MORGAN COUNTY
COMMERCIAL & INDUSTRIAL
IMPROVEMENT LOCATION PERMIT ORDINANCE
Adopted: September 27, 1996, effective November 1, 1996
And Amended December 28, 2001 and May 13, 2010

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

ARTICLE I – PURPOSE AND AUTHORITY

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, camping areas, mobile home parks 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.
This ordinance is adopted by the authority of West Virginia Code 8A-1-1 to 8A-11-2 seq.

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.

(B) 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 13.2 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 parks and institutional sites. Any requests for waivers shall comply with the same provisions required in the Morgan County Subdivision Regulations Article 6: Waivers.

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 shall 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 shall 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 – DESIGN REQUIREMENTS

Section 4.1 Distance Requirements

Any commercial or industrial buildings, mobile homes in mobile home parks, or multi-family residential buildings shall be located no closer than fifteen (15) feet from the property boundary line of the said parcel. If the property line separates the parcel from a residential parcel, the non-residential buildings shall instead be located no closer than 15% of the property width from the residential property boundary line up to a maximum requirement of fifty (50) feet and minimum requirement of fifteen (15) feet. The property width shall be measured at the midpoint of the property depth excluding panhandle areas. If covenants exist that would conflict with these specified minimum distances, the most restrictive requirement would prevail. Should a conflict exist with the requirements in Article 11 of the Morgan County Subdivision Regulations, the requirements of Article 11 shall govern.

Additionally, commercial, industrial or multi-family residential structures greater than forty (40) feet in height shall increase the aforementioned property line setback requirements for that structure by one half the additional height of the structure above forty (40) feet.

Section 4.2 Signage Requirements

The maximum height of any freestanding sign or billboard on a commercial or industrial site shall be forty (40) feet or the height of the tallest building on the site, whichever is greater. A sign shall be placed no closer to the property line than one-half of the maximum building setback for the site as defined in Section 4.1. The maximum sign area shall be 100 square feet. The location of the sign shall in no way obstruct visibility in achieving adequate and safe sight distance exiting onto the access road from an intersection.

Section 4.3 Open Space Requirements

Landscaped open space on any multi-family or mobile home parks shall generally not be less than 30% of the lot area and 10% for commercial and industrial development. The landscaped open space shall not be impervious or open for vehicular use and the landscaping shall be maintained in a reasonable manner. Ground cover shall be provided on all open spaces to prevent soil erosion. All areas which are not covered by paving, stone or other stable material shall be protected with a suitable ground cover consisting of spreading plants, sods or grasses less than 18 inches in height. Existing natural trees and landscaped areas left undisturbed by development on the lot may be used to satisfy this requirement. These requirements are not intended to supersede or be required in addition to the open space requirements to multi-family residential or mobile home park developments found in Article 11 of the Morgan County Subdivision Regulations.

Section 4.4 Screening and Landscaping Requirements

All loading and service areas adjacent to a residential land use and all dumpsters, transformers, fuel storage, trash disposal areas, tanks and unsightly utilities regardless of adjacent land use should be screened from view. Vegetative screening consisting of a mix of deciduous and evergreen trees should be capable of adequate screening within five (5) years of initial planting. Structural screening through the use of a six (6) foot high solid fence or decorative wall may be used in lieu of vegetative screening with the approval of the Planning Commission. Landscaping plans shall be provided for review by the Planning Commission.

All screening materials and landscaping shall not encroach upon the adjoining property line at full maturity. Landscaping shall be a combination of shade trees, ornamental trees, evergreen trees, deciduous shrubs, evergreen shrubs and ground covers.

Existing acceptable vegetation should be retained when feasible. Credit may be applied to required perimeter landscape plantings if the existing trees can be maintained and are of acceptable size and health. Existing wooded areas shall be protected to prevent unnecessary destruction. At least 25% of the number of trees (minimum trunk caliper of five inches at six inches above the ground) that exist at the time of plan submission shall be maintained or replaced immediately following construction. Replacement trees shall be a minimum trunk caliper of three inches at a height of six inches above finished grade and located within nonbuildable sections of the site (i.e., floodplain, steep slope and setback areas). Plans shall be submitted showing existing trees and proposed construction and be in conformance with this section.

