

**BEFORE THE COUNTY COMMISSION OF BERKELEY COUNTY ,WEST
VIRGINIA**

The members of the Commission, finding that there has been in place, at least since the mid-1970's a formalized planning commission, in this county, and finding further that the ordinance so establishing that planning commission is lost in the county archives, and finding that this is a propitious time to recodify and amend the ordinance establishing such planning commission, does hereby entertain the motion of Commissioner John E. Wright to adopt the following amended ordinance, in its entirety. Commission President Howard L. Strauss seconded the motion.

Accordingly, it is the ORDER of this Commission that, pursuant to §8-24-1, *et seq.*, Code of West Virginia, the ordinance establishing the **Berkeley County Planning Commission** and setting forth its various provisions is hereby amended and is recodified as follows:

The Planning Commission of this county which currently exists is continued and its decisions and actions heretofore adopted are hereby ratified.

MEMBERSHIP

The Planning Commission shall consist of between five and fifteen members, all freeholders and residents of Berkeley County. The County Commission recognizes the membership which exists as of the effective date of this amendment. Each member of the Planning Commission shall be appointed for a term of three years. Those members serving at the effective date of this amendment shall continue to serve under the appointments previously made by this Commission until their terms are completed and may be reappointed at the discretion of this Commission.

Each member hereafter appointed shall be qualified by knowledge and experience in matters pertaining to the development of the county and the membership of the Planning Commission shall include representatives of business, representatives of industry, representatives of labor and representatives of the farming community. Of the full membership, one member shall also be a County Commissioner who shall serve a term coextensive with his or her term of office, unless the County Commission decides to make such appointment for a term of one year and to appoint or reappoint its member at the County Commission's organizational meeting each year. There shall be designated by any municipality within Berkeley County which has a duly appointed planning commission, one of such municipal planning commission's members, as an advisory member of the Berkeley County Planning Commission. Such member shall have all the privileges of membership except the right to vote. At least three fifths of the full membership shall have been residents of Berkeley County for a minimum of one year prior to appointment.

Members of the Planning Commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their official duties.

MEETINGS

-

The Planning Commission shall meet at least once in the months of January, April, July and October of each year, and otherwise, on a regular basis, at the discretion of the body.

Special meetings of the commission may be called by the president or by at least two members upon written request to the secretary. Such special meetings shall be noticed by the secretary in writing to each member, fixing the date, time and place of the special meeting unless the same has been fixed in a regular meeting or unless all members are present at the special meeting.

QUORUM

-

A majority of the members of the commission shall constitute a quorum and unless a quorum is present, no official action may be taken by the commission.

OFFICERS

-

At its first regular meeting in each year, the commission shall elect from its members a president and vice president. The vice president shall have the power and authority to act as president of the commission during the absence or disability of the president.

EMPLOYEES

-

The commission may appoint and prescribe the duties and fix the compensation of a secretary and such other employees as are necessary for the discharge of the duties and responsibilities of

the commission. All such compensation shall conform to and be in compliance with the salary and compensation schedule adopted by the County Commission.

The commission may make contracts for special or temporary services and any professional counsel.

POWERS AND AUTHORITY

—

The Planning Commission shall have the power, authority and duty to :

1. Exercise general supervision of and make rules and regulations for the administration of the affairs of the commission;
2. Prescribe uniform rules and regulations pertaining to its investigations and hearings;
3. Supervise the fiscal affairs and responsibilities of the commission;
4. Prescribe the qualifications of, appoint, remove and fix the compensation of, the employees of the commission;
5. Delegate to employees authority to perform ministerial acts in all cases except where final action of the commission is necessary;
6. Keep an accurate and complete record of all departmental proceedings, and record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the commission;
7. Make recommendations and an annual report to the County Commission concerning the operation of the commission and the status of planning within its jurisdiction;

8. Prepare, publish and distribute reports, ordinances and other material relating to the activities authorized by this ordinance and Chapter 8, Article 24 of the *Code of West Virginia*, as amended;
9. Adopt a seal, and certify all official acts;
10. Invoke any legal, equitable or special remedy for the enforcement of the provisions of this ordinance, Chapter 8, Article 24 of the *Code of West Virginia*, rule, regulation or any action taken thereunder;
11. Prepare and submit an annual budget in the same manner as other departments of Berkeley County. The Planning Commission shall be limited in all expenditures to the provisions made therefor by the County Commission;
12. If deemed advisable, establish an advisory committee or committees;
13. Delegate to a committee composed of one or more members of the commission the power to hold any public hearings or conferences required or permitted under this ordinance or pertinent state statutes to be held by the commission. If the hearing or conference is held by a committee, a written record of the substance of the hearing or conference shall be made and preserved with the records of the commission for not less than five years. The committee shall have authority only to conduct the hearing and report to the commission; and
14. Expend, under procedures which comply with the fiscal procedures of the County Commission, all sums appropriated to it for the purposes and activities authorized under this ordinance or pertinent state statutes.

