

*As presented at the July 21, 2021 joint meeting of  
the Elkins council and planning commission*

# City of Elkins Study and Report on Zoning



**July 2021–DRAFT**

## TABLE OF CONTENTS

### Section 1: Introduction

- ◆ Legal Requirements for Study and Report on Zoning
- ◆ Enactment of a Zoning Ordinance

### Section 2: Study of the Land

- ◆ Evaluating the Existing Conditions
- ◆ Current and Proposed Districting
- ◆ Character of the Buildings and Lots
- ◆ Desirable Use of the Land

### Section 3: Report on Zoning

- ◆ Review of the Study of the Land and the 2015 Comprehensive Plan
- ◆ Summary of Proposed Zoning Ordinance

## Section 1: Introduction

### Legal Requirements for Study and Report on Zoning

W. Va. Code § 8A-7-4 requires that the Elkins Planning Commission and City Council:

- (a) After adoption of a comprehensive plan and before enacting a zoning ordinance . . . study the land within [their] jurisdiction. The study may include:*
  - (1) Evaluating the existing conditions, the character of the buildings, the most desirable use for the land and the conservation of property values in relation to the adopted comprehensive plan; and*
  - (2) Holding public hearings and meetings with notice to receive public input.*
- (b) The planning commission must use the information from the study and the comprehensive plan and prepare a report on zoning. The report shall include the proposed zoning ordinance, with explanatory maps showing the recommended boundaries of each district, and the rules, regulations and restrictions for each district.*
- (c) No zoning ordinance may be enacted without a study and report.*

The City of Elkins City Council and the Planning Commission have studied the land within their jurisdiction and prepared a report that is based on both a study of the land and the City's comprehensive plan, recently updated in 2015. It is the intent of City Council, based on this *Study and Report on Zoning*, pursuant to W. Va. Code § 8A-7-4, to repeal the current zoning ordinance and adopt a new zoning ordinance.

### Enactment of the Zoning Ordinance

The West Virginia Legislature has provided the City of Elkins the authority to enact a zoning ordinance through W. Va. Code § 8A-7-1, which states "The governing body of the municipality . . . may regulate land uses within its jurisdiction by: (1) Adopting a comprehensive plan; (2) Working with the planning commission and the public to develop a zoning ordinance; and (3) Enacting a zoning ordinance." W. Va. Code § 8A-7-2 provides a list of requirements and optional considerations for the City of Elkins when enacting a zoning ordinance.

After completing this *Study and Report on Zoning*, the City Council must hold at least two public hearings and give public notice before enacting the proposed zoning ordinance. At least one public hearing must be held during the day, and at least one public hearing must be held during the evening. W. Va. Code § 8A-7-5. After proper notice and public hearings are held, the City Council may enact the zoning ordinance or hold an election to have the qualified voters residing in the affected area approve the zoning ordinance. After the enactment of the zoning ordinance, the City Council must file the enacted zoning ordinance in the Office of the Randolph County Clerk. W. Va. Code § 8A-7-6.

# Study and Report on Zoning

## Section 2: Study of the Land

### Evaluating the Existing Conditions

The existing conditions in Elkins have been studied, analyzed, and discussed extensively by the City Council, the Planning Commission, and interested citizens during the drafting processes for the comprehensive plan and proposed zoning ordinance. The Land Use and Sustainable Development Law Clinic at West Virginia University College of Law assisted the City of Elkins with its comprehensive plan, adopted in 2015. As part of the comprehensive plan process, the City, with the help of the Land Use Clinic, identified current conditions and the needs of the community, and established an action plan for achieving the community's goals. Several land use issues were brought to light during the comprehensive planning process. Issues included increasing recreational opportunities, addressing historical land use regulations, preserving historical resources, and beautification of the downtown.

The City of Elkins included considerable community input in the development of the 2015 Comprehensive Plan. The City held two open house public meetings to solicit input. At the first meeting, attendees were asked to identify the strengths, weaknesses, opportunities, and threats within the city and, more specifically, to identify any land use issues within the city. At the second meeting, recommendations were presented to the public in order to gain input on prioritizing the recommendations. In addition, two online surveys were conducted, both of which were also made physically available at City Hall. The City also conducted stakeholder interviews and held a youth focus group session at Elkins High School. Resulting from all of these public input efforts, notable public input related to land use and, in particular, zoning includes the following:

