# WEST VIRGINIA CODE CHAPTER 8A ARTICLE 2

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## §8A-2-1. Planning commissions authorized.

(a) A governing body of a municipality or county may, by ordinance, create a planning commission to promote the orderly development of its jurisdiction.

(b) Governing bodies may, by ordinance, create a multicounty planning commission, a regional planning commission or a joint planning commission to promote the orderly development of land and reduce duplication of effort.

(c) The planning commission shall serve in an advisory capacity to the governing body or governing bodies that created it and have certain regulatory powers over land planning.

(d) Governing bodies and planning commissions are authorized to carry out the objectives and overall purposes of this chapter.

(e) A planning commission has only those powers, duties and jurisdiction as given to it in the ordinance creating it.

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**§8A-2-2. Continuation of established planning commissions.**

(a) A planning commission established prior to the effective date of this chapter shall continue to operate as though established under the terms of this chapter. All actions lawfully taken under prior acts are hereby validated and continued in effect until amended or repealed by action taken under the authority of this chapter.

(b) The membership of an existing planning commission shall continue unchanged until the first regular meeting, after the enactment of this chapter, of the governing body that established the planning commission. At that time, any appointments or changes necessary shall be made to bring the membership of the existing planning commission into conformity with the provisions of this chapter.

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**§8A-2-3. Municipal planning commission.**

(a) A municipal planning commission in a Class I, II, or III city shall have not less than five nor more than 15 members, the exact number to be specified in the ordinance creating the planning commission. A municipal planning commission in a Class IV town or village shall have not less than three nor more than nine members, the exact number to be specified in the ordinance creating the planning commission.

(b) Each member of a municipal planning commission must be:

(1) A West Virginia resident who has maintained continuous West Virginia residency for the three years immediately preceding his or her appointment;

(2) A resident of the municipality for one year immediately preceding his or her appointment; and

(3) Qualified by knowledge and experience in matters pertaining to the development of the municipality.

(c) Any member who does not meet the requirements stated in subsection (b) of this section may not be grandfathered in, and may not be or remain a member of the planning commission.

(d) At least three fifths of all of the members must have been residents of the municipality for at least three years prior to nomination or appointment and confirmation.

(e) The members of a municipal planning commission must fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor, government, and other relevant disciplines. One member must be a member of the municipal governing body or a designee and one member must be a member of the administrative department of the municipality or a designee. The term of membership for these two members is the same as their term of office.

(f) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses that regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of this code and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the business. This member must recuse himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue.

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(g) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses who regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided*, That such members do not constitute a majority of the members of the planning commission at the same time.

(h) The remaining members of the municipal planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

(i) The members of a municipal planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(j) Nominations for municipal planning commission membership shall be made by the administrative authority and confirmed by the governing body when the administrative authority and the governing body are separate, or appointed and confirmed by the governing body where the administrative authority and governing body are the same.

(k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

(l) The governing body of the municipality may establish procedures for the removal of members of the planning commission for inactivity, neglect of duty, or malfeasance. The procedures must contain provisions requiring that the person to be removed be provided with a written statement of the reasons for removal and an opportunity to be heard on the matter.

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**§8A-2-4. County planning commission.**

(a) A county planning commission shall have not less than five nor more than 15 members, the exact number to be specified in the ordinance creating the planning commission.

(b) Each member of a county planning commission must be:

(1) A West Virginia resident who has maintained continuous West Virginia residency for the three years immediately preceding his or her appointment;

(2) A resident of the county for one year immediately preceding his or her appointment; and

(3) Qualified by knowledge and experience in matters pertaining to the development of the county.

(c) Any member who does not meet the requirements stated in subsection (b) of this section may not be grandfathered in, and may not be or remain a member of the planning commission.

(d) At least three fifths of all of the members must have been residents of the county for at least three years prior to appointment and confirmation by the county commission.

(e) The members of a county planning commission must fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor, farming, government, and other relevant disciplines. One member must be a member of the county commission or a designee. The term of membership for this member is the same as the term of office.

(f) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses that regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of this code and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the business. This member must recuse himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue.

(g) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses who regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or

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otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided*, That such members do not constitute a majority of the members of the planning commission at the same time.

(h) The remaining members of the county planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

(i) The members of a county planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(j) Appointments for county planning commission membership shall be made and confirmed by the county commission.

(k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

(l) The county commission may establish procedures for the removal of members of the planning commission for inactivity, neglect of duty, or malfeasance. The procedures must contain provisions requiring that the person to be removed be provided with a written statement of the reasons for removal and an opportunity to be heard on the matter.

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**§8A-2-5. Multicounty planning commission, regional planning commission, or joint planning commission.**

(a) A multicounty planning commission, a regional planning commission, or a joint planning commission shall have not less than five nor more than 15 members, the exact number to be specified in the ordinance creating the planning commission.

(b) Each member of a multicounty planning commission, a regional planning commission, or a joint planning commission must be:

(1) A resident of the jurisdiction of the multicounty planning commission, regional planning commission, or joint planning commission for at least three years immediately preceding his or her appointment; and

(2) Qualified by knowledge and experience in matters pertaining to the development of the jurisdiction.

