WEST VIRGINIA CODE CHAPTER 8A ARTICLE 3

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§8A-3-1. Purpose and goals of a comprehensive plan.

(a) The general purpose of a comprehensive plan is to guide a governing body to accomplish a coordinated and compatible development of land and improvements within its territorial jurisdiction, in accordance with present and future needs and resources.

(b) A comprehensive plan is a process through which citizen participation and thorough analysis are used to develop a set of strategies that establish as clearly and practically as possible the best and most appropriate future development of the area under the jurisdiction of the planning commission. A comprehensive plan aids the planning commission in designing and recommending to the governing body ordinances that result in preserving and enhancing the unique quality of life and culture in that community and in adapting to future changes of use of an economic, physical or social nature. A comprehensive plan guides the planning commission in the performance of its duties to help achieve sound planning.

(c) A comprehensive plan must promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, as well as efficiency and economy in the process of development.

(d) The purpose of a comprehensive plan is to:

(1) Set goals and objectives for land development, uses and suitability for a governing body, so a governing body can make an informed decision;

(2) Ensure that the elements in the comprehensive plan are consistent;

(3) Coordinate all governing bodies, units of government and other planning commissions to ensure that all comprehensive plans and future development are compatible;

(4) Create conditions favorable to health, safety, mobility, transportation, prosperity, civic activities, recreational, educational, cultural opportunities and historic resources;

(5) Reduce the wastes of physical, financial, natural or human resources which result from haphazard development, congestion or scattering of population;

(6) Reduce the destruction or demolition of historic sites and other resources by reusing land and buildings and revitalizing areas;

(7) Promote a sense of community, character and identity;

(8) Promote the efficient utilization of natural resources, rural land, agricultural land and scenic areas;

(9) Focus development in existing developed areas and fill in vacant or underused land near existing developed areas to create well designed and coordinated communities; and

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(10) Promote cost-effective development of community facilities and services.

(e) A comprehensive plan may provide for innovative land use management techniques, including:

(1) Density bonuses and/or density transfer;

(2) Clustering;

(3) Design guidelines, including planned unit developments;

(4) Conservation easements;

(5) Infill development;

(6) Consolidation of services; and

(7) Any other innovative land use technique that will promote the governing body's development plans.

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§8A-3-2. Study guidelines for a comprehensive plan.

(a) When preparing or amending a comprehensive plan, a planning commission shall make comprehensive surveys and studies of the existing conditions and services and probable future changes of such conditions and services within the territory under its jurisdiction.

(b) The comprehensive surveys and studies may cover such factors as population density, health, general welfare, historic sites, mobility, transportation, food supply, education, water and sanitation requirements, public services, accessibility for the disabled and future potential for residential, commercial, industrial or public use.

(c) The major objective of the planning process is providing information to and coordination among divergent elements in the municipality or county. The elements in the comprehensive plan shall be consistent and governing bodies, units of government and planning commissions must work together to ensure that comprehensive plans and future development are compatible.

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§8A-3-3. Authority for planning commission.

(a) A planning commission shall prepare a comprehensive plan for the development of land within its jurisdiction. A planning commission shall then recommend the comprehensive plan to the appropriate governing body for adoption.

(b) A county, multicounty, regional or joint comprehensive plan may include the planning of towns, villages or municipalities to the extent to which, in the planning commission's judgment, they are related to the planning of the unincorporated territory of the county as a whole: Provided, That the comprehensive plan shall not be considered a comprehensive plan for any town, village or municipality without the consent of the planning commission and/or the governing body of the town, village or municipality.

(c) A comprehensive plan should be coordinated with the plans of the Department of Transportation, insofar as it relates to highways, thoroughfares, trails, and pedestrian ways under the jurisdiction of that planning commission.

(d) A county planning commission may prepare a comprehensive plan for either the entire county or a part of the county.

(e) A multicounty, regional or joint planning commission may prepare a comprehensive plan for land within its jurisdiction.

(f) Counties and municipalities may by written agreement establish a joint airport hazard comprehensive plan for the purpose of satisfying requirements of federal aviation law, protecting the public safety, and preventing hazardous conditions. The joint written agreement shall set forth the boundaries of the airport overlay district and any requirements that would apply within the district, without the need for the adoption of a full comprehensive plan within a municipality or county. The joint agreement becomes effective once each entity takes the appropriate steps, including submission to a planning commission and public hearing, for the establishment or modification of a full or comprehensive plan within its jurisdiction. Any modifications to the written agreement made by one entity must be adopted by the other entity or entities for the agreement to become valid: Provided, That where the provisions of any such agreement result in a diminution in property value to a property owner, the governing authority responsible shall provide just compensation: Provided, however, That any joint written agreement affecting a regional airport shall require the approval of the regional airport's governing body to be effective.

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§8A-3-4. Mandatory components of a comprehensive plan.

(a) The comprehensive plan is a written statement on present and future land use and development patterns consisting of descriptive materials, including text, graphics and maps, covering the objectives, principles and guidelines for the orderly and balanced present and future economic, social, physical, environmental and fiscal development of the area under the jurisdiction of the planning commission.

