

Jefferson County
Improvement Location Permit Ordinance

Jefferson County, West Virginia

Prepared By The
Jefferson County Planning Commission

Adopted November 20, 1975
Effective December 20, 1975

AS AMENDED

Office Consolidation

This document contains additions and amendments approved by the Jefferson County Commission on the following dates.

- (*) Approved by the County Commission on August 31, 1989
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- (^) Approved by the County Commission on July 15, 1993
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<u>TABLE OF CONTENTS, IMPROVEMENT LOCATION PERMIT ORDINANCE</u>	<u>PAGE</u>
ARTICLE 1: AUTHORITY; PURPOSE; TITLE	4
Section 1.0 General Authority	4
Section 1.1 Purpose	4
Section 1.2 Title	4
ARTICLE 2: APPLICATION	5
Section 2.0 Effective Date; Application Within The County.....	5
ARTICLE 3: INTERPRETATIONS AND DEFINITIONS.....	6
Section 3.0 Interpretations.....	6
Section 3.1 Definitions	6
ARTICLE 4: ADMINISTRATION; ENFORCEMENT; VIOLATION; PENALTY.....	9
Section 4.0 Administration.....	9
Section 4.1 Forms, Fees, Processing	10
Section 4.2 Enforcement	12
Section 4.3 Violation.....	12
Section 4.4 Penalty	12
ARTICLE 5: APPEAL; AMENDMENT; CONFLICT WITH OTHER LAWS; VALIDITY ...	13
Section 5.0 Appeal	13
Section 5.1 Amendment	13
Section 5.2 Conflict With Other Laws	13
Section 5.3 Validity	13
& Section 5.4 Building Codes.....	13
& ARTICLE 6: BONDING	14
Section 6.0 Bonding	14

IMPROVEMENT LOCATION PERMIT ORDINANCE
Jefferson County, West Virginia

ARTICLE 1: AUTHORITY; PURPOSE; TITLE

Section 1.0 General Authority

By authority of the Code of West Virginia, Chapter 8, Article 24, and Chapter 7, Article 1, Section 3v, the County Commission of Jefferson County is empowered to adopt, administer and enforce such rules, procedures and ordinances as are necessary to effectuate the purposes of subdivision ordinances, zoning ordinances, and flood plain management ordinances. (Ref.: 8-24-1 * Lines 18-16; 8-24-3 * Lines 5-13; 8-24-36; 37; 7-1-3v-c-ii).

Section 1.1 Purpose

The purpose of this Ordinance is to establish a uniform permit procedure by which substantial improvements (new and additional) to unincorporated land in Jefferson County are brought to the attention of the Jefferson County Commission or its designated agents.

A sound knowledge of intended land development proposals and construction activity facilitates a more equitable and efficient application of the land development laws that have been or will be adopted by the County Commission.

Specifically, this Ordinance is intended to:

- (a) Assist the public to learn of and understand the land development laws of the County
- (b) Minimize land development and construction problems that occur in the absence of an awareness of the prevailing laws
- (c) Minimize hazards to life and property
- (d) Advise residents and property owners of land developments and improvements intended throughout the County
- (e) Minimize the public financial costs associated with the administration and enforcement of local and development laws.

Section 1.2 Title

This Ordinance shall be known, cited and referred to as the Jefferson County Improvement Location Permit Ordinance.

ARTICLE 2: APPLICATION

Section 2.0 Effective Date; Application Within The County

This Ordinance established by action of the Jefferson County Commission on November 20, 1975, shall take effect on the 20th day December 1975, and shall apply to all lands, buildings, properties and their uses within the unincorporated territory of Jefferson County.

ARTICLE 3: INTERPRETATIONS AND DEFINITIONS

Section 3.0 Interpretations

- (a) 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 the Jefferson County Improvement Location Permit Ordinance.
 8. The word "Ordinance" shall refer to the Jefferson County Improvement Location Permit Ordinance.