Section 4.5 Lighting Recommendations

Developers are encouraged to avoid usage of site lighting emitting objectionable glare observable from surrounding properties or streets and make every attempt possible to eliminate light spillover and glare on motor vehicle operators, pedestrians, and land uses within the light source's proximity. All lighting is encouraged to shall be directed downward and inward to the site.

Section 4.6 Access Road Requirements

All new access roads for commercial, industrial and multi-family sites must provide all weather access by a Standard AASHTO WB-50 design vehicle. Class I roads are required and limited to 8 percent maximum grade and must have a paved road surface 20 feet wide plus two foot shoulders or curb and guttering on each side, exclusive of parking areas. Access roads for campgrounds and mobile home parks may have a gravel road surface subject to the specifications in Section 12.1 of the Morgan County Subdivision Regulations.

Section 4.7 Parking Requirements

Due to the particularities of any given development, the inflexible application of parking standards may result in a development either with inadequate parking space or parking space far in excess of its needs. Appendix A of this ordinance contains parking guidelines that may be used by the County and applicant in determining the number of spaces provided for a particular development. The applicant may, in lieu of the guidelines attached, consult the Parking Generation Manual from the Institute of Transportation Engineers (ITE) for guidance. The applicant shall provide the Planning Commission with an explanation of the methodology and calculations used for determining the specific number of parking spaces provided on the plan for review. A minimum number of handicapped parking spaces should be provided in accordance with the Americans with Disability Act and shall be not less than one (1) space for every 25 parking spaces provided.

Section 4.8 Noise, Vibration and Electrical Interference Recommendations

Developers are encouraged to avoid any site usage that may generate noise that tends to have a disruptive effect upon uses located on adjacent lots, or upon users located outside the immediate space of the usage.

Section 4.9 Odor, Smoke and Pollution References

Any commercial, industrial or multi-family use that emits an "air contaminant" as defined in state air pollution control law shall comply with the applicable standards concerning air pollution as set forth in the West Virginia Code. No Improvement Location Permit may be issued with respect to any development covered by this Ordinance that emits "air contaminants" until the West Virginia Department of Environmental Protection has certified to the County that the appropriate state permits have been received by the developer, or that the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

No commercial, industrial or multi-family use may discharge any waste contrary to the provisions of the West Virginia Code. No commercial, industrial or multi-family use may discharge into municipal

sewage treatment facilities any waste that cannot be adequately treated by biological means as determined by the Warm Springs Public Service District.

Section 4.10 Stormwater Management

All commercial, industrial, mobile home parks or multi-family developments shall comply with the Morgan County Stormwater Management Ordinance in force at the time the application is being considered by the Planning Commission.

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 addition or relocation of any structure of a commercial or industrial use unless an Improvement Location Permit has been obtained from the Planning Commission.

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.

Section 5.3 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 5.4 Application Procedures

Pre-application for an Improvement Location Permit and site plan approvals shall be made, *in writing*, to the County Planner and shall include all information requested on the pre-application questionnaire. Every applicant shall include all the information required under Article III of this Ordinance.

Section 5.5 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 County Planner.

Section 5.6 Placards

In addition to the Improvement Location Permit, the County Planner 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 County Planner.

Section 5.7 Start of Construction

Work on the proposed construction shall begin within five (5) years after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Planning Commission.

Section 5.8 Extension Requests

The developer may request an extension of up to one year. This extension shall not be considered until 36 months after the initial approval of the Commercial Improvement Location Permit site plan and shall be based on good cause. This extension shall begin on the five year anniversary of the date of approval of the Commercial Improvement Location Permit site plan. If the project's site improvements, excluding the principal building(s), as shown on the approved site plan are not at least 30% complete, as determined by the county engineer, at the commencement of the extension period, the developer shall comply with the regulations in effect at the start of the extension period. A maximum of two extensions may be permitted.

