WEST VIRGINIA CODE CHAPTER 7 ARTICLE 1

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§7-1-1. County commissions corporations; how constituted; election of president.

(a) The county commission, formerly the county court, tribunal or county council in lieu thereof, of every county within the State of West Virginia shall be a corporation by the name of "The county commission of ..... County", or "The County Council of ..... County" by which name it may sue and be sued, plead and be impleaded and contract and be contracted with. (b) A county commission shall consist of three commissioners as provided in section nine, article IX of the Constitution of the State of West Virginia, any two of whom shall constitute a quorum for the transaction of business.

(c) A county council, created on or after July 1, 2008, as an alternative to a county commission pursuant to section thirteen, article IX of the Constitution of West Virginia, shall consist of four or more members, a majority of whom shall constitute a quorum for the transaction of business.

(d) Unless provided otherwise in an alternative form of government, each county commission or council shall annually, at its first session in each year, or as soon thereafter as practicable, elect one of its commissioners or council members as president of the county commission or council.

(e) Throughout this chapter and the code, the term "county commission" or any reference to a county commission shall include all county councils created in lieu of the county commission.

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§7-1-1a. Requirements for reforming, altering, or modifying a county commission; alternative forms of county government.

(a) A county government may be reformed, altered, or modified as follows:

(1) The county commission or county council of the county may pass a resolution making application to the Legislature to reform, alter, or modify an existing form of county government in accordance with the requirements of the West Virginia Constitution and this section; or

(2) Ten percent of the registered voters of the county may sign a petition requesting reformation, alteration, or modification of the existing form of county government in accordance with the requirements of the West Virginia Constitution and this section.

(b) A county commission or county council seeking to make application to reform, alter, or modify its county government pursuant to the provisions of section 13, article IX of the West Virginia Constitution shall adopt a resolution containing the following information:

(1) The reasons for the reformation, alteration, or modification of the county commission or county government;

(2) The form of the proposed county government selected from the alternatives authorized by this section;

(3) The proposed name of the county government;

(4) When the question of reformation, alteration, or modification of the county government shall be on the ballot;

(5) How and when the officers of the proposed county government shall be elected or appointed, taking into consideration the following:

(A) When the election on the question of reformation, alteration, or modification of the county government shall be held;

(B) The normal election cycles for county officials; and

(C) The time frames for early and absentee voting provided in 3-3-1 *et seq*. of this code; and

(6) When the new county government shall become effective.

(c) Prior to the adoption of a resolution seeking to reform, alter, or modify a county commission or county council, the governing body of the county shall publish by a Class II legal advertisement in one or more newspapers of general circulation throughout the county, in compliance with the provisions of §59-3-1 *et seq*. of this code, notice of the proposed changes to the current form of county government. The publication area shall be the entire

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county. The notice shall summarize the proposed changes to the county government and include the date, time, and place for the meeting or meetings in which the resolution shall be considered.

(d) After the publication and adoption of the resolution, the following information shall be submitted by the county to the Clerk of the Senate and to the Clerk of the House of Delegates no later than the 10th day of a regular legislative session in which the request for reforming, altering, or modifying a county commission or county government is to be considered by the Legislature:

(1) A certified copy of the adopted resolution;

(2) A copy of the required public notice;

(3) The vote on the adoption of the resolution; and

(4) The date the resolution was adopted.

(e) Registered voters of a county seeking to reform, alter, or modify the county commission or county council pursuant to section 13, article IX of the West Virginia Constitution shall submit a petition, signed by 10 percent of the registered voters in the county, to the county commission or county council, setting forth the information required in subsection (b) of this section. Upon receipt of the petition, the county commission or county council shall verify that the signatures on the petition are: (1) Legally registered voters of the county; and (2) equal to 10 percent of the registered voters of the county.

(f) The county commission or county council shall, within 30 days of receipt of a constitutionally defective petition, return it to the petitioners with a written statement as to why the petition is defective. The petitioners may, within 90 days of receipt of the written statement from the county commission or council and after making the necessary changes, resubmit the petition to the county commission or county council.

(g) After verifying that the signatures on the petition meet the constitutional requirements, the county commission or council shall forward the petition to the Clerk of the Senate and to the Clerk of the House of Delegates no later than the 10th day of a regular legislative session in which the request for reforming, altering, or modifying a county commission or county government is to be considered by the Legislature.

(h) After receipt of a certified resolution or verified petition by the Clerk of the Senate and the Clerk of the House of Delegates, the Legislature shall determine whether all constitutional and statutory requirements have been met. If such requirements have not been met, the certified resolution or verified petition shall be returned with a written statement of the deficiencies. A certified resolution or verified petition may be revised following the procedures set forth in this section for an original submission and then may be resubmitted to the Clerk of the Senate and the Clerk of the House of Delegates for

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consideration by the Legislature. The requirement that the petition be submitted prior to the 10th day of the legislative session shall not apply to resubmitted resolutions or petitions.

(i) Following passage of an act by the Legislature authorizing an election on the question of reforming, altering, or modifying a county commission or council, the question shall be placed on the ballot of the county at the next primary or general election following such passage.

(j) Following approval of the reformation, alteration, or modification of the county commission or council by a majority of the county's registered voters, nomination of the county commission or council members and, where authorized, the chief executive, shall be held in the next primary election or the primary election set forth in the resolution or petition to reform, alter, or modify the county commission or council. Election of the county commissioners or council members and, where authorized, the chief executive shall be held in the next general election or the general election set forth in the resolution or petition to change the form of the county commission.

(k) All elections required by this section shall be held in accordance with the provisions of §3-1-1 *et seq*. of this code.

(l) The following are guidelines for forms of county government:

(1) *"Chief executive - county commission plan"*. — Under this plan:

(A) There shall be a chief executive elected by the registered voters of the county at large and three county commissioners that shall be elected at large;

(B) The commission shall be the governing body;

(C) The chief executive shall have the exclusive authority to supervise, direct, and control the administration of the county government. The chief executive shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the chief executive shall be set by the Legislature;

(E) Other nonelected officers and employees shall be appointed by the chief executive subject to the approval of the county commission; and

(F) The chief executive shall not be a member of the county commission nor shall he or she hold any other elective office.

(2) *"County manager - county commission plan"*. — Under this plan:

(A) There shall be a county manager appointed by the county commission and three county commissioners that may be elected at large;

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(B) The commission shall be the governing body;

(C) The county manager shall have the exclusive authority to supervise, direct, and control the administration of the county government. The county manager shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the county manager shall be set by the county commission;

(E) Other nonelected officers and employees shall be appointed by the county manager subject to the approval of the commission; and

(F) The county manager shall not be a member of the county commission nor shall he or she hold any other elective office.

(3) *"County administrator - county commission plan"*. — Under this plan:

(A) There shall be a county administrator appointed by the county commission and three county commissioners that shall be elected at large;

(B) The commission shall be the governing body;

(C) The county administrator shall have the authority to direct the administration of the county government under the supervision of the county commission. The county administrator shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the county administrator shall be set by the county commission;

(E) The county administrator shall appoint or employ all subordinates and employees for whose duties or work he or she is responsible to the commission; and

(F) The county administrator shall not be a member of the county commission nor shall he or she hold any other elective office.

(4) A county council consisting of four or more members that shall be elected at large.

(5) Any form of county government adopted pursuant to section 13, article IX of the West Virginia Constitution and this section may, by the methods set forth in this section, return to the traditional county commission or change to another form of county government, as set out in this section.

(m) The purpose of this section is to establish the basic requirements for reforming, altering, or modifying a county commission or county council pursuant to section 13, article IX of the West Virginia Constitution. The structure and organization of a county government may be specified in greater detail by resolution or ordinance so long as such provisions do not conflict with the purposes and provisions set forth in this section, §7A-1-1 *et seq*. of this

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code, or the Constitution.

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§7-1-1b. Legislative findings; qualifications for county commissioners.

(a) The Legislature finds that:

(1) There is confusion concerning when a candidate for county commission must be a resident of the magisterial district he or she wants to represent;

(2) The supreme court has discussed the residency requirement in several cases and has conflicting interpretations;

(3) It is imperative that this issue be permanently resolved at the time of filing to ensure the citizens have choice on the ballot;

(4) It is essential the citizens know they are voting for a person who is qualified to be a candidate; and

(5) With the expense of holding an election, tax payer moneys should not be wasted of officials who could never serve.

(b) A candidate for the office of county commissioner shall be a resident from the magisterial district for which he or she is seeking election:

(1) By the last day to file a certificate of announcement pursuant to section seven, article five, chapter three of this code; or

(2) At the time of his or her appointment by the county executive committee or the chairperson of the county executive committee.

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§7-1-2. Sessions.

The county court of each county shall hold four regular sessions in each year at the courthouse thereof, at such times as may be fixed upon and entered of record by the court. It may also hold special sessions, whenever the public interests may require it, to be called by the president with the concurrence of at least one other commissioner; and the commissioner, if any, not concurring therein, must have at least twenty-four hours' notice of the time appointed for such special session. A notice of the time of such special session, and of the purpose for which it will be held, shall be posted by the clerk of the court, at the front door of the courthouse of the county, at least two days before such session is to be held. If such commissioner, after due notice thereof, shall willfully fail to attend such special session, he shall forfeit not less than $5 nor more than $20.

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§7-1-3. Jurisdiction, powers, and duties.

(a) The county commissions, through their clerks, shall have the custody of all deeds and other papers presented for record in their counties and the same shall be preserved therein, or otherwise disposed of as now is, or may be prescribed by law. They shall have jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts and in all matters relating to apprentices. They shall also, under the rules as now are, or may be prescribed by law, have the superintendence and administration of the internal police and fiscal affairs of their counties, including the establishment and regulation of roads, ways, streets, avenues, drives and the like, and the naming or renaming thereof, in cooperation with local postal authorities, the Division of Highways and the directors of county emergency communications centers, to assure uniform, nonduplicative conversion of all rural routes to city-type addressing on a permanent basis, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. They shall, in all cases of contest, judge of the election, qualification and returns of their own members, and of all county and district officers, subject to appeal as prescribed by law. The tribunals as have been heretofore established by the Legislature under and by virtue of section thirty-four, article VIII of the Constitution of 1872, for police and fiscal purposes, shall, until otherwise provided by law, remain and continue as at present constituted in the counties in which they have been respectively established, and shall be and act as to police and fiscal matters in lieu of the county commission herein mentioned, until otherwise provided by law. And until otherwise provided by law, the clerk as is mentioned in section twenty-six of said article, as amended, shall exercise any powers and discharge any duties heretofore conferred on, or required of, any court or tribunal established for judicial purposes under said section, or the clerk of the court or tribunal, respectively, respecting the recording and preservation of deeds and other papers presented for record, matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts and in all matters relating to apprentices. The county commission may not limit the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any revolver, pistol, rifle or shotgun or any ammunition or ammunition components to be used therewith nor to so regulate the keeping of gunpowder so as to, directly or indirectly, prohibit the ownership of the ammunition: *Provided*, That no provision in this section may be construed to limit the authority of a county to restrict the commercial use of real estate in designated areas through planning or zoning ordinance.

(b) County commissions may not adopt or enact an ordinance, rule, license requirement, or other authorization that contravenes or is stricter than any state law, rule, or regulation relating to agricultural operations, as defined in §19-19-2 of this code. Any ordinance, rule, regulation, license requirement, or other authorization previously adopted by a county commission that contravenes or is stricter than any state law, rule, or regulation regarding agricultural operations is revoked.

(c) County commissions may not adopt an ordinance, rule, or regulation, or take other action, that prohibits the purchase, or alters the permissible use or application, of any

federally or state-registered pesticide, herbicide, or insecticide product.

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§7-1-3a. Construction of waterworks; sewers and sewage disposal plants; improvements of streets, alleys and sidewalks; assessment of cost of sanitary sewers, improved streets and maintenance of roads not in the state road system.

In addition to all other powers and duties now conferred by law upon county commissions, such commissions are hereby authorized and empowered to install, construct, repair, maintain and operate waterworks, water mains, sewer lines and sewage disposal plants in connection therewith within their respective counties: *Provided*, That the county commission of Webster County is authorized to expend county funds in the opening of, and upkeep of a sulphur well now situate on county property: *Provided, however*, That such authority and power herein conferred upon county commissions shall not extend into the territory within any municipal corporation: *Provided further*, That any county commission is hereby authorized to enter into contracts or agreements with any municipality within the county, or with a municipality in an adjoining county, with reference to the exercise of the powers vested in such commissions by this section.

Considering the importance of public fire protection, any county commission, public service district, public or private utility which installs, constructs, maintains, or upgrades water mains shall ensure that all new mains specifically intended to provide fire protection are supplied by mains which are not less than six inches in diameter. A permit or other written approval shall be obtained from the Department of Health for each hydrant or group of hydrants installed in compliance with §16-1-9 of the West Virginia code as amended: *Provided*, That all newly constructed water distribution systems transferred to a public or private utility shall have mains at least six inches in diameter where fire flows are desired or required by the public or private utility: *Provided, however*, That the utility providing service has sufficient hydraulic capacity as determined by the Department of Health.