(b) A comprehensive plan shall meet the following objectives:

(1) A statement of goals and objectives for a governing body, concerning its present and future land development;

(2) A timeline on how to meet short and long-range goals and objectives;

(3) An action plan setting forth implementation strategies;

(4) Recommend to the governing body a financial program for goals and objectives that need public financing;

(5) A statement of recommendations concerning future land use and development policies that are consistent with the goals and objectives set forth in the comprehensive plan;

(6) A program to encourage regional planning, coordination and cooperation with other governing bodies, units of government and planning commissions; and

(7) Maps, plats, charts and/or descriptive material presenting basic information on the land included in the comprehensive plan, including present and future uses.

(c) The comprehensive plan shall have, but is not limited to, the following components:

(1) Land use. -- Designate the current, and set goals and programs for the proposed general distribution, location and suitable uses of land, including, but not limited to:

(A) Residential, commercial, industrial, agricultural, recreational, educational, public, historic, conservation, transportation, infrastructure or any other use of land;

(B) Population density and building intensity standards;

(C) Growth and/or decline management;

(D) Projected population growth or decline; and

(E) Constraints to development, including identifying flood-prone and subsidence areas.

(2) Housing. -- Set goals, plans and programs to meet the housing needs for current and anticipated future residents of the jurisdiction, including, but not limited to:

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(A) Analyzing projected housing needs and the different types of housing needed, including affordable housing and universally designed housing accessible to persons with disabilities;

(B) Identifying the number of projected necessary housing units and sufficient land needed for all housing needs;

(C) Addressing substandard housing;

(D) Rehabilitating and improving existing housing; and

(E) Adaptive reuse of buildings into housing.

(3) Transportation. -- Consistent with the land use component, identify the type, location, programs, goals and plans to meet the intermodal transportation needs of the jurisdiction, including, but not limited to:

(A) Vehicular, transit, air, port, railroad, river and any other mode of transportation system;

(B) Movement of traffic and parking;

(C) Pedestrian and bicycle systems; and

(D) Intermodal transportation.

(4) Infrastructure. –- Designate the current, and set goals, plans and programs, for the proposed locations, capabilities and capacities of all utilities, essential utilities and equipment, infrastructure and facilities to meet the needs of current and anticipated future residents of the jurisdiction.

(5) Public services. -- Set goals, plans and programs, to ensure public safety, and meet the medical, cultural, historical, community, social, educational and disaster needs of the current and anticipated future residents of the jurisdiction.

(6) Rural. –- Consistent with the land use component, identify land that is not intended for urban growth and set goals, plans and programs for growth and/or decline management in the designated rural area.

(7) Recreation. -- Consistent with the land use component, identify land, and set goals, plans and programs for recreational and tourism use in the area.

(8) Economic development. -- Establish goals, policies, objectives, provisions and guidelines for economic growth and vitality for current and anticipated future residents of the jurisdiction, including, but not limited to:

(A) Opportunities, strengths and weaknesses of the local economy and workforce;

(B) Identifying and designating economic development sites and/or sectors for the area; and

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(C) Type of economic development sought, correlated to the present and projected employment needs and utilization of residents in the area.

(9) Community design. –- Consistent with the land use component, set goals, plans and programs to promote a sense of community, character and identity.

(10) Preferred development areas. -- Consistent with the land use component, identify areas where incentives may be used to encourage development, infill development or redevelopment in order to promote well designed and coordinated communities and prevent sprawl.

(11) Renewal and/or redevelopment. -- Consistent with the land use component, identify slums and other blighted areas and set goals, plans and programs for the elimination of such slums and blighted areas and for community renewal, revitalization and/or redevelopment.

(12) Financing. –- Recommend to the governing body short and long-term financing plans to meet the goals, objectives and components of the comprehensive plan.

(13) Historic preservation. -- Identify historical, scenic, archaeological, architectural or similar significant lands or buildings, and specify preservation plans and programs so as not to unnecessarily destroy the past development which may make a viable and affordable contribution in the future.

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§8A-3-5. Optional components of a comprehensive plan.

The comprehensive plan may have, but is not limited to, the following components:

(1) History. -- An analysis of the history of the area to better provide for the future.

(2) Environmental. –- Recommend programs where appropriate to appropriate regulatory agencies to protect the area from all types of pollution and promote a healthy environment.

(3) Tourism. –- Recommend programs to promote tourism and cultural and heritage development in the area.

(4) Conservation. -- Recommend programs to conserve and protect wildlife, natural habitats, sensitive natural areas, green spaces and direct access to sunlight.

(5) Safety. -- Recommend public safety programs to educate and protect the public from disasters, both natural and man-made.

(6) Natural resources use. –- Identify areas for natural resources use in an urban area.

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§8A-3-6. Notice and public participation requirement for a comprehensive plan.

(a) Prior to recommending a new or amended comprehensive plan to a governing body for adoption, the planning commission shall give notice and hold a public hearing on the new or amended comprehensive plan.

(b) At least thirty days prior to the date set for the public hearing, the planning commission shall publish a notice of the date, time and place of the public hearing as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the area covered by the comprehensive plan.

