WEST VIRGINIA CODE CHAPTER 7 ARTICLE 11

WV Legislature

§7-11-1. County courts authorized to create a county parks and recreation commission.

The county court of any county is hereby authorized and empowered, by order entered of record, to create a county parks and recreation commission for the purpose of establishing, improving, developing, administering, operating and maintaining a county public parks and recreation system or public recreational facilities.

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§7-11-2. Commission a body corporate; perpetual existence; name; power and authority; authority of county commission; indebtedness of commission; agreements; tax exemption.

Any parks and recreation commission created by a county court pursuant to the authority of this article shall be a public corporate body with perpetual existence and a corporate seal. It shall be known as the (name of county) county parks and recreation commission. Any board of park and recreation commissioners heretofore created under the former provisions of this article shall hereafter be known as the (name of county) county parks and recreation commission, and such commission shall succeed to all of the properties, interest and assets of any such board of park and recreation commissioners. The commission shall have the power and authority to receive and control any gift, federal grant, other grant, donation and bequest or devise; to exercise the right of eminent domain if an order of the county court authorizing exercise of the right as to any proposed acquisition is first made and entered; to take and hold title to any real or personal property, whether such property be located wholly within or partly within and partly without the county; to receive all operating and capital funds appropriated by the county court to the commission; to receive all income and other funds, whether in cash or check, received by the county court and derived from properties and facilities devoted to park and recreational uses and under the control of said commission; to receive all receipts from income producing park and recreational properties and facilities under the control of the commission; to deposit, invest, manage and disburse, all such funds, income or receipts, including the interest or income earned thereon or therefrom; to borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures and other evidences of indebtedness therefor, and give such security therefor as shall be requisite, including giving a mortgage or deed of trust on the properties or facilities under the control of the commission or assigning or pledging the gross or net revenues therefrom; to raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable provisions of article sixteen, chapter eight of this code, it being hereby expressly provided that for the purpose of the issuance and sale of revenue bonds, the commission is a "governing body" as that term is used in said article sixteen; to establish, charge and collect reasonable fees and charges for services or for the use of any part of the properties or facilities under its control, or for both services and such use; to sue and be sued; to contract and be contracted with; to obtain one or more insurance policies affording coverage for loss of or damage to the properties and facilities under its control and affording public liability coverage for the legal liability of the commission, its officers, agents and employees; to adopt bylaws governing the operation of the commission and specifying the powers and duties of its officers; and to do any and all things which may be necessary or convenient to carry out and effectuate the purposes and provisions of this article.

Any such county court is hereby empowered and authorized to transfer to any such commission all such funds or income, as provided for in the preceding paragraph of this section, and such county court may require a blanket surety bond covering those individuals authorized to sign checks on behalf of the commission in a penal sum not in excess of

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$25,000.

The commission may incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary and advisable in connection with carrying out any of its purposes. No indebtedness or obligation incurred by the commission shall give any right against the county or any member of the county court or any member of the commission. No indebtedness of any nature of the commission shall constitute an indebtedness of the county or the county court or be a charge against any property of the county. The rights of creditors of the commission shall be solely against the commission as a corporate body and shall be satisfied only out of property held by it in its corporate capacity.

Without in any way limiting the generality of any of the other provisions of this article, the commission may, in connection with obtaining moneys or property for its purposes, enter into any agreement with any person, including the federal government, or any department, agency or subdivision thereof, containing such provisions, covenants, terms and conditions as the commission may deem advisable.

The commission shall be exempt from the payment of any taxes or fees to the state or any subdivision thereof or any municipality or to any officer or employee of the state or of any subdivision thereof or of any municipality. The property of the commission shall be exempt from all municipal and county taxes. Bonds, notes, debentures and other evidences of indebtedness of the commission are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest and income thereon, shall be exempt from taxation.

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§7-11-2a. Authority to lease property for educational instruction in fire prevention and protection.

In addition to the powers and duties set forth in this article, any county parks and recreation commission organized pursuant to the provision of this article is hereby empowered and authorized: (1) To sell and convey any real estate owned by it which is not contiguous to any tract of land which forms a part of a park owned or operated by the commission: Provided, That such real estate shall be sold at public auction for a fair and adequate consideration. The public auction shall be held at a place designated by the commission, but before making any such sale, notices of the time, terms and place of sale, together with a brief description of the property to be sold, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of the Code of West Virginia, and the publication area for such publication shall be the county wherein the commission is located,

And,

(2) To lease any of its real estate or any part thereof or any of its personal property or any part thereof or any interest in any of the foregoing to any governmental entity or nonprofit corporation for the purpose of establishing a fire prevention and protection or firefighting school or educational institution. Every such lease shall be for a term not to exceed forty years and shall be authorized by a resolution of the commission, which resolution shall specify the terms and conditions to be contained in such lease: Provided, That before any such resolution is adopted, a public hearing on such proposed lease shall be held by the commission after notice of the date, time, place and purpose of such public hearing has been published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of the Code of West Virginia, and the publication area for such publication shall be the county wherein the commission is located.

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§7-11-3. Number of members; quorum; qualifications; appointment; term; disqualifications.

The commission shall consist of eleven members, a majority of whom shall constitute a quorum for the transaction of business. Each member of said commission shall be a bona fide resident of the county and shall own real estate within such county. The term of the commission members shall be for three years and until their successors have been appointed and have qualified: Provided, That the county court in appointing the members of the first commission shall appoint three members for a term of one year; four members for a term of two years and four members for a term of three years. The order of the county court shall fix the date on which the term of such commission members shall begin. The members of any board of park and recreation commissioners heretofore created under the former provisions of this article shall continue in office as members of the parks and recreation commission of such county until their terms expire and their successors have been appointed and have qualified. Any member of the commission who shall cease to be a bona fide resident of the county or a freeholder thereof, shall thereby be disqualified as a member of said commission and his office shall become vacant. When a vacancy occurs on said commission by reason of death, resignation, change of residence from the county, failure to remain a freeholder of the county, or expiration of term, the county court shall appoint a successor or successors to fill out the unexpired term of the member of the commission whose term has been vacated.

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§7-11-4. Oath of members; officers; location of office; personnel.

After appointment, the members of the commission shall qualify by taking and filing with the clerk of the county court the oath prescribed by law for public officials; one of the members of said commission shall be elected as president, another as vice president, and a secretary shall be elected who need not be a member of the commission. Said commission shall maintain an office at any place it may designate in the county and have control of the management and operation of all properties and facilities which shall be operated in connection with the public parks and recreation system of such county and shall have power to employ or appoint such persons as, in its opinion, may be necessary for the construction, establishment, improvement, development, administration, operation and maintenance of the properties and facilities under its control, subject, however, to the limits of available funds.

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§7-11-5. General powers of commission; rules; misdemeanor offenses; park police authorized.

The commission shall have the necessary powers and authority to manage and control all public parks and recreational properties and facilities owned by the county or commission and used as a part of such public parks and recreation system, including the right to promulgate rules and regulations concerning the management and control of such parks and recreational properties and facilities and to enforce any such rules and regulations so promulgated: Provided, That a commission shall not promulgate or enforce rules which prohibit the possession of firearms in such parks.

The commission shall also have plenary power and authority to prepare and submit to the county commission for adoption rules regulating the use of any parks and recreational properties and facilities under the control of the commission and prohibiting any type of use of or activities in connection with any such properties or facilities, and any such rules, and regulations if so adopted, shall be duly entered of record in the order book of the county commission. The violation of any such rule and regulation so adopted by the county commission shall constitute a misdemeanor and, any person convicted of any such violation shall be punished by a fine of not less than $5 nor more than $100, or by imprisonment in jail for a period not exceeding thirty days, or by both such fine and imprisonment. The magistrate court of the county shall have concurrent jurisdiction with the circuit court and other courts of record (having criminal jurisdiction) of any misdemeanor offenses arising under this article. The violation of any such rule which also constitutes the violation of any state law or municipal ordinance may be prosecuted and punished as a violation of such state law or municipal ordinance rather than under the provisions of this section. To enforce any such rules and regulations, to protect and preserve all properties and facilities under the control of the commission and to preserve law and order in connection therewith, the commission shall have plenary power and authority to provide in its bylaws procedures for the appointment, supervision and discharge of one or more park police officers. Whenever any such appointment is made, a copy of the order of appointment shall be maintained by the commission for review by members of the public.

In any area under the jurisdiction and control of the commission, or in connection with any properties or facilities under the jurisdiction and control of the commission, or in pursuit of one or more individuals therefrom, any park police officer so appointed shall have all of the power and authority which a regularly appointed deputy sheriff of such county has in enforcing the criminal laws of the state. Notwithstanding any provisions of this code to the contrary, park police officers appointed as aforesaid shall not be required to obtain a state license to carry a weapon, as required by the provisions of section two, article seven, chapter sixty-one of this code. When any such commission has purchased one or more policies of public liability insurance providing the commission and its officers, agents and employees insurance coverage for legal liability of said commission and its officers, agents and employees for bodily injury, personal injury or damage (including, but not limited to, false arrest and false imprisonment) and property damage, and affording said commission

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and its officers, agents and employees insurance coverage against any and all legal liability arising from, growing out of, by reason of or in any way connected with, any acts or omissions of said commission, or its officers, agents or employees in the performance of their official duties, and so long as the coverage aforesaid remains in full force and effect as to such park police officers, then the bond specified in section five, article seven of said chapter sixty-one shall not be required as to such park police officers.

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§7-11-6. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

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