

LAND USE STUDY

GREENBRIER COUNTY PLANNING COMMISSION

GREENBRIER COUNTY, WEST VIRGINIA

W. Va. Code §8A-7-4 governs the contents and procedure for a Study and Report on Zoning:

(a) After adoption of a comprehensive plan and before enacting a zoning ordinance, a governing body with the applicable planning commission must study the land within its 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 Greenbrier County Commission and the Planning Commission have studied the land within their jurisdiction and have prepared a Land Use Study that is based on both a study of the land and the County's comprehensive plan, adopted in 2014. It is the intent of the Planning Commission to use the Land Use Study to prepare a report on zoning which will include a proposed draft zoning ordinance for future adoption by the Greenbrier County Commission.

Statutory Requirements

Enactment of Zoning Ordinance. Prior to enactment of a zoning ordinance, the Planning Commission is required to compile a study and report on zoning under West Virginia Code §8A-7-4:

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(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.

Amendment of an Existing Zoning Ordinance. Amendment of an existing zoning ordinance by a governing body must meet the following requirements of W.Va. Code §8A-7-8:

(a) Before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.

(b) When a proposed amendment to the zoning ordinance involves a change in the zoning map classification of any parcel of land, or a change to the applicable zoning ordinance text regulations that changes the allowed dwelling unit density of any parcel of land, the governing body shall, at least thirty days prior to the enactment of the proposed amendment if there is not an election, or at least thirty days prior to an election on the proposed amendment to the zoning ordinance:

(1) Give written notice by certified mail to the landowner(s) whose property is directly involved in the proposed amendment to the zoning ordinance; and

(2) Publish notice of the proposed amendment to the zoning ordinance in a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code.

STUDY OF LAND IN GREENBRIER COUNTY

Less than ten percent of the land mass of Greenbrier County is subject to the existing zoning ordinance, which is little changed from its original adoption in 1978. Because many of the definitions and concepts in the existing ordinance are outdated, it is the intent of the Planning Commission to recommend repeal and replacement with a zoning ordinance that retains the same basic district dimensions of the prior zoning ordinance, with the exception of overlay districts for cell towers, airport, mass gathering and special events, and others.

Evaluating Existing Conditions

The existing land use conditions have been studied, analyzed, and discussed extensively by the County Commission, the Planning Commission, and interested citizens during the drafting processes for the comprehensive plan, amendments to the comprehensive plan and during

consideration of proposing changes to the zoning ordinance. As part of the comprehensive plan process, current land use conditions were evaluated, and the needs of the community were identified and an action plan for achieving the community's goals developed.

During the comprehensive planning process, several issues were identified: Protecting natural resources, preserving community and historic resources, sustainable development, developing adequate recreational opportunities, promotion of cohesive and coordinated development and discourage spot use and strip style development.

The need for additional housing units was identified during the planning process, with a projected need for an additional 1,000 to 7,000 housing units by the year 2030, depending upon growth projections. The County has initiated efforts to identify and remove dilapidated structures, which will encourage renewal and/or redevelopment of areas where dilapidated structures are located resulting in new additional housing units.

External Influences on Land Use in Greenbrier County. Land use in Greenbrier County has been impacted to some degree by several external influences: The historic 2016 flooding, the substance misuse epidemic, and the COVID-19 Pandemic. The historic 2016 flooding experienced in Greenbrier County has led to development away from flood prone areas or more flood resistant development in those areas. The substance misuse epidemic has impacted the need for better and lower cost transportation, and transportation patterns are further influenced by development patterns in the county. The COVID-19 Pandemic has increased demand for live/work housing with access to reliable broadband in the county.

Internal Influences on Land Use in Greenbrier County. Lot size and density for land development in the county is influenced by the availability of public water and sewer service to the lot. Recent statistics compiled by the Region 4 Planning and Development Council indicate that eight public water systems serve 9,686 customers, a population of 21,697 or 34% of the county's population. Two publicly owned public sewer districts serve a total of 5,242 households and a total of 11,742 people or 35% of the county population.¹ The availability of public sewer can be a determinant of lot size, which then must at a minimum comply with set aside requirements for zoned areas as well and set asides required by the septic system rules promulgated by the Bureau for Public Health and enforced by the local health department, 64 CSR 9, Sewer Systems, Sewage Treatment Systems, and Sewage Tank Cleaners.

