WEST VIRGINIA CODE: §8A-6-2

§8A-6-2. Conditions as part of final plat approval.

(a) A subdivision and land development ordinance may provide for the voluntary proffering by a landowner as a requirement of final plat approval for a development project.

(b) For purposes of this section, a "voluntary proffer" is a written offer by a landowner to a governing body whereby the landowner offers to satisfy certain reasonable conditions as a requirement of the final plat approval for a development project. A voluntary proffer made to a governing body shall be in lieu of payment of an impact fee as authorized by section four, article twenty, chapter seven of this code: Provided, That no proffer may be accepted by a governing body in lieu of an impact fee that would otherwise go to schools without the approval of the county board of education.

(c) For purposes of this section, a condition contained in a voluntary proffer is considered reasonable if:

(1) The development project results in the need for the conditions;

(2) The conditions have a reasonable relation to the development project; and

(3) All conditions are in conformity with the comprehensive plan adopted pursuant to this chapter.

(d) No proffer may be accepted by a governing body unless it has approved a list detailing any proposed capital improvements from all areas within the jurisdiction of the governing body to which the proffer is made, which list contains descriptions of any proposed capital improvements, cost estimates, projected time frames for constructing the improvements and proposed or anticipated funding sources: Provided, That the approval of the list does not limit the governing body from accepting proffers relating to items not contained on the list.

(e) For purposes of this section, "capital improvement" has the same definition as found in section three, article twenty, chapter seven of this code.

(f) If a voluntary proffer includes the dedication of real property or the payment of cash, the proffer shall provide for the alternate disposition of the property or cash payment in the event the property or cash payment is not to be used for the purpose for which it was proffered.

(g) Notwithstanding any provision of this code to the contrary, a municipality may transfer the portion of the proceeds of a voluntary proffer intended by the terms of the proffer to be used by the board of Education of a county in which the municipality is located upon the condition that the portion so transferred may only be used by the board for capital improvements.

WV Legislature