In addition to the foregoing, the county commission shall have the power to improve streets, sidewalks and alleys and lay sewers and enter into contracts for maintenance of county roads and subdivision roads used by the public but not in the state road system as follows: Upon petition in writing duly verified, of the persons, firms or corporations owning not less than sixty percent of the frontage of the lots abutting on both sides of any street or alley, between any two cross-streets, or between a cross-street and an alley in any unincorporated community, requesting the county commission so to do according to plans and specifications submitted with such petition and offering to have their property so abutting assessed not only with their portion of the cost of such improvement abutting upon their respective properties, but also offering to have their said properties proportionately assessed with the total cost of paving, grading and curbing the intersections of such streets and alleys, or the total cost of maintenance of county roads or subdivision roads used by the public but not in the state road system, the county commission may cause any such street or alley to be improved or paved or repaved substantially with the materials and according to such plans and specifications as hereinafter provided: *Provided*, That the county commission is further authorized, if the said county commission so determines by a unanimous vote of its constituted membership, that two or more intersecting streets, sidewalks, alleys and sewers,

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should be improved as one project, in order to satisfy peculiar problems resulting from access as well as drainage problems, then, in that event, the said county commission may order such improvements as one single unit and project, upon petition in writing duly verified of the persons, firms or corporations owning not less than sixty percent of the frontage of the lots abutting on both sides of all streets or alleys, or portions thereof included by said county commission in said unit and project.

The total cost including labor and materials, engineering, and legal service of grading and paving, curbing, improving any such road, street or alley (including the cost of the intersections) and assessing the cost thereof shall be borne by the owners of the land abutting upon such road, street or alley when the work is completed and accepted according to the following plan, that is to say, payment is to be made by all landowners on either side of such road, street or alley so paved or improved in such proportion of the total cost as the frontage in feet of each owner's land so abutting bears to the total frontage of all the land so abutting on such road, street or alley, so paved or improved as aforesaid, which computation shall be made by the county engineer or surveyor and certified by him or her to the clerk of said commission.

Upon petition in writing duly verified, of the persons, firms or corporations owning not less than sixty percent of the frontage of the lots abutting on one side of any county or subdivision road or roads between any two cross-roads, all used by the public but not in the state road system or street between any two cross-streets or between a cross-street and an alley in any unincorporated community requesting the county commission so to do according to plans and specifications submitted with such petition and offering to have their property so abutting assessed with the total cost thereof, the county commission may cause any sidewalk to be improved, or paved, or repaved, substantially with such materials according to such plans and specifications and the total cost including labor and materials, engineering and legal service of improving, grading, paving or repaving such sidewalk and assessing the cost thereof shall, when the work is completed and accepted, be assessed against the owners of the lots or fractional part of lots abutting on such sidewalk, in such portion of the total cost as the frontage in feet of each owner's land so abutting bears to the total frontage of all lots so abutting on such sidewalk so paved or improved, as aforesaid, which computation shall be made by the county engineer or surveyor and certified by him or her to the clerk of said commission.

Upon petition in writing duly verified, of the persons, firms or corporations owning not less than sixty percent of the frontage of the lots abutting on both sides of any street or alley, in any unincorporated community requesting the county commission so to do according to plans and specifications submitted with such petition and offering to have their property so abutting assessed with the cost, as hereinafter provided, the county commission may lay and construct sanitary sewers in any street or alley with such materials and substantially according to such plans and specifications and when such sewer is completed and accepted, the county engineer or surveyor shall report to the county commission, in writing, the total cost of such sewer and a description of the lots and lands, as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained,

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together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and laying the sewer including labor, materials, legal and engineering services shall be borne by the owners of the land abutting upon the streets and alleys, in which the sewer is laid according to the following plan: Payment is to be made by each landowner on either side of such portion of a street or alley in which such sewer is laid, in such proportions as the frontage of his or her land upon said street or alley bears to the total frontage of all lots so abutting on such street or alley. In case of a corner lot, frontage is to be measured along the longest dimensions thereof abutting on such street or alley in which such sewer is laid. Any lot having a depth of two hundred feet or more, and fronting on two streets or alleys, one in the front and one in the rear of said lot, shall be assessed on both of said streets or alleys if a sewer is laid in both such streets and alleys. Where a corner lot has been assessed on the end it shall not be assessed on the side for the same sewer and where it has been assessed on the side it shall not be assessed on the end for the same sewer.

If the petitioners request the improvement of any such county road or subdivision road, street, alley or sidewalk in a manner which does not require the permanent paving or repaving thereof, the county commission shall likewise have authority to improve such county road or subdivision road, street, alley or sidewalk, substantially as requested in such petition, and the total cost thereof including labor, materials, engineering and legal services shall be assessed against the abutting owners in the proportion which the frontage of their lots abutting upon such county road or subdivision road, street, alley or sidewalk bears to the total frontage of all lots abutting upon such street, alley or sidewalk so improved.

Upon the filing of such petition and before work is begun, or let to contract, the county commission shall fix a time and place for hearing protests and shall require the petitioners to post notice of such hearing in at least two conspicuous places on the county road or subdivision road, street, alley or sidewalk affected, and to give notice thereof by publication of such notice as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the improvement is to be made. The hearing shall be held not less than ten nor more than thirty days after the filing of such petition.

At the time and place set for hearing protests the county commission may examine witnesses and consider other evidence to show that said petition was filed in good faith; that the signatures thereto are genuine; and that the proposed improvement, paving, repaving or sewering will result in special benefits to all owners of property abutting on said county road or subdivision road, street, alley or sidewalk in an amount at least equal in value to the cost thereof. The commission shall within ten days thereafter enter a formal order stating its decision and if the petition be granted shall proceed after due advertisement, reserving the right to reject any or all bids, to let a contract for such work and materials to the lowest responsible bidder.

Any owner of property abutting upon said county road or subdivision road, street, alley or sidewalk aggrieved by such order shall have the right to review the same on the record

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made before the county commission by filing within ten days after the entry of such order a petition with the clerk of the circuit court assigning errors and giving bond in a penalty to be fixed by the circuit court to pay any costs or expenses incurred upon such appeal should the order of the county commission be affirmed. The circuit court shall proceed to review the matter as in other cases of appeal from the county commission.

All assessments made under this section shall be certified to the county clerk and recorded in a proper trust deed book and indexed in the name of the owner of any lot or fractional part of a lot so assessed. The assessment so made shall be a lien on the property liable therefor, and shall have priority over all other liens except those for taxes, and may be enforced by a civil action in the name of the contractor performing the work in the same manner as provided for other liens for permanent improvements. Such assessment shall be paid in not more than ten equal annual installments, bearing interest at a rate not to exceed twelve percent per annum, as follows: The first installment, together with interest on the whole assessment, shall be paid not later than one year from the date of such assessment, and a like installment with interest on the whole amount remaining unpaid each year thereafter until the principal and all interest shall have been paid in full.

The county commission may issue coupon-bearing certificates payable in not more than ten equal annual installments for the amount of such assessment and the interest thereon, to be paid by the owner of any lot or fractional part thereof, fronting on such county road or subdivision road, street, alley or sidewalk which has been improved, paved, or repaved or in which a sewer has been laid, as aforesaid, and the holder of said certificate shall have a lien having priority over all other liens except those for taxes upon the lot or part of lot fronting on such county road or subdivision road, street, alley or sidewalk, and such certificate shall likewise draw interest from the date of assessment at a rate not to exceed twelve percent per annum, and payment thereof may be enforced in the name of the holder of said certificate by proper civil action in any court having jurisdiction to enforce such lien.

Certificates authorized under this section may be issued, sold or negotiated to the contractor doing the work, or to his or her assignee, or to any person, firm or corporation: *Provided*, That the county commission in issuing such certificates shall not be held as a guarantor, or in any way liable for the payment thereof. Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one or more of said installments, when due, said default continuing for a period of sixty days, all unpaid installments shall thereupon become due and payable, and the owner of said certificates may proceed to collect the unpaid balance thereof in the manner hereinbefore provided.

In all cases where petitioners request paving or repaving, or the laying of sewers under the provisions of this section, the county commission shall let the work of grading, paving, curbing or sewering to contract to the lowest responsible bidder. In each such case the county commission shall require a bond in the penalty of the contract price guaranteeing the faithful performance of the work and each such contract shall require the contractor to repair any defects due to defective workmanship or materials discovered within one year after the completion of the work.

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Upon presentation to the clerk of the county commission of the certificates evidencing the lien, duly canceled and marked paid by the holder thereof, or evidence of payment of the assessment if no certificates have been issued, said clerk shall execute and acknowledge a release of the lien which release may be recorded, as other releases in the office of the clerk of the county commission.

The owner of any lot or fractional part of a lot abutting upon such county road or subdivision road, street, alley or sidewalk so improved, paved, repaved, or sewered shall have the right to anticipate the payment of any such assessment or certificate by paying the principal amount due, with interest accrued thereon to date of payment, and also to pay the entire amount, without interest at any time, within thirty days following the date of the assessment.

Nothing in this section contained shall be construed to authorize the county commissions of the various counties to acquire any road construction, ditching or paving equipment. The county commissions are hereby authorized to rent from the state road commissioner or any other person, firm or corporation such equipment as may be necessary from time to time, to improve any county road or subdivision road used by the public but not in the state road system, street or sidewalk which petitioners do not desire to have paved in a permanent manner, and for such purpose to employ such labor as may be necessary but no expense connected therewith shall be charged to any county funds.

No county commission shall be under any duty after the paving, repaving or improvement of any county road or subdivision road used by the public but not in the state road system, street, alley or sidewalk or the laying of any sanitary sewer under the provisions of this section, to maintain or repair the same, but any such commission shall have authority upon petition duly verified, signed by at least sixty percent of the owners of property abutting upon any improvement made under this section, to maintain or repair such improvement or sewer and to assess the cost thereof against the owners of such abutting property in the same manner as the cost of the original improvement.

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§7-1-3aa. Authority of county commissions to create and fund a hazardous material accident response program.

In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered to create a hazardous material accident response program. The program may include the establishment of a hazardous materials response team. The hazardous materials response team shall include members of the fire departments, recognized and approved by the West Virginia Fire Commission in the county, who are designated by the county commission. The team shall also include members of emergency medical services certified pursuant to article four-c, chapter sixteen of this code who are acting in their official capacity by providing ambulance or emergency medical services within the county and who are designated as members of the hazardous materials response team by the county commission. The team may also include other people in the community who are recognized as having expertise with hazardous materials or hazardous material incidents and who are designated by the county commission to serve on the team. The purpose of the team is to respond to hazardous material incidents. The hazardous materials response team shall function and the members shall serve at the will and pleasure of the county commission. The team shall operate in cooperation with the county Office of Emergency Services and other approved fire departments. The commission is authorized to receive donated funds and to expend those funds and to expend its own funds for the acquisition of equipment and materials for use by and training of the members of the team. The county commission is hereby authorized to enter into agreements with other counties to combine or coordinate hazardous material response team training and for the purchase or lease and use of equipment or materials.

Any carrier, owner or generator of hazardous materials who receives the services of a county hazardous materials response team is liable for the cost of necessary services provided by a county hazardous materials response team. County commissions may bill a carrier, owner or generator of hazardous materials for any costs incurred by the team in responding to a hazardous materials incident in which the carrier, owner or generator is involved: Provided, That the carrier, owner or generator may, within thirty days of receipt of the bill, appeal in writing to the county commission to request a hearing to address any costs which may be considered extraordinary for the services of the hazardous materials response team. The carrier, owner or generator will hold payment of the costs in abeyance pending the final written decision of the county commission. Any funds received by the county commission as a result of billing carrier, owners and generators of hazardous materials shall be used by the county commission to implement the provisions of this section and to reimburse the response teams participants for response costs.

Any carrier, owner or generator involved in a hazardous materials incident who fails to pay a bill for services provided by a county hazardous materials incident team within ninety days shall be liable for treble the cost of the services.

For purposes of this section, the term "generator" means any person, corporation, partnership, association or other legal entity, by site location, whose act or process produces

hazardous materials as identified or listed by the director of the Division of Environmental Protection in regulations promulgated pursuant to section six, article nineteen, chapter twenty-two of this code, in an amount greater than twelve thousand kilograms per year.

For purposes of this section, the term "carrier" means any person engaged in the off-site transportation of hazardous materials by air, rail, highway or water.

For purposes of this section, "owner" means any person, corporation, partnership, association or other legal entity whose hazardous materials are being transported by the entity or by a carrier.

For the purposes of this section, the term "hazardous materials" means those materials which are designated as such pursuant to federal laws and regulations, the designations of which are adopted by reference as of July 10, 1993.

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§7-1-3b. Purchase, installation and maintenance of radio mobile communication equipment and appliances for use by county sheriffs and their deputies.

In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to purchase, install and maintain radio mobile communication equipment and appliances for the use of the sheriff and his deputies in their respective counties and to pay therefor and for the maintenance thereof out of the county treasury.

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§7-1-3bb. Levy for, establishment and operation of sheltered workshops; financial aid.

(a) The county commission in any county is authorized without limiting any other levying authority the counties may have, to levy for and may erect, maintain and operate sheltered workshops in the county and may render financial aid to any one or more sheltered workshop facilities operating in the county.

(b) As used in this section:

(1) "Sheltered workshop" means a particular type of vocational rehabilitation facility where any manufacture or handiwork is carried on and which is operated by a public agency or by a private corporation or association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, or by a cooperative, for the primary purpose of providing remunerative employment to disabled persons (a) as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market; or (b) during such time as employment opportunities for them in the competitive labor market do not exist; or (c) for providing vocational evaluation and work adjustment services for disadvantaged persons.

(2) "Vocational rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to, or gainful employment for, handicapped individuals, or, for providing evaluation and work adjustment services for disadvantaged individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (a) Comprehensive rehabilitation services which shall include, under one management, medical, psychological, social and vocational services; (b) testing, fitting or training in the use of prosthetic and orthopedic devices; (c) prevocational conditioning or recreational therapy; (d) physical and occupational therapy; (e) therapy for speech and hearing pathology; (f) psychological and social services; (g) evaluation; (h) personal and work adjustment; (i) vocational training (in combination with other rehabilitation services); (j) evaluation or control of special disabilities; and (k) extended employment for the severely handicapped who cannot be readily absorbed in the competitive labor market; but all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to practice medicine or surgery in the state.