Land Use Pattern Driven Changes to Local Ordinances. As development patterns shift away from single home lot development and towards large lot, multi-use development, the county subdivision ordinance will need to be updated or replaced by a subdivision and land development ordinance to better coordinate land development that does not fit the traditional single residence/single lot development pattern.

Anecdotal review of land use in Greenbrier County indicates that land use patterns are in part a result of changes to traditional economic development patterns. For example, conversion of

¹ See West Virginia Public Service Commission, Annual Statistical Report for year ending December 2021, www.psc.state.wv.us/anstatprt2021

traditional single-family residences to short term vacation rentals such as Air BnB and VRBO will require adequate community planning to avoid incompatible uses. As more residences are used for both home and remote work situations, those uses will need to be addressed in both the updated zoning ordinance and future revisions to the subdivision ordinance.

Desirable Use for the Land

The 2014 Comprehensive Plan identifies land use needs related to protecting natural resources, developing around cities and towns effectively, preserving community and historic resources, sustainable development, and developing recreational opportunities.

With a steadily aging population, uses related to the needs of this particular population will be needed, such as retiree housing, both rental and owner-occupied; retiree communities; and long-term care facilities. Allowing these uses near to the existing medical facilities will provide this population with convenient access to needed community resources, particularly medical services.

Preferred land uses in natural resource conservation areas should be limited to natural resource-based uses, including agriculture, silviculture, horticulture, mining and quarrying; agri-business, agritourism, and other agricultural-related uses; heritage tourism-based businesses; ecotourism and environmental tourism-based businesses; outdoor recreational uses; and uses directly related to the support of the preferred land uses. Associated natural resource industries may also be appropriate in these areas, but agricultural lands should be protected from encroachment by development. Avoiding strip development along public roadways is preferred, and instead uses should be served by an internal road.

Rural community development should allow for residential, small scale, village, or community-oriented development, community-oriented businesses that serve local needs or provide services or goods to visitors; small scale, community-based, light industrial uses; and infill development consistent with development patterns of existing rural communities or villages. Development density outside of municipalities and unincorporated communities should be largely limited to one dwelling per acre and allow for variable lot sizes.

In general, new high-impact development should occur in designated growth areas, in part, so that growth occurs where utilities are readily available. Development should also be of a nature consistent with surrounding existing development. Transitional areas around towns should allow major and minor mixed-use, mixed-income developments; traditional neighborhood design developments; secondary dwellings (garage apartments, mother-in-law apartments, etc.); planned manufactured housing developments; multi-family housing developments; infill residential development; community-oriented business (i.e. businesses serving a local population rather than a regional population); business and office parks and live-work developments; and public parks and other regional public facilities. Lot sizes should not be less than 0.15 acres. Development should maintain 30% open space.

Use buffers should be required for all new industrial and commercial development and for new residential development adjacent to existing commercial and industrial uses. Use buffers should be a minimum of 25 feet and include appropriate landscaping to minimize the visual and noise impact of non-complimentary uses. Use buffers may not be necessary between 1) new or new and existing residential developments or 2) new TND (traditional neighborhood design) neighborhoods and new and existing TND or residential neighborhoods.

Throughout Greenbrier County, land uses should avoid impacting the communities' desire to maintain dark skies as a community and tourism resource. Where appropriate, development should be pedestrian oriented and encourage mixed-use. Arts and tourism uses should be encouraged, as well as historic preservation and signage. A wide range of housing is needed: owner-occupied, rental, senior, and accessory housing. The use of alternative energy sources should be encouraged. The County should also provide for multimodal transportation facilities and increase opportunities for athletic and non-athletic recreation.