Section 5.9 Inspection and Revocation

During the construction period, the County Planner 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 County Planner 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 County Planner shall revoke the Improvement Location Permit and report such fact to the Planning Commission for whatever action it considers necessary.

Section 5.10 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.

ARTICLE VI APPEALS AND PENALTIES

Section 6.1 Request for Reconsideration

If the Morgan County Planning Commission denies an application, the Planning Commission shall notify the applicant in writing of the reasons for denial.
The applicant may request, one time, a reconsideration of the decision of the Planning Commission, which request for reconsideration must be in writing and received by the Planning Commission no later than ten days after the decision of the Planning Commission is received by the applicant.

Review Criteria:
All decisions for reconsideration to all provisions of this Ordinance shall adhere to the following criteria:

(A) Affirmative decisions shall only be issued by the Planning 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 shall maintain a record of all decisions including justification for their issuance.

Section 6.2 Appeal Process

A.) An appeal may be made by an aggrieved person from any decision or ruling of the Planning Commission to:
1. The circuit court, pursuant to the provisions of article nine of this chapter;
2. A board of subdivision and land development appeals, if the governing body has established a board of subdivision and land development appeals by ordinance.

B.) Within thirty days after the date of the denial, the petition, specifying the grounds of the appeal in writing, must be filed with:
1. The circuit court of the county in which the affected land or the major portion of the affected land is located; or
2. The board of subdivision and land development appeals that has jurisdiction over the affected land. (West Virginia Code 8A-5-10 – Appeals Process)

Every decision or order of the Planning Commission is subject to review by certiorari. Within thirty days after a decision or order by the Planning Commission, any aggrieved person may present to the circuit court of the county in which the affected premises are located, a duly verified petition for a writ of certiorari setting forth:
1. That the decision or order by the Planning Commission is illegal in whole or in part; and
2. Specify the grounds of the alleged illegality.

Any final decision made by the Morgan County Planning Commission pursuant to this Ordinance may be appealed to the Morgan County Circuit Court as stated in West Virginia Code 8A-9-1 through 8A-9-7 (Article 9, Appeal Process).

Section 6.3 Penalties

In accordance with West Virginia Code 8A-10-2; any person who has violated any provision of this Ordinance is guilty of a misdemeanor and upon conviction, shall be fined not less than Fifty Dollars ($50.00), not more than Five Hundred Dollars ($500.00).

In addition to the above penalties, the Morgan County Planning Commission, through its President or other officer, or any designated enforcement official, is authorized to seek an injunction in the Circuit Court of Morgan County as stated in West Virginia Code 8A-10-3, to enjoin a person or legal entity from violating the provisions of the Ordinance. 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 Morgan County 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 27th day of September, 1996, effective immediately,

and; As Amended December 28, 2001 and May 13, 2010.

MORGAN COUNTY COMMISSION
BY:

Brenda J. Hutchinson

Brenda J. Hutchinson, President

Stacy A. Dugan

Stacy A. Dugan

Thomas R. Swaim

Thomas R. Swaim

Appendix A

Type of Use	Parking Spaces Required
Multi-family dwellings	2 spaces for each dwelling unit
Industrial uses	1 for every employee on the largest shift for which the building is designed plus 1 for each motor vehicle used in the business plus ample spaces for visitor parking
Hotels and motels	1 per each sleeping room, plus 1 for each employee on largest shift
Funeral parlors and mortuaries	1 for each 150 square feet of floor area devoted to viewing
Retail stores	1 for each 200 square feet of floor area excluding preparation and/or storage areas
Banks, financial institutional and similar uses	1 for each 200 square feet of floor area excluding storage area
Offices, public or professional administration, or service buildings	1 for each 400 square feet of floor area
Shopping centers	5.5 spaces for each 1,000 square feet of gross leasable area
Dining rooms, restaurants, taverns, night clubs, etc.	1 space per each 50 square feet of floor area devoted to customer service, but excluding food preparation and storage
Auditoriums, sport arenas, theaters, and similar uses	1 for each 4 seats
Churches and other places of religious assembly	1 for each 5 seats
Golf Courses	60 spaces per nine holes plus the spaces required for accessory uses (restaurants, shops, etc.)

