

Berkeley County Impact Fees Ordinance

Under the Local Powers Act ("LPA"), West Virginia Code § 7-20-1 et seq., the Berkeley County Commission is authorized to establish and impose impact fees on new development to offset costs of providing public facilities and services to new land development.

Part I – General Provisions

The Berkeley County Commission commissioned and published a study of the demand for public facilities and services generated from new development and the proportional cost of providing those public services and facilities.

New development creates an immediate increase in demand for public services and facilities, but increased tax revenues from that development are not generated until years later. As a result, the Berkeley County Commission, the Berkeley County Board of Education, and other local governing bodies are forced to rely on existing taxpayers and debt financing to provide the additional services and facilities that new development requires. Impact fees alleviate the undue reliance on current taxpayers and debt financing to fund additional capital improvements and services.

Berkeley County is a "growth county" under the LPA because:

1. Berkeley County population grew at a rate exceeding 1% annually during the last decennial census from 2010 and 2020;
2. The County Commission amended and updated its Comprehensive plan in 2025 and plans a major rewrite for 2026;
3. The County Commission has adopted a Subdivision and Land Development Ordinance;
4. The County Commission has a formal building permit and review system which provides a process to regulate the authorization of applications relating to construction or structural modification, and has adopted the state building code as part of said system; and
5. The County Commission has adopted a Capital Improvements Plan (attached as **Exhibit 1**).

The County Commission has determined that impact fees are an appropriate technique for funding public facilities and public services. The County Commission has determined that the impact fee amounts to be imposed bear a reasonable relationship and are roughly proportional to the impact on public services created by new development.

For all impact fees imposed, the County Commission will provide a credit or offset in cases where the proposed development has been subject to the required dedication of public sites and/or public improvements, or payment in lieu thereof, for which impact fees are also being imposed. This offset is not applicable to dedications regarding public utilities, or to the West Virginia Division of Highways.

The County Commission has determined that the impact fee amounts bear a reasonable relationship to the burden imposed upon the providers of public services providing additional public facilities and services to serve the new development at the appropriate level of service.

(A) Definitions

Applicant: any person who files an application with the County Commission for a building permit, or for property that is located within a municipality which issues building permits, or any person who files an application with the County Commission for the payment of impact fees.

Building Permit: the official document or certificate issued by the County Commission or any municipality under the authority of ordinance or law authorizing the commencement of construction of any building or other structure or part thereof.

Capital Improvements: the following public facilities or assets that are owned, supported or established by county government:

- (1) Water treatment and distribution facilities;
- (2) Wastewater treatment and disposal facilities;
- (3) Sanitary sewers;
- (4) Storm water, drainage, and flood control facilities;
- (5) Public primary and secondary school facilities;
- (6) Public road systems and rights-of-way;
- (7) Parks and recreational facilities; and
- (8) Police, emergency medical, rescue, and fire protection facilities.

“Capital improvements” are limited to those improvements that are treated as capitalized expenses according to generally accepted governmental accounting principles and that have an expected useful life of no less than three years. “Capital improvement” does not include costs associated with the operation, repair, maintenance, or full replacement of capital improvements. “Capital improvement” does include reasonable costs for planning, design, engineering, land acquisition, and other costs directly associated with the capital improvements described herein.

County Services:

- (1) Services provided by administration and administrative personnel, law enforcement and its support personnel;
- (2) street light service;
- (3) fire-fighting service;
- (4) ambulance service;
- (5) fire hydrant service;
- (6) roadway maintenance and other services provided by roadway maintenance personnel;
- (7) public utility systems and services provided by public utility systems personnel, water; and
- (8) all other direct and indirect county services authorized by state code.

Development or Land Development: the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structures that include interior square footage.

Dwelling Unit: one room, or rooms connected, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a monthly, or longer basis, and containing independent cooking, plumbing and sleeping facilities. Dwelling Unit does not include recreational vehicles propelled by an engine on the same chassis.

Growth County: any county within the state with an averaged population growth rate more than one percent per year as determined from the most recent decennial census counts and forecasted, within decennial census count years, by official records of government or generally approved standard statistical estimate procedures: Provided, that once "growth county" status is achieved it is permanent.