(c) Any member who does not meet the requirements stated in subsection (b) of this section may not be grandfathered in, and may not be or remain a member of the planning commission.

(d) The members of a multicounty planning commission, a regional planning commission, or a joint planning commission must equally represent the jurisdictions in the planning commission.

(e) The members of a multicounty planning commission, a regional planning commission, or a joint planning commission must fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor, farming, government, and other relevant disciplines. Each governing body participating in the planning commission must have one member from its governing body on the planning commission. The term of membership for this member is the same as the term of office.

(f) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses that regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of this code and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the business. This member must recuse himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue.

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(g) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses who regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided*, That such members do not constitute a majority of the members of the planning commission at the same time.

(h) The remaining members of the multicounty planning commission, regional planning commission or joint planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

(i) The members of a multicounty planning commission, a regional planning commission, or a joint planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(j) Appointments for a multicounty planning commission, a regional planning commission, or a joint planning commission membership shall be made and confirmed by each governing body participating in the planning commission.

(k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

(l) The governing bodies may establish procedures for the removal of members of the planning commission for inactivity, neglect of duty, or malfeasance. The procedures must contain provisions requiring that the person to be removed be provided with a written statement of the reasons for removal and an opportunity to be heard on the matter.

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## §8A-2-6. Sharing planning commissions.

(a) The governing body of a municipality located within a county with a planning commission may, by ordinance, designate the county planning commission as the municipal planning commission. A county planning commission designated as a municipal planning commission has all the powers, authority and duties granted under this article to a municipal planning commission.

(b) The county commission of a county with a municipal planning commission may, by ordinance, designate the municipal planning commission as the county planning commission. A municipal planning commission designated as a county planning commission has all the powers, authority and duties granted under this article to a county planning commission.

(c) If a municipality is located in more than one county, this section only applies to the county where the major portion of the territory of the municipality is located.

(d) Municipalities and counties may contract annually with each other to pay expenses for shared planning commissions.

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**§8A-2-7. Planning commission meetings.**

(a) When there is business to conduct, a planning commission shall meet at least quarterly. In any event, a planning commission shall meet at least semiannually and may meet more frequently at the request of the president or by two or more members.

(b) Notice for a special meeting must be in writing, include the date, time and place of the special meeting, and be sent to all members at least two days before the special meeting.

(c) Written notice of a special meeting is not required if the date, time and place of the special meeting were set in a regular meeting.

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## §8A-2-8. Quorum.

A planning commission must have quorum to conduct a meeting. A majority of the members of a planning commission is a quorum. No action of a planning commission is official unless authorized by a majority of the members present at a regular or properly called special meeting.

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## §8A-2-9. Officers.

At its first regular meeting each year, a planning commission shall elect from its members a president and vice president. The vice president shall have the power and authority to act as president of the planning commission during the absence or disability of the president.

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## §8A-2-10. Governing body's duties.

(a) The county commission in the case of a county planning commission, and the governing body of the municipality in the case of a municipal planning commission, shall provide the planning commission with:

(1) Suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts; and

(2) Appropriate money to defray the reasonable expenses of the planning commission.

(b) In the ordinance creating a multicounty planning commission, a regional planning commission or a joint planning commission, the governing bodies shall designate office space and will each equally appropriate money sufficient to defray the reasonable expenses of the planning commission.

(c) Planning commissions are authorized to accept gifts, funds and donations which will be deposited with the appropriate governing body in a special nonreverting planning commission fund to be available for expenditures by the planning commission for the purpose designated by the donor.

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## §8A-2-11. Planning commission's powers and duties.

A planning commission has the following powers and duties:

(1) Exercise general supervision for the administration of the affairs of the commission;

(2) Prescribe rules and regulations pertaining to administration, investigations and hearings: Provided, That the rules and regulations are adopted by the governing body;

(3) Supervise the fiscal affairs and responsibilities of the commission;

(4) With consent from the governing body, hire employees necessary to carry out the duties and responsibilities of the planning commission: Provided, That the governing body sets the salaries;

(5) Keep an accurate and complete record of all planning commission proceedings;

(6) Record and file all bonds and contracts;

(7) Take responsibility for the custody and preservation of all papers and documents of the planning commission;

(8) Make recommendations to the appropriate governing body concerning planning;

(9) Make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction;

(10) Prepare, publish and distribute reports, ordinances and other material relating to the activities authorized under this article;

(11) Adopt a seal, and certify all official acts;

(12) Invoke any legal, equitable or special remedy for the enforcement of the provisions of this article or any ordinance, rule and regulation or any action taken thereunder;

(13) Prepare and submit an annual budget to the appropriate governing body;

(14) If necessary, establish advisory committees;

(15) Delegate limited powers to a committee composed of one or more members of the commission; and

(16) Contract for special or temporary services and professional counsel with the approval of the governing body. Upon request, a county prosecuting attorney, the county surveyor, the county engineer, or any other county employee may render assistance and service to a planning commission without compensation.

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