Hospitals	1 for each bed plus one for every employee on the largest shift
Convenience Store	1.4 spaces per 1,000 square feet of gross floor area
Medical and dental clinics and offices	1 for every 100 square feet of floor area of examination, treating room office and waiting room
Sanitariums, homes for the aged, nursing homes, children homes, asylums, and similar uses	1 for each 2 beds
Libraries, museums and art galleries	1 for each 400 square feet of floor area
Elementary and middle schools	2 for each classroom and 1 for every 8 seats in auditoriums or assembly halls
High schools	1 for every 4 students and 1 for each teacher and employee
Business, technical and trade schools	1 for each 2 students
Colleges, universities	3 for each 4 on-campus students plus 1 for each full-time employee regardless of shift, plus the spaces required for accessory uses (churches, cultural facilities, stadiums, etc.)
Kindergartens, nursery schools and similar uses	2 for each classroom, but not less than 6 for the building
Child care centers	1 for every staff person and 1 space for every 10 licensed slots
All other types of permitted institutional or commercial uses	1 for each 300 square feet of floor area

Morgan County
Storm Water Management Plan

1. **Title, Authority and Purpose**

   a) This article shall be known and may be cited as the Morgan County Stormwater Management Ordinance.

2. **Authority and Purpose**

   a) This ordinance is adopted by the authority of the West Virginia Code 8A-1-1 to 8A-11-2 seq.

   b) This ordinance is adopted for the following purposes:

      i) To protect and provide for the public health, safety, and general welfare of the citizens of Morgan County.

      ii) To mitigate the impact of increased stormwater runoff due to change in land use; and thereby

      iii) To safeguard lives and property from loss by flood and erosion

3. **Applicability, Definitions, Exemptions, Waivers, and Variances**

   a) Any activity which is subject to the Morgan County Subdivision Ordinance, as amended, or the Morgan County Commercial and Industrial Improvement Location Permit Ordinance, as amended, shall provide adequate Storm Water Management measures that control and manage stormwater runoff from such development/improvements, except as provided herein.

   b) Definitions: Commission: As used herein Commission shall mean the Morgan County Planning Commission and its staff or designated representatives or agents. Impervious: as used herein shall include all areas that produce 100 percent run-off. Impervious as used herein shall also include gravel roadways, driveways, parking lots, sidewalks, patios, etc., located in the Warm Springs Run Watershed.

   c) Exemptions: The following activities are exempt from the requirement to provide Storm Water Management measures:

      i) Agricultural Land management activities;

      ii) Additions or modifications to all existing single family detached residential structures, and

      iii) Activities that do not result in an increase in impervious land use area greater than 3,000 square feet.

iv) The development consists of single-family residence, each on a lot of two acres or greater.

d) Waivers: The Commission may grant a waiver of the Storm Water Management requirements for individual developments provided that a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed development. If there are subsequent additions, extensions, or modifications to a development receiving a waiver, a separate written waiver request shall be required in accordance with the provisions of this section. A development shall be considered for a waiver if the applicant can conclusively demonstrate that:

i) The proposed development will not generate more than a 10 percent increase in the 2-year 24-hour post-development peak discharge rate over the 2-year 24-hour pre-development peak discharge rate; and that the development will not cause an adverse impact on the receiving wetland, wetcourse, or waterbody; or

ii) The site is completely surrounded by existing developed areas which are served by an existing network of public storm drainage systems of adequate capacity with stable outfalls to accommodate the runoff from the additional development.

e) Variances: the Commission may grant a written variance from Storm Water Management requirements if there are exceptional circumstance applicable to the site such that strict adherence to the provisions of these regulations will not fulfill the intent of these requirements. The applicant shall submit a written request to the Commission stating the specific variances sought, reasons for the request, and supporting technical documentation in accordance with Section 6 of this ordinance, as applicable.