- Strengths & Opportunities: Historic district, historic preservation, rail trail, tourist opportunities, manufacturing, greenspace, theater, heritage center, community gardens, downtown business growth, parks
- Challenges: Blight, modernizing historic areas, refuse/recycle disposal, parks, signage requirements, excessive signage in areas, parking downtown, lack of middle-income housing, landscaping and buffering of parking lots, not enough murals, façade improvements needed
- Land Use: Focus development in Tygart Valley Mall area or at the depot/rail yard area, annex to increase population to 10,000 for grant purposes and otherwise needed in certain areas, lack of developable land within city, trail network needed, take advantage of riverfront, protecting historic buildings, avoid gambling uses, additional historically protected areas near riverfront, additional parking and greenspace, restoration of downtown, design guidelines as to color schemes, landscaping requirements for parking, limit signs near Randolph Ave., public green spaces and parks needed, add historic districts, needed signage, additional parking in certain areas
- Focus tax spending on: dilapidated buildings, recreation, parks, downtown
- Top priorities related to land use/zoning: dog park, refuse facilities, improved landscaping in sensitive areas, additional historic preservation

Based on the surveys, land use and zoning should seek to continue encouraging a small town atmosphere, preserving natural qualities, and maintaining recreational opportunities. Areas for improvement include additional recreational opportunities and better planning and zoning. Land use planning and zoning should address the need for housing, growth in general, annexation of various areas, and filling storefronts and improving downtown. Survey results overwhelmingly expressed a desire to turn the old armory into a community or recreation center.

Improved community aesthetic through landscaping was repeatedly identified as a beautification opportunity.

## **Current and Proposed Districting**

The City developed an existing land use map for inclusion in the 2015 Comprehensive Plan based on a study of land use patterns and development over the years. Later in the comprehensive plan process, the Town also developed a future land use map to reflect the desires of the community for how development should occur in the future. The plan includes mapping of transportation concerns, potential gateways, existing land use, development constraints, development areas, and future land use. All of these land use maps, reflecting a careful and recent study of the land, were frequently referred to and studied by City Council and the Planning Commission in setting new district boundaries for the proposed zoning ordinance.

Currently the City is divided into four zoning districts: Restricted Residential, Unrestricted Residential, Commercial, and Industrial.

Moving forward, the proposed zoning ordinance divides the community into more nuanced districting with nine proposed zoning districts: Agriculture (Ag), Single-family Residential (R-1), City Residential (R-2), Recreational (R), Central Business District (CBD), Commercial (B-1), Educational €, Industrial (I-1), and Telecommunications Overlay (TO).

## **Character of the Buildings and Lots**

As part of the comprehensive plan process, both the character and condition of buildings were identified and analyzed. The City of Elkins is mostly built-out and therefore has little room for new development. Any new development would most likely occur in the few remaining vacant lots or on lots where buildings are demolished. Around 12% of the housing units within Elkins are vacant, and the housing stock is considerably older, with over 30% built in 1939 or earlier. Throughout the City of Elkins are numerous historical resources, several of which are designated on the National Register of Historic Places as an individual historic property or as a neighborhood. The land within the City of Elkins includes no subsidence areas, a few areas in the floodplain along waterways, as well as a few areas with steep slopes. Elkins is urban in nature and does include rural lands used for agricultural or conservation purposes.

The City is primarily a residential community, with most of the residential property, approximately 68%, being single-family. A few pockets of multi-family uses exist as well. As compared to the county, Elkins has a proportionately larger number of renter-occupied housing—approximately 59 percent are owner occupied and 41 percent are renter occupied. Meanwhile, commercial uses are concentrated in the downtown business district, on Randolph Avenue near the railyard, and on US 250.

Being the County seat, Elkins is home to many public uses, particularly in the downtown business district, where the courthouse, county office buildings, and other public uses are located. Industrial uses are mostly located in the Elkins Industrial Park. Meanwhile, Elkins contains a number of educational and institutional uses associated with Davis & Elkins College.

Recreational uses are located throughout the city. These include a number of parks, such as

# Study and Report on Zoning

Bluegrass Park, Davis Street Park, Elkins City Park, Glendale Park, and Riverbend Park. Within these parks are ball fields, pavilions, playgrounds, and many other recreational amenities.

The City Council and Planning Commission studied the information gathered during the comprehensive plan process and incorporated the information into various zoning recommendations. The information proved helpful in instances such as setting district boundaries and establishing lot, yard, and height requirements.

## **Desirable Use for the Land**

The 2015 Comprehensive Plan identifies land use needs related to increasing recreational opportunities, addressing historical land use regulations, preserving historical resources, and the beautification of downtown.

Much of the new business development has occurred just outside of city limits. Annexation of these growth areas would allow for orderly planning of future growth in the area around the city. Preferred development areas include Randolph Avenue, the railyard, Wees Historic District, Highlands Meadows neighborhood, and North Randolph Avenue. These areas are where development, infill development, or redevelopment are encouraged in order to promote a well-designed and coordinated community. Housing for an aging population and rental housing for families is needed in the City of Elkins; and in order to meet these needs, infill development or annexation may be necessary.

In order to better protect historical resources, the comprehensive plan identifies a potential need to take a tailored approach to zoning with overlay districts. Regulations should ensure that signage in these nuanced historical areas mirrors the look and character of already present signs, and minimizes oversized signs that impact the character of the area.

In drafting the proposed zoning ordinance, the City found the existing and future land use maps especially helpful in determining the community's desired use of land. The future land use map shows where development is desired and where land uses might be encouraged moving forward. In the proposed zoning ordinance, the City compared the existing and future land use maps to develop a comprehensive list of uses that may occur in each of the proposed districts. Comparing the maps also enabled the City to district uses in a way that minimizes nonconforming uses and reflects the community's desired pattern of development. Lastly, mapping aided the City in generally districting uses and establishing lot, yard, and setback requirements.

During the comprehensive planning process, the City recognized the need to completely overhaul the City's zoning ordinance because it has not been updated in several decades. Specifically, the City's current zoning ordinance lacks landscaping and buffer requirements. The current zoning ordinance would benefit from improved regulations regarding signage, setbacks, and fencing requirements. A potential need exists for additional commercial districts and overlays to protect historical areas than is present in the current zoning ordinance. Specifically, design guidelines may be beneficial in better preserving these historical resources.

The comprehensive plan also identifies the following needs in an updated zoning ordinance: updated definitions, a comprehensive list of uses, uses delineated specifically per each

district, residential districts with more land zoned as single-family in order to protect the character of certain neighborhoods, inclusion of affordable housing and housing for persons with disabilities, two distinct commercial districts, provisions for conversion of single-family units to multi-family units, and planning for traffic management.

## **Section 3: Report on Zoning**

### **Review of the Study of the Land and 2015 Comprehensive Plan**

The Planning Commission has prepared this *Study and Report on Zoning* based on its study of the land, as explained in “Section 2: Study of the Land,” and the 2015 Comprehensive Plan. Many of the issues identified in the 2015 Comprehensive Plan relate to zoning and therefore have been considered or addressed in the proposed zoning ordinance.

2015 Comprehensive Plan’s Goal 1: “Further strengthen public safety services to meet the needs of existing and future residents and businesses.”

*Objective 3, “Provide residents and students with information regarding the effects of drug use,” Action Step 2, “Explore the possibility of the development of a drug abuse treatment center in Elkins.”*

The proposed zoning ordinance allows clinics, which are defined as an “establishment providing medical, chiropractic, psychiatric, or surgical services exclusively on an outpatient basis, including emergency treatment, and diagnostic services,” and would include drug treatment services, in three districts as permitted by right: Central Business, Commercial, and Educational. Insofar as Elkins would like to promote the availability of drug abuse treatment services, the community has ensured through its proposed zoning ordinance that such services may locate within the community where appropriate.

2015 Comprehensive Plan’s Goal 2: “Improve traffic and pedestrian circulation to provide a safer and more accessible transportation network for residents.”

*Objective 1, “Improve the walkability of the City.”*

The proposed zoning ordinance establishes clear sight triangle requirements to improve the safety of walkable areas within the city, particularly at the intersection of two roads. Clear sight triangles are areas within the corners of properties at an intersection within which landscaping and fencing must be under a certain height to ensure a traveler’s line of sight is sufficient for safe crossing.

*Objective 2, “Investigate parking options in the downtown business district.”*

The proposed zoning ordinance generally addresses parking needs with detailed parking requirements for all uses that take into account the needs of workers, visitors, and customers, as well as loading and unloading needs. The proposed ordinance also addresses landscaping requirements for parking areas.

2015 Comprehensive Plan’s Goal 3: “Provide opportunities for increased economic development.”

# Study and Report on Zoning

*Objective 1, “Identify areas for redevelopment and new development to increase the tax base,” Action Step 1, “Annex surrounding lands to increase tax base and potential development areas.”*

The proposed zoning ordinance provides for annexation through a parallel procedural plan for annexing land and simultaneously incorporating the annexed land into the zoning ordinance to allow a seamless transition.