COMPREHENSIVE PLAN

—

The Planning Commission shall make and recommend for adoption to the County

Commission a comprehensive plan for the physical development of the territory within its jurisdiction, all pursuant to the provisions of §8-24-16-20, *Code of West Virginia*, which provisions are hereby incorporated and made a part of this ordinance, by reference.

COOPERATION WITH OTHER OFFICES

-

The Planning Commission shall have authority to cooperate with the planning commissions or governing and administrative bodies and officials of municipalities within or without Berkeley County and with the planning commissions or governing and administrative bodies of other counties, with a view to coordinating and integrating the planning and zoning of Berkeley County with the plans of such other municipalities and counties, and may appoint such committee or committees and may adopt such rules and regulations as may be thought proper to effect such cooperation. The Planning Commission is further authorized to cooperate with any state or federal department, division or agency which may have information or assistance useful to the commission.

FEES

-

The Planning Commission may establish a uniform schedule of fees proportioned to the cost of performing its duties and responsibilities. All applicants shall pay the specified fee at the time of filing his or her application.

JURISDICTION AND CONTROL

-

Subsequent to the adoption of the comprehensive plan and the ordinances governing subdivision control and approval for plats and replats, the Planning Commission shall have exclusive control over the approval of plats involving the lands covered by such county plan and ordinance located within its jurisdiction.

CONFORMITY OF STRUCTURE TO COMPREHENSIVE PLAN AND ORDINANCE

-

A structure shall not be located and an improvement location permit shall not be issued for a structure on unincorporated lands within the jurisdiction of the Planning Commission unless the structure and its location conform to Berkeley County's comprehensive plan and ordinance.

The Office of the County Engineer shall have authority to issue and control improvement building permits with the jurisdiction of the Planning Commission in conformity with the comprehensive plan and ordinance.

ZONING AUTHORITY GENERALLY

-

The Planning Commission may prepare a tentative report, as the same is contemplated by Chapter 8, Article 24, of the *Code of West Virginia*, on its own initiative, or at the direction of the County Commission, recommending specific boundaries of districts and the rules and regulations and restrictions to be enforced therein, for the purposes of governing the use of land in the unincorporated parts of Berkeley County.

The Planning Commission shall have authority to hold public preliminary hearings and conferences, on such dates and at such times and places and upon such notice as it may determine to be necessary to inform and aid itself in the preparation of the tentative report.

Such tentative report, which shall include the proposed zoning ordinance with explanatory maps, shall be made to the Berkeley County Commission by the Planning Commission.

The Planning Commission shall issue a final report following consideration of the tentative report by the County Commission.

AMENDMENTS, CHANGES, SUPPLEMENTS TO ZONING ORDINANCE

-

The Planning Commission may petition the Berkeley County Commission to consider amendments, supplements, or changes of the rules and regulations of any adopted zoning ordinance. The Planning Commission shall receive from the County Commission for consideration and report, any proposed amendments, supplements, changes or repeal of the zoning ordinance not initiated by it.

Prior to submission to the County Commission of a Planning Commission petition or a report on a proposed ordinance referred to it for an amendment, supplement, change or repeal of the zoning ordinance, the planning commission shall give notice and hold a public hearing as prescribed by §8-24-18 and §8-24-47, *Code of West Virginia*, except that publication of notice of date, time and place of hearing upon a proposed amendment, supplement, change or repeal of the zoning ordinance need be made only fifteen or more days prior to the date set for such hearing.

ENFORCEMENT AND PENALTIES

-

Any person who violates any provision of this ordinance or of §8-24-1, *et seq.*, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten dollars nor more than three hundred dollars.

The Planning Commission may seek an injunction in the Circuit Court of Berkeley County to restrain a person or unit of government from violating the provisions of this ordinance or of §8-24-1, *et seq.*, or of any rule or regulation adopted pursuant hereto. The Planning Commission may also seek a mandatory injunction in the Circuit Court of Berkeley County directing a person or unit of government to remove a structure erected in violation of the provisions of this ordinance or rule or regulation or of the pertinent state statutes. If the Planning Commission or the designated enforcement official is successful in any such suit, the respondent shall bear the costs of the action.

ENFORCEMENT OFFICIAL

The Enforcement Official, for purposes of this ordinance, shall be the Planning Director or his or her designee.

THIS AMENDED ORDINANCE is adopted this 11th day of July, 2002, by the Berkeley County Commission, meeting at Martinsburg, Berkeley County, West Virginia.

Howard L. Strauss, President

Robert L. Burkhart, Commissioner

John E. Wright, Commissioner