4. Storm Water Management Minimum Control Requirements

a) Stormwater management facilities shall control post-development runoff for the 24-hour, 2 year and 10 year frequency storms to a level equal to or less than the pre-development levels for the 24 hour, 2 year and 10 year frequency storms, respectively, and shall pass the 24-hour 100 year frequency storm without damage to the facilities. Both the volume and rate of runoff shall be controlled.

5. Specific Design Criteria

a) Infiltration measures, where feasible, shall be preferred to detention or retention systems. Where infiltration measures are not feasible the Commission may require that supporting documentation so demonstrating be submitted.

b) Infiltration measures shall be designed in accordance with accepted engineering practices and published design criteria, and shall meet the following requirements:

i) The requirement for demonstrating that infiltration measures are feasible, or are not feasible, shall be the same as those required by the West Virginia Department of

Health for demonstrating that a site is suitable for the use of an individual on-site septic drainfield, except that:

a) Infiltration (perc) tests shall be made at the elevation or depth of the proposed bottom of the stormwater management facility;

b) The number of tests shall be sufficient to show the suitability of soil over the entire area of the proposed facility;

c) Where more than one facility is proposed for a site, tests demonstrating the feasibility of each facility shall be provided;

d) Tests shall be made by a certified septic installer or other qualified professional; and

e) The minimum acceptable rate of infiltration shall be one-half (1/2") per hour.

ii) Infiltration Measures shall be:

a) Constructed with the bottoms at least three (3) feet above seasonal high water table; and

b) Located at least 25 feet and downslope from all buildings on permanent foundation.

iii) Infiltration measures designed to accept runoff from commercial or industrial impervious parking areas shall:

a) Be a minimum of 100 feet from any water supply well;

b) Include an oil/water separator; and

c) Provide pretreatment for 25% of the design volume through the use of grass filter strips or other acceptable measure.

iv. The facility design shall include an overflow system designed to provide a non-erosive velocity of flow along its length and at the outfall.

v. Infiltration measures shall not receive runoff until the entire contributory drainage area to the infiltration system is stabilized or the system is protected by satisfactory sediment control measures.

vi. Sediment which has accumulated in the measure during construction shall be removed and the bottom scarified before final seeding and mulching; and

vii. Post-construction infiltration tests showing that the facilities will function as intended shall be made by a certified septic installer or other qualified professional and the results submitted to the Commission in writing.

c) Retention and detention ponds shall be designed and constructed in accordance with the criteria of the US Department of Agriculture, Natural Resource Conservation Service, or as published in the "Storm Water Management Pond Design Manual" as published by Maryland Association of Soil Conservation Districts and shall include the following"

i) Velocity dissipation devices shall be placed at the outfall of all retention or detention structures and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the structure to a watercourse.

ii) Stormwater management design shall include an analysis of the impacts of storm water flow downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of the proposed development upon a dam, highway, structure, or natural point of streamflow restriction, downstream to a tributary of the following size:

a) The first downstream tributary whose drainage area equals or exceeds the contributing area to the pond; or

b) The first downstream tributary whose peak discharge exceeds the largest designed release rate of the pond.

iii) The design release rate of the structure shall be modified if any increase in flooding or stream channel erosion would result at the downstream point.

d) For the determination of pre-development peak discharge, all land uses shall be considered to be meadow in good condition; and land use shall be based on the average use of the land in question for the five (5) years preceding the proposed change in the utilization of said land.

e) Where a Storm Water Management system involves redirection of some or all runoff off the site, it shall be the responsibility of the developer to obtain permission from property owners impacted by such redirection. Approval of a Storm Water Management plan does not create or affect any such rights; nor does it relieve the developer from any liability incurred due to flooding.