*Objective 2, “Capitalize on visitors to the American Mountain Theater and Durbin and Greenbrier Valley Railroad,” Action Step 2, “Develop a signage plan identifying where shops, dining, and retail are located.”*

A comprehensive sign ordinance is included in the proposed ordinance draft. Although the draft does not make distinctions between signs based on subject matter, like identification or wayfinding, the draft carefully considers which types, size, number, and other objective qualities of signs are appropriate in each district within the City of Elkins. This ensures that signage achieves the look and feel desired within the city and addresses public safety concerns.

2015 Comprehensive Plan’s Goal 4: “Enhance and protect the character for the City through land use planning.”

*Objective 1, “Protect the natural and historic character of the City through zoning,” Action Step 1, “Revise the zoning ordinance to be consistent with the Comprehensive Plan and to help encourage new growth and preserve the historic character of the City.”*

Many aspects of the proposed zoning ordinance encourage new growth and preserve important qualities of the city. The proposed zoning ordinance delineates and defines land uses so that they may be carefully considered as to their placement within the community. A variety of housing is considered for residential areas, emphasizing single-family where appropriate, and permitting multi-family, including affordable housing and housing for persons with disabilities, where needed. Two commercial districts allow for smaller businesses in the downtown area and reserve areas along major roadways for larger businesses. In addition, signage and landscaping requirements preserve the desired aesthetic qualities in the community and address sign-related safety concerns. Accessory dwellings, or conversion dwellings, have been carefully considered as to their placement within the city. Although a historic overlay and design guidelines were contemplated and discussed with the public during the course of drafting the proposed zoning ordinance, provisions will be reconsidered at a later date and are not part of this ordinance update.

Lastly, a telecommunications overlay was added to the zoning ordinance to support the development of telecommunication facilities while protecting scenic viewsheds and residential development within city limits. The planning commission took into account topography and existing facilities in determining the best locations for new telecommunication facilities. Regulations in the zoning ordinance address collocation, concealment, and landscaping.

*Objective 2, “Encourage the beautification of the City to entice visitors,” Action Step 2, “Provide art throughout the downtown.”*

Art has immense potential to beautify and inspire a community. Murals, in particular, are a cost-effective means of adding art to common spaces within a community. The proposed zoning ordinance provides clear guidance on properly considering murals, as a type of signage, with design guidelines to ensure that murals are appropriate where placed within the community.



## Summary of Proposed Zoning Ordinance

The proposed zoning ordinance has been written to be consistent with the 2015 Comprehensive Plan and this *Study and Report on Zoning*. The proposed zoning ordinance is also consistent with current statutory enabling authority, state and federal case law, federal and state regulations, and commonly accepted best practices for land use and zoning.

The proposed zoning ordinance is broken down into several different articles:

- ◆ Article I: General Provisions
- ◆ Article II: Administration; Enforcement; Penalty; Amendments
- ◆ Article III: Nonconforming Uses, Structures, and Lot
- ◆ Article IV: Definitions
- ◆ Article V: Zoning Districts and Regulations
- ◆ Article VI Supplemental Regulations
- ◆ Article VII: General Regulations
- ◆ Article VIII: Sign Regulations
- ◆ Article IX: Wireless Telecommunication Facilities
- ◆ Article X: Small Cell Wireless Telecommunication Facilities

A notable aspect of the proposed zoning ordinance is the expansive list of definitions. The proposed zoning ordinance defines all uses permitted by right, conditional uses, and key zoning terminology. The thorough districting and defining of uses serve to adequately accommodate a variety of businesses within the City of Elkins. General and supplemental regulations in the proposed zoning ordinance are comprehensive and address various concerns identified while reviewing the comprehensive plan and related public input.

## Conclusion

The *Study and Report on Zoning* was completed by City Council and the Planning Commission in compliance with W. Va. Code § 8A-7-4. The intended result of this *Study and Report on Zoning* is that the City Council will consider the study and report and the proposed zoning ordinance, including any maps, and hold the required public hearings on the proposed zoning ordinance pursuant to W. Va. Code § 8A-7-5.

The City Council must complete the study of the land and report on zoning and hold the two public hearings required under W. Va. Code § 8A-7-5 before a new zoning ordinance may be adopted. The new zoning ordinance must be filed with the Office of the Clerk of Randolph County.