

**AN ORDINANCE DEFINING AND REGULATING SELF-STORAGE
ESTABLISHMENTS IN TAYLOR COUNTY, WEST VIRGINIA**

WHEREAS, the County Commission of Taylor County, West Virginia believes that the unrestricted proliferation of self-storage establishments throughout the County is detrimental to the health, safety, and welfare of the community due to deleterious effect upon property values in the vicinity of the establishments, and

WHEREAS, the County Commission of Taylor County, West Virginia believes that such establishments must therefore be subject to restrictions so that they do not unreasonably proliferate across the County, and

WHEREAS, the State of West Virginia does not limit the number of such establishments that may be constructed and operated within a county, and

WHEREAS, it is the intent and purpose of this Ordinance to reasonably regulate the time, place, and manner in which self-storage establishments are to be permitted in the County of Taylor,

NOW, THEREFORE, the County Commission of Taylor County, West Virginia hereby ORDAINS:

Definitions:

SELF-STORAGE ESTABLISHMENT – an establishment which is constructed or operated for the purpose of renting or leasing subdivided individual storage compartments or units to the general public for the storage of the renter's or lessor's personal property for a fee.

RESIDENTIAL DWELLING – a house or other structure in which a person or persons live; a residence, abode, or habitation.

Be it enacted by the County Commission of Taylor County, West Virginia:

Section 1. Restriction as to placement; distance requirements; measurement; waiver.

- 1.1 No self-storage establishment shall locate closer than two thousand (2000) feet from a residential dwelling within Taylor County, West Virginia.
- 1.2 The distance shall be measured as the shortest distance between the any portion(s) of a building or buildings constituting a self-storage establishment and any residential dwelling within Taylor County, West Virginia. For purposes of this subsection, the distance shall be that between the building or buildings constituting the self-storage establishment and the building constituting the residential dwelling.

1.3 A self-storage establishment shall not be required to comply with this Ordinance if the owner or operator of such establishment shall secure a signed waiver from the owner of each residential dwelling located within the 2000 foot distance delineated in this section. The waiver shall particularly describe a) the nature of the construction, its size and location, b) a good-faith estimate of when construction shall commence and conclude, c) a description of any reasonably anticipated or potential additions to the establishment, including their location, d) a statement that the waiver may not be revoked by the grantors or his successors, and e) a statement that the waiver is transferable by the grantee for the benefit of subsequent owners of the self-storage establishment. Any waiver so granted and received under this Ordinance shall be recorded in the Office of the Clerk of the County Commission of Taylor County.

1.3.1 The waiver shall be effective for the life of the self-storage establishment and shall be transferable, but shall not be applicable to any other property other than that which is particularly described in the waiver. New construction or additions to the self-storage establishment shall only fall under the purview of the waiver if such additions are clearly and unambiguously provided for in the waiver, executed by the property owners described in this section.

1.3.2 Section 1.1 shall not apply to any residential dwelling, the construction of which commences subsequent to the time when the self-storage establishment is "in operation" as defined in Section 3.1 and 3.1.1 of this Ordinance.

1.3.3 The waiver may be deemed null, void, and of no effect by the Circuit Court upon petition by the Prosecuting Attorney or his designee, or any citizen of Taylor County, with a showing, by a preponderance of evidence, of habitual and repeated violation of its terms, or upon conviction for a third or subsequent violation of this Ordinance, under Section 2.2. A self-storage establishment whose waiver has been revoked under this subsection shall not be deemed to be "in operation" for purposes of Sections 1.3.2, 3.1, 3.1.1, or 3.2 of this Ordinance.

Section 2. Enforcement; injunctive relief available; violation a misdemeanor; penalties.

2.1 The Circuit Court shall have jurisdiction to issue an injunction to enforce the purposes of this ordinance upon petition by the Prosecuting Attorney or his designee, or any citizen of the county who can show a good faith and valid reason for making such application. No bond shall be required unless for good cause shown.

- 2.2 Any person who knowingly constructs, establishes, or operates a self-storage establishment in the county of Taylor, in violation of this Ordinance, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two thousand five hundred dollars (\$2,500.00) nor more than five thousand dollars (\$5,000.00). A person convicted of a second or subsequent offense under this ordinance is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than ten thousand dollars (\$10,000.00) for each violation, or imprisoned in the regional jail not more than ninety (90) days, or both fined and imprisoned.
- 2.3 No person may be prosecuted for an offense under this ordinance except by indictment or information.
- 2.4 No employee shall be guilty of a violation of this Ordinance while acting within the scope of their regular employment, unless such employee has a proprietary interest in the self-storage establishment, or is a shareholder or officer of a corporation, partner in a partnership, general or limited partner in a limited partnership, or member or manager of a limited liability company which has a proprietary interest in such establishment.

Section 3. Grandfathering.

- 3.1 The provisions of this Ordinance shall not be deemed applicable to any self-storage establishment in operation as of the first reading of this Ordinance, June 15, 2006.
- 3.1.1 A self-storage establishment shall be deemed to be "in operation" if construction on any building or structure constituting the establishment, in part or in whole, is substantially underway. For the purposes of this section, purchase of real property with the intent to construct such an establishment shall not be considered construction that is substantially underway, unless the owners of the property can demonstrate by a preponderance of evidence that such an intent existed prior to the first reading of this Ordinance, June 15, 2006, and that the owners of property, under this subsection, have taken an overt act—beyond the simple purchase of property—to construct and operate a self-storage establishment.
- 3.2 Any establishment, of which construction is not substantially underway on the date of first reading of this Ordinance, June 15, 2006, must comply with the provisions of this Ordinance as to distance and waiver requirements.

Section 4. Severability.

- 4.1 The provisions of this ordinance are severable, and if any provision or part thereof shall be declared invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality, or inapplicability shall not affect or impair the remaining provisions of this ordinance.

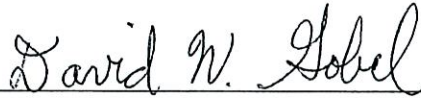
Section 5. Applicability.

- 5.1 The establishment or operation of any self-storage establishment within Taylor County, West Virginia shall be permitted only as regulated by this Ordinance.

Section 6. Effective Date.

- 6.1 This Ordinance shall be deemed effective immediately upon its adoption.

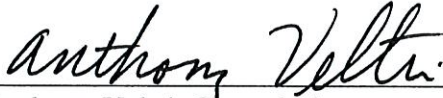
BE IT ADOPTED and ENACTED by the COUNTY COMMISSION OF TAYLOR COUNTY, WEST VIRGINIA THIS 7th DAY OF AUGUST, 2006



David Gobel, President of the County Commission



Robert Weaver, Commissioner



Anthony Veltri, Commissioner



Nancy Virginia Fowler, Clerk of the County Commission