f) The basic design and analysis criteria, methodologies, and construction specifications shall be those of the Natural Resource (Soil) conservation Service of Maryland Water Resources Administration (or equal) found in the most current edition of the following publications:

i) "Urban Hydrology for Small Watersheds", Technical Release No. 55;

ii) "Storm Water Management Pond Design Manual", Maryland Association of Soil Conservation Districts;

iii) "Natural Resource Conservation Service Engineering Field Handbook";

iv) "Natural Resource Conservation Service Field Office Technical guide Standard 378"; and

v) "Maryland Standards and Specifications for Storm Water Management Infiltration Practices".

g) The methodology used to determine rainfall runoff shall be Technical Release 20 or Technical Release 55 (TR-20 or TR-55)

6. **Stormwater Management Plan**

a) Review and Approval of Storm Water Management Plan

The Storm Water Management Plan and Design Report shall contain supporting computations, drawings, and sufficient information describing the manner, location and type of measures by which stormwater runoff from the entire development will be managed. The Commission shall review all plans and supporting information. The approved plan shall serve as the basis for all subsequent construction. Any deviations from the plan must be approved in writing.

b) Contents of the Storm Water Management Plan and Design Report

The developer is responsible for submitting a Storm Water Management Plan and Design Report which meets the requirements contained herein. The plan and report shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing runoff. The minimum information submitted for a Storm Water Management plan or request for a waiver shall be as follows:

i. Design Report

a) USGS topographic map showing the project site.
b) soils map showing the project site
c) Test results showing the feasibility or lack thereof of infiltration measures.
d) Narrative describing:

(1) Existing condition and character of the site;
(2) The nature and extent of the proposed development;
(3) The measures proposed for stormwater management;
(4) A summary of pre- and post-development runoff for the 2, 10, and 100 year frequency storms;
(5) The impact of the proposed development downstream from the site; and
(6) Organization of data and computations in the remainder of the report.

e) Computations, including

(1) Pre-and post development hydrology computations including curve number weighting, time of concentration, and travel time, and subarea, combination and routing hydrographs for the 2, 10, and 100 year storms; and

(2) Hydraulic computations including structure sizing and performance for the 2, 10, and 100 year storms, resistance to overturning and flotation, and location and sizing of anti-seep collars, as applicable.

f) Pre- and post- development drainage maps showing existing and proposed contours, as applicable, at a scale no less than 1" = 100' at 2 foot contour intervals. Off-site drainage area mapping should be no less than 1" = 200', with the exception that the U.S.G.S. maps can be used if off-site topography is not reasonably available to the applicant, and including as applicable:

(1) Extent of soils of each classification;
(2) Extent of land use of each classification;
(3) Drainage subareas labeled to correspond with computations;
(4) Flowpaths showing each segment with length, type of flow, and slope; and
(5) Location of drainage structures and stormwater management facilities.
(6) Topography shall be shown to at least 100 feet past the drainage divide to allow review of the drainage areas shown and used in the SWM report.

ii) Stormwater management plans shall include in addition to information required by the Subdivision Ordinance and/or the Commercial and Industrial ILP Ordinance:

a) dimensions sufficient to show location, size, depth and volume of each stormwater management facility and structure;

b) details and specifications for each structure including (but not limited to) culverts, orifices, risers, inlet boxes, weirs, trash racks, spillways, riprap lining, and anti-seep collars;

c) location of existing and proposed easements and/or rights-of-way required for stormwater management facilities; and

d) other information as may be required for specific site conditions and developments.

7. Construction, As-Build Plans and Final Approval

a) The developer shall install and/or construct all required stormwater management facilities.

b) As-built plans showing the completed location, size, volume and structure components shall be submitted to and approved by the Commission prior to the final approval of a subdivision or the issuance of an occupancy permit for a commercial or industrial development.

c) As-built plans shall be based on actual field measurements and shall be prepared by a registered professional surveyor or engineer licensed in West Virginia.