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§7-1-3c. Purchase, installation and maintenance of photo copying equipment, microphotographic or other miniature photographic processes, appliances and supplies.

In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to purchase, install and maintain photo copying equipment, microphotographic, or other miniature photographic processes, appliances and supplies designated for copying photographically or microphotographically all or any number of its deeds, documents, books, records, plats or maps, or other writing, for use by the clerks of the several county courts and to pay therefor and for the maintenances thereof out of the county treasury. The actions of the county courts in heretofore purchasing and maintaining such equipment is now ratified.

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§7-1-3cc. Authority of county commissions to establish enhanced emergency telephone systems, technical and operational standards for emergency communications centers and standards for education and training of emergency communications systems personnel; standards for alarm systems; fee upon consumers of telephone service for the systems and for roadway conversion systems; authority to contract with the telephone companies for billing of fee.

(a) In addition to possessing the authority to establish an emergency telephone system pursuant to section four, article six, chapter twenty-four of this code, a county commission or the county commissions of two or more counties may, instead, establish an enhanced emergency telephone system or convert an existing system to an enhanced emergency system. The establishment of such a system shall be subject to the provisions of article six of said chapter. The county commission may adopt rules after receiving recommendations from the West Virginia Enhanced 911 Council concerning the operation of all county emergency communications centers or emergency telephone systems centers in the state, including, but not limited to, recommendations for:

(1) Minimum standards for emergency telephone systems and emergency communications centers;

(2) Minimum standards for equipment used in any center receiving telephone calls of an emergency nature and dispatching emergency service providers in response to that call and which receives 911 moneys or has basic 911 service funded through its county commission; and

(3) Minimum standards for education and training of all personnel in emergency communications centers.

(b) A county commission may impose a fee upon consumers of local exchange service within that county for an enhanced emergency telephone system and associated electronic equipment and for the conversion of all rural routes to city-type addressing as provided in section three of this article. The fee revenues may only be used solely and directly for the capital, installation, administration, operation and maintenance costs of the enhanced emergency telephone system and of the conversion to city-type addressing and including the reasonable costs associated with establishing, equipping, furnishing, operating or maintaining a county answering point. Effective on July 1, 2006, all county enhanced emergency telephone system fees that are in effect as of July 1, 2006, and as such may later be modified by action of a county commission, shall be imposed upon in-state subscribers to voice over Internet protocol (VoIP) service, as VoIP service is defined by the Federal Communications Commission of the United States. A nonbusiness VoIP service subscriber shall be considered in-state if the primary residence of the subscriber is located within West Virginia. A business subscriber shall be considered in-state if the site at which the service is primarily used is located within West Virginia. The Public Service Commission may, as it deems appropriate and in accordance with the requirements of due process, issue and enforce orders, as well as adopt and enforce rules, dealing with matters concerning the

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imposition of county enhanced emergency telephone system fees upon VoIP service subscribers.

(c) A county commission may contract with the telephone company or companies providing local exchange service within the county for the telephone company or companies to act as the billing agent or agents of the county commission for the billing of the fee imposed pursuant to subsection (b) of this section. The cost for the billing agent services may be included as a recurring maintenance cost of the enhanced emergency telephone system.

Where a county commission has contracted with a telephone company to act as its billing agent for enhanced emergency telephone system fees, all competing local exchange telephone companies with customers in that county shall bill the enhanced emergency telephone system fees to its respective customers located in that county and shall remit the fee. It may deduct its respective costs for billing in the same manner as the acting billing agent for the enhanced emergency telephone system fee.

(d) A county commission of any county with an emergency communications center or emergency telephone system may establish standards for alarm systems, including security, fire and medical alarms.

(e) The books and records of all county answering points that benefit from the imposition of the local exchange service fees shall be subject to annual examination by the State Auditor's office.

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§7-1-3d. Levy for, establishment, and operation of fire prevention units; financial aid.

(a) The county commission in any county may:

(1) Levy for and erect, maintain, and operate fire stations; and

(2) Form county fire prevention units, and supply equipment therefor in the county: Provided, That if a county commission establishes a separate county fire prevention unit in any city in West Virginia that is now operating under the provisions of the state civil service act for paid fire departments, then the new unit shall be operated in accordance with the provisions of the civil service act. Any such unit shall be formed and recognized under the regulations of the State Fire Commission for local fire departments.

(b) Any county commission may render financial aid to any one or more public fire protection facilities in operation in the county for the general benefit of the public in the prevention of fires.

(c) Any county commission may also authorize volunteer fire companies or paid fire departments to charge reasonable reimbursement fees for personnel and equipment used in performing firefighting services, victim rescue, or cleanup of debris or hazardous materials by department personnel.

(1) The rate for any such fees to be charged to property owners or other persons responsible or liable for payment for such services must be approved by the county commission and must be reasonable: Provided, That no fee for any single incident or accident shall exceed $1,500, except that the fee for an incident or accident involving hazardous materials or extended search and rescue and water rescue incidents may exceed this amount based on the necessary and reasonable costs incurred.

(2) The county commission shall require that any fees charged pursuant to the authority conferred by this section must be in writing and be itemized by specific services rendered and the rate for each service.

(3) Unless exempt by law, any person, partnership, corporation, or governmental agency shall be fully responsible for all charges levied by this section within 75 days of the date of the response resulting in such charge. Payment to the fire department or company rendering the services shall be in full, unless a written agreement has been reached between the fire department or company and the responsible party to establish a payment schedule to satisfy all charges.

(4) If payment for services rendered has not been received within 90 days from the date of response, and if a payment schedule has not been established, a fire department or company may proceed in magistrate court or in other appropriate court action to recover from the responsible party all fees associated with the response, including attorney fees and court

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costs.

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§7-1-3dd. Authority to establish county wage and benefits review board; duties and powers; membership.

In addition to all other powers and duties now conferred by law upon county commissions, such commissions are hereby authorized to establish employee wage and benefits review boards.

If a county commission elects to create such a board, the board shall establish uniform:

(a) Employee salary scales with ranges of minimum and maximum figures for each type of position within the county. Compensation within and between each salary range shall be based on merit, commensurate with experience, education and demonstrated job performance;

(b) Job descriptions for each type of position, including assistants, deputies and employees not covered by a civil service system;

(c) Vacation policies to be consistently applied among different employees in the same type of work;

(d) Policies governing sick leave and vacation leave, including accumulation of leave from year to year;

(e) County-wide grievance policies, which shall be pursued to the fullest extent before any judicial remedy may be sought; and

(f) Other personnel practices which reflect sound, modern administrative practice.

In addition to the above duties of an employee benefits review board, the board shall establish procedures for receiving and reviewing comments and suggestions of county employees and of any citizen of the county regarding job descriptions, salary schedules and personnel policies developed for county assistants, deputies and employees not covered by a civil service system.

The employee benefits review board shall consist of the following members:

(1) One county commissioner selected by the county commission;

(2) County clerk;

(3) County sheriff;

(4) County assessor;

(5) Clerk of the circuit court in which the county is located;

(6) Prosecuting attorney; and

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(7) Two county employees selected by the county commission, one of whom shall be a member of a county civil service system, in counties which have such systems, and one of whom shall not be covered by civil service. Each employee member shall be selected from a different county office. Neither employee member shall be an elected official.

The county commission shall appropriate sufficient funds for the board to accomplish in a reasonable and proper manner the duties specified herein.

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§7-1-3e. Acquisition of land for, and operation of, public refuse dumps and sanitary landfills.

In addition to all other powers and duties now conferred by law upon county commissions, such commissions are hereby empowered to acquire, by purchase, right of eminent domain, lease, gift, or otherwise, land for the establishment of public refuse dumps and sanitary landfills, and to operate and maintain such dumps and fills, and to pay for such land, and the operation and maintenance of such dumps and fills, in whole or in part, either out of general funds in the county treasury, or out of special funds to be derived from fees paid by users of such facilities: Provided, That the authority granted by this section expires on January 1, 1989.

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§7-1-3ee. Providing for payment of service fees at banking institutions.

Notwithstanding any other provision of this code the county commission may enter into a contract with one or more banking institutions, as defined in section two, article one, chapter thirty-one-a of this code, doing business in the county for the purpose of receiving payment of any service fee authorized in this article or elsewhere in this code.

Any such contract shall specify the manner in which the fees received shall be paid over to the county and a method for verification by the county commission of all amounts received pursuant to the contract. The contract may provide for the payment of a reasonable fee for the provision of such services by the banking institution.

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§7-1-3f. Establishment and operation of garbage and refuse collection and disposal services.

In addition to all other powers and duties now conferred by law upon county commissions, such commissions are hereby empowered to establish, operate and maintain, either directly or by contract, garbage and refuse collection and disposal services, and to pay for the establishment, operation and maintenance of such collection and disposal services, in whole or in part, either out of general funds in the county treasury, or out of special funds to be derived from fees charged to and paid by the users of such services or a combination of both such general revenue or special fund: Provided, That the power and authority hereby conferred upon county commissions shall not be exercised in territory included within the boundaries of any municipal corporation, except as provided herein. Any county commission for the purpose of implementing this section is hereby authorized to enter into such contract or contracts with any municipality or county within this state for the purposes of carrying out the powers vested in such county commissions by this section, and all said county commissions may, pursuant to such contract, exercise the authority herein granted within such contracting municipality: Provided, however, That where an area is furnished garbage and refuse collection service by an existing carrier under authority issued by the Public Service Commission of West Virginia, the county commission may enter into contracts or agreements with such carrier to supplement such existing service, but shall not enter into any competing service without authority being granted by the Public Service Commission.

The term "users" as used herein shall mean and include any person to whom such services are made available under the provisions of this section.

The authority granted by this section expires on January 1, 1989.

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§7-1-3ff. Authority of county commission to regulate unsafe or unsanitary structures and refuse on private land; authority to establish an enforcement agency; county litter control officers; procedure for complaints; lien and sale of land to recover costs; entry on land to perform repairs and alterations or to satisfy lien; receipt of grants and subsidies.

(a) Plenary power and authority are hereby conferred upon every county commission to adopt ordinances regulating the repair, alteration, or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwellings or other buildings, except for buildings or dwellings on agricultural lands or operations as defined in §19-19-2 of this code, unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents, or other calamities, lack of ventilation, light or sanitary facilities, or any other conditions prevailing in any dwelling or building, whether used for human habitation or not, which would cause the dwellings or other buildings to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(b) Plenary power and authority are hereby conferred upon every county commission to adopt ordinances regulating the removal and cleanup of any accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage located on private lands which is determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(c) The county commission, in formally adopting ordinances, shall designate an enforcement agency which shall consist of the county engineer (or other technically qualified county employee or consulting engineer), county health officer or his or her designee, a fire chief from a county fire company, the county litter control officer, if the commission chooses to hire one, and two members-at-large, one of whom has a background in, or knowledge of, agricultural operations as defined in §19-19-2 of this code, selected by the county commission to serve two-year terms. The county sheriff shall serve as an ex officio member of the enforcement agency and the county officer charged with enforcing the orders of the county commission under this section.

(d) In addition to the powers and duties imposed by this section, county litter control officers shall have authority to issue citations for open dumps, as prohibited by §22-15-10(a) of this code, unlawful disposal of litter, as prohibited by §22-15A-4 of this code, and failure to provide proof of proper disposal of solid waste, as prohibited by §22C-4-10(a) of this code, after completing a training course offered by the West Virginia Department of Environmental Protection: *Provided*, That any litter control officer who is trained and certified as a law-enforcement officer and whose certification is active has the same authority as any other law-enforcement officer to enforce all litter laws in this code. Nothing in this subsection supersedes the authority or duty of the Department of Environmental Protection or other law-enforcement officers to preserve law and order and enforce the litter control program.

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(e) Any ordinance adopted pursuant to the provisions of this section shall provide fair and equitable rules of procedure and any other standards considered necessary to guide the enforcement agency, or its agents, in the investigation of dwelling or building conditions, accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage and shall provide for fair and equitable rules of procedure for instituting and conducting hearings in the matters before the county commission. Any entrance upon premises for the purpose of making examinations shall be made in a manner that causes the least possible inconvenience to the persons in possession.

(f) (1) Complaints authorized by this section shall be brought before the county commission. Complaints shall be initiated by citation issued by the county litter control officer or petition of the county engineer (or other technically qualified county employee or consulting engineer) on behalf of, and at the direction of, the enforcement agency, but only after that agency has investigated and determined that any dwelling, building, accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare and should be repaired, altered, improved, vacated, removed, closed, cleaned, or demolished.

(2) The county commission shall cause the owner or owners of the private land in question to be served with a copy of the complaint. Service shall be accomplished in the manner provided in rule four of the West Virginia Rules of Civil Procedure.

(3) The complaint shall state the findings and recommendations of the enforcement agency and that unless the owner or owners of the property file with the clerk of the county commission a written request for a hearing within 10 days of receipt of the complaint, an order will be issued by the county commission implementing the recommendations of the enforcement agency.

(4) If the owner or owners of the property file a request for a hearing, the county commission shall issue an order setting this matter down for hearing within 20 days. Hearings shall be recorded by electronic device or by court reporter. The West Virginia Rules of Evidence do not apply to the proceedings, but each party has the right to present evidence and examine and cross-examine all witnesses.