(c) A planning commission shall include public participation throughout the process of studying and preparing a comprehensive plan and amending a comprehensive plan. A planning commission shall adopt procedures for public participation throughout the process of studying and preparing or amending a comprehensive plan.

(d) A planning commission shall request input from other affected governing bodies and units of government.

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§8A-3-7. Submission of comprehensive plan.

(a) After the comprehensive plan is prepared and before it is approved, the planning commission shall hold a public hearing. After the public hearing and approval, the planning commission shall submit the recommended comprehensive plan to the applicable governing body for consideration and adoption.

(b) At the first meeting of the applicable governing body following the submission of the recommended comprehensive plan by the planning commission to the governing body, the planning commission shall present the recommended comprehensive plan to the governing body.

(c) After the presentation of the recommended comprehensive plan by the planning commission to the governing body and prior to adoption, the governing body shall hold a public hearing after giving notice.

(d) At least fifteen days prior to the date set for the public hearing, the planning commission shall publish a notice of the date, time and place of the public hearing as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the area covered by the comprehensive plan.

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§8A-3-8. Adoption of comprehensive plan by governing body.

(a) Within the latter of ninety days or three scheduled meetings after the submission of the recommended comprehensive plan to the governing body, the governing body must act by either adopting, rejecting or amending the comprehensive plan.

(b) If the comprehensive plan is adopted by the governing body, then the governing body may adopt the comprehensive plan as an ordinance or designate what other effect the comprehensive plan may have.

(c) If the comprehensive plan is adopted by the governing body and an ordinance is published, the comprehensive plan may be incorporated by reference in the ordinance and the full text of the comprehensive plan does not have to be published.

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§8A-3-9. Filing the comprehensive plan.

After the adoption of a comprehensive plan by a governing body, the governing body must file the adopted comprehensive plan in the office of the clerk of the county commission where the comprehensive plan applies. If an adopted comprehensive plan covers more than one county, a certified copy of the adopted comprehensive plan must be filed in the office of the clerk of the county commission of each county covered by the adopted comprehensive plan.

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§8A-3-10. Rejection or amendment of comprehensive plan by governing body.

(a) If a governing body rejects or amends the recommended comprehensive plan, then the comprehensive plan must be returned to the planning commission for its consideration, with a written statement of the reasons for the rejection or amendment.

(b) The planning commission has forty-five days to consider the rejection or amendment and make recommendations to the governing body.

(c) If the planning commission approves the amendment to the comprehensive plan, then the comprehensive plan shall stand as adopted by the governing body.

(d) If the planning commission disapproves of the rejection or amendment, then the planning commission shall state its reasons in its written recommendations to the governing body.

(e) Within forty-five days of receipt of the planning commission's written recommendations for disapproval, the governing body must act on the comprehensive plan.

(f) If the planning commission does not file a written recommendation with the governing body within forty-five days, then the action in rejecting or amending the comprehensive plan is final.

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§8A-3-11. Amending comprehensive plan after adoption.

(a) After the adoption of a comprehensive plan by the governing body, the planning commission shall follow the comprehensive plan, and review the comprehensive plan and make updates at least every ten years.

(b) After the adoption of a comprehensive plan by the governing body, all amendments to the comprehensive plan shall be made by the planning commission and recommended to the governing body for adoption in accordance with the procedures set forth in sections six, seven, eight and nine of this article. The planning commission shall hold a public hearing prior to its recommendation to the governing body.

(c) If a governing body wants an amendment, it may request in writing for the planning commission to prepare an amendment. The planning commission must hold a public hearing within one hundred twenty days after the written request by the governing body to the planning commission is received.

(d) Within the latter of ninety days or three scheduled meetings after the submission of the recommended amendment to the comprehensive plan to the governing body, the governing body must act by either adopting, rejecting or amending the comprehensive plan.

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§8A-3-12. Validation of prior comprehensive plans.

(a) The adoption of a comprehensive plan or any general development plans by a planning commission, under the authority of prior acts, is hereby validated and the plans may continue in effect for ten years after the effective date of this chapter or until the plans are revised, amended or replaced in accordance with this chapter.

(b) After the effective date of this chapter, amendments to prior plans shall be made in accordance with the provisions of this article.

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§8A-3-13. Intergovernmental cooperation.

(a) With a view to coordinating and integrating the planning of municipalities and/or counties with each other, all governing bodies and units of government within the lands under the jurisdiction of the planning commission preparing or amending a comprehensive plan, all governing bodies and units of government affected by the comprehensive plan, and any other interested or affected governing body, unit of government or planning commission, must cooperate, participate, share information and give input when a planning commission prepares or amends a comprehensive plan.

(b) All planning commissions, governing bodies and units of government are authorized to cooperate and share information with each other and may adopt rules and regulations to coordinate and integrate planning.

(c) All planning commissions, governing bodies and units of government must make available, upon the request of a planning commission, any information, maps, documents, data and plans pertinent to the preparation of a comprehensive plan.

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§8A-3-14. Jurisdiction of municipal planning commission.

The jurisdiction of a municipal planning commission shall not extend beyond the corporate limits of the municipality.

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