Section 3.1 Definitions

- (a) For the purpose of this Ordinance, the following definitions shall apply:
1. Agriculture: The cultivation of plant crops or the raising of livestock. Agriculture is the organized use of land for the production of plant or animal food, fiber or landscape products. Beef and dairy farms, grain farms, orchards, plant nurseries, and tree farms are forms of agriculture.
 2. Building: Any structure which is permanently affixed to the land and has one or more floors and a roof. The term building shall include manufactured homes.
 3. County Commission: The Jefferson County Commission, five Commissioners elected at-large.
 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. This term does not apply to buildings, yards, stations, and structures used for storage, repair or processing of equipment or materials, and does not include buildings, yards, structures and stations for transforming, boosting, switching or pumping where such facilities are constructed above ground. Essential utility equipment is recognized in two categories; 1) local serving; and, 2) non-local or transmission through County. The second category may serve local users while remaining primarily a through County facility.

5. 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 Jefferson County, dated April- 25, 1-980, as may be amended.
6. Improvement Location Permit: A permit which is required prior to the erection or relocation of a building or structure, prior to the alteration of a building or structure in a way which enlarges the exterior dimensions of such a building or structure; prior to establishing a land use on a vacant lot or in a vacant building; prior to changing a land use existing on a lot or in a building to a different land use; and, prior to any land altering activity in a flood prone area.

Examples of buildings, building alterations, structures and land uses which do not require an Improvement Location Permit are: use of land for agriculture where no building or structure is required; addition of windows, doors and steps to a building; standard maintenance to a building such as plumbing, mortar and woodwork, painting, weatherproofing, and siding or roofing replacement; construction of a private driveway, patio, or walkway that is not enclosed or covered by a roof; construction of a fence or clothesline; and, construction and location of local serving essential utility equipment.

7. Land Altering Activities: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
8. Land Development Coordinator: A designated employee of the Planning Commission charged with the administration and enforcement of this Ordinance and other land development laws in Jefferson County.
9. Lot: Any tract, parcel, plot, site or area of land which is identified by boundaries and which is able to be lawfully transferred from person to person. The formation and recordation of a lot must conform with applicable State and County regulations.
10. Manufactured home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term

"manufactured home' also includes park trailers, travel trailers, and other similar vehicles when placed in flood prone areas for greater than 180 consecutive days."

11. Planning Commission: The Jefferson County Planning Commission. The Commission appointed by the Jefferson County Commission to promote the orderly development of the County.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 23, 2003]
12. Sign: A sign is any name, name plate, bill-board, poster, panel, display, illustration, structure or device used for visual communication which is affixed, painted or represented directly or indirectly upon a building or other outdoor surface for the purpose of bringing the subject thereof to the attention of the public. A sign usually advertises a business, commodity, service or product or identifies a structure, place or land use. A sign is said to be "on-site: when it is situated on the same lot or tract of land to which the sign refers. A sign is "off-site" when it refers to a use, product, place, etc. existing away from the lot or tract of land on which the sign is located.
13. Structure: Anything constructed, the use of which requires fixed location on the ground; or, anything attached to something having such location. A structure does not include fences, individual driveways, or retaining walls. Structures do include prefabricated buildings even if they are not anchored to the ground.
14. Violation: The failure of a building, structure or other land altering activity to be in full compliance with this ordinance. A building, structure or land altering activity without an Improvement Location Permit, is presumed to be in violation until- said permit is provided.

ARTICLE 4: ADMINISTRATION; ENFORCEMENT; VIOLATION; PENALTY

Section 4.0 Administration

Administration of this Ordinance shall be delegated to an employee of the Jefferson County Planning Commission to be known as the Land Development Coordinator. The Land Development Coordinator shall be under the supervision of the Director of Planning and, where a Land Development Coordinator has not been appointed by the Planning Commission, the Director of Planning shall be designated as the Land Development Coordinator. It shall be the duty of the Land Development Coordinator to evaluate all Improvement location Permit applications for conformance with applicable County land development laws:

Subdivision Ordinance
Zoning Ordinance
Flood Plain Management Ordinance

* Except as elsewhere provided by this Ordinance, an approved Improvement Location Permit shall be required prior to the construction of a structure; and, prior to the placement, location or relocation of a mobile home on a parcel of land; prior to the alteration of a building or structure in a way which enlarges the exterior dimensions of such a building or structure; prior to establishing a Land use on a vacant lot or in a vacant building; prior to changing a land use existing on a lot or in a building to a different land use, and, prior to any land altering activity in a flood prone area.