8. Inspections

a) Construction of all Storm Water Management facilities shall be subject to inspection by the Commission or Natural Resource Conservation Service.

b) The Commission shall be responsible for keeping a record of any inspections made on Storm Water Management facilities. Any deficiencies noted will be forwarded to the owner in writing for correction.

c) The Commission, either by virtue of the nature of the Storm Water System or by the developer's lack of performance in accordance with the plans, may require the developer to hire a West Virginia licensed professional engineer to inspect the project and provide a report to the Commission. The report shall contain the developer's engineer's certification of compliance as well as any "as-built" plans, supplementary inspection reports and laboratory or field testing results.

9. Maintenance

a) Prior to granting final approval to a project, the Commission shall require the owner to enter into an "Inspection and Maintenance Agreement of Private Storm Water Management Facilities" attached hereto.

b) The Commission may from time to time make maintenance inspections on Storm Water Management facilities. Records of such inspections will be kept in the Planning Commission Office and notice of any deficiencies shall be sent to the owner for correction.

c) If the owner shall assign his rights of ownership of a Storm Water Management system to another person or entity, notice of such change of ownership must be made to the Commission in writing within 10 days of such assignment.

INSPECTION AND MAINTENANCE AGREEMENT OF PRIVATE STORM WATER MANAGEMENT FACILITIES

THIS AGREEMENT, made this _____ day of _____, 20____,

By and between _____

Herinafter referred to as the "OWNER(S)" of the following property:

_____

_____

_____

and the Morgan County Planning commission, hereinafter referred to as the "Commission".

WITNESSETH:

We, the OWNER(S), with full authority to execute deeds, mortgages, other convenant, all rights, titles and interests in the property described above, do hereby covenant with the Commission and agree as follows:

1. THE OWNER(S) shall provide for the maintenance of the stormwater management facility to ensure that the facility is and remains in proper working condition in accordance with approved design standards, rules and regulations and applicable laws. The OWNER(S) shall perform necessary landscaping (grass cutting, etc) and trash removal as part of regular maintenance.

2. If necessary, the OWNER(S) shall levy regular or special assessments against all present or subsequent owners of property served by the facility to ensure that the facility is properly maintained.

3. The OWNER(S) shall grant the Commission or its agent and contractor the right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining, or repairing the facility.

4. Should the OWNER(S) fail to maintain the facility or correct any defects within a reasonable period of time (30 days maximum) after proper written notice by the Commission, the Commission is authorized to perform the necessary maintenance or repairs and may assess the OWNER(S) served by the facility for the cost of the work, and applicable penalties, and legal fees and court costs, if any. Said assessment shall be a lien against all properties served by the facility and may be placed on the property tax bill of said property and collected as ordinary taxes by the Commission. The OWNER(S) shall maintain perpetual access from public rights-of-way to the facility for the Commission or its agent and contractor.

5. The OWNER(S) shall indemnify and save the Commission harmless from any and all claims for damages to persons or property arising from the construction, maintenance and use of the facility.

6. The agreement and covenants contained herin shall apply to and bind the OWNER(S) and the OWNER(S) heirs, executors, successors, and assigns, and shall bind all present and subsequent owners of the property served by the facility.

7. The COMMISSION shall record this AGREEMENT in the land records of the COUNTY.

IN WITNESS WHEREOF, the OWNER(S) and the COMMISSION executed this AGREEMENT as of this _____ day of _____, 20_____

ATTEST:	FOR THE OWNER(S)
_____	_____
_____	_____
ATTEST:	FOR THE COMMISSION
_____	_____
_____	_____
_____	_____

STATE OF _____

COUNTY OF _____, TO WIT:

I hereby certify that on this _____ day of _____, 20_____, before the subscribed, a Notary Public of the State of _____, and for the County of _____, aforesaid personally appeared _____ for the Commission and did acknowledge the aforegoing instrument to be their Act.

In testimony whereof,
I have affixed by official seal,

_____
NOTARY PUBLIC

My Commission Expires: _____

SEAL: