

**Location Improvement Permit Ordinance
Harrison County, West Virginia**

WHEREAS, West Virginia Code Chapter 7, Article 1, Section 3v (c) empowers the County Commission of each county to regulate activity within certain floodplain areas and require and issue building permits for all proposed construction or other improvements located in Harrison County; and

WHEREAS, West Virginia Code Chapter 11, Article 3, Section 3a requires that any person, corporation, association or other owner of real property, who shall improve said real property as set forth in the said code section to provide notice of said activity or authorizes the county to issue permits for such activity. In order to comply with this statute within Harrison County any person, corporation, association or other owner of real property shall apply for an Location Improvement Permit in writing to the Planning Department prior to the commencement of the improvement of said property; and

WHEREAS, this Ordinance is being enacted, adopted, and revised, for the purpose of ensuring that all applicable provisions of the West Virginia Code, including the forgoing, are met before any real estate is improved as described hereinabove; and

WHEREAS, this Ordinance is being enacted, adopted, and revised, in accordance with all the applicable provisions of the West Virginia Code including the forgoing.

Article I Title**Section 1 Title**

This Ordinance shall be known as, cited, and referred to as The Harrison County Location Improvement Permit Ordinance, and shall supersede all previously adopted Location Improvement Permits. The provisions of all other codes, ordinances and regulations shall be applicable insofar as they are consistent with the provisions of this Ordinance.

Article II. Authority and Purpose**Section 1.0 General Authority**

By authority of the Code of West Virginia, Chapter 8a, Article 1, Section 1, Chapter 8a, Article 4, Section 2 and Chapter 7, Article 1, Section 3v, and the express and implied powers arising from the West Virginia Constitution and police powers vested in the County Commission of Harrison County, the Commission is empowered to adopt, administer and enforce such rules, procedures and ordinances as are necessary to effectuate the purposes of subdivision ordinances, floodplain management ordinances and other land development laws and ordinances so as to effectively manage and plan for growth and development in Harrison County, West Virginia.

A sound knowledge of intended land development proposals and construction activity facilitates more equitable and efficient application of the land development laws that have been or will be adopted by the County Commission; and enhances the Commission's ability to properly plan for future growth and development.

Section 1.1 Purpose

(a) The general purposes of this Ordinance are:

1. To establish a uniform permit procedure by which new structures, land altering activities, flood plain development, and improvements to or changes in use of unincorporated land and existing structures in Harrison County are brought to the attention of the Harrison County Commission or its designated agents;
2. To carry out the planning, development, and management responsibilities of the Commission;
3. To promote and protect the health, safety and well-being of the County's citizens.

(b) The specific purposes of this Ordinance are to:

1. Promote more effective planning, growth and development and assist the public to learn of and understand the land development laws of the County;
2. Minimize land development and construction problems that occur in absence of effective planning; enhance public awareness of prevailing laws; and encourage the utilization of proper construction and development practices;
3. Minimize hazards to life and property, and promote the health, welfare and safety of citizens generally;

4. Require appropriate construction practices in order to prevent or minimize flood damage and preserve drainage; refer to Harrison County Floodplain Ordinance Article V;
5. Enhance the protection and management of water supply, sanitary sewage disposal, and drainage from environmental and other risks associated with unwise design, construction and development and;
6. Minimize the public financial costs associated with planning and in the administration and enforcement of local, State and Federal land development laws.

Article III. Applicability

Section 2.0 Applicability

- (a) This Ordinance shall be applicable to all unincorporated areas of Harrison County. On and after passage and approval of this Ordinance, it shall be unlawful for any person, firm, association, group, partnership, business or corporation to construct or cause to be constructed any building or structure, or make or cause to be made any substantial improvement, addition or modification thereto; or make or cause to be made any change in land usage; or make or undertake to make any land altering activity, unless a permit shall have first been obtained from the Planning Department;
- (b) In addition to and in accordance with West Virginia Code Chapter 16, Article 1, Section 9, no person, firm, corporation, institution or association, whether public or private, county, or municipal, shall install or establish any system or method of drainage, water supply, sewage, or excreta disposal, or solid waste disposal, without first obtaining a written permit to install or establish such system or method from the State Director of Health or his authorized representative; and
- (c) In addition to and in accordance with West Virginia Code Chapter 17, Article 4, Sections 47, 48, and 49, certain requirements must be met before new access can be gained to and from a state highway from real estate; and
- (d) No fee shall be necessary for:
 1. Construction of building and/or improvements to structures for agricultural purposes, unless in the floodplain.
 2. Remodeling or additions to a building or structure costing \$2,500.00 or less but a fee is necessary for the following exceptions:
 - a. Remodeling of a kitchen and/or bathroom;
 - b. Construction of additional rooms such as bedrooms, etc.
 - c. Demolition of a building or structure.
- (e) No fee or permit shall be necessary for :
 1. Normal maintenance and repair such as, fence mending or replacement, painting, spring development/water trough, update or replace windows and doors, and/or roof repair.