&^ Examples of buildings, building alterations, structures and land uses which do not require an Improvement Location Permit (outside of flood prone areas) are: uses of land for agriculture where no building or structure is required; addition of windows, doors and steps to a building; standard maintenance to a building such as plumbing, mortar and woodwork, painting, weatherproofing, and siding or roofing replacement; construction of a private driveway, patio, or walkway that is not enclosed or covered by a roof; construction of a fence not over six (5) feet tall or a clothesline; and, construction and location of local-serving essential utility equipment.

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 shall be denied an Improvement Location Permit.

Any application for a building, structure, or land use that requires an individual septic system and/or well must be accompanied by a Sewage Disposal Installation Permit and verification from the well driller that a pressure grouted well has been drilled and is producing water at a level acceptable to the local or State Health Department. Certification that this water is potable must be submitted within 6 months of the issuance of the Improvement Location Permit.

Any application for a single family dwelling, multi-family dwelling, or commercial structure must be accompanied by verification that application has been made to the State Department of Highways for a Highway Entrance Permit.

Any application for the addition to or the construction of a commercial, industrial, or multi-family facility shall be accompanied by a full site plan, except as described in the cases below. Site plans for communications towers are not eligible for these exceptions. Site plan requirements are referenced in Article 8 and 11 of the Jefferson County Subdivision Ordinance and Articles 4, 5, 10, and 11 of the Jefferson County Zoning and Development Review System. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON JULY 1, 1998]

Case 1 - No site plan is required for (1) additions to existing structures or (2) structures ancillary to existing uses on a property, when (1) the footprint of the addition or the new structure is less than 250 square feet, (2) no additional- parking is required per Zoning ordinance standards and (3) the disturbed area is no more than 3000 square feet. Such addition shall comply with the Zoning and Development Review Ordinance.

Case 2 - A site plan limited to basic information needed to address (a) erosion and sediment control, (b) parking requirements for the expanded use, (c) stormwater management for the additional- impervious area only, (d) handicapped access to the existing and proposed structures and (e) compliance with the Zoning and Development Review Ordinance, may be used on sites where the structure is (1) an addition to an existing structure, or, ancillary to an existing use, and (2) has a footprint that does not exceed 1600 square feet or 35% of the existing structure whichever is smaller.

Surveys for limited site plans may be limited to (1) a certified boundary adequate to determine the location of the proposed improvement and (2) topography adequate for constructing the improvement and verifying drainage computations and access feasibility.

When a completed application, corresponding site plans, and necessary fees are submitted the staff shall schedule a review conference on the first or third Friday of the month. All items must be received by the Planning and Zoning Office at least 15 days prior to the next review conference. The Planning and Zoning Commission shall approve the issuance of all permits for commercial, industrial, or multi-family dwellings.

* Any application for a sign permit may be approved by the staff if in conformance with all existing regulations.

Section 4.1 Forms, Fees, Processing

Application forms and such other material as may be necessary to administer the Improvement Location Permit Ordinance shall be prepared and distributed by the Planning Commission. The application fees for Improvement Location Permits shall be set by the County

Commission of Jefferson 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.

The processing of an application for an Improvement Location Permit shall not be unnecessarily cumbersome or long. Failure on the part of the Land Development Coordinator to issue or deny an Improvement Location Permit within ninety (90) days after receipt of a completed application shall result in the immediate issuance of an Improvement Location Permit. Routine applications that do not require public hearings or other governmental meetings shall be processed within twenty-one (21) days after receipt of a completed application. After the issuance of an Improvement Location Permit by the Land Development Coordinator, 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 Land Development Coordinator.

&= The application shall contain a statement stipulating the method of drainage conveyance, i.e., culvert pipe, designed swale, etc., to be used to carry water across or under entrances. A drainage conveyance, either temporary or permanent, shall be installed prior to starting any other construction. The methods should comply with either the Subdivision Ordinance, an approved Preliminary Plat, a Jefferson County Standard Detail approved by the County Engineer or a special design submitted to and approved by the County Engineer. Non-compliance with this stipulation will constitute a violation of the Ordinance.

The application shall contain a statement stipulating that existing roads will be protected from damage due to heavy vehicles and from mud tracked from the site by construction traffic, and, that adjoining properties will be protected from erosion and sedimentation resulting from work on the applicant's site. As a minimum a stabilized construction entrance complying with Jefferson County Standard Detail SC-10 will be used to protect roads. Methods of protecting adjoining properties will be selected based on the West Virginia Erosion and Sediment Control Handbook for Developing Areas or other standards acceptable to the County Engineer.

Work on the proposed construction shall begin within six (6) months after the date of issuance of the Improvement Location Permit or the permit shall expire unless a time extension is granted in writing, by the Land Development Coordinator. In the case of roadways, construction shall- be considered started with the grading and removal of topsoil. Structure and building construction shall be considered started with the first placement of permanent construction on the site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing or any pre-fabricated structure or manufactured home to a permanent site. Permanent construction does not include Land clearing or filling.

In addition to an Improvement Location Permit, the Land Development Coordinator shall- issue a placard which shall be displayed on the premises during the time construction is in progress. The placard shall show the number of the Improvement Location Permit and the date of its issuance. Placards shall be signed by the Land Development Coordinator.

During the construction period, the Land Development Coordinator or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the Improvement Location Permit application, and with all applicable County land development laws. In the event the Land Development Coordinator determines that the work does not comply with the Improvement Location Permit application and all applicable land development laws, or that there has been a false statement or misrepresentation by the applicant, the enforcement procedures outlines in Section 4.2 shall be initiated.

^ (a) The record owner shall obtain the Improvement Location Permit.

Section 4.2 Enforcement

Enforcement of this Ordinance shall be the responsibility of the Land Development Coordinator, who shall make an initial interpretation that a violation has occurred. The Land Development Coordinator shall prepare a written Violation Notice and Directive to Cease and Desist and shall transmit such notice and directive to the person responsible for the violation. Failure to comply with a Directive to Cease and Desist shall be cause for the Planning Commission to declare the subject property, buildings and/or structures in violation. Upon such declaration, the Planning Commission shall instruct the Land Development Coordinator to request the assistance of the County Prosecuting Attorney and:

1. Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring removal of structures or land uses from the property involved;

OR

2. Obtain a warrant for the arrest of the person responsible for the violation and seek conviction in the Magistrate Court of Jefferson County; or both a) and b).

Section 4.3 Violation

It shall be unlawful for any person, whether as owner, lessee, principal, agent, employee or otherwise, to violate or permit to be violated any provision of this Ordinance.

Section 4.4 Penalty

* Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars nor more than three hundred dollars. Each day during which any violation of this Ordinance continues shall constitute a separate offense.

ARTICLE 5: 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 be filed with the Jefferson County Commission.

An appeal regarding the substantive basis for the granting or denial of an Improvement Location Permit shall- constitute an appeal from one or more of the land development laws enumerated in Section 4.0 of this Ordinance and shall be filed with the appropriate governmental body.

All appeals shall specify the grounds thereof and shall be filed with the appropriate governmental body within thirty (30) days after the date of the order, decision or procedure complained of.

Section 5.1 Amendment

By legislative procedure, the Jefferson County Commission may, from time to time, amend, supplement or change the provisions of this Ordinance.

Section 5.2 Conflict With Other Laws

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

Section 5.3 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 decisions shall not, affect the validity of this Ordinance as a whole or any other part thereof.

& Section 5.4 Building Codes

If all requirements of the Jefferson County Building Code Ordinance are not met after the issuance of the Improvement Location Permit, the permit shall be revoked.

& ARTICLE 6: BONDING

Section 6.0 Bonding

Any addition to, or construction of a commercial, industrial, or multi-family facility which has not been granted a variance for the site plan requirement cited in Section 4.0 and which has had the issuance of the permit approved by the Planning and Zoning Commission shall be issued the Improvement Location Permit provided the applicant secures a Construction Bond for completing the following elements of the improvements:

1. Erosion and sediment control;
2. Storm Water Management;
3. Road improvements not bonded by the West Virginia Department of Highways;
4. Screening and landscaping;
5. Off-site sewer and water extensions or modifications not bonded by the appropriate utility;
6. Entrance drainage; and
7. Traffic control devices not bonded by the West Virginia Department of Highways.