In drafting the proposed zoning ordinance, the County will find the future land use map 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 proposing a new zoning ordinance, the County will compare the existing and future land use maps to develop an updated comprehensive list of uses that may occur in each of the proposed districts. Comparing the maps will also enable the County to district uses in a way that minimizes nonconforming uses and reflects the community's desired pattern of development.

Section 3: Report on Zoning

Review of the Study of the Land and 2014 Comprehensive Plan

PLU 1.2 Natural Resource Areas, ENV 7.0 Environmental Resources and Development, and PLU 1.3 Rural Communities/Rural Villages.

The proposed zoning ordinance promotes appropriate land uses in these areas consistent with the comprehensive plan, which considers agriculture, mining, and quarrying, along with related uses such as agribusiness, eco- and agritourism, and outdoor recreation, with residential allowed and more concentrated in rural communities. Related lands are protected in the proposed zoning ordinance through district designations primarily as Open Space Conservation and Forest Recreation, which limit use of the lands to farming and related uses, residential uses, and a few other low-impact uses allowed through conditional use permitting. The requirements that most commercial development undergo conditional use permit review ensures that new development and new uses generally are consistent with existing development and uses.

PLU 1.4 Urbanizing Areas/Urban Growth Boundaries.

Areas appropriate for medium- and high-density residential as well as medium- and high-impact commercial and industrial uses should be located within a certain proximity to existing development of a similar nature, particularly in FLU Town areas. This goal is implemented through the proposed zoning ordinance in districting, more specifically, as Rural Residential, Commercial, or Industrial after a parcel-by-parcel review of the land during the zoning drafting process.

PLU 1.5. Transition Policy Areas.

Beyond growth boundaries, uses and development density serving as a buffer between two jurisdictions should be seamless. Ideal uses in these areas include various residential and low-impact, neighborhood commercial uses. The proposed zoning ordinance incorporates these concerns in the FLU Transition Area by making a parcel-by-parcel review of how best to create this seamlessness, with the result being districting ranging from Open Space Conservation, Forest Recreation, PUD, Rural Residential, Residential, Commercial, to Industrial.

PLU 1.6 Designated Growth Areas.

These areas are suitable for denser residential development as well as commercial and industrial development. The four areas listed in the comprehensive plan—east, central-north, central-south, and west—largely overlap with the Designated Growth Area in the FLU. After a parcel-by-parcel review, the proposed zoning map more specifically districts this area primarily as Rural Residential, Commercial, or Industrial, with a few lower priority areas districted as Forest Recreation and Open Space Conservation at this time.

PLU 3.0 Neighborhood Design and Community Design Standards and HNC 1.0 Housing and Neighborhoods.

To the extent this comprehensive plan goal encourages walkable, mixed-use development to create a close-knit neighborhood feel, the proposed zoning ordinance permits some nonresidential use within the Rural Residential district and positions the Rural Residential and Commercial districts in close proximity. The proposed zoning ordinance addresses the need to encourage various housing, as indicated in the comprehensive plan, through provisions allowing a wide range of housing, such as single-family, two-family, multi-family, senior, conversion apartment, and emergency housing.

CHR 1.0 Cultural Facilities and Resources.

The proposed zoning ordinance supports the comprehensive plan's goals to preserve and encourage the arts and historical resources and related tourism through careful consideration of

the districting and supplemental provisions for related uses, including cultural service, agritourism enterprise, bed and breakfast, hotel/motel, and events.

ENV 6.0 Light Pollution.

The comprehensive plan's dark skies initiative is addressed in the proposed zoning ordinance's light requirements specifying that bare, unshaded bulbs are prohibited; light cast is confined to the particular property; along with additional limitations on the form, brightness, and orientation of lighting.

UTL 3.0 Technology Infrastructure.

Alternative energy options that should be encouraged according to the comprehensive plan are allowed in the proposed zoning ordinance as wind energy systems and small and large solar energy systems, both of which are permitted in most districts.

REC 4.0 Recreation, REC 5.0 Recreation and Tourism, REC 7.0 Non-athletic Recreation.

