City of Elkins Zoning Ordinance

November 2021

Why does the current zoning ordinance need updated?

- Reflect and address the goals of the 2015 Comprehensive Plan (see Study and Report on Zoning)
- Encourage better aesthetic design and maintain residential integrity
- Illustrate the city's commitment to planning that would attract both personal and commercial investment in the community
- Protect residents from uncertainty by having well-defined zoning districts
- Prepare the city for the future by responding to challenges of contemporary uses, from agritourism to medical marijuana
- Provide quantitative and qualitive details which allow for better code enforcement but also allow for flexibility with conditional parameters

Zoning Ordinance Update Process

- Per WV Code, Planning Commission has led the zoning ordinance update
- Process started in 2015
- Initial draft was completed in January 2019.
- 40 Planning Commission Meetings that were open to the public. **Only 9 meetings were held on Zoom to review final draft.**
- 2 Open Houses- January 2018 and September 2018
- Online Survey- September 2016

City of Elkins Comprehensive Plan (2015)

- Spearheaded by the Planning Commission
- Process to determine community's vision and what it aspires to be in the future
- Serves as a blueprint for future development
- Policy document

Planning Commission

- Group of citizens appointed by City Council to promote orderly development in the community and advise City Council on planning matters
- Responsible for preparing a comprehensive plan for approval by the governing body
- Propose land use ordinances (subdivision and land development and zoning ordinances)
- Review and propose amendments to the governing body, which makes the final decisions on the proposed amendments (re-zoning requests)

City of Elkins Planning Commission

Nanci-Bross Fregonara

- Planning Commission member since 2012
- Currently Fourth Ward Councilor and previously served 8 years on Council (6 of those years as either chair or member Rules and Ordinances committee)
- Member, Elkins Tree Board, Kump Education Center Board of Directors, Interact Children's Museum Board of Directors, Elkins Main Street Design Committee
- Founding member Wees Historic Neighborhood Planning Committee

Kate Somers

- Planning Commission member since 2015
- Works on issues related to community development and housing
- Director of the Home Ownership Center
- Master's degree in Community and Regional Planning from University of New Mexico

City of Elkins Planning Commission

Bob Woolwine

- Planning Commission member since 2019
- Member of City Council from 2005-2019. Chair of Rules and Ordinance and Finance Committees. Served on the Municipal Properties Committee
- Member of the Board of Directors of the Elkins-Randolph County Regional Airport Authority
- Director General of the Mountain State Forest Festival in 2009, was President of the Board of Directors for 2 years and am currently a member of the Board of Directors.

Duke Talbott

- Planning Commission member since 2020
- Former mayor from 2009-2013
- Former college professor at Glenville State

City of Elkins Planning Commission

Mayor Jerry Marco

- Planning Commission member since 2021
- Recently elected Mayor of Elkins
- Recently retired from the FBI after 28+ years

Burley Woods

- Planning Commission member since 2021
- US Navy Veteran
- Graduate of University of Phoenix - Electronic Technologies
- Prior positions held - Program Manager Technical Control Facility White House/Camp David, Secretary Of Homeland Security's Communications Officer, and Program Manager National Geospatial Intelligence Agency.

City of Elkins Planning Commission

Phillips Kolsun

- Planning Commission member since 2021
- Sr. Information Assurance Engineer, Leidos Inc.
- Bachelors Public Relations, West Virginia Wesleyan College
- MBA, MS Cybersecurity Policy, University of Maryland University College
- Elkins Building Commission Chairman
- 1st Vice-president of the Lions Club of Elkins
- Elkins Rotary Club Member
- Member of the First United Methodist Church

Study and Report on Zoning

Why is there a Study and Report on Zoning?

- WV Code 8A-7-4 requires the Planning Commission and City Council:
  - Study the land within their city after the adoption of a comprehensive plan and before enacting a zoning ordinance
  - Use information from the study and comprehensive plan to prepare a report on zoning. The report shall include the proposed zoning ordinance, explanatory maps, and rules, regulations, and restrictions for each district

Why does the current zoning ordinance need updated?

- The existing conditions in Elkins have been studied, analyzed and discussed during the drafting processes for the comprehensive plan and proposed zoning ordinance
- Comprehensive plan process, which included several public meetings, revealed concerns related to zoning, maintaining historic charm, landscaping/buffers, signage, abandoned buildings, and commercial development
- Current zoning ordinance was enacted in 1959 with an update in 1979. The comprehensive plan concluded that the zoning ordinance would require revision to be consistent with the 2015 comprehensive plan

Summary of changes:

- Repeal current zoning ordinance and replace with new zoning ordinance is necessary due to amount of changes
- Organized and simplified in a logical and user-friendly format
- Expansion of definitions
- New sign, landscaping, and parking regulations
- Comprehensive supplemental regulations
- Telecommunications regulations

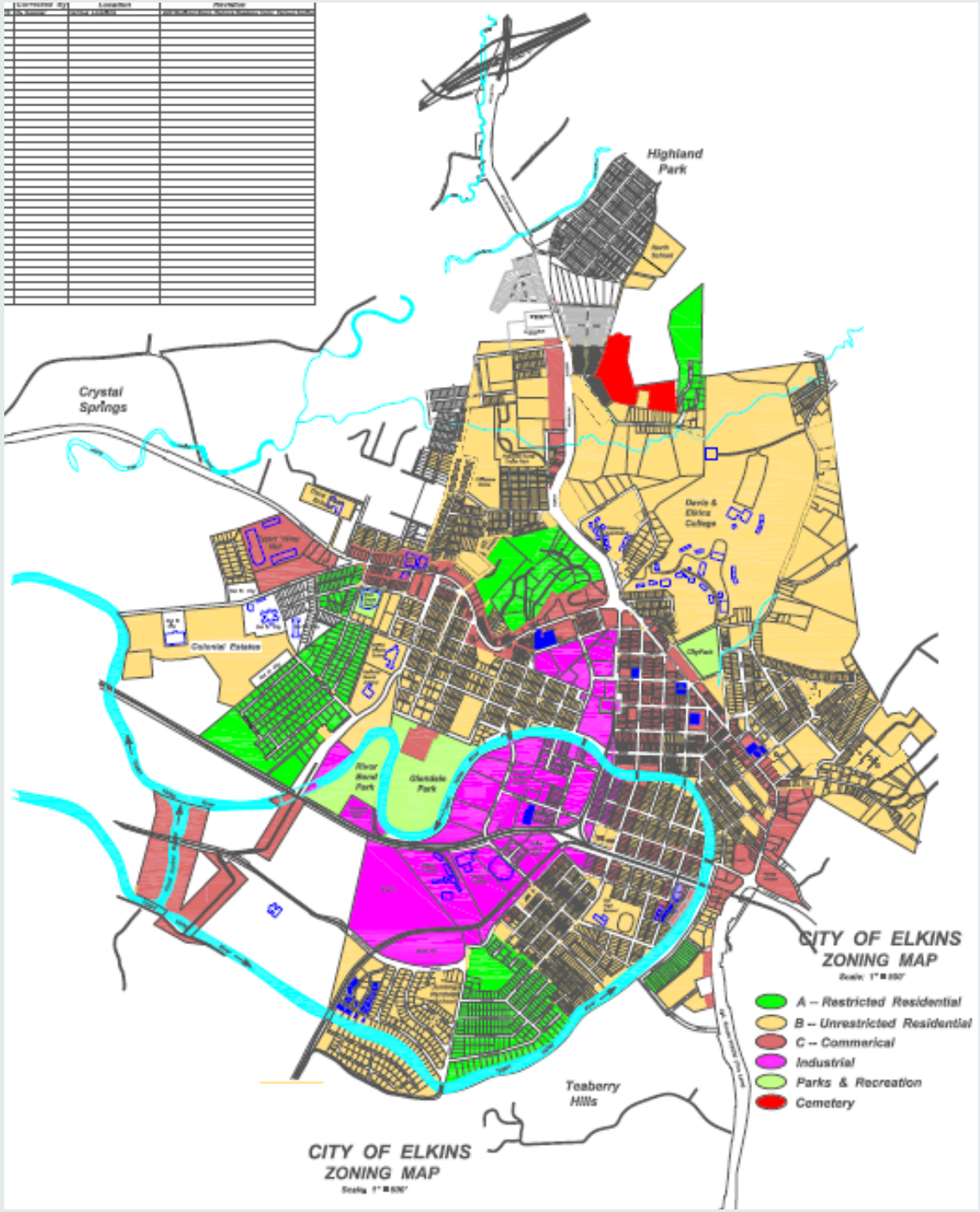
Specific changes include:

- Regulation of the types, size, number, and other objective qualities of signs that are appropriate in each zoning district
- Urban agriculture regulations
- Zoning for conversion of old schools and churches to inspire more adaptable re-use investment
- Detailed parking requirements per use
  - Uses operating in the Central Business District are exempt from parking requirements to allow for the needs of small businesses and encourage the creation of more retail spaces in that district

Current and Draft Zoning Map

Current Zoning Map concerns

- Residential districts do not protect the character of existing single-family neighborhoods
- Only one commercial district that does not protect small-scale commercial development
- Need for educational and agriculture districts

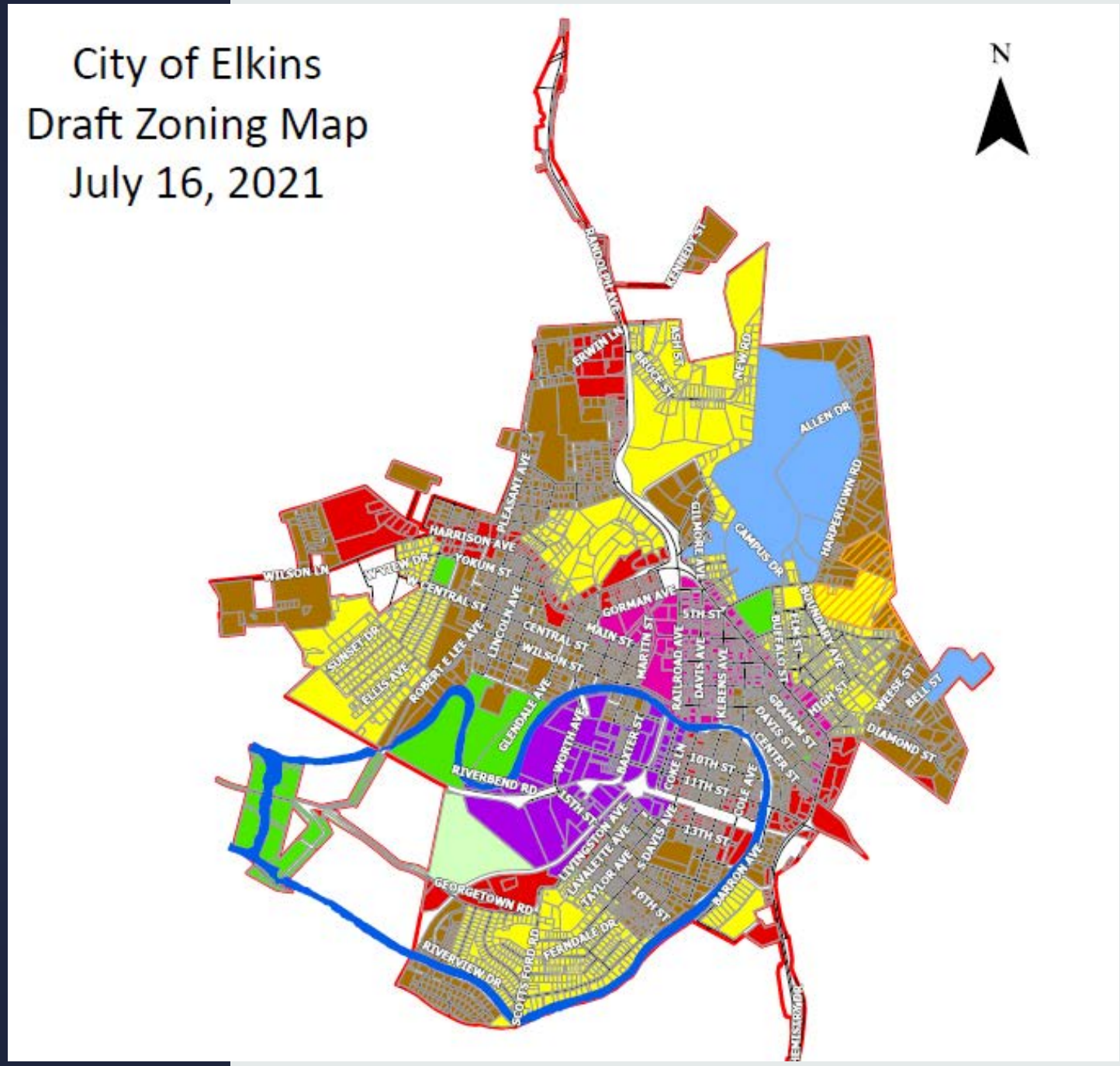


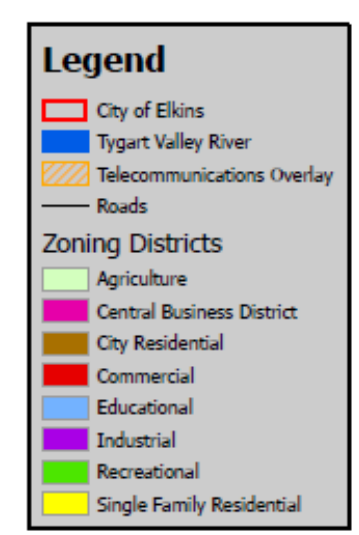
Current Zoning Map

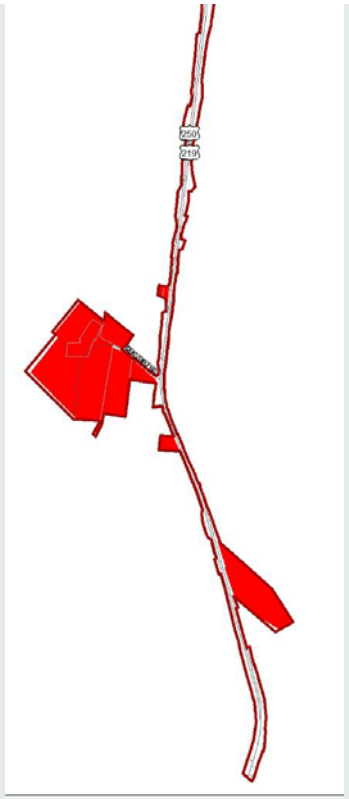
Proposed Zoning Districts

- Single Family Residential (R-1)
- City Residential (R-2)
- Recreational (Rec)
- Central Business District (CBD)
- Commercial (B-1)
- Educational (E)
- Industrial (I-1)
- Agriculture (Ag)

Draft Zoning Map







Single Family Residential (R-1) District

- Preserve availability of single-family neighborhoods by discouraging multi-family dwellings and business, commercial, and industrial uses within the district.
- Home based businesses are allowed

City Residential (R-2) District

- The purpose of the City Residential District is to encourage a wider variety of housing and allow that housing at a higher density than in R-1. The R-2 district also allows limited low-impact commercial, community, and recreational facilities, provided that these are suitable for operation in close proximity to housing.

