WEST VIRGINIA CODE: §7-20-6

§7-20-6. Criteria and requirements necessary to implement collection of fees.

(a) As a prerequisite to authorizing counties to levy impact fees related to population growth and public service needs, counties shall meet the following requirements:

(1) A demonstration that population growth rate history as determined from the most recent base decennial census counts of a county, utilizing generally approved standard statistical estimate procedures, in excess of one percent annually averaged over a five-year period since the last decennial census count; or a demonstration that a total population growth rate projection of one percent per annum for an ensuing five-year period, based on standard statistical estimate procedures, from the current official population estimate of the county;

(2) Adopting a countywide comprehensive plan;

(3) Reviewing and updating any comprehensive plan at no less than five-year intervals;

(4) Drafting and adopting a subdivision control ordinance;

(5) Keeping in place a formal building permit and review system which provides a process to regulate the authorization of applications relating to construction or structural modification. The county shall adopt, pursuant to §7-1-3n of this code, the state building code into any such building permit and review system; and

(6) Providing an improvement program which shall include:

(A) Developing and maintaining a list within the county of particular sites with development potential;

(B) Developing and maintaining standards of service for capital improvements which are fully or partially funded with revenues collected from impact fees; and

(C) Lists of proposed capital improvements from all areas, containing descriptions of any such proposed capital improvements, cost estimates, projected time frames for constructing such improvements and proposed or anticipated funding sources.

(b) Capital improvement programs may include provisions to provide for the expenditure of impact fees for any legitimate county purpose. This may include the expenditure of fees for partial funding of any particular capital improvement where other funding exists from any source other than the county or exists in combination with other funds available to the county: *Provided*, That for such expenditures to be considered legitimate, no county or other local authority may deny or withhold any reasonable benefit that may be derived therefrom from any development project for which such impact fee or fees have been paid.

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(c) Capital improvement programs for public elementary and secondary school facilities may include provisions to spend impact fees based on a computation related to the following: (1) The existing local tax base; and (2) the adjusted value of accumulated infrastructure investment, based on net depreciation, and any remaining debt owed thereon. Any such computation must establish the value of any equity shares in the net worth of an impacted school system facility, regardless of the existence of any need to expand such facility. Impact fee revenues may only be used for capital replacement or expansion.

(d) Additional development areas may be added to any plan or capital improvements program provided for hereunder if a county government so desires. The standards governing the construction or structural modification for any such additional area shall not deviate from those adopted and maintained at the time such addition is made.

(e) The county may modify annually any capital improvements plan in addition to any impact fee rates based thereon, pursuant to the following:

(1) The number and extent of development projects begun in the past year;

(2) The number and extent of public facilities existing or under construction;

(3) The changing needs of the general population;

(4) The availability of any other funding sources; and

(5) Any other relevant and significant factor applicable to a legitimate goal or goals of any such capital improvement plan.

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