Impact Fee: any charge, fee, or assessment levied as a condition of the following: (1) issuance of a subdivision or site plan approval; (2) issuance of a building permit; and (3) approval of a certificate of occupancy, or other development or construction approval when any portion of the revenues collected is intended to fund any portion of the costs of capital improvements for any public facilities or county services not otherwise permitted by law. An impact fee does not include charges for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged structure, provided there is no increase in gross floor area or in the number of dwelling units that result therefrom.

Proportionate Share: the cost of capital improvements or services that are reasonably attributed to new development less any credits or offsets for construction or dedication of land or capital improvements.

Residential: – property intended to be permanent living quarters for one or more residents that contains one or more dwelling units.

(B) Affordable Housing Discount:

Qualifying residential development shall be granted a discount on all impact fees:

1. To qualify for an affordable housing discount an applicant must submit an affordable housing discount request form.
2. Separate median housing costs will be used for different types of housing, including single family detached, single family attached, duplex, townhouse, apartment, condominium and manufactured home.
3. New residential structures appraised by the Assessor below the median housing value of the annual Residential Housing Index published by the State Tax Commissioner pursuant to W.Va. Code § 11-1-2b, shall qualify for a proportional discount to all impact fees.
4. The affordable housing discount for mobile homes, as defined in W. Va. Code 17a-1-1, shall be based upon the value set out in the National Automobile Dealers Association book.

Part II – Public School Facilities Impact Fee.

A. In support of a Public School Facilities Impact fee, the Berkeley County Commission finds the following:

1. Under the Local Powers Act, the Berkeley County Commission is permitted to impose an impact fee for “public primary and secondary school facilities.” W. Va. Code §§ 7-20-3(a)(5).
2. Whereas some impact fees under the LPA permit broad use of revenues to provide a public service, Public School Facilities Impact Fees “may only be used for capital replacement or expansion.” W. Va. Code § 7-20-6(c). This fee may not be used for the purchase of equipment, personal property, services, or anything other than what is defined as a capital improvement under the Local Powers Act.

3. The Berkeley County Board of Education is a political subdivision of the State of West Virginia that provides free primary and secondary public education facilities and services to county residents.
4. The Berkeley County Commission retained TischlerBise, Inc. to analyze and assess growth and development projections for the County to determine the additional demand anticipated to be placed on the Berkeley County Board of Education for public school facilities.
5. The County Commission has adopted the methodology used by the consultant for the purpose of establishing an impact fee to pay for the cost of public school facilities demanded by new growth within the county which may include incremental expansion, and/or plan-based, and/or cost recovery methodologies.
6. To provide and maintain adequate primary and secondary school facilities, the County Commission should impose a fee on all new residential development throughout the County. The County Commission has relied upon the professionally estimated costs for additional public school facilities and the actual costs of recent facilities for a determination of the costs of these facilities. This fee will be used to pay for existing and future primary and secondary educational facilities owned by the Berkeley County Board of Education including the building, construction, purchase, site improvement costs, and land costs for public school facilities.
7. The County Commission has determined: (1) that the Public School Facilities and Impact Fee is necessary to offset the costs associated with meeting the increased demand for public education facilities; (2) that the Public School

Facilities Impact Fee bears a reasonable and proportional relationship to the burden imposed upon the Board of Education to provide educational facilities to new residential development, and provides a benefit to such new development reasonably related to the amount of the Public School Facilities Impact Fee; (3) that an essential nexus exists between new residential development and the need for additional public school facilities; and (4) that the amount of the Public School Facilities Impact Fee is roughly proportional to the share of the additional public school facilities provided to the new development, while maintaining not less than the existing level of service standard currently provided.

B. Public School Facilities Impact Fee Terms and Rates.

1. Based on the foregoing findings, the County Commission hereby imposes a Public School Facilities Impact Fee as detailed in this section.

2. The applicable development/service area (the Service Area) for imposition of a Public School Facilities Impact Fee is the entire County.

3. All new residential development within the Service Area shall be subject to the payment of the Public School Facilities Impact Fee, payable at the time of the issuance of a building permit by the County or a municipality, or if no building permit is required, prior to the beginning of construction. The following fees apply:

Residential Development	Impact Fee per Dwelling Unit
Single Family	\$1,095
Multi-family	\$727
Mobile Home	\$660

Part III – Administrative Facilities and Services Impact Fee.

A. In support of an Administrative Facilities and Services Impact fee, the Berkeley County Commission finds the following:

1. Under the Local Powers Act the Berkeley County Commission is permitted to impose an impact fee for “[s]ervices provided by administration and administrative personnel . . . [as well as] all other direct and indirect county services.” W. Va. Code § 7-20-3.
2. The County Commission provides various public services not limited to:
 - a. Facilities, security telecommunication services, and/or various professional services to all county elected officials and their offices.
 - b. Facilities, security, telecommunication services, and/or various professional services for outside agencies including:
 - i. The Circuit Court of Berkeley County,
 - ii. The Family Court of Berkeley County,
 - iii. The Magistrate Court of Berkeley County,
 - iv. The 27th Circuit Probation Offices,
 - v. The West Virginia Business Court,
 - vi. The Berkeley Health Department,
 - vii. The Berkeley County Ambulance Authority,

- viii. The Berkeley County Senior Center,
 - ix. The Berkeley County Fire Board,
 - x. The Berkeley County Landmarks Commission,
 - xi. The Berkeley County Museum Commission,
 - xii. WVU Extension Services,
 - xiii. The Eastern West Virginia Regional Airport Authority,
 - xiv. The Berkeley County Development Authority,
 - xv. The Berkeley County Solid Waste Authority,
 - xvi. The Martinsburg-Berkeley County Parks and Recreation Board,
 - xvii. Martinsburg Berkeley County Public Libraries,
 - xviii. The Berkeley County Public Service Sewer District,
 - xix. The Berkeley County Public Service Water District,
 - xx. The Berkeley County Public Service Stormwater District,
 - xxi. The Berkeley County Farmland Protection Board,
 - xxii. The Martinsburg-Berkeley County Convention & Visitors Bureau,
 - xxiii. The Eastern Panhandle Transit Authority, etc.
- c. The County Commission and elected officials provide many additional important public services not included within a separate impact fee including
- i. prosecution of crimes,
 - ii. animal control,
 - iii. services of process,
 - iv. assessment of property,
 - v. tax collection,

- vi. community corrections,
- vii. emergency communications,
- viii. public and vital records recording,
- ix. probate,
- x. administration of elections,
- xi. voter registration,
- xii. firearm permitting,
- xiii. land use development,
- xiv. building permitting,
- xv. court records recording, etc.

3. The Berkeley County Commission (the County Commission) retained TischlerBise, Inc. to analyze and assess growth and development projections for the County to determine the additional demand anticipated to be placed on the County for administrative-related support facilities.
4. The County Commission has adopted the methodology used by the consultant for the purpose of establishing an impact fee to pay for the cost of administrative facilities demanded by new growth within the county focused primarily on the need for expanded courthouse, courthouse annex, and community corrections facilities; which may include incremental expansion, and/or plan-based, and/or cost recovery methodologies.
5. To provide and maintain adequate county administrative services, the County Commission should impose a fee on all new residential development throughout the County. The County Commission has relied upon the professionally estimated costs for additional administrative facilities and the

actual costs of recent facilities for a determination of the costs of these facilities. This fee will be used to pay for existing and future administrative facilities and associated service costs, including the building construction or purchase, site improvement costs, and land costs for administrative facilities.

6. The County Commission has determined: (1) that the administrative facilities impact fee is necessary to offset the costs associated with meeting the demand of administrative services, pursuant to the development projections; (2) that the fee bears a reasonable and proportional relationship to the burden imposed upon the County to provide county government administrative services to new development; (3) that an essential nexus exists between the new development and the need for additional administrative facilities to be funded by the Administrative Facilities and Services Impact Fee; and (4) that the amount of the fee is roughly proportional to the pro rata share of the additional administrative facilities needed to provide adequate administrative services to new development, while maintaining not less than the existing level of service standard currently provided.