Article IV. Interpretations and Definitions**Section 3.0 Interpretations**

For the purpose of this Ordinance, the following interpretations shall apply:

1. Words used in the present tense include the future tense.
2. The singular includes the plural.
3. The plural includes the singular.
4. The word "person" includes a corporation, unincorporated association or partnership as well as an individual.
5. The term "shall" or "will" is always mandatory.
6. The word "building" or "structure" shall be construed as if followed by the phrase "or part thereof".
7. The word "County" shall refer to Harrison County, West Virginia.
8. The word "Ordinance" shall refer to the Improvement Location Permit Ordinance of Harrison County unless referring to other ordinances.

Section 3.1 Definitions

For the purpose of this Ordinance, the following definitions shall apply:

1. Agriculture and Agricultural Purpose: The exclusive use of land to produce for sale, consumption or use of livestock, poultry, fruit, vegetables, grains, hay, aquaculture, tobacco, horticultural and nursery stock, seed, Christmas or other trees and other agricultural products.
2. Building: Any structure which is or could be permanently affixed to the land and has one or more floors and a roof. The term building shall include, but it is not limited to, manufactured homes, mobile homes, and all other residential, commercial and industrial structures of every kind or nature.
3. County Commission: The Harrison County Commission.
4. Essential Utility Equipment: This term applies to underground or overhead electrical, gas, communications, and water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone stations, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment and accessories in connection therewith; buildings, yards, stations, and structures used for storage, repair, and processing of equipment or materials, buildings, yards, structures and stations for transforming, boosting, switching or pumping. Essential utility equipment is recognized in two categories: (a) local-servicing; and (b) non-local or transmission through County. The second category may serve local users while remaining primarily a through County facility.

5. Flood: A general and temporary inundation of normally dry land areas.
6. Flood Plain: (a) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (b) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
7. Flood – Prone Area: Areas subject to the one hundred (100) year flood as determined by the Flood Insurance Study prepared by the Federal Insurance Administration for Harrison County, dated July 4, 1988, as may be amended.
8. Land Altering Activities: Any man - made change to or in the use of an improved or unimproved lot or property including but limited to construction of a building or other structures, digging, mining, dredging, filling, grading, paving, excavation or drilling operations; excluding cultivation, plowing, and other agricultural land altering activities.
9. Lot: Any tract, parcel, plot, site, or area of land which is identified by boundaries and which is able to be lawfully conveyed or transferred. The formation and recordation of a lot must be conforming to applicable State and County Regulations.
10. Manufactured Homes: A structure, transportable in one or more sections, which was built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and motor homes when placed or parked upon a lot for longer than 180 consecutive days.
11. Planning Commission: The Harrison County Planning Commission. A five (5) member Commission appointed by The Harrison County Commission to promote the orderly development of the County.
12. Structure: Anything which is built, erected, located, relocated, placed, or replaced the use of which requires affixed location on the ground, and anything permanently attached thereto as a fixture. A structure includes but is not limited to homes, buildings, bridges, decks or patios, industrial plants, commercial facilities, towers, tanks, poles, garages, and all fixtures attached thereto, including but not limited to all essential utility equipment, fixtures and engineered equipment attached to walls, floors or ceilings (such as pumps, sprinkler systems, piping, conduits and similar items).
13. Violation: The failure to obtain a permit as required by this Ordinance or any failure to comply with any provisions of this Ordinance. A building, structure or land altering activity without an Location Improvement Permit is presumed to be in violation until said Permit is obtained.

ARTICLE V. ADMINISTRATION, ENFORCEMENT, VIOLATION, PENALTY

Section 4.0 Administration

Administration of this Ordinance shall be delegated to employees of The Harrison County Planning Department. It shall be the duty of the Planning Department to evaluate all Location Improvement

Permit applications for conformity with all applicable laws, rules and regulations, including but not limited to, the Subdivision Ordinance and Floodplain Management Ordinance of Harrison County.

Except as elsewhere provided, an approved Improvement Location Permit shall be required prior to undertaking any activity for which a Permit is required pursuant to Article III Section 2 of the Ordinance.

Any proposed building, building alteration, structure, or land use that does not conform with applicable County land development laws and/or West Virginia Department of Health Regulations or with sound principles of planning or the provisions of the Ordinance shall be denied an Location Improvement Permit.

Section 4.1 Forms, Fees, Processing

Application forms and such other material as may be necessary to administer this Ordinance shall be prepared and distributed by the Planning Department. The application fees for Location Improvement Permits shall be set by The County Commission of Harrison County, upon recommendation of the Planning Commission, as may be necessary from time to time in order to defray the cost of administering this Ordinance and to carry out the purposes of this Ordinance set forth in Section 1.1.

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

Work on the project or matter for which a permit is required shall begin within 6 months from the date of issuance of the Location Improvement Permit. If said work or activity does not commence within said period, the permit shall automatically expire unless an extension is granted by the Planning Department. In the case of roadways, construction shall be considered started with the commencement of excavation or any site preparation activity.

