residential buildings, and mobile home parks.

Section 5.2 Farm Exemption

A farm equal to the following definition shall be exempt from this ordinance:

Farm shall mean and include land currently being used primarily for farming purposes, whether by the owner thereof or by a tenant, and which has been so used for at least seasonally during the year next preceding the then current tax year.

Farming Purposes shall mean the utilization of land to produce for sale, consumption or use, any agricultural products, including, but not limited to, livestock, poultry, fruit, vegetables, grains or hays or any of the products derived from any of the foregoing, tobacco, syrups, honey, and any and all horticultural and nursery stock, Christmas trees, all sizes or ornamental trees, sod, seed, any and all similar commodities or products including farm wood lots and the parts of a farm which are lands lying fallow, or in timber or in wastelands.

Section 5.2 Approval of Permits and Plans

All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances including all requirements of the Morgan County Stormwater Management Plan. A record of all information supplied to the Planning Commission shall be kept on file by the Morgan County Planning Department.

Section 5.3 Application Procedures

Pre-application for an Improvement Location Permit and site plan approvals shall be made, in writing, to the Permit Officer and shall include all information requested on the pre-application questionnaire. Criteria based on traffic flow from the pre-application shall determine whether an applicant is exempt from the requirements included in Article III of this Ordinance. Otherwise, every applicant shall include all the information required under Article III of this Ordinance.

Section 5.4 Changes

After the issuance of an Improvement Location Permit or site plan approval by the Planning Commission, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Permit Officer.

Section 5.5 Placards

In addition to the Improvement Location Permit, the Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Improvement Location Permit, the date of issuance, and be signed by the Permit Officer.

Section 5.6 Start of Construction

Work on the proposed construction shall begin within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Permit Officer.

Section 5.7 Inspection and Revocation

During the construction period, the Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with all applicable laws and ordinances. In the event the Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by the applicant, the Permit Officer shall revoke the Improvement Location Permit and report such fact to the Planning Commission for whatever action it considers necessary.

Section 5.8 Fees

Applications for an Improvement Location Permit shall be accompanied by a fee, payable to the Morgan County Planning Commission, based upon a set fee schedule approved by the Planning Commission and Morgan County Commission. The applicant shall also be responsible to pay for any engineering fees exceeding the application fee.

ARTICLE VI APPEALS AND PENALTIES

Section 6.1 Appeals

Whenever any person is aggrieved by a decision of the Permit Officer with respect to the provisions of this Ordinance, it is the right of that person to appeal to the Morgan County Planning Commission. Such appeal must be filed, in writing, within thirty days after the determination by the Permit Officer. Upon receipt of such appeal, the Planning Commission shall set a time and place not less than ten (10) nor more than forty (40) days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given all parties at which time they may appear and be heard.

The decision of the Planning Commission may be further appealed to the Morgan County Commission. Such an appeal must be filed, in writing, within fifteen days after the determination of the Planning Commission. Upon receipt of such appeal, the Morgan County Commission shall set a time and place not less than five nor more than thirty days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear and be heard. The determination by the Morgan County Commission shall be final in all cases.

Section 6.2 Appeal Review Criteria

All appeals contesting only the permit fee established by the Morgan County Commission may be handled at the discretion of the Planning Commission.

All decisions on appeals to all other provisions of this Ordinance shall adhere to the following criteria:

- (A) Affirmative decisions shall only be issued by the Planning Commission and the Morgan County Commission upon:

1. A showing of good and sufficient cause , or
 2. A determination that failure to grant the appeal would result in exceptional hardship to the applicant, or
 3. A determination that the granting of an appeal will not result in additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with local laws or ordinances.
- (B) An affirmative decision shall be issued only upon determination that it is the minimum necessary to afford relief.
- (C) The Planning Commission and the Morgan County Commission shall maintain a record of all decisions including justification for their issuance.

Section 6.3 Penalties

Any person who fails to comply with any of the requirements or provisions of this Ordinance or direction of the Permit Officer or any other authorized employee of the County shall be guilty of an offense and, upon conviction, shall pay a fine to the Morgan County Planning Commission of not less than \$100 or more than \$500 plus cost of prosecution. [In default of such payment such person shall be imprisoned in county prison for a period not to exceed 30 days]. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation , or non compliance with, this Ordinance shall not excuse the violation or non compliance, or permit it to continue; and all such persons shall be required to correct or remedy such violation or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this Ordinance may be declared a public nuisance by the Planning Commission and abatable as such.

