WEST VIRGINIA CODE: §7-1-3MM

§7-1-3mm. Transfer of development rights in growth counties.

(a) In addition to all other powers and duties now conferred by law upon county commissions, if a county has been designated as a growth county as that term is defined in section three, article twenty of this chapter, those county commissions, upon approval by a majority of the legal votes cast at an election as provided in section three-nn of this article, are hereby authorized to, as part of a county-wide zoning ordinance, establish a program for the transfer of development rights in order to:

(1) Encourage the preservation of natural resources;

(2) Protect the historic, scenic, recreational and agricultural qualities of open lands; and

(3) Facilitate orderly growth and development in the county.

(b) The program for the transfer of development rights may provide for:

(1) The voluntary transfer of the development rights permitted on any parcel of land to another parcel of land for use in accordance with the zoning and subdivision ordinance;

(2) Restricting or prohibiting further development of the parcel from which development rights are severed; and

(3) Increasing the density or intensity of development of the parcel to which such rights are transferred.

(c) The program for the transfer of development rights shall:

(1) Designate a program for which development rights may be transferred from any parcel of land to any other parcel of land for use in accordance with the zoning and subdivision ordinance;

(2) Provide that any rights transferred under this section be for a period of ten years and may be renewed for additional ten year periods; and

(3) Any rights which expire before being used for development, revert to the original parcel of land from which the rights were first severed.

(d) The county commission may not set a price for any development rights that are proposed to be transferred or received.

(e) "Transferable development rights" means an interest in real property that constitutes the right to develop and use property under the zoning ordinance which is made severable from

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the parcel to which the interest is appurtenant and transferable to another parcel of land for development and use in accordance with the zoning ordinance.

(f) Transferable development rights may be transferred by deed from the owner of the parcel from which the development rights are derived and upon the transfer shall vest in the grantee and be freely alienable.

(g) The zoning ordinance may provide for:

(1) The method of transfer of development rights;

(2) Recordation of the date of each transfer;

(3) The names of the transferor and transferee;

(4) A description of the property;

(5) The granting of easements;

(6) Reasonable regulations to effect and control transfers and assure compliance with the provisions of the ordinance; and

(7) Any other information necessary to administer the program.

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