(5) The enforcement agency has the burden of proving its allegation by a preponderance of the evidence and has the duty to go forward with the evidence.

(6) At the conclusion of the hearing, the county commission shall make findings of fact, determinations, and conclusions of law as to whether the dwelling or building: Is unfit for human habitation due to dilapidation; has defects that increase the hazard of fire, accidents, or other calamities; lacks ventilation, light, or sanitary facilities; or any other conditions prevailing in the dwelling or building, whether used for human habitation or not and whether the result of natural or manmade force or effect, which would cause the dwelling or other building to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; or whether there is an accumulation of refuse or debris, overgrown vegetation, toxic

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spillage or toxic seepage on private lands which is determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(7) The county commission has authority to order the owner or owners thereof to repair, alter, improve, vacate, remove, close, clean up, or demolish the dwelling or building in question or to remove or clean up any accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage within a reasonable time and to impose daily civil monetary penalties on the owner or owners who fail to obey an order.

(8) Appeals from the county commission to the circuit court shall be in accordance with the provisions of §58-3-1 *et seq*. of this code.

(g) Upon the failure of the owner or owners of the private land to perform the ordered duties and obligations as set forth in the order of the county commission, the county commission may advertise for and seek contractors to make the ordered repairs, alterations, or improvements or the ordered demolition, removal, or clean up. The county commission may enter any contract with any contractor to accomplish the ordered repairs, alterations, or improvements or the ordered demolition, removal, or clean up.

(h) A civil proceeding may be brought in circuit court by the county commission against the owner or owners of the private land or other responsible party that the subject matter of the order of the county commission to subject the private land in question: (1) To a lien for the amount of the contractor's costs in making these ordered repairs, alterations, or improvements or ordered demolition, removal, or clean up, together with any daily civil monetary penalty imposed; (2) to order and decree the sale of the private land in question to satisfy the lien; (3) to order and decree that the contractor may enter upon the private land in question at any and all times necessary to make ordered repairs, alterations, or improvements, or ordered demolition, removal, or clean up; and (4) to order the payment of all costs incurred by the county with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action.

(i) County commissions may receive and accept grants, subsidies, donations, and services in kind consistent with the objectives of this section.

(j) In addition to the authority granted by this section, a county commission may demolish dilapidated structures within municipalities where a memorandum of understanding exists in which the municipality seeks the aid of the county commission to remove or destroy or demolish certain dilapidated properties. In those agreements, the parties may use the procedures outlined in this section of code or §8-12-16.

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§7-1-3g. Acquisition, operation, and maintenance of sewerage systems and sewage plants.

In addition to all other powers and duties not conferred by law upon county courts, such courts are hereby empowered to acquire, by purchase, right of eminent domain, lease, gift, or otherwise, and to operate and maintain, sewerage systems and sewage treatment plants, and to pay the cost of operation and maintenance thereof out of a special fund to be derived from sewerage service fees paid by the users of such sewerage system or sewage treatment plant: Provided, however, That the power and authority hereby conferred on county courts shall not extend into territory within the boundaries of any municipal corporation, sanitary district or public service district.

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§7-1-3gg. Lease agreements for equipment or materials with option to cancel or renew.

(a) In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered to enter into and execute a lease agreement to obtain equipment or material.

(b) The lease agreement may not be voided because it provides: (1) That title to the equipment or material shall vest in the county commission at or before the expiration of the leasehold term upon fulfillment of the terms and conditions stipulated in the lease agreement; (2) for application of the annual rental payments made under the lease agreement toward the purchase price of the equipment or material, although the total rental payments under the lease agreement are in excess of the cash price of the equipment or material described in the lease agreement, whether the excess is by way of interest or a time-price differential; and/or (3) that the risk of loss of the equipment or material shall be borne by the county commission.

(c) A lease agreement shall be void, unless the lease agreement provides that the county commission has the following options, during each fiscal year of the lease agreement: (1) The option to terminate the lease agreement and return the equipment or material without any further obligation on the part of the county commission; and (2) the option to continue the lease agreement for an additional rental period not to exceed one year in length.

When the lease agreement contains the provisions described in subdivisions (1), (2) and (3), subsection (b) of this section, then the following option must be included: The option to pay in advance at any time during any fiscal year the balance due under the lease agreement, with an appropriate rebate of the unearned interest or time-price differential.

(d) The funds for the initial rental payment under a lease agreement must be legally at the disposal of the county commission for expenditure in the fiscal year in which the lease agreement is executed. If the county commission elects during any subsequent fiscal year to continue the lease agreement for any additional rental period or to pay in advance the balance due, the funds for the additional rental period or the funds to be used to pay the balance in advance must be legally at the disposal of the county commission for expenditure in the fiscal year in which the county commission elects to continue the lease agreement or to pay in advance the balance due.

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§7-1-3h. Authority and procedure for closing unused roads, streets and travel ways; notice and hearing; circuit court review.

The county court of any county, upon the verified application of any landowner whose land abuts on any unused road, street, or other travel way designated on any map or plat of a subdivision of land or otherwise within such county but outside of incorporated towns or cities thereof, is hereby authorized to close and vacate any part or all of any such unused road, street or other designated travel way by order entered of record after hearing as hereinafter provided. Before acting to close and vacate any such road, street or travel way, the county court shall consider the application and shall fix a time and place for hearing on such application. Such hearing shall be held not less than fifteen days after the hearing date and place have been so fixed. The applicant shall cause notice of the time and place of such hearing and the purpose thereof to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The notice shall be published at least fifteen days before such hearing. The applicant shall also cause to be served, at least fifteen days before such hearing, in the manner provided by law for the service of notices and process, a notice showing the time, place and purpose of such hearing, upon every owner of property, and every person holding a lien thereon, abutting on such unused road, street or other travel way. The affidavit of publication of such notice shall be filed with the county court at or before the hearing as a part of the record in the proceedings.

At the time and place fixed for the hearing, the county court shall hear any evidence relating to the use of and rights or claims in or to any such road, street or other designated travel way sought to be closed and vacated. If the county court concludes and finds upon the record and evidence in the proceedings that the use and rights of no person or persons in such road, street or other travel way will be impaired or lost by the closing and vacation thereof, the county court shall proceed to enter an order closing and vacating such road, street or other travel way and shall cause a copy of said order to be prepared and certified for entry of record in the office of the clerk of such county court. The applicant shall pay the recording fee thereon.

Any person aggrieved by the action of the county court in any such case may seek review thereof in the circuit court of the county as provided in article three of chapter fifty-eight of this code.

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§7-1-3hh. Authority to lease, sell or dispose of county property to the state, federal government or an instrumentality thereof.

Every county commission, building commission created pursuant to article thirty-three, chapter eight of this code and development authority created pursuant to article twelve of this chapter is authorized to sell, lease as lessor or dispose of any of its real or personal property or any interest therein or any part thereof, as authorized in article five, chapter one of this code, or to the United States of America or any agency or instrumentality thereof, or to the state or any agency or instrumentality thereof, for a public purpose for an adequate consideration, without considering alone the commercial or market value of such property.

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§7-1-3i. County commission may cooperate with other governmental units.

Any county commission may join together in the exercise of any of its powers, duties and responsibilities, or otherwise cooperate with any other county or counties, municipality or municipalities, the government of this state or of the United States in carrying out any lawful purpose not in conflict with the Constitution of West Virginia: Provided, That the county commission of any county sharing a common border with any other state is hereby empowered to enter into reciprocal agreements with governmental subdivisions or agencies of such other state for the protection of people and property from fire and for emergency medical services and for the reciprocal use of county equipment and personnel for such purpose.

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§7-1-3ii. Authority to require posting of commercial and residential addresses within municipal boundaries.

In addition to all other powers now conferred by law upon county commissions, the commissions are hereby authorized to require owners, residents or occupants of factory-built homes situated in a factory-built home rental community with at least ten factory-built homes to visibly post the specific numeric portion of the address of each factory-built home on the immediate premises of the factory-built home of sufficient size to be visible from the adjoining street: Provided, That if no numeric or other specific designation of an address exists for a factory-built home subject to the authorization granted by this section, the commission has the authority to provide a numeric or other specific designation of an address for the factory-built home and require that it be posted in accordance with the authority otherwise granted by this section.

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§7-1-3j. Authority to establish county coordinating council; powers and duties of council; duties of county clerk.

In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to establish a county coordinating council for the purpose of coordinating county improvement programs with state and federal programs designed for this purpose. The council hereby created shall gather necessary facts and data and formulate needed local programs. The council shall submit the foregoing facts, data and plans to the county court for its guidance. The council shall act only in an advisory capacity. The county clerk is hereby designated the secretary of the council. The clerk shall attend all meetings of the council. He shall keep a record of all proceedings and shall transmit a copy of all such proceedings to the county court. The clerk shall also perform such other reasonable duties as may be required of him by the council.

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§7-1-3jj. Authority of counties to enact ordinances restricting the location of businesses offering exotic entertainment.

(a) For the purposes of this section:

(1) "Exotic entertainment" means live entertainment, dancing or other services conducted by persons while nude or seminude in a commercial setting or for profit.

(2) "Seminude" means the appearance of:

(A) The female breast below a horizontal line across the top of the areola at its highest point, including the entire lower portion of the human female breast, but does not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed, in whole or in part;

(B) A human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals or vulva, with less than a fully opaque covering; or

(C) A human male genital in a discernibly turgid state even if completely and opaquely covered.

(b) A county commission may, by order entered of record, adopt an ordinance that limits the areas of the county in which a business may offer "exotic entertainment". However, an ordinance enacted pursuant to this section may not affect a business offering exotic entertainment prior to the effective date of the ordinance.

(c) The ordinance is subject to the provisions of section ten, article seven, chapter eight-a of this code: Provided, That in the event of the partial or total loss of any existing business structure due to fire, flood, accident or any other unforeseen act, that business structure may be repaired or replaced and the business use of that structure may continue notwithstanding the existence of any ordinance authorized by this section. Any repair or replacement is limited to restoring or replacing the damaged or lost structure with one reasonably similar, or smaller, in size as measured in square footage, and any enlargement of the business structure subjects the structure to any existing ordinance authorized by this section.

(d) Notwithstanding any other provision of this code to the contrary, no ordinance enacted pursuant to the provisions of this section applies to or affects any municipal corporation that either: (1) Has adopted and has in effect an ordinance restricting the location of exotic entertainment or substantially similar businesses pursuant to the authority granted in article twelve, chapter eight of this code, or chapter eight-a of this code; or (2) adopts an ordinance to exempt itself from any county ordinance enacted pursuant to this section.

(e) Any person adversely affected by an ordinance enacted pursuant to the authority granted in subsection (b) of this section is entitled to seek direct judicial review with regard to

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whether the ordinance impermissibly burdens his or her right to establish a business offering exotic entertainment.

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§7-1-3k. Authority to lease, rent, or permit the use of county property.

(a) The county commission of each county is authorized to lease, rent, or permit the use of county-owned buildings, lands, and other properties or any portion thereof by nonprofit organizations. Authorized uses pursuant to this section shall include the granting of meeting places, service outlets, and operational headquarters for organizations established within the county.

(b) Notwithstanding the provisions of subsection (a) of this section, the county commission of each county is authorized to lease, rent, or permit the use of county-owned wireless towers, including, but not limited to, those subject to §11-15-30, §24-6-2, and §24-6-6b of this code, or any portions thereof to any entity or entities: *Provided*, That:

(1) No entity or entities leasing, renting, or permitting the use of county-owned wireless towers or any portions thereof may be directly or indirectly associated with any person or entity connected to:

(A) The list of persons determined to be foreign adversaries by the Secretary of Commerce of the United States under 15 C.F.R. 791.4;

(B) The terrorist exclusion list compiled by the Secretary of State of the United States in consultation with the Attorney General of the United States under 8 U.S.C. 1182;

(C) The list of countries determined by the Secretary of State of the United States that have repeatedly provided support for acts of international terrorism under 50 U.S.C. 4813(c) and 22 U.S.C. 2780(d);

(D) The list of individual and entities designated by, or in accordance with Executive Order 13224, issued by the President of the United States on September 23, 2021, or Executive Order 13268, issued by the President of the United States on July 2, 2002; and

(2) Any entity or entities leasing, renting, or permitting the use of county-owned wireless towers or any portions thereof shall be prohibited from engaging in unconstitutional surveillance activities or other actions that would pose a likely risk of violating the constitutional rights and liberties of citizens; and

(3) Any entity or entities leasing, renting, or permitting the use of county-owned wireless towers or any portions thereof shall utilize non-compromised cellular and/or cyber security defense measures to protect both private and public utilization and shall utilize no technology or system that could threaten critical infrastructure, including, but not limited to, voting and election management systems, and if any technology does connect to voting or election management related systems, such technology may not incorporate hardware or software that is designed, produced, owned, or licensed by an entity that is owned, operated, or majority-controlled by a foreign company or a domestic company registered in another country, including a domesticated foreign corporation, or by a person who is not a United

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States citizen or is produced, in whole or in part, including software, hardware, equipment, and any other accessories, in a foreign country; and

(4) County commissions may permit any of the following state, county, or local entities to use tower space but may not impose a charge for use of the tower space, except that a county commission may recover the actual and reasonable costs attributable to that permitted user's installation, equipment, or operation on the tower, including costs associated with engineering, structural analysis, maintenance, utilities, or tower modifications:

(A) Public safety operations, including 911, law enforcement, ambulance, rescue, and firefighting;

(B) The West Virginia Department of Highways; and

(C) Any other state agencies so long as the permitted uses meet all the requirements set forth in §7-1-3k(b)(1), (2), and (3) of this code; and

(5) Before permitting any entity or entities, including, but not limited to, nonprofit organizations, to use tower space, county commissions shall conduct reasonable due diligence to ascertain compliance of the entity or entities with the requirements set forth in §7-1-3k(b)(1), (2), and (3) of this code. County commissions that perform such due diligence may not be held liable for any damages, claims, or injuries resulting from an entity's or entities' violation of the requirements of §7-1-3k(b)(1), (2), or (3) of this code.

(c) Each county commission is authorized to charge and collect fees for uses of county properties pursuant to this section. In addition, each county commission is empowered to promulgate rules and regulations in order to carry out the provisions of this section within the county.

(d) The allocation of county properties for use by organizations shall be controlled either by the county commission or, optionally, by a panel which may be appointed by the commission for this purpose. Any panel appointed pursuant to this section shall consist of not less than three nor more than five members who shall serve at the will and pleasure of the commission. All decisions of a panel, if one is appointed, shall be subject to review by the county commission.

(e) If a panel is appointed pursuant to this section, each member shall be a resident of the county in which the panel sits. A majority of the panel shall constitute a quorum for the transaction of business, and all matters shall be decided by the majority vote of those members present at a meeting. Each panel is authorized to select from among its members one secretary, who shall keep a record of all proceedings, and one chairman. A member may be entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of his or her duties.

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§7-1-3kk. Authority to provide for the elimination of hazards to public health and safety; penalty.

In addition to all other powers and duties now conferred by law upon county commissions, commissions are hereby authorized to enact ordinances, issue orders and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance. The ordinances may provide for a misdemeanor penalty for its violation. The ordinances may further be applicable to the county in its entirety or to any portion of the county as considered appropriate by the county commission.

WV Legislature

§7-1-3l. Authority to establish county appraisal-assessment board; functions and duties of board; duties of assessor.

In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to establish a county appraisal-assessment advisory board. The purpose for which this board is created is to enable the county court, acting as the board of review and equalization, to better perform its duties in reviewing property assessments and to better inform the public with regard to assessments generally. The board is hereby authorized to review all appraisals made by the State Tax Commissioner under the provisions of section four, article nine-a, chapter eighteen of the code and all assessments made by the assessor and to submit to the county court all pertinent data and information gathered by the appraisal-assessment advisory board. The county assessor is hereby designated the secretary of the board. The assessor shall attend all meetings of the board. He shall keep record of all proceedings and shall transmit a copy of all such proceedings to the county court. The assessor shall also perform such other reasonable duties as may be required of him by the board.

WV Legislature

§7-1-3ll. Clerk of the county commission duties relating to record keeping of military discharge forms.

(a) The county commission shall order that the clerk of the county commission wherein a person discharged from the Armed Forces of the United States resides record, upon presentation, free of charge, the original or a properly authenticated copy of either the discharge certificate or the report of separation from active duty (Department of Defense Document DD-214), or both, and maintain the discharge certificate or report, or both, in the clerk's office in a secure manner, rendering the records unavailable to the public.

(b) Notwithstanding the provisions of §29B-1-1 *et seq*. of this code, discharge certificates and reports of separation from active duty recorded pursuant to this section may be copied or inspected only by the following:

(1) The person of the record, their spouse, child, grandchild, parent, or sibling;

(2) The duly qualified conservator or guardian of the person of the record;

(3) The duly qualified executor or administrator of the estate of the person of the record, if deceased, or, in the event no executor or administrator has qualified, the next of kin of the deceased person;

(4) An attorney, attorney-in-fact, or other agent or representative of any of the persons described in subdivision (1), (2) or (3), subsection (b) of this section, acting pursuant to a written power of attorney or other written authorization; or

(5) A duly authorized representative of an agency or instrumentality of federal, state, or local government seeking the record in the ordinary course of performing its official duties.

(c) Under the circumstances where time is of the essence, including, but not limited to, requests for copies of records attendant to the making of funeral arrangements or arrangements for medical care, the clerk, in ascertaining whether a person seeking access to discharge certificates or reports of separation from active duty is qualified to do so pursuant to subsection (b) of this section, may rely upon the sworn statement of the requestor made in person before the clerk or his or her deputy.

(d) Notwithstanding the provisions of subsection (b) of this section, the clerk may permit access to discharge certificates or reports of separation from active duty of deceased persons for bona fide genealogical or other research purposes: *Provided*, That in accordance with federal law, the clerk shall permit access to discharge certificates or reports of separation from active duty of military veterans who retired, were discharged, or died in service 62 years or more prior to the date of such a request was made.

WV Legislature

§7-1-3m. Authority to employ, fix compensation for and discharge personnel.

In addition to all other powers and duties now conferred by law upon county courts or tribunals in lieu thereof, hereinafter referred to as county courts or courts, such courts are hereby empowered to employ, fix compensation for and discharge such clerical, stenographic, technical, professional and other personnel, including specialists and consultants, as may from time to time be necessary to aid such courts in exercising their powers or discharging their duties as provided by law and including a county administrator, to coordinate the court's activities and to do such other things as the court may direct: Provided, That such courts shall not have the power to employ any such personnel to perform powers and duties that are performed by such courts through their clerks pursuant to law.

The county courts shall, not later than March twenty-eight of each year, take up and consider the probable amount necessary to be expended for such personnel in the following fiscal year; shall determine and fix an aggregate sum to be expended during the following fiscal year for the compensation of such personnel, which shall be reasonable and proper, taking into account the amount of labor and services necessary to be performed by those who are to receive the compensation; and shall make and enter an order stating any action taken in this regard.

The county courts shall file with their clerks a statement in writing showing such action and setting forth the name of each person employed pursuant to the provisions of this section, the time for which employed and the monthly compensation. Such courts shall have authority to discharge at their will and pleasure, any such personnel by filing with their clerks a statement in writing showing such action, to be entered in, and made a part of, their order book or other daily record book. All statements required to be filed by this section shall be verified by the affidavit of a majority of the members of the county court making them, and among other things contained in the affidavit shall be the statement that the amounts shown therein were the amounts actually paid or intended to be paid to each person employed without rebates, or any agreement, understanding and expectation that any part thereof shall be repaid to any of such members making said affidavit, and that nothing has heretofore been paid or promised any of such members making said affidavit on that account, and that if any of such members making said affidavit shall thereafter receive any money, or thing of value, on account thereof, the same will be accounted for and paid to the county. Until the statements required by this section shall have been filed, no allowance or payments shall be made by the county courts for personnel.

WV Legislature

§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 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.

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(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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§7-1-3n. Authority of certain counties as to building and housing codes; state building code.

(a) In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered, by order duly entered of record, to adopt building and housing codes establishing and regulating minimum building and housing standards for the purpose of improving the health, safety, and well-being of its citizens. Such codes may be adopted either for the entire county, or for any portion or portions of such county which may constitute an effective area or areas for such purposes, without the necessity of adopting such codes for any other portion of such county. Notwithstanding any other provision of this subsection to the contrary, no such code shall apply to or affect any territory within the boundaries of any municipal corporation which has adopted and in effect a housing and building code, unless and until such municipal corporation so provides by ordinance, or to structures on parcels of land used primarily for agricultural purposes. If a county adopts a property maintenance code or ordinance, including, but not limited to, the ICC International Property Maintenance Code, such code or ordinance shall exempt all property used for agricultural purposes. Any such code heretofore adopted by any county will be and is unenforceable as to agricultural property.

(b) Notwithstanding the provisions of subsection (a) of this section, all existing county building codes are void one year after the promulgation of a state building code by the State Fire Commission as provided in §29-3-5b of this code.

Upon the voidance of the county's existing building code, if the county commission votes to adopt a building code, it must be the state building code promulgated pursuant to §29-3-5b of this code.

(c) In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered, by order duly entered of record, to adopt such state building code upon promulgation by the State Fire Commission. However, such state building code shall not apply to or affect any territory within the boundaries of any municipal corporation which has not adopted the state building code.

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§7-1-3nn. Election on ordinance for program for transfer of development rights; form of ballots or ballot labels; procedure.

(a) A county commission which has been designated as a growth county may submit a proposed ordinance to establish a program for the transfer of development rights pursuant to section three-mm of this article to the qualified voters residing within the county for approval or rejection at any regular primary or general election. Notice of the election shall be provided and the ballots shall be printed as set forth in subsection (b) of this section. The ordinance may be adopted if it is approved by a majority of the legal votes cast thereon in that county. If the ordinance is rejected, no election on the issue shall be held thereafter for a period of one hundred four weeks.

(b) On the election ballots shall be printed the following:

Shall the county commission of be authorized to adopt an ordinance to establish a program for the transfer of development rights in accordance with section three-mm, article one, chapter seven of the Code of West Virginia?

/ / Yes

/ / No

(c) If a majority of the legal votes cast upon the question be for the ordinance, the provisions of the ordinance become effective upon the date the results of the election are declared. If a majority of the legal votes cast upon the question be against the ordinance, the ordinance shall not take effect.

(d) Subject to the provisions of subsection (c) of this section, an election permitted by this section may be conducted at any regular primary or general election as the county commission in its order submitting the same to a vote may designate.

(e) Notice of an election pursuant to this section shall be given by publication of the order calling for a vote on the question as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication shall be the county in which the election is to be conducted.

(f) Any election permitted by this section shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws of this state applicable to primary or general elections not inconsistent with the provisions of this section shall apply to voting and elections authorized by this section.

WV Legislature

§7-1-3o. Authority to construct and maintain county transportation, parking, and other public facilities; delegation of such authority to board or commission; financing.

In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to construct, reconstruct, establish, acquire, improve, renovate, extend, enlarge, increase, own, equip, repair (including replacement), maintain and operate transportation terminals, county and other public facilities and motor vehicle parking facilities (including parking lots, buildings, ramps, curbline parking, meters and other facilities deemed necessary, appropriate, useful, convenient or incidental to the regulation, control and parking of motor vehicles).

The power and authority conferred upon the county courts in this section may be exercised by the county courts directly or may be delegated to commissions or boards created by the county courts for this purpose.

In order to pay for all costs and expenses incurred in carrying out the provisions of this section, any county court is authorized to issue general obligation bonds of the county if the issuance thereof has been authorized by the voters of such county as provided by law.

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§7-1-3oo. Authority to enter into energy-savings contracts.

(a) As used in this section:

(1) "Energy-conservation measures" means goods or services, or both, to reduce energy consumption operating costs of county facilities. They include, but are not limited to, installation of one or more of the following:

(A) Insulation of a building structure and systems within a building;

(B) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door modifications that reduce energy consumption;

(C) Automatic energy control systems;

(D) Heating, ventilating or air conditioning systems, including modifications or replacements;

(E) Replacement or modification of lighting fixtures to increase energy efficiency;

(F) Energy recovery systems;

(G) Cogeneration systems that produce steam or another form of energy for use by any agency in a building or complex of buildings owned by the county; or

(H) Energy-conservation maintenance measures that provide long-term operating cost reductions of the building's present cost of operation.

(2) "Energy-savings contract" means a performance-based contract for the evaluation and recommendation of energy operations conservation measures and for implementation of one or more energy-conservation measures.

(3) "Qualified provider" means a person, firm or corporation experienced in the design, implementation and installation of energy-conservation measures.

(b) Counties are authorized to enter into performance-based contracts with qualified providers of energy-conservation measures for the purpose of significantly reducing energy operating costs of county owned buildings, subject to the requirements of this section.

(c) Before entering into a contract or before the installation of equipment, modifications or remodeling to be furnished under a contract, the qualified provider shall first issue a proposal summarizing the scope of work to be performed. A proposal must contain estimates of all costs of installation, modifications or remodeling, including the costs of design, engineering, installation, maintenance, repairs or debt service, as well as estimates of the amounts by which energy operating costs will be reduced. If the county finds, after receiving

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the proposal, that the proposal includes one or more energy-conservation measures, the installation of which is guaranteed to result in a net savings of a minimum of five percent of the then current energy operating costs which savings will, at a minimum, satisfy any debt service required, the county may enter into a contract with the provider pursuant to this section.

(d) An energy-savings contract must include the following:

(1) A guarantee of a specific minimum net percentage amount of at least five percent of energy operating costs each year over the term of the contract that the county will save;

(2) A statement of all costs of energy-conservation measures, including the costs of design, engineering, installation, maintenance, repairs and operations; and

(3) A provision that payments, except obligations upon termination of the contract before its expiration, are to be made over time.

(e) A county may supplement its payments with federal, state or local funds to reduce the annual cost or to lower the initial amount to be financed.

(f) Any energy-savings contract entered into for the purpose of achieving one or more energy-conservation measures, as authorized by this section, shall be considered a "public improvement" within the meaning of the provisions of articles one-c and five-a, chapter twenty-one of this code. As such, energy-savings contracts entered into pursuant to this section are subject to competitive bidding requirements and other requirements of section twenty-two, article twenty of this chapter.

(g) An energy-savings contract may extend beyond the fiscal year in which it first becomes effective: Provided, That such a contract may not exceed a fifteen-year term: Provided, however, That the long-term contract will be void unless the agreement provides that the county shall have the option during each fiscal year of the contract to terminate the agreement.

(h) Counties may enter into a "lease with an option to purchase" contract for the purchase and installation of energy-conservation measures if the term of the lease does not exceed fifteen years and the lease contract includes the provisions contained in subsection (g) of this section and meets federal tax requirements for tax-exempt municipal leasing or long-term financing.