In addition to issuing a Location Improvement Permit, the Planning Department shall issue a placard, which shall be displayed on the premises during construction. The placard shall show the number of the Location Improvement Permit and the date of its issuance. Placards shall be signed by an employee of the Planning Department.

Before, during, and after the commencement of construction, authorized officials may inspect the premises from time to time, to determine that the project is progressing in compliance with the information provided on the Location Improvement Permit application, and is in compliance with all applicable county land development laws. In the event the Planning Department determines that the work does not comply with the Location Improvement Permit application or with the provisions of the Ordinance and all other applicable land development laws, or in the event of erroneous information or misrepresentation by the applicant, the enforcement procedures outlined in Section 4.2 shall be initiated.

Section 4.2 Enforcement

Enforcement of the Ordinance shall initially be the responsibility of employees of the Planning Department who shall make an initial determination that a violation has occurred. The Planning Department shall prepare a written violation notice and directive to cease and desist and shall transmit such notice and directive to the applicant or other person responsible. Failure to comply with a directive to cease and desist shall be cause for the Planning Department to declare the subject property, building and/or structures in violation. Upon such declaration, the Planning Commission may instruct the Planning Department to request the assistance of the County Prosecuting Attorney or to retain private counsel to seek an injunction to restrain the applicant or other responsible person from continuing the violation cited, requiring removal of structures or land uses from the property involved, and/or to pursue all other legal remedies. In the event any such proceeding is necessary, the applicant shall be liable for remedial costs and damages associated with any violation, as well as for all costs, attorney fees and expenses incurred by the Planning Commission or County Commission.

Section 4.3 Penalty

Any person, firm, corporation or other entity who violates any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than three hundred dollars (\$300.00). Each day during which any violation of the Ordinance continues shall constitute a separate offense.

ARTICLE VI. APPEAL, AMENDMENT, CONFLICT WITH OTHER LAWS, VALIDITY**Section 5.0 Appeal**

An appeal regarding the administrative procedure exercised under the provisions of this Ordinance shall initially be filed with The Planning Commission, or other agency having jurisdiction.

Such appeal must be filed, in writing, within thirty (30) days after the determination by the Planning Department. Upon receipt of such appeal, the Planning Commission shall set a time, not less than ten (10) days and not more than thirty (30) days and place for the purpose of hearing the appeal. Notice of time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Planning Commission can take up to thirty (30) days for a decision and shall be final in all cases unless reversed, changed or modified by a federal or state court of appropriate jurisdiction. If appealed and upon receipt of such appeal, the County Commission shall set a time, not less than ten (10) days and not more than thirty (30) days and place for the purpose of hearing the appeal. Notice of time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the County Commission can take up to thirty (30) days for a decision and shall be final in all cases unless reversed, changed or modified by a federal or state court of appropriate jurisdiction.

Section 5.1 Conflict With Other Laws

Where the provisions of this Ordinance impose greater restrictions than those of any other applicable ordinance, statute or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any other applicable statute, ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, ordinance or regulation shall be controlling.

Section 5.2 Validity

If any article, section, subsection, paragraph, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any provision thereof.

Section 5.3 Location Improvement Permit Fees

Demolition of buildings or structures.....	\$0.00
Additions or remodeling to a building or structure costing less than \$2500.00.....	\$0.00
Normal maintenance to a building or structure such as windows, doors, or painting.....	\$0.00
Construction of structures utilized for agricultural purposes	\$0.00
Land altering activities (exceptions 3.1.8).....	\$25.00
Residential construction activity.....	\$25.00
Remodeling of kitchen and/or bathroom and construction of any additional rooms....	\$25.00
Construction of structures utilized for agricultural purposes in floodplain.....	\$25.00
Commercial/Industrial construction activity.....	\$250.00
Building Residential or Commercial construction activity within the floodplain.....	\$250.00
Any activity in floodplain not defined here.....	\$250.00

To obtain a copy of the Location Improvement Permit Application, please contact the

Planning Department
 301 West Main Street
 Clarksburg, West Virginia 26301
 304-624-8690

<http://www.harrisoncountywv.com/planning.aspx>

ARTICLE VII. EFFECTIVE DATE

Section 6. Effective Date

This Ordinance shall become effective on and after passage and upon adoption by the Harrison County Commission.


This Ordinance shall become effective thirty (30) days from final approval on third reading by the Harrison County Commission.

The Commission, meeting in regular session, on this the 29th day of March, 2017, having submitted a draft ordinance for first reading and public comment and having reviewed and considered such comments, did, on this date, adopt the following Ordinance on said reading.

Ordinance considered for adoption and approval on first reading the 22nd day of February, 2017.

Ordinance considered for adoption and approval on second reading the 22nd day of March, 2017.

Ordinance considered for adoption and approval on third reading the 29th day of March, 2017.



Ronald R. Watson, President




Bernie L. Fazzini, Commissioner



David L. Hinkle, Commissioner

Attest:



Susan J. Thomas, Clerk of the County Commission