ARTICLE VIII - SEVERABILITY AND COUNTY LIABILITY

Section 7.1 Severability

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 7.2 County Liability

The granting of a permit or approval of a development plan or site plan shall not constitute a guarantee or warranty of any kind by the Morgan County Commission or Planning Commission or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the Morgan County Commission or Planning Commission, its officials or employees.

ARTICLE VIII - Enactment

Enacted and ordained this ____ day of _____, 1996, effective
_____, and;

As Amended this day _____.

MORGAN COUNTY COMMISSION
BY:

Glen R. Stotler, President

ATTACHMENT

MORGAN COUNTY COMMERCIAL & INDUSTRIAL IMPROVEMENT LOCATION PERMIT ORDINANCE.

ARTICLE 13. PLAT REQUIREMENTS

Section 13.0 Sketch Plat (Optional)

If the developer elects to prepare a rough sketch plat for a pre-application conference with the Planning Commission Staff, it should include:

- (a) A vicinity location map, indicating the general location in Morgan County where the subdivision is to be established;
- (b) The proposed layout of streets, lots, and other improvements in relation to existing features;
- (c) Existing and proposed drainage of surface water, including drainage devices;
- (d) Plans for use of remaining lands;
- (e) Contour lines would be helpful.

Section 13.1 Preliminary Plat

a. General

The preliminary plat shall be prepared by a qualified professional surveyor or professional engineer licensed by the State of West Virginia. {The rest of the paragraph is unchanged}. The preliminary plat shall be submitted on durable paper and shall be clear and legible.

The scale shall be fifty (50) feet or less to the inch for lots averaging less than two (2) acres; one hundred (100) feet or less to the inch for lots averaging two (2) acres or more.

The size of the sheets shall be twenty-four (24) by thirty-six (36) inches, including a one and one-half (1-1/2) inch margin for binding along the left (24) edge. When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire subdivision drawn to an appropriate scale.

The preliminary plat shall be labeled "PRELIMINARY PLAT" in large letters.

b. Required Information

The preliminary plat shall contain the following information:

1. An insert vicinity map showing the location of the property, drawn to an appropriate scale, generally between 1,000 - 5,000 feet to the inch. The vicinity map should show the location of the proposed development in relation to state roads, geographical features, and other lands held by the applicant in the area;
2. The names of all adjoining property owners, and the type of land use existing on all adjoining properties;
3. The proposed name of the subdivision;
4. The name and address of the owners of the land being developed;
5. North arrow, scale, and date;
6. Total area of the subdivision;
7. A proposed re-plat of an existing subdivision shall include the name of the existing subdivision and the place where it is recorded in the deed books or map books; and contain a statement that the plat complies with all restrictive covenants for the existing subdivision.
8. The bearings and distances of the boundary lines and all existing easements, railroad and utility rights-of-way.
9. All existing pertinent features, either natural or man-made, that may influence the design of the subdivision, such as watercourses, tree groves, swamps, rock outcrops, outstanding topographic features, utility lines, existing buildings, historic areas, and drainage structures.
10. Existing topography, with two-foot contour intervals for lots averaging less than one half (1/2) acre each, or for any subdivision with proposed central sewer system, and twenty-foot contours for all other subdivisions.
11. Location, widths, and names of all existing streets or alleys within 100 feet of the proposed subdivision. Recorded but unimproved streets should be shown with dashed lines.
12. Any areas specifically delineated by the United States Corp of Engineers, the United States Geological Survey or the Federal Emergency Management Agency as a 100 year flood plain area, shall be shown.
13. The layout of all proposed and existing lots, with approximate dimensions and area, and showing setback lines.
14. Proposed locations, widths and names of streets and alleys. A plan-profile design of each street shall be submitted at the same or larger scale as the plat, with existing and proposed centerline grades shown at fifty foot (50') intervals. If applicable, existing and proposed sewer, water, and storm drainage systems design shall be submitted. Elevations for the existing centerlines shall not be

interpolated from 20 foot contour-interval maps. A typical cross section of each type of street shall be included. A cross section shall be provided at each culvert.

15. Proposed sewer and water supply. Any design or plans submitted to the West Virginia Department of Health shall be included.
16. Any earthwork other than for streets or roads shall be shown on the preliminary plat as proposed contours.
17. Project bench marks shall be shown.
18. The developer shall provide two extra copies of the approved Preliminary Plat, one to the telephone company and one to the electric utility company.
19. The County Engineer is authorized to approve minor plan changes. Minor plan changes are those which, in the opinion of the County Engineer, are technical in nature, do not change or significantly impact the project concept, and do not require judgment which is the prerogative of the Planning Commission.