(i) The county may include in its annual budget for each fiscal year any amounts payable under long-term energy-savings contracts during that fiscal year.

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§7-1-3p. Authority to require permits for mobile homes or house trailers; penalty.

The county court of any county is hereby authorized and empowered to require by order entered of record that no person shall locate, place or maintain for residency purposes a mobile home or house trailer, excluding motor homes, travel trailers and camper vehicles, in such county for more than thirty days until the owner of such mobile home or house trailer shall have first obtained a permit to do so from the assessor of such county. Such permit shall be for information purposes and an application for any such permit shall be made upon such forms as may be prescribed by the assessor. A fee not exceeding $2, to be fixed by the county court by order entered of record, may be charged by the assessor for the issuance of any such permit. All fees so collected shall become a part of the county treasury.

Any person violating any such county court order shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than $100. Justices of the peace shall have concurrent jurisdiction with courts of record with criminal jurisdiction of any offense under this section.

WV Legislature

§7-1-3pp. Additional powers and duties of commission; areas of special or unique interest.

A county commission may designate areas of special or unique interest, with sites, buildings and structures within those areas, which are of local, regional, statewide or national significance. An area that has been so designated does not limit the use of nor require any alteration of any privately owned property in the area for any purpose. The commission may also publish a register setting forth information concerning those areas; place markers on private property only with the consent of the property owners; place markers on public property and along highways or streets designating those areas; seek and accept gifts, bequests, endowments and funds to accomplish the purpose of this section; sell, lease or alter property it owns in or near the designated areas; seek the advice and assistance of individuals, groups and departments and governmental agencies; and seek codesignation of areas with a municipality where an area is to be designated in each jurisdiction.

WV Legislature

§7-1-3q. County commissions on intergovernmental relations created and established; composition of commission; powers and duties of commission; executive secretary; duties of executive secretary.

There is hereby established in each county a commission on intergovernmental relations. The commission shall be composed of the members of the county court and such other members as may be designated by the county court. Members other than the county court members shall serve at the will and pleasure of a majority of the county court members.

This commission shall assemble and disseminate information concerning federal programs which provide financial assistance to the residents of their county. Such programs shall include but not be limited to,

1. Public Health Service Act, as amended. Public Law 89-97.

2. Housing and Urban Development Act of 1968, as amended.

3. Health Insurance for the aged under Public Law 89-97, as amended.

4. Supplementary medical insurance for the aged under Public Law 89-97, as amended.

5. Housing and Urban Development Act of 1968, as amended, as it pertains to interest reduction payments and rental and cooperative housing for lower income families.

6. Housing Act of 1964, as amended, by Public Law 85-560, relating to rehabilitation loans.

7. The Emergency Employment Assistance Act of 1971.

8. Job opportunity programs and on the job training under various federal acts.

9. Neighborhood improvement and development programs under various federal acts.

10. Library and other public facility improvement programs under various federal programs.

The commission shall cooperate with municipalities, other county agencies, state and federal agencies to effect the purposes of this section. Appropriate state agencies are authorized to give such technical assistance as may be requested by the commission.

The clerk of the county court of each county shall be the executive secretary to the commission and as such shall attend all meetings, keep a record of all proceedings, assemble and disseminate such information as may be required by the commission and to perform such other duties as may reasonably be required by the commission to effectuate the purposes of this section.

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§7-1-3qq. Authorizing county commissions to hold motor vehicle racing events on public roads, municipal streets or airports.

(a) In addition to all other powers and duties not conferred by law upon county commissions, such commissions are empowered to organize and hold motor vehicle racing events on roads and airports in counties in this state; to require a permit; to provide for the issuance of a permit; to prescribe certain requirements for obtaining a permit; to provide for certain powers and duties of the permit holder and the county in relation to a racing event; and to declare that such a racing event is not a nuisance or subject to speed restrictions.

(b) As used in this section:

(1) "Person" shall mean an individual, sole proprietorship, partnership, corporation or other legal entity;

(2) "Public road" shall mean a road or open country highway under the control of the county court or the governing body of a municipality which is not classified in the state road system;

(3) "Municipal street" shall mean an urban or suburban street under the control of the governing body of a municipality which is not classified in the state road system;

(4) "Motor vehicle" shall mean and include any mechanical device for the conveyance, drawing or other transportation of persons or property upon the public roads, whether operated on wheels or runners or by other means, except those propelled or drawn by human power or those used exclusively upon rails; and

(5) "Racing event" shall mean a motor vehicle race which is sanctioned by a nationally or internationally recognized racing organization and includes preparations, practices and qualifications for the race.

(c) A county commission may provide for the issuance of a permit allowing the person to whom the permit is issued to conduct a racing event on a public road or municipal street or at airports located within its jurisdiction. A person shall not conduct a racing event unless the person has been issued a permit under this section: Provided That the decision to issue a permit for any airport formed pursuant to chapter eight, article twenty-nine of this code shall be made by the governing body of the Regional Airport Authority.

(d) The county commission may charge a reasonable fee for the issuance of a permit under this section.

(e) Before a county commission issues a racing event permit under subsections (c) and (d) of this section, the county commission shall determine all of the following:

(1) That the person applying for the permit has adequate insurance to pay any damages incurred because of loss or injury to any person or property;

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(2) That adequate security, emergency services and necessary facilities will be provided during the racing event; and

(3) That the person applying for the permit has demonstrated the ability to protect the health, safety and welfare of the citizens of the county, the race participants and those attending the racing event.

(f) For purposes of a racing event held under this section, the county commission may do all of the following:

(1) Provide for the temporary closing or obstructing of roads, streets, alleys, sidewalks and airport runways;

(2) Reroute pedestrian and vehicular traffic; and

(3) Waive ordinances and traffic regulations including speed limits and traffic control devices.

(g) No less than sixty days prior to a scheduled racing event, a county commission shall provide written notice to the West Virginia Department of Transportation - Traffic Engineering Division of any racing event permit issued under this section. The written notice shall identify the following:

(1) The time, date and location of the event;

(2) The nationally or internationally recognized racing organization sponsoring the event;

(3) A road closure plan that specifies the public roads, municipal streets, alleys, sidewalks and airport runways that will be temporarily closed or obstructed during the event;

(4) A traffic control plan that specifies the on-site traffic controls and detour route to be used during the event; and

(5) The names and phone numbers of emergency and law-enforcement contacts overseeing the event.

(h) A racing event held under this section and any action taken under subsections (e) and (f) of this section shall be considered as being for public purposes, including the promotion of commerce and tourism for the benefit of the citizens of the county and state.

(i) A county that issues a permit under this section shall not be liable for any damages that may result from the racing event because of loss or injury to any person or property. After a permit is issued, the state shall not be liable for any damages that may result from the racing event because of loss or injury to any person or property.

(j) The provisions related to road obstructions and public nuisance set forth in section one,

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article sixteen, chapter seventeen of this code do not apply to an authorized racing event held under this section.

(k) The provisions of article six, chapter seventeen-c of this code shall not apply to an authorized racing event held under this section.

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§7-1-3r. Purposes of section; county commissions on crime, delinquency and correction created and established; composition of commission; powers and duties of commission; executive secretary; duties of executive secretary.

(a) The enactment of the Omnibus Crime Control and Safe City Streets Act of 1968 and subsequent amendments thereto with millions of federal dollars available to local units of government in the fiscal year 1972–1973, and the probability that this program will be continued and expanded in future years makes the establishment of a county agency to ensure that the county may make the best use of the benefits of this act.

(b) There is hereby established in each county a county commission on crime, delinquency and correction. The commission shall consist of the members of the county commission and such other members as may be designated by the county commission. Members other than the county commission members shall serve at the will and pleasure of the county commission.

(c) This commission shall collect and compile all data and other information with respect to police agencies, courts of record and justice of peace courts, prosecution of crimes, probation, jails, juvenile detention facilities and such other matters as might be concerned with the total criminal justice system.

(d) The commission shall work closely with the Governor's Committee on Crime, Delinquency and Correction established by Executive Order 7-A66 dated September 1, 1966.

(e) The commission shall analyze the data and information herein required, shall determine federal funds available under the provisions of the state plan developed by the aforesaid Governor's Committee on Crime, Delinquency and Correction and shall make recommendations to the governing body with respect to priorities in the expenditure of funds.

(f) The commission may make recommendations with respect to steps to be taken in the county designed to improve the criminal justice system.

(g) The commission shall select one of its members to be the executive secretary to the commission and as such shall keep a record of all proceedings, shall collect and compile data and information as may be required by the commission and perform other duties as reasonably may be required by the commission to effectuate the purposes of this section.

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§7-1-3rr. Accessible county records; required information.

(a) Beginning December 31, 2020, each county commission shall maintain a website that provides the following information without charge:

(1) The title and name of each elected county office holder;

(2) The contact information of each elected county office holder, including office telephone number, facsimile number, office location, and mailing address: *Provided*, That the county commission may withhold contact information from disclosure that it deems necessary to protect their safety, the safety of their coworkers, and the integrity of law-enforcement operations;

(3) A secure electronic means of contacting each elected county office holder;

(4) A copy of each county ordinance in effect;

(5) A copy of the approved meeting minutes; and

(6) A schedule of regular meeting days for each calendar year.

(b) Beginning on or before December 31, 2020, and each year thereafter, each county commission shall provide to the Secretary of State the following information:

(1) A list of each elected county official by title, with the name of the elected official;

(2) The office contact information for each county office holder; and

(3) The website address of the county commission website, where available.

(c) The county commission shall update the information required pursuant to this section within 30 days of the date the change occurs and shall provide the updated information to the Office of Technology who shall update the information on the wv.gov website.

WV Legislature

§7-1-3s. Authority to govern traffic and parking; rules and regulations; penalties.

County courts are hereby authorized to promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, governing (1) the movement, regulation or control of vehicular or pedestrian traffic on property owned by or leased by such county courts, or (2) the regulation or control of vehicular parking on such property. It shall be unlawful for any person to violate any such rule or regulation, if a sign or marker giving reasonable notice of such rule or regulation is conspicuously posted or present. The content of any such sign shall be sufficient if it merely gives notice of what is or is not permitted such as "no parking," "no left turn," "twenty miles per hour," etc.

It is further hereby provided that any person violating any such rule or regulation shall be guilty of a misdemeanor, and, upon conviction thereof, shall, unless another penalty be otherwise prescribed, be fined not less than $5 nor more than $25 for each offense. Justices of the peace of the county in which the violation occurs shall have jurisdiction of any such offense, and where the violation occurs within the corporate limits of a municipality, the mayor's court or police or municipal court of such municipality shall have jurisdiction thereof, concurrent with the justices of the peace of the county in which such municipality or the major portion of the territory thereof is located.

WV Legislature

§7-1-3ss. County option election on forbidding nonintoxicating beer, wine, or alcoholic liquors to be sold, given, or dispensed after 6:00 a.m. on Sundays.

The county commission of any county may conduct a county option election on the question of whether the sale or dispensing of nonintoxicating beer, wine, or alcoholic liquors in or on a licensed premises shall be allowed in the county beginning 1:00 p.m. on any Sunday, as provided in §11-16-18, §60-7-12, and §60-8-34 of this code, upon approval as provided in this section. The option election on this question may be placed on the ballot in each county at any primary or general election. The county commission of the county shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the 14 consecutive days next preceding the election. On the local option election ballot shall be printed the following: "Shall the beginning hour at which nonintoxicating beer, wine, and alcoholic liquor be sold or dispensed for licensed on-premises in _____ County on Sundays be changed from 6:00 a.m. to 1:00 p.m."

If approved by the voters this would forbid private clubs and restaurants licensed to sell and dispense nonintoxicating beer, wine, and alcoholic liquor; licensed private wine restaurants, private wine spas, and private wine bed and breakfasts to sell and dispense wine; and licensed Class A retail dealers to sell and dispense nonintoxicating beer for on-premises consumption until 1:00 p.m.

[ ] Yes [ ] No

(Place a cross mark in the square opposite your choice.)

The ballots shall be counted, returns made and canvassed as in general elections, and the results certified by the commissioners of election to the county commission. The county commission shall, without delay, certify the result of the election. Upon receipt of the results of the election, in the event a majority of the votes are marked "Yes", all applicable licensees shall be forbidden to sell and dispense beer, wine, or alcoholic liquors until 1:00 p.m. on Sundays. In the event a majority of the votes are marked "No", all applicable licensees will continue to be required to comply with existing law.

WV Legislature

§7-1-3t. Authority to make grants from General Revenue Funds and other funds for water and sewer systems.

In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to make grants from general county revenues and any other revenues of the county available for such purposes, to public service districts as defined and provided for in article thirteen-a, chapter sixteen of the code and to municipalities for the purpose of establishing or improving water and sewer systems.

WV Legislature

§7-1-3tt. Restriction on the regulation of trades, occupations, and professions.

Unless specifically authorized under this code, a county commission shall not enact, and shall not enforce, any law, ordinance, regulation, or rule, requiring the licensing, certification, or registration of any person or business in order to practice or conduct a trade, occupation, or profession within the jurisdiction of the county: *Provided,* That this section shall not limit the authority of a county to impose or levy per project fees upon development projects and other forms of capital improvement affecting the county and its government.

WV Legislature

§7-1-3u. Authority of counties and municipalities to treat streams to prevent floods.

To protect people and property from floods, counties and municipalities are hereby empowered to rechannel and dredge streams; remove accumulated debris, snags, sandbars, rocks and any other kinds of obstructions from streams; straighten stream channels; and carry out erosion and sedimentation control measures and programs.