B. Administrative Facilities and Services Impact Fee terms and rates.

1. Based on the foregoing findings, the County Commission hereby imposes an Administrative Facilities and Services Impact Fee as detailed in this section.
2. The applicable development/service area ("Service Area") for imposition of an Administrative Services Impact Fee is the entire County, including all incorporated municipalities.

3. All new residential development within the Service Area shall be subject to the payment of the Administrative Services Impact Fee, payable at the time of issuance of a building permit by the County or a Municipality, or if no building permit is required, prior to the beginning of construction. The following fees apply:

Residential Development	Impact Fee per Dwelling Unit
Single Family	\$874
Multi-family	\$621
Mobile Home	\$686

Part IV – Fire and Rescue Facilities and Services Impact Fee.

A. In support of a Fire and Rescue Facilities and Services Impact fee, the Berkeley County Commission finds the following:

1. Under the Local Powers Act the Berkeley County Commission is permitted to impose an impact fee for “emergency medical, rescue, and fire protection facilities . . . [and for] fire-fighting service, ambulance service, [and] fire hydrant service.” W. Va. Code §§ 7-20-3(a)(8) and § 7-20-3(b).
2. The Berkeley County Ambulance Authority is a political subdivision established by the Berkeley County Commission to provide Ambulance services in all areas of Berkeley County outside of the City of Martinsburg.
3. The Berkeley County Fire Board is a political subdivision established by the Berkeley County Commission to provide for and expand fire protection services by providing financing and support to fire departments outside of the City of Martinsburg.

4. At the time of the adoption of this ordinance the following fire departments have service areas in Berkeley County:
 - a. Back Creek Valley Volunteer Fire Department
 - b. Baker Heights Volunteer Fire Department
 - c. Bedington Volunteer Fire Department
 - d. Berkeley County Fire Department
 - e. City of Martinsburg Fire Department
 - f. Hedgesville Volunteer Fire Department
 - g. South Berkeley Volunteer Fire Department
 - h. VA Medical Center Fire Department
 - i. WV 167th Air National Guard Fire Department
5. The Fire and Rescue Facilities and Services Impact Fee will not go toward assisting services provided by the City of Martinsburg, the VA Medical Center, or the WV 167th Air National Guard. Accordingly, the service area for the Fire and Rescue Facilities and Services Impact fee will be for all first run areas served by the Berkeley County Fire Department and volunteer fire departments serving Berkeley County.
6. The County Commission retained TischlerBise, Inc. to analyze and assess growth and development projections for the County to determine the additional demand anticipated to be placed on the County for fire and rescue support facilities and equipment.
7. The County Commission has adopted the methodology used by the consultant for the purpose of establishing an impact fee to pay for the cost of fire and rescue facilities and equipment demanded by new growth within the county

which may include incremental expansion, and/or plan-based, and/or cost recovery methodologies.

8. To provide and maintain adequate fire and rescue services, the County Commission should impose a fee on all new residential development and all new non-residential development in the service area. The County Commission has relied upon the professionally estimated costs for additional fire and rescue facilities and equipment and the actual costs of recent facilities and equipment for a determination of expected costs. This fee will be used to pay for existing and future fire and rescue facilities and equipment and associated service costs including the building construction or purchase, site improvement costs, and land costs for fire and rescue facilities.
9. The County Commission has determined: (1) that the fire and rescue facilities and services impact fee is necessary to offset the costs associated with meeting the demand for fire and rescue services, pursuant to the development projections; (2) that the Fire and Rescue Facilities and Services impact fee bears a reasonable and proportional relationship to the burden imposed providing fire and rescue services to new development, and provides a benefit to such new development reasonably related to the Fire and Rescue Facilities and Services Impact Fee; (3) that an essential nexus exists between the projected new development and the need for additional fire and rescue facilities and equipment to be funded by the Fire and Rescue Facilities and Services Impact Fee; and (4) that the amount of the Fee is roughly proportional to the share of the additional fire and rescue services provided to the new

development, while maintaining not less than the existing level of service standard currently provided.

B. Fire and Rescue Facilities and Services Impact Fee Terms and Rates.

1. Based on the foregoing findings, the County Commission hereby imposes a Fire and Rescue Facilities and Services Impact Fee as detailed in this section.

2. The applicable development/service area (“Service Area”) for imposition of a Fire and Rescue Facilities and Services Impact Fee is the entire County, except for the City of Martinsburg which is served by its own fire department.

3. All new residential development within the Service Area shall be subject to the payment of the Fire and Rescue Facilities and Services Impact Fee, payable at the time of the issuance of a building permit by the County or a municipality, or if no building permit is required, prior to the beginning of construction. The following fees apply:

Residential Development	Impact Fee per Dwelling Unit
Single Family	\$1,300
Multi-family	\$925
Mobile Home	\$1,023

Part V – Law Enforcement Facilities and Services Impact Fee.

A. In support of a Law Enforcement Facilities and Services Impact Fee, the Berkeley County Commission finds the following:

1. Under the Local Powers Act the Berkeley County Commission is permitted to impose an impact fee for “Police . . . facilities . . . [and for] services provided by. . . law enforcement and its support personnel.” W. Va. Code §§ 7-20-3(a)(8) and § 7-20-3(b)(1).

2. The Berkeley County Sheriff is the primary enforcer of criminal laws in Berkeley County outside of the City of Martinsburg.
3. The City of Martinsburg has its own professional police department.
4. The Law Enforcement Facilities and Services Impact Fee will not go toward facilities, equipment, and services provided by the Sheriff to residents or areas inside the City of Martinsburg. Accordingly, the service area for the Law Enforcement Facilities and Services Impact fee will be for all areas outside of the City of Martinsburg.
5. The Berkeley County Commission retained TischlerBise, Inc. to analyze and assess growth and development projections for the County to determine the additional demand anticipated to be placed on the County for law enforcement facilities and equipment.
6. The County Commission has adopted the methodology used by the consultant for the purpose of establishing an impact fee to pay for the cost of law enforcement facilities and equipment demanded by new growth within the county which may include incremental expansion, and/or plan-based, and/or cost recovery methodologies.
7. To provide and maintain adequate law enforcement services, the County Commission should impose a fee on all new residential development and all new non-residential development in the Service Area. The County Commission has relied upon the professionally estimated costs for additional law enforcement facilities and equipment and the actual costs of recent facilities and equipment for a determination of the costs of these facilities. This fee will be used to pay for existing and future law enforcement facilities and equipment

and associated service costs, including the construction or purchase, site improvement costs, and land costs for law enforcement facilities.

8. The County Commission has determined: (1) that the law enforcement facilities and services impact fee is necessary to offset the costs associated with meeting the demand for law enforcement services, pursuant to the development projections; (2) that the Law Enforcement Facilities and Services impact fee bears a reasonable and proportional relationship to the burden imposed upon the County to provide law enforcement services to new development, and provides a benefit to such new development reasonably related to the Law Enforcement Facilities and Service Impact Fee; (3) that an essential nexus exists between the projected new development and the need for additional law enforcement facilities and equipment to be funded by Law Enforcement Facilities and Services Impact Fee; and (4) that the amount of the Law Enforcement Facilities and Services Impact Fee is roughly proportional to the share of the additional law enforcement services provided to the new development, while maintaining not less than the existing level of service standard currently provided.

B. Law Enforcement Facilities and Services Impact Fee Terms and Rates.

1. Based on the foregoing findings, the County Commission hereby imposes a Law Enforcement Facilities and Services Impact Fee as detailed in this section.

2. The applicable development/service area (the Service Area) for imposition of the Law Enforcement Facilities and Services Impact Fee is the entire County, except for the City of Martinsburg that is served by its own police department.

3. All new residential development within the Service Area shall be subject to the payment of the Law Enforcement Facilities and Services Impact Fee, payable at the time of issuance of a building permit by the County or a municipality, or if no building permit is required, prior to the beginning of construction. The following fees apply:

Residential Development	Impact Fee per Dwelling Unit
Single Family	\$372
Multi-family	\$264
Mobile Home	\$292

Part VI –Parks and Recreational Facilities Impact Fee.

