

ORDINANCE 308

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF ELKINS,
WEST VIRGINIA, TO AMEND ORDINANCE 301, CITY OF ELKINS ZONING
ORDINANCE TO BE CODIFIED AS CHAPTER 152 :ZONING**

WHEREAS, the Common Council of the City of Elkins, West Virginia has previously adopted Ordinance 301, City of Elkins Zoning Ordinance, to be codified as Chapter 152: Zoning; and

WHEREAS, following its adoption, it became apparent to City personnel, while working on a fee schedule and permit applications, that the reference to “ event, special ” within the zoning ordinance, was not a workable definition for the permitting of certain events within the procedures under the new zoning ordinance; and

WHEREAS, on September 27, 2022, the Elkins Planning Commission met and made a recommendation to the Rules and Ordinance Committee that the definition of “event, special” be removed from the zoning ordinance along with any other reference to “event, special ” within the ordinance, inasmuch as the definition “event, mass gathering” will allow the City to regulate gatherings as envisioned by the zoning ordinance; and

WHEREAS, on October 12, 2022, the Rules and Ordinances Committee met, reviewed the recommendation of the Elkins Planning Commission and voted to recommend to the Common Council that Ordinance 301, City of Elkins Zoning Ordinance, to be codified as Chapter 152: Zoning be amended; and

NOW THEREFORE, BE IT ORDAINED and **ENACTED** by the Common Council of the City of Elkins, West Virginia that Ordinance 301, City of Elkins Zoning Ordinance, to be codified as Chapters 152: Zoning be amended as follows:

Section 21-32 Definitions

~~“Event Special” means an event, as defined herein, resulting in the assemblage of one hundred (100) to three hundred (300) persons; the arrival of twenty five (25) or more vehicles at the location of the event, whether held on private property, public property, or public roads; and any events with a significant emphasis on the sale, marketing, or promotion of products or services to be consumed, utilized, or provided off the premises, except for temporary uses permitted under this code.~~

The definition of Event Special in Section 21-32 Definitions shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

Section 21-40(a) Permitted Uses in the Single Family Residential (R-1) District

(a) The following shall be uses permitted by right in the Single Family Residential District:

- (1) Bus/ Transit Shelter
- (2) Child Day Care Facility, Class 4
- (3) Dock
- (4) Dwelling, Single Family
- (5) Essential Utilities
- ~~(6) Event, Special~~
- (7) Greenhouse, Noncommercial
- (8) Group Residential Facility
- (9) Group Residential Home
- (10) Home-based Business (No Impact)
- (11) Park
- (12) Solar Energy Facility, Small
- (13) Solid Waste Disposal Area/Faculty, Public
- (14) Wireless Telecommunications Facility, Small Cells

The reference to Section 21-40 (a)(6) shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

Section 21-44 Permitted Uses in the City Residential (R-2) District.

(a) The following shall be uses permitted by right in the City Residential District:

- (1) Bed and Breakfast Inn I
- (2) Bed and Breakfast Inn II
- (3) Bus/Transit Shelter
- (4) Child Day Care Facility, Class 3
- (5) Child Day Care Facility, Class 4
- (6) Dock

- (7) Dwelling, Accessory
- (8) Dwelling, Single-family
- (9) Dwelling, Two-family
- (10) Essential Utilities and Equipment
- ~~(11) Event, Special~~
- (12) Factory-built Home
- (13) Factory-built Home Rental Community
- (14) Greenhouse, Noncommercial
- (15) Group Residential Facility
- (16) Group Residential Home
- (17) Home-based Business (No Impact)
- (18) Park
- (19) Solar Energy Facility, Small
- (20) Solid Waste Disposal Area/Facility, Public
- (21) Water Treatment Plant
- (22) Wireless Telecommunications Facility, Small Cells

The reference to Section 21-44(a)(11) shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

Section 21-48 Permitted Uses in the Recreational (Rec) District.

- (a) The following shall be uses permitted by right in the Recreational (Rec) District:
- (1) Amphitheater
 - (2) Bus/Transit Shelter
 - (3) Dock
 - (4) Essential Utilities and Equipment
 - (5) Event, Mass Gathering
 - ~~(6) Event, Special~~
 - (7) Farmer's Market
 - (8) Greenhouse, Noncommercial
 - (9) Group Residential Facility
 - (10) Group Residential Home
 - (11) Park
 - (12) Reception Facility
 - (13) Recreation, Municipal
 - (14) Solar Energy Facility, Small
 - (15) Wireless Telecommunications Facility, Small Cells

The reference to Section 21-48(a)(6) shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

Section 21-52 Permitted uses in the Central Business (CBD) District.

(a) The following shall be uses permitted by right in the Central Business (CBD) District:

- (1) Amphitheater
- (2) Animal Hospital/Veterinary Office
- (3) Bakery
- (4) Bank/Financial Institution
- (5) Bed and Breakfast Inn I
- (6) Bed and Breakfast Inn II
- (7) Bed and Breakfast Inn III
- (8) Brewery Pub
- (9) Bus/Transit Shelter
- (10) Butcher Shop
- (11) Catering Business
- (12) Child Day Care Facility, Class 1
- (13) Child Day Care Facility, Class 2
- (14) Child Day Care Facility, Class 3
- (15) Child Day Care Facility, Class 4
- (16) Clinic
- (17) Community Facility
- (18) Convenience Store
- (19) Cultural Service
- (20) Distillery
- (21) Dock
- (22) Dwelling, Accessory
- (23) Dwelling, Mixed Use
- (24) Dwelling, Multi-family
- (25) Dwelling, Single-family
- (26) Dwelling, Two-family
- (27) Educational Institution
- (28) Essential Utilities and Equipment
- (29) Event, Mass Gathering
- ~~(30) Event, Special~~
- (31) Farmer's Market
- (32) Governmental Operations
- (33) Greenhouse, Noncommercial
- (34) Group Residential Facility
- (35) Group Residential Home
- (36) Health Club
- (37) Home-based Business (Low Impact)
- (38) Home-based Business (No Impact)
- (39) Laundromat
- (40) Liquor Store
- (41) Medical Cannabis Dispensary

- (42) Medical Cannabis Organization, Health Care
- (43) Office Supply Establishment
- (44) Park
- (45) Personal Service
- (46) Pet Shop
- (47) Pharmacy
- (48) Photographic Studio
- (49) Places of Worship/Religious Institution
- (50) Professional Services
- (51) Reception Facility
- (52) Recreation, Commercial Indoor
- (53) Recreation, Commercial Outdoor
- (54) Recreation, Municipal
- (55) Restaurant
- (56) Retail Store/Shop <7,000
- (57) Senior Independent Housing
- (58) Solar Energy Facility, Small
- (59) Studio, Dancing, Music or Art
- (60) Tattoo Parlor/Body Piercing Studio
- (61) Tavern/Drinking Establishment
- (62) Theater
- (63) Wireless Telecommunications Facility, Small Cells

The reference to Section