For stream treatment to prevent floods as provided in this section, counties and municipalities are hereby further empowered to levy, within all Constitutional and statutory limitations; acquire property by purchase, exercise of the right of eminent domain, lease, gift or grant; accept any and all benefits, moneys, services and assistance which may be available from the federal and state government or any private source; issue and sell bonds within the Constitutional and statutory limitations prescribed by law for the issuance and sale of bonds by counties and municipalities for public purposes generally. Any such levy shall be equal and uniform throughout the county or municipality.

The power and authority granted in this section, may be exercised by any county or municipality in cooperation with each other or separately as provided in section three-i of this article. Any county or municipality which exercises any power or authority set forth in this section shall comply with all applicable provisions of federal and state laws and rules and regulations lawfully promulgated thereunder.

The term "stream" as used in this section means any watercourse, whether natural or man-made, distinguishable by banks and a bed, regardless of their size, through which water flows continually or intermittently, regardless of its volume.

WV Legislature

§7-1-3v. Floodplain and mudslide area management; legislative findings; power and authority; enforcement; provisions cumulative.

(a) The Legislature hereby finds and declares that it is imperative that municipalities and counties in this state be fully authorized and empowered to take all action necessary to comply with the requirements of the National Flood Insurance Act of 1968 (Public Law 91-152), as amended by the Congress of the United States through February 15, 1975; that municipalities presently are vested with all statutory power and authority necessary in this regard; and that the purpose of this section is to authorize and empower the several counties of this state to comply with such requirements.

(b) As used in this section:

(1) "Act" means the National Flood Insurance Act of 1968 (Public Law 91-152), as amended by the Congress of the United States through February 15, 1975; and

(2) "Specified area or areas" means the area or areas specified under such act as a flood plain or mudslide area or areas within which control over construction and improvements must be exercised in order to comply with such act.

(c) To the extent and only to the extent necessary to comply with the eligibility requirements of and otherwise fully and in all respects to comply with the requirements of such act, the county commission of each county is hereby authorized and empowered to (i) adopt, administer and enforce building codes for a specified area or areas within such county, which building codes may establish different requirements for different specified areas; (ii) require and issue building permits for all proposed construction or other improvements in such county: Provided, That nothing contained in this subdivision (ii) shall authorize a county commission to refuse to issue a building permit for any proposed construction or other improvement outside of a specified area or areas within such county; (iii) conduct inspections of construction and other improvements in a specified area or areas within such county and (iv) otherwise take such action and impose such requirements regarding land use and control measures in a specified area or areas within such county as shall be necessary under such act: Provided, That no such building code adopted by a county commission shall apply within nor any authority hereinabove granted exercised by a county commission within the corporate limits of any municipality which has taken appropriate action to comply with such act, unless and until such municipality so provides by ordinance. Any such building code adopted by a county commission and any other requirements imposed by a county commission under the provisions of this subsection (c) may be enforced by injunctive action in the circuit court of the county.

(d) The power and authority conferred upon county commissions in this section is supplemental to and not in derogation of any power and authority heretofore or hereafter conferred by law upon county commissions.

WV Legislature

§7-1-3w. Authority to establish county beautification councils; organization; county commissions not obligated for debts of councils; powers and duties; expenditures of funds by councils; authority of county commissions to appropriate moneys.

In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered to establish county beautification councils which shall be composed of such number of persons with such organizational requirements and limitations as the county commission creating any such council may direct. Such councils shall be deemed to be agencies of the county commissions; however, county commissions shall not be obligated for any debt or obligation which may be created by such councils. The councils are empowered to employ such persons as are necessary to accomplish the undertakings assumed by them.

Each council shall be charged with the duty of improving the aesthetic qualities of the landscape within the county, and to such intent and purpose the councils may, with the approval of the commissioner of the West Virginia department of highways, engage in the planting, cultivation and maintenance of shrubs, trees and other plants on highway property and rights-of-way at such places and under such conditions as may be established by said commissioner.

County commissions may appropriate to such councils such funds as the county commissions deem appropriate. Councils may receive and expend appropriations for the purposes herein indicated and may, likewise, receive and expend appropriations, gifts, grants or contributions from the State of West Virginia, the federal government, or any agency of either, and from any other person, corporation or entity of whatever nature.

WV Legislature

§7-1-3x. County information referral service.

In addition to all other powers and duties now conferred by law upon county commissions, such commissions are hereby authorized to establish information outlets for the dissemination of information concerning the sources of community and governmental services available to the public and to refer the members of the public to the correct source of assistance needed.

WV Legislature

§7-1-3y. Authority to grant funds to nutrition programs.

In addition to all other powers and duties now conferred by law upon county commissions, such commissions are hereby authorized and empowered to make grants from general county revenues and any other revenues of the county available for such purposes, for nutritional programs operated by nonprofit legal entities.

WV Legislature

§7-1-3z. Authority of counties to govern business of massage.

(a) In addition to all other powers and duties now conferred by law upon county commissions, county commissions, may by order duly entered of record, adopt an ordinance which provides for the licensing for the regulation of the business of massage when carried on within the county. The ordinances may be adopted either for the entire county, or for any portion or portions of the county which may constitute an effective area or areas for those purposes, without the necessity of adopting the ordinances for any other portion of the county. Notwithstanding any other provision of this section to the contrary, no ordinance shall apply to or affect any territory within the boundaries of any municipal corporation which has adopted and has in effect an ordinance which provides for the regulation of the business of massage, unless and until the municipal corporation provides for the regulation of the business of massage by ordinance.

(b) The ordinance may condition the issuance of a license to engage in the business of massage upon proof that a massage business meets the reasonable standards set by the ordinance, which may include, but need not be limited to, the following areas:

(1) Requirement that massage personnel be at least eighteen years of age;

(2) Sanitary conditions of the massage establishment;

(3) Hours of operation of the massage business; and

(4) Prohibition of the sale or serving of food or beverage or the conducting of nonmassage business on the premises of the massage business. In the event that the business premises in which the massage business is conducted has separate quarters used for purposes other than the massage business, the prohibition of this subsection applies only to the portion of the premises exclusively devoted to the conduct of the massage business.

(c) The ordinance may also provide that a license to engage in the business of massage may be denied upon a showing by the licensing authority of any of the following:

(1) Proof that the massage personnel or the owners or operators of a massage business have been convicted of a violation of any of the provisions of article eight, eight-a, eight-b or eight-c, chapter sixty-one of this code or proof that massage personnel or the owners or operators of a massage business have been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one of the offenses set forth in this subsection;

(2) Proof that the massage personnel, or the owners, or operators of a massage business have been convicted of any felony offense involving the sale of a controlled substance specified in section two hundred four, two hundred six, two hundred eight, two hundred ten or two hundred twelve, article two, chapter sixty-a of this code or proof that the massage personnel or the owners or operators of the massage business have been convicted in any

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other state of any offense, which if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in this subsection.

(d) The ordinance may require that application to conduct the business of massage be made on a form prescribed by the licensing authority, which may require the following information:

(1) The name of the applicant;

(2) If the applicant is an unincorporated association, the names and addresses of the members of its governing board;

(3) If the applicant is a corporation, the names and addresses of its officers and directors;

(4) The place at which the applicant will conduct its operations and whether that place is owned or leased by the applicant;

(5) The name of the owner of the place at which the applicant will conduct its operation, if not the same as the applicant;

(6) The number of members of the applicant;

(7) The names of all massage personnel, owners, operators or other employees of the massage business;

(8) Any other information as the licensing authority may reasonably require which may include, but need not be limited to, the criminal records, if any, of each member of the applicant's governing board and/or its officers and directors, or any of the massage personnel, owners, operators or other employees of the massage business who have been convicted of any violation of any of the provisions set forth in subsection (c) of this section.

The ordinance may require that the application be verified by the applicant or by each member of the governing board of the applicant if an unincorporated association or, if the applicant is a corporation, by each of its officers and all members of its board of directors. The ordinance may also require that the application be accompanied by a license fee not exceeding the sum of $100. Any license issued under the provisions of this section is effective for one year and may be renewed upon the same showing as required for the issuance of the initial license, together with the payment of fees, if any. The ordinance may require license holders to notify the licensing authority of any changes in the information required by the application within a reasonable period after the changes occurred.

(e) This section does not apply to barbers or beauticians licensed to practice, or to persons licensed to practice in any of the health professions, or to persons licensed to practice as massage therapists, under the provisions of chapter thirty of this code when engaging in the practice within the scope of his or her license.

WV Legislature

(f) Nothing contained in this chapter precludes a county commission from prohibiting a person of one sex from engaging in the massage of a person of the other sex.

WV Legislature

§7-1-4. County commission authority to enact ordinance; ordinance provisions defining terms; restricting certain activities in relation to obscene matter; and establishing penalties for violations.

(a) In addition to all other powers which county commissions now possess by law, county commissions may adopt the ordinance provided in subsection (b) of this section.

A county commission when adopting this ordinance may delete therefrom such portions of paragraph (A), subdivision (4), subsection (b) of this section that it deems appropriate.

(b) The ordinance which county commissions may adopt pursuant to the power granted them under subsection (a) of this section shall be:

Section 1. Definitions.

For purposes of this ordinance:

(1) "Knowingly" means to have knowledge of or to be aware of the content or character of obscene matter.

(2) "Matter" means any book, magazine, newspaper or other printed or written material, or any picture, drawing or photograph, motion picture, or other visual representation, or live conduct, or any recording, transcription or mechanical, chemical or electrical reproduction, or any other articles, equipment, machines or materials.

(3) "Individual" means any human being regardless of age.

(4) "Obscene" means matter which the average individual applying contemporary community standards would find (i) taken as a whole, appeals to the prurient interest; (ii) depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated; and (iii) the matter, taken as a whole, lacks serious literary, artistic, political or scientific value, and which either:

(A) Depicts or describes patently offensive representation of masturbation, excretory functions, lewd exhibition of the genitals, sodomy, fellatio, cunnilingus, bestiality, sadism, masochism; or

(B) Depicts or describes nudity or sexual acts of persons, male or female, below the age of eighteen years.

(5) "Person" means any individual, partnership, firm, association, corporation or other legal entity.

(6) "Prepare" means to produce, publish or print.

(7) "Public display" means the placing of material on or in a billboard, viewing screen,

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theatre, marquee, newsstand, display rack, window, showcase, display case or similar public place so that material can be purchased or viewed by individuals.

Section 1a. Injunctive relief.

The circuit court shall have jurisdiction to issue an injunction to enforce the purposes of this ordinance upon petition by the prosecuting attorney 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.

Section 2. Activities prohibited; penalties.

Any person who knowingly sends or causes to be sent or causes to be brought into the county of (name of county) for sale or public display, or prepares, sells or makes a public display, or in the county of (name of county) offers to prepare, sell or make a public display, or has in his possession with the intent to sell or make a public display of any obscene matter to any individual, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $500 or imprisoned in the county jail not more than thirty days or both fined and imprisoned. 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 $1,000 or imprisoned in the county jail not more than six months or both fined and imprisoned.

Section 3. Prosecution by presentment or indictment.

No person may be prosecuted for an offense under this ordinance except by indictment or information.

Section 4. Employees acting within scope of employment shall not be prosecuted.

No employee shall be guilty of a violation of this ordinance when such employee is a projectionist, ticket taker, usher, or when such employee prepares, sells or makes a public display of obscene matter while acting within the scope of his regular employment, unless such employee has a proprietary interest in such obscene matter or is a shareholder or officer of a corporation which has a proprietary interest in such obscene matter.

Section 5. Exceptions.

Nothing in this ordinance shall be construed so as to apply to any person exercising a right secured by the Constitution or laws of this state or of these United States.

WV Legislature

§7-1-5. Duties of county commissioners; payment for services other than services in court.

It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, to arrange for the feeding and care of the prisoners therein, to investigate the conditions of the poor within their county, not housed within such institutions; to visit detention homes for children within their counties, if any; to visit and inspect bridges and bridge approaches under their control, to provide for and have general supervision over the repair and maintenance of the county courthouse, jails, houses for the poor and other county property, so as to prevent the undue deterioration thereof; to supervise and control the maintenance and operation of airport or airports owned or operated by the county commission; to supervise and control the purchase, erection and maintenance of airport facilities; to supervise and control the purchase of furniture, fixtures and equipment and janitors' and other supplies for their county; to attend the annual meetings of county assessors and such district meetings as may be called by the State Tax Commissioner on matters pertaining to the work of the county assessors and the county commission as boards of review and equalization; to review and equalize the assessments made by the assessors; to inspect and review the lists of property, both real and personal, made up by the assessor and his deputies for taxable purposes, and to point out to the assessor any property, real and personal, which the said assessors of their respective counties may have overlooked or omitted to place on said tax lists; to call to the attention of the assessor all real estate or personal property belonging to churches, lodges, schools or other charitable institutions which may have been overlooked or omitted by the assessor or his deputies in making up his lists of property for entry on the land and personal property books; to supervise the general management of the fiscal affairs and business of each county; and as a further part of their duties they shall be empowered to purchase, lease, rent, control, supervise, inspect, maintain and erect public parks, playgrounds and recreational facilities, to purchase, lease or rent equipment therefor and to employ qualified recreational directors and personnel; to construct new Four-H camps on county property; to operate stone quarries and sand deposits on county-owned or leased property; to construct buildings for or aid in constructing or equipping buildings for emergency services on sites approved by the Office of Emergency Services; to operate dog pounds for county-municipalities; to purchase, lease, rent, control, supervise, inspect, maintain and erect public markets and to purchase, rent or lease equipment therefor and to employ qualified personnel to operate such public markets; and as a further part of their duties they shall be empowered to purchase, lease, rent, control, supervise, inspect, maintain and erect county mental health clinics and engage in any program designated for the betterment of the mental and physical well-being of the residents of their county and to cooperate with any public or private agency for these purposes; to establish and participate in regional planning and development councils; to establish and participate in county commissions on intergovernmental relations as required by section three-q of this article; to establish and participate in county commissions on crime, delinquency and corrections as required by section three-r of this article; to conduct a survey of all orphaned roads within the county, which roads shall include roads or highways,

WV Legislature

not situated within a municipality, which are open to the public and which serve two or more persons, but shall exclude roads comprising or included within the state road system as defined by section two, article four, chapter seventeen of this code or comprising or included within any county road or highway system and which shall also exclude any road brought into the state road system for purposes of maintenance only by the commissioner of highways pursuant to statutory or regulatory authority; to prepare an inventory of all such orphaned roads within the county, which inventory shall be made available to any agency of the state or federal government upon request, and be filed and recorded in the office of the county clerk.