A. In support of a Parks and Recreational Facilities Impact fee, the Berkeley County Commission finds the following:

1. Under the Local Powers Act the Berkeley County Commission is permitted to impose an impact fee for “Parks and recreational facilities.” W. Va. Code §§ 7-20-3(a)(7).
2. The Martinsburg-Berkeley County Parks and Recreation Board is a political subdivision of the State of West Virginia established by the Berkeley County Commission, the City of Martinsburg, and the Berkeley County Board of Education to provide public parks and recreations facilities and programs throughout Berkeley County.
3. The Berkeley County Commission retained TischlerBise, Inc. to analyze and assess growth and development projections for the County to determine the additional demand anticipated to be placed on parks and recreations facilities.

4. The County Commission has adopted the methodology used by the consultant for the purpose of establishing an impact fee to pay for the cost of parks and recreation facilities demanded by new growth within the county, which may include incremental expansion, and/or plan-based, and/or cost recovery methodologies.
5. To provide and maintain adequate parks and recreation facilities, the County Commission should impose a fee on all new residential development throughout the County. The County Commission has relied upon the professionally estimated costs for additional parks and recreation facilities and the actual costs of recent facilities for a determination of the costs of these facilities. This fee will be used to pay for existing and future parks and recreation facilities including the building construction or purchase, site improvement costs, and land costs for parks and recreation facilities.
6. The County Commission has determined: (1) that the Parks and Recreational Facilities Impact Fee is necessary to offset the costs associated with meeting the demand for such facilities, pursuant to the development projections; (2) that the Parks and Recreational Facilities Impact Fee bears a reasonable and proportional relationship to the burden imposed upon the Martinsburg-Berkeley County Parks and Recreation Board to provide parks and recreational facilities to new residential development; (3) that an essential nexus exists between the projected new development and the need for additional parks and recreational facilities to be funded by Parks and Recreational Facilities Impact Fee; and (4) that the amount of the Parks and Recreational Facilities Impact Fee is roughly proportional to the share of the additional parks and recreational

facilities provided to the new development, while maintaining not less than the existing level of service standard currently provided.

B. Parks and Recreational Facilities Impact Fee Terms and Rates.

1. Based on the foregoing findings, the County Commission hereby imposes an Parks and Recreational Facilities Impact Fee as detailed in this section.

2. The applicable development/service area (the Service Area) for imposition of the Parks and Recreational Facilities Impact Fee is the entire County.

3. All new residential development within the Service Area shall be subject to the payment of the Parks and Recreational Facilities Impact Fee, payable at the time of issuance of a building permit by the County or a municipality, or if no building permit is required, prior to the beginning of construction. The following fees apply:

Residential Development	Impact Fee per Dwelling Unit
Single Family	\$1,721
Multi-family	\$1,222
Mobile Home	\$1,352

Part 5 – Adoption and Implementation

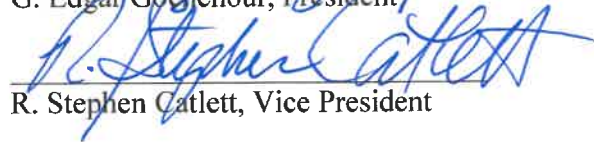
- (1) This Ordinance shall be effective on the date that it is adopted.
- (2) Implementation and collection of any impact fees will be delayed 60 days from the effective date.
- (3) In the event that, within forty-five days after the effective date of this Ordinance, fifteen percent of the qualified voters of the County file with the County Commission a petition, the Ordinance may not be implemented

until it is ratified by a majority of the legal votes by the qualified voters of the County at any primary or general election as the County Commission directs.

The undersigned hereby certifies that this Ordinance was approved and adopted by the Berkeley County Commission on 23rd of October 2025.

Entered this the 23 day of October, 2025.


G. Edgar Gochenour, President

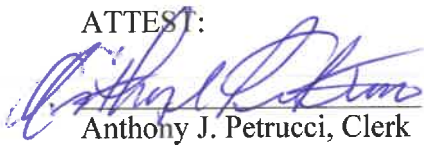

R. Stephen Catlett, Vice President

James P. Whitacre, Commissioner


H.D. Boyd, Commissioner


John Hardy, Commissioner

ATTEST:


Anthony J. Petrucci, Clerk