The proposed zoning ordinance actively supports the development of recreation within the county through the preservation of the Forest Recreation and Open Space Conservation districts. Significant community investment in the development of recreation assets in the county include development of the Meadow River Valley Trail and the Greenbrier County Sportsplex.

Summary of Proposed Zoning Ordinance

Statutory Requirements: West Virginia Code §8A-7-2. Contents of Zoning Ordinance.

(a) The following must be considered when enacting a zoning ordinance:

- (1) Promoting general public welfare, health, safety, comfort and morals;
- (2) A plan so that adequate light, air, convenience of access and safety from fire, flood and other danger is secured;
- (3) Ensuring attractiveness and convenience is promoted;
- (4) Lessening congestion;
- (5) Preserving historic landmarks, sites, districts and buildings;
- (6) Preserving agricultural land; and
- (7) Promoting the orderly development of land.

(b) A zoning ordinance may include the following:

- (1) Regulating the use of land and designating or prohibiting specific land uses;
- (2) Authorizing flexible planning standards to create, redevelop, reuse, protect and enhance the physical qualities of the community;

- (3) Designating historic districts and regulating the uses of land and the design of buildings within the historic district;
- (4) Establishing corridor overlay districts to achieve land design goals and
- (5) Establishing design standards and site plan approval procedures;
- (6) Dividing the land of the governing body into different zone classifications regulating the use of land, establishing performance standards for various land uses when dividing is not desired or any combination of both;
- (7) Authorizing overlay districts and special design districts within which specific additional development standards for each permitted, accessory and conditional use shall apply;
- (8) Regulating the height, area, bulk, use and architectural features of buildings, including reasonable exterior architectural features and reasonable aesthetic standards for factory-built homes;
- (9) Authorizing a process and standards for factory-built homes: Provided, That a governing body is prohibited from establishing a process and standards for regulating factory-built homes that is more restrictive than a process and standards for site-built homes;
- (10) Preserving green spaces and requiring new green spaces, landscaping, screening and the preservation of adequate natural light;
- (11) Regulating traffic flow and access, pedestrian flow and access, parking and loading;
- (12) Identifying flood-prone areas subject to periodic flooding and regulating with specific control the permitted use, type of construction and height of floor levels above base flood elevation permitted in the area so as to lessen or avoid the hazards to persons and damage to property resulting from the accumulation of storm or flood waters;
- (13) Designating an airport area and establishing land-use regulations within a specific distance from the boundaries of the airport;
- (14) Authorizing planned unit developments to achieve more efficient use of land and setting standards and regulations for the developments; and
- (15) Identifying, establishing and designating urban growth boundaries, as defined in section four-a, article six, chapter eight of this code, for municipalities.

(c) A zoning ordinance shall:

- (1) Create a board of zoning appeals;
- (2) Specify certification requirements for zoning district maps that are consistent with the governing body's comprehensive plan;
- (3) Adopt procedures and requirements for nonconforming land uses;
- (4) Adopt procedures and requirements for variances; and
- (5) Adopt procedures and requirements for conditional use permits.

The proposed zoning ordinance has been written to be consistent with the 2014 Comprehensive Plan and this Study and Report on Zoning. The proposed zoning ordinance is also consistent with current statutory enabling authority cited above, 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 101: Purpose and Introduction
Article 103: Definitions
Article 301-315: Districts Established; Classification of Districts, etc.
Article 316: Planned Unit Development
Article 317: Conditional Use Standards
Article 319: General Regulations
Article 321: Supplemental Regulations
Article 323: Signs
Article 501: Administration; Enforcement
Article 503: Board of Zoning Appeals; Appeals
Article 701: Wireless Telecommunication Facilities
Article 703: 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 serves to adequately accommodate a variety of businesses within Greenbrier County. 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 County Commission 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 County Commission 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 County Commission 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. If adopted, the new zoning ordinance must be filed with the Office of the Clerk of Greenbrier County.

See Appendix A for the Proposed Zoning Ordinance
See Appendix B for the Proposed Zoning Map