Compensation shall be allowed and paid out of the county treasury, in the same manner as salaries are paid, to each county commissioner of each county (except as otherwise provided by law for the county of Ohio) for services performed for such county concerning the visiting of the poor, inspection of jails, bridges and bridge approaches and for visiting detention homes for children and for providing for and supervising the repair and maintenance of the county courthouse, jails, houses for the poor and other county property; for supervising and controlling the maintenance and operation of airport or airports owned or operated by the county commission and supervising and controlling the purchase, erection and maintenance of airport facilities; for supervising and controlling the purchase of furniture, fixtures and equipment and janitors' and other supplies for their county; for attending the annual meeting of assessors and such district meetings as may be called by the State Tax Commissioner on matters pertaining to the work of assessors and county commissions as boards of review and equalization; for reviewing and equalizing the assessments made by the assessors; for inspecting and reviewing the lists of property, both real and personal, made up by the assessor and his deputies for taxable purposes and for pointing out to the assessor any property, real and personal, which the said assessors of their respective counties may have overlooked or omitted to place on said tax lists; for calling to the attention of the assessor all real estate or personal property belonging to churches, lodges, schools or other charitable institutions which may have been overlooked or omitted by the assessor or his deputies in making up their lists of property for entry on the land and personal property books; for purchasing, leasing, renting, controlling, supervising, inspecting, maintaining and erecting public parks, playgrounds and recreational facilities and the purchasing, leasing or renting the equipment therefor and employing qualified recreational directors and personnel therefor; for constructing new Four-H camps on county property; operating stone quarries and sand deposits on county-owned or leased property, constructing buildings for or aiding in construction or equipping buildings for emergency services on sites approved by the Office of Emergency Services; operating dog pounds for county-municipalities; to purchase, lease, rent, control, supervise, inspect, maintain and erect public markets, and to purchase, rent or lease equipment therefor and to employ qualified personnel to operate such public markets; for constructing fallout shelters and aiding individuals to construct fallout shelters through furnishing available information; for purchasing, leasing, renting, controlling, supervising, inspecting, maintaining or erecting county mental health clinics or engaging in programs for the betterment of the mental or physical well-being of the residents of their county; for conducting a survey of all abandoned

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and dilapidated buildings or structures within the county and to prepare an inventory thereof, which inventory shall be made available to any agency of state or federal government or to local governmental agencies upon request; for establishing and participating in regional planning and development councils; to conduct a survey of all orphaned roads within the county, which roads shall include roads or highways, not situated within a municipality, which are open to the public and which serve two or more persons, but shall exclude roads comprising or included within the state road system as defined by section two, article four, chapter seventeen of this code or comprising or included within any county road or highway system and which shall also exclude any road brought into the state road system for purposes of maintenance only by the commissioner of highways pursuant to statutory or regulatory authority; to prepare an inventory of all such orphaned roads within the county, which inventory shall be made available to any agency of the state or federal government upon request, and be filed and recorded in the office of the county clerk; for establishing and participating in county commissions on intergovernmental relations as required by section three-q of this article; for establishing and participating in county commissions on crime, delinquency and correction as required by section three-r of this article and for supervising the general management of the fiscal affairs and business of each county, within their counties, and other business by such commissioners.

WV Legislature

§7-1-5a. Excusal of commissioner from voting where conflict of interest involved.

Each county commissioner present during any county commission meeting when any question is put shall vote unless he is immediately and particularly interested therein. Before such question is put, any member having a direct personal or pecuniary interest therein should announce this fact, and request to be excused from voting. The disqualifying interest must be such as affects the member directly, and not as one of a class.

WV Legislature

§7-1-6. Power to punish for contempts.

The county court of every county shall have the same power to punish for contempts as is conferred by law upon circuit courts, but the penalty imposed for such contempts shall not exceed $50 for any one offense.

WV Legislature

§7-1-7. Record books.

(a) Beginning on July 1, 2017, the county commission shall, within sixty days of adoption, through the clerk of the commission, enter into a separate book the complete record of all ordinances adopted by the county commission. The clerk shall list, along with each ordinance in the book, the provision of the West Virginia Code authorizing each ordinance. The clerk shall maintain the book in his or her office and shall make available a copy to the county sheriff. Compiling all such ordinances adopted by the county commission and publishing the same on a publically available internet website as delineated in section three-pp of this article shall constitute full compliance with the provisions of this section.

(b) The county commission of every county shall provide two record books for the use of the county commission, in one of which shall be entered all the proceedings of such county commission in relation to contested elections, all matters of probate, the appointment of appraisers of the estates of decedents and the appointment and qualification of personal representatives, guardians, committees and curators, and the settlement of their accounts, and all matters relating to apprentices; and in the other of said books shall be entered all the other proceedings of such county commission: Provided, That said county commission shall provide and keep such additional or different record books as may be specially required by law.

WV Legislature

§7-1-8. Continuance of matters at end of session.

All matters pending before any county court and ready for its decision or action which shall not have been determined or acted upon before the end of a session, whether regular or special, shall, without any order of continuance, stand continued until the next session.

WV Legislature

§7-1-9. Creation of special funds.

In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to create and establish, by proper order, special funds to be used for any purpose which such courts now or hereafter may by the provisions of chapter seven or article eleven, chapter eight of this code be authorized to accomplish.

Such courts are hereby authorized to allocate to and transfer into any special fund created pursuant to the provisions of this section, such sums raised by tax levies pursuant to the provisions of article eight, chapter eleven of this code, and such amounts of unexpended or surplus moneys in the county general fund or in any other special fund as they shall deem proper.

Expenditures from any special fund created pursuant to the provisions of this section shall be made only for the purpose for which the special fund was created and established: Provided, That in the event of a necessity or emergency the county court, by unanimous vote thereof and upon approval of the State Tax Commissioner, shall be empowered to transfer funds from any such special fund to the county general fund.

When the particular purpose for which any special fund created pursuant to the provisions of this section has been accomplished or completed, the county court may transfer any balance remaining therein to the general county fund.

WV Legislature

§7-1-10. Special account for federal and state grants-in-aid authorized.

In addition to the special funds account authorized by the provisions of section nine of this article, each county court is hereby authorized and empowered to create and establish by proper order, a special account for the deposit of funds received from and granted by the United States of America or the State of West Virginia and shall provide for the expenditure and appropriation of such funds in accordance with the applicable laws and regulations promulgated by the governmental authority making such grants. The funds so received and held in such special account shall not be considered as revenue in determining the amount of real and personal property taxes to be levied for the regular fiscal budget of such county under the provisions of article eight, chapter eleven of this code.

WV Legislature

§7-1-11. Purchasing in open market or competitive bids; debarment.

(a) County commissions may make a purchase of commodities and printing of $15,000 or less in amount in the open market, but a purchase of and contract for commodities and printing over $15,000 shall be based on competitive bids, except in case of emergency.

(b) The county commission of any county is authorized and empowered to promulgate rules governing the procedure of competitive bids: Provided, That a vendor who has been debarred pursuant to the provisions of sections thirty-three-a through thirty-three-f, article three, chapter five-a of this code, may not bid on or be awarded a contract under this section.

(c) As used in this section, the terms "commodities" and "printing" shall have the same meaning as those terms are defined in section one, article one, chapter five-a of this code.

WV Legislature

§7-1-12. Authority for establishing county curfews; jurisdiction for violations.

In addition to all other powers and duties now conferred by law upon county commissions, such commissions are hereby authorized, by order duly entered of record, to adopt an ordinance which establishes a curfew for persons under eighteen years of age. It shall be unlawful for any person under eighteen years of age to violate any ordinance: Provided, That whenever the county ordinance enacted hereunder conflicts with that of any municipality, the municipal ordinance shall prevail.

Any magistrate court, which shall have concurrent jurisdiction with the circuit court, of a county which has enacted an enforceable curfew ordinance may assume jurisdiction of a juvenile charged with violation of such ordinance and make any disposition thereof, which could properly be made by a circuit court exercising its juvenile jurisdiction, except that magistrate courts shall have no jurisdiction to impose a sentence of confinement for the violation of such laws.

WV Legislature

§7-1-13. Regulation of amateur radio antennas.

(a) Any county ordinance or order concerning the regulation or placement of amateur radio antennas must:

(1) Comply with all Federal Communications Commission regulations and its rulings and orders;

(2) Reasonably accommodate amateur radio communications; and

(3) Represent the minimum practicable regulation to accomplish the county's legitimate purpose.

(b) Nothing in this section shall be deemed to prohibit a county commission from taking action to protect or preserve historic buildings, structures, sites and districts that have been established by federal, state or local law.

WV Legislature

§7-1-14. Custody and care of animals abandoned, neglected or cruelly treated; animals causing public nuisance, health risk or safety hazard; authority of county commission.

(a) Notwithstanding any provision of this code to the contrary, any county commission may adopt ordinances, rules and regulations providing for the custody and care of animals that have been abandoned, neglected or cruelly treated for the protection of any such animal and to prevent it from becoming a public nuisance or risk to public health or safety or the environment.

(b) Any such ordinance, rule or regulation may require each owner to provide for each of his or her animals:

(1) Adequate food which provides sufficient quantity and nutritive value to maintain each animal in good health;

(2) Adequate water which provides easy access to clean, fresh, potable water of a drinkable temperature in sufficient volume and suitable intervals to maintain normal hydration for each animal;

(3) Adequate shelter to protect the animal from the elements and other animals;

(4) Adequate space in the primary enclosure for the particular animal depending upon its age, size, species and weight which is regularly cleaned to prevent an unsanitary accumulation of urine and feces;

(5) Adequate exercise to assure that the animal maintains normal muscle tone and mass for the age, species, size and condition of the animal; and

(6) Veterinary care when needed or to prevent suffering or disease transmission.

(c) Any such ordinance, rule or regulation may limit the number of animals owned, kept or maintained by an individual, group or organization, whether public or private based on the person's ability to provide for the animals as set forth in subsection (b) of this section.

(d) Any such ordinance, rule or regulation shall provide appropriate penalties for violations and shall authorize humane officers to take possession of any animal that is not properly cared for as required by such ordinance, rule or regulation.

WV Legislature

§7-1-15. Challenge of candidate for county commission; residency.

(a) (1) Any person desiring to contest the qualifications of another person whose nomination in the primary election, nomination by petition, or nomination by appointment to fill a vacancy on the ballot, has been certified and filed pursuant to article five, chapter three of this Code, as a candidate for the office of county commission at a general election, shall file a verified petition specifically setting forth the grounds of the challenge not later than thirty days after the date of the primary election.

(2) The court may permit a petition to be filed after the thirtieth day after the primary election upon a finding that the petitioner was unable to discover the grounds for challenging the qualifications of the candidate prior to the thirtieth after the primary election despite the exercise of reasonable diligence.

(3) The petition shall be filed with the circuit court of the county in which the candidate is seeking office.

(b) The circuit court shall at the earliest possible date set the matter for hearing, but in no event shall the hearing be held later than thirty days after the filing of the petition.

(c) The matter shall be tried by the circuit judge, without a jury. After hearing the evidence, the circuit judge shall determine whether the candidate whose qualifications have been challenged is legally qualified to have his or her name placed upon the ballot in question. The circuit judge shall issue a written decision on each challenge by separately stating findings of facts, conclusions of law within ten days of the conclusion of the hearing.

(d) The burden of proof shall be upon the petitioner, who must show by a preponderance of the evidence of the record as a whole that the candidate is not qualified to be a candidate for county commission.

(e) Within five days after judgment is rendered by the circuit court, the petitioner or the candidate, or both, may file an appeal in the Supreme Court upon giving a cost bond in the sum of $300. The appeal shall be immediately docketed in the Supreme Court and shall be decided at the earliest possible date, as a preference case over all others.

(f) The procedure set forth above shall be the sole and only manner in which the qualifications of a candidate for county commission may be challenged prior to the time of his or her election. After any such person has been elected to public office, the election may be challenged as otherwise provided by law. After any person assumes an elective office, his or her qualifications to hold that office may be contested as otherwise provided by law.

WV Legislature

§7-1-16. Reporting of fraud and misappropriation of funds.

(a) Whenever a county commission, or any of a county's boards, committees, or any other entities of any kind or nature authorized in this chapter, obtains information that an employee, officer or member of the county commission, or any of a county's boards, committees, or any other entities of any kind or nature authorized in this chapter may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the county commission, or the county's board, committee, or other entity authorized in this chapter shall timely report that information or allegation in writing to the county prosecutor's office, the Legislature's Commission on Special Investigations and the State Auditor.

(b) The reporting of the information under subsection (a) of this section does not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

WV Legislature