Recreational (Rec) District

- Provide for recreation opportunities and facilities and to protect open space to preserve the natural beauty of the City.

Central Business (CBD) District

- Encourage a centralized area of mixed commercial and residential uses. The goal of this district is to provide convenient, pedestrian-oriented business that meet the needs of residents in this neighborhood and surrounding neighborhoods, as well as walkable dining and entertainment options that are attractive for residents and visitors alike.

Commercial (B-1) District

- Provide space for larger scale commercial businesses that serve both the City and the traveling public.

Educational (E) District

- Provide for buildings and premises used by educational institutions. In addition to buildings and uses associated directly with instructional activities, this district also allows non-instructional uses related to or typically associated with educational institutions, such as those necessary to meet the lodging, health, safety, and entertainment needs of a student population and which may also benefit the larger community.

Industrial (I-1) District

- Encourage location of industrial uses in one area to more efficiently meet the infrastructure and other needs of such uses and to minimize their external effects on the rest of the City's zoning districts.

Agriculture (Ag) District

- Preserve agricultural lands and uses that are presently within the municipal boundaries of the City of Elkins and to prepare for agricultural lands that may, in the future, become a part of the City.

Telecommunications Overlay

- Ensure that telecommunication facilities may locate within the city in a manner that best serves local needs and the concerns of citizens.

Common Zoning Questions

What if my property is zoned differently than the way I am using it now?

- Your property will become non-conforming, which means the use will be allowed to continue. This is most commonly referred to as "grandfathering."
- The use may continue under new ownership if the property is sold.
- There are limits on expansions of non-conforming uses.
- Once a non-conforming use becomes abandoned for one year, it may not revert back to the original non-conforming use

Can I have a business in my home?

- **Home-based business (no-impact)**- An accessory use intended to allow businesses that rely solely on electronic or off-premise transactions. Use involves no customer client or patient traffic, pickup, delivery or removal functions to or from the premise, in excess of those normally associated with there residential use

- Home-based business (no-impact) is permitted by right in the Agricultural, Single Family, City Residential, CBD, Commercial, Educational, and Industrial zoning districts.

- **Home-based businesses (low-impact)**- A use intended to allow businesses that generate limited quantities of customer visitation and/or merchandise deliveries

- Home-based business (low-impact) is permitted by right in the Agricultural, CBD, Commercial, and Educational zoning districts. In the Single Family and City Residential zoning districts home-based business (low impact) are conditional uses.

What if I want to develop my property differently from the way that it is zoned?

- If you want to develop your property and the zoning ordinance does not allow that use in a particular zoning district, you can request a re-zoning.
- A public hearing will be held.
- City Council, with advice of the planning commission, must find that the re-zoning is consistent with the adopted comprehensive plan.

Will zoning affect my property taxes?

- Property taxes are based on the assessed value of real property. Real property includes all parcels of real estate, all buildings permanently affixed (when owned by the same owner as the land) and most mineral real property.
- The county assessor is responsible for determining the value of all real property at a fair market value for each year. Taxes are then determined by multiplying a tax rate against the assessed value (assessed value is 60% of fair market value). The tax rates are determined by the legislature of WV, board of education, county commission, and municipalities.
- The updates to the zoning ordinance in the City of Elkins will not increase your property taxes. Property taxes are based on the current use of the land and market values, not what the what the property is zoned.

Board of Zoning Appeals

- Hears challenges and conditional use permits
- Serves as a quasi-judicial board
- Renders decisions
- Five residents appointed by the governing body

Next Steps

Going forward…

- Full transparency
  - Council must hold 2 public hearings; one in the day and one in the evening
- Successful implementation of the zoning ordinance will require 5 trained BZA members
- Explore the possibility of increasing resources in the Code Enforcement Office to enforce and assist with the proposed regulations