

# WEST VIRGINIA CODE: §16-13E-6

## **§16-13E-6. Creation of community enhancement district; community enhancement district to be a public corporation and political subdivision; powers thereof; community enhancement boards.**

(a) Each community enhancement district shall be created by adoption or enactment of an order or ordinance.

(b) From and after the date of the adoption or enactment of the order or ordinance creating a community enhancement district, it shall thereafter be a public corporation and political subdivision of this state, but without any power to levy or collect ad valorem taxes. Each community enhancement district is hereby empowered and authorized, in addition to any other rights, powers and authorities conferred upon it in this article or elsewhere in this code, to:

(1) Acquire, own and hold, in its corporate name, by purchase, lease, right of eminent domain, gift or otherwise, such property, both real and personal and other interests in real estate, or any other property, whether tangible or intangible, as may be necessary or incident to the planning, financing, development, construction, acquisition, extension, improvement and completion of a project;

(2) Design, plan, finance, develop, construct, acquire, extend, improve and complete one or more projects and assess the cost of all or any portion of a project on real property located within the community enhancement district;

(3) Sue or be sued;

(4) Establish a bank account or accounts in its name;

(5) Enter into agreements or other transactions with any person or governmental agency necessary or incident to the development, planning, construction, acquisition or improvement of a project or for the operation, maintenance or disposition of a project or for any other services required by a project;

(6) Annually, on or before June 7, certify to the sheriff of the county in which the property is located the assessments granted against all property in the district for inclusion in the tax ticket;

(7) Expend funds to acquire, or construct part of a project on property located outside of a community enhancement district, and for any work undertaken thereon, as may be necessary or incident to the completion of a project;

(8) Enter into agreements with one or more counties, municipalities, public service districts or community enhancement districts to plan, develop, construct, acquire or improve a

project jointly;

(9) Accept appropriations, gifts, grants, bequests and devises and use or dispose of the same to carry out its corporate purpose;

(10) Make and execute contracts, releases, assignments, compromises and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose;

(11) Have a seal and alter the same;

(12) Raise funds by the issuance and sale of assessment bonds;

(13) Obtain options to acquire real property, or any interest therein, by purchase, lease or otherwise, which is found by the board to be suitable as a site, or part of a site, for the construction of a project;

(14) Pledge funds generated by assessments in a district or proceeds from the sale of assessment bonds to payment of debt service on tax increment financing obligations issued under article eleven-b, chapter seven of this code for the period of time determined by the community enhancement board; and

(15) Take any and all other actions consistent with the purpose of this article and not in violation of the Constitution of this state as may be necessary or incident to the construction and completion of a project.

(c) The powers of each community enhancement district shall be vested in and exercised by a community enhancement board which shall be composed of five members, four of whom shall be appointed by the governing body of the county or municipality in which the community enhancement district is located and one of whom shall be the sheriff or his or her designee of the county or the treasurer or his or her designee of the municipality (or such other person serving in an equivalent capacity if there is no treasurer), as the case may be, in which the community enhancement district is located. At least three members of the board shall be residents of the assessment district: Provided, That should less than three persons reside within the boundaries of the community enhancement district, then at least three members of the board shall be residents of the county or municipality, as the case may be: Provided, however, That if no persons reside within the boundaries of the community enhancement district then at least three members must be approved by the owner or owners of the land. No more than three initial members of the board may be from the same political party.

(d) The four members appointed by the governing body shall be appointed for overlapping terms of four years each and thereafter until their respective successors have been appointed and have qualified. For the purpose of initial appointments, one member shall be appointed for a term of four years; one member shall be appointed for a term of three years; one member shall be appointed for a term of two years; and one member shall be appointed

for a term of one year. Members may be reappointed for any number of terms. Before entering upon the performance of his or her duties, each member shall take and subscribe to the oath required by section five, article IV of the Constitution of this state. Vacancies shall be filled by appointment by the governing body of the county or municipality creating the assessment district for the unexpired term of the member whose office shall be vacant and such appointment shall be made within thirty days of the occurrence of such vacancy. Any such member may be removed by the governing body which appointed such member in case of incompetency, neglect of duty, gross immorality or malfeasance in office. Members shall be entitled to no more than \$50 per meeting and reasonable expenses associated with their services.

(e) The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after January 1, of each year by selecting one of its members to serve as chairman, one to serve as treasurer and one to serve as secretary. The secretary, or his or her designee, shall keep a record of all proceedings of the board which shall be available for inspection as other public records and the treasurer, or his or her designee, shall maintain records of all financial matters relating to the community enhancement district, which shall also be available for inspection as other public records. Duplicate records shall be filed with the clerk or recorder, as the case may be, of the county or municipality which created the community enhancement district and shall include the minutes of all board meetings. The secretary and treasurer shall perform such other duties pertaining to the affairs of the community enhancement district as shall be prescribed by the board.

(f) The members of the board, and the chairman, secretary and treasurer thereof, shall make available to the governing body responsible for appointing the board, at all times, all of its books and records pertaining to the community enhancement district's operation, finances and affairs for inspection and audit. The board shall meet at least semiannually.

(g) A majority of the members of the board constitutes a quorum and meetings shall be held at the call of the chairman.

(h) Staff, office facilities and costs of operation of the board may be provided by the county or municipality which created the community enhancement district or by contract and said costs of operations shall be funded from assessments collected within the district.

(i) The chairman shall preside at all meetings of the board and shall vote as any other members of the board, but if he or she should be absent from any meeting the remaining members may select a temporary chairman, and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organizational meeting.

(j) The board shall, by resolution, determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. The members of the board shall not be personally liable or responsible for any obligations of the

assessment district or the board but are answerable only for willful misconduct in the performance of their duties.

(k) The official name of a community enhancement district created under the provisions of this article may contain the name of the county or municipality, as the case may be, in which it is located.

(l) Notwithstanding any provision in this code to the contrary, the power and authority hereby conferred on community enhancement districts may extend within the territory of a public service district created under section two, article thirteen-a of this chapter.