

# WEST VIRGINIA CODE: §16-13E-4

## **§16-13E-4. Petition for creation or expansion of community enhancement district; petition requirements.**

(a) The owners of at least sixty-one percent of the real property, determined by acreage, located within the boundaries of the area described in the petition, by metes and bounds or otherwise in a manner sufficient to describe the area, may petition a governing body to create or expand a community enhancement district.

(b) The petition for the creation or expansion of a community enhancement district shall include, where applicable, the following:

(1) The proposed name and proposed boundaries of such district and a list of the names and addresses of all owners of real property within the proposed district;

(2) A detailed project description;

(3) A map showing the proposed project, including all proposed improvements;

(4) A list of estimated project costs and the preliminary plans and specifications for such improvements, if available;

(5) A list of nonproject costs and how they will be financed;

(6) A consultant study outlining the projected assessments, setting forth the methodology for determining the assessments and the methodology for allocating portions of an initial assessment against a parcel expected to be subdivided in the future to the various lots into which the parcel will be subdivided and demonstrating that such assessments will adequately cover any debt service on bonds issued to finance the project and ongoing administrative costs;

(7) A development schedule;

(8) A list of recommended members for the board;

(9) If the project includes water, wastewater or sewer improvements, written evidence from the utility or utilities that will provide service to the district, if any, that said utility or utilities:

(A) Currently has adequate capacity to provide service without significant upgrades or modifications to its treatment, storage or source of supply facilities, except facilities which the community enhancement district will provide as described in the petition;

(B) Will review and approve all plans and specifications for the improvements to determine

that the improvements conform to the utility's reasonable requirements and, if the improvement consists of water transmission or distribution facilities, that the improvements provide for adequate fire protection for the district; and

(C) If built in conformance with said plans and specifications, will accept the improvements following their completion, unless such projects are to be owned by the district;

(10) If the project includes improvements other than as set forth in subdivision (9) of this subsection that will be transferred to another governmental agency, written evidence that such agency will accept such transfer, unless such projects are to be owned by the district;

(11) The benefits that can be expected from the creation of the district and the project; and

(12) A certification from each owner of real property within the proposed district who joins in the petition that he or she is granting an assessment against his or her property in such an amount as to pay for the costs of the project and granting a lien for said amount upon said property enforceable in accordance with this article.

(c) After reviewing the petition presented pursuant to this section, the governing body may by order or ordinance determine the necessity and economic feasibility of creating a community enhancement district and developing, constructing, acquiring, improving or extending a project therein. If the governing body determines that the creation of a community enhancement district and construction of the project is necessary and economically feasible, it shall set a date for the public meeting required under section five of this article and shall cause the petition to be filed with the clerk of the county commission or the clerk or recorder of the municipality, as the case may be, and be made available for inspection by interested persons before the meeting.

(d) Notwithstanding any other contrary provision of this article, nothing in this article shall modify:

(1) The jurisdiction of the Public Service Commission to determine the convenience and necessity of the construction of utility facilities, to resolve disputes between utilities relating to which utility should provide service to a district or otherwise to regulate the orderly development of utility infrastructure in the state; or

(2) The authority of the Infrastructure and Jobs Development Council as to the funding of utility facilities to the extent that loans, loan guarantees, grants or other funding assistance from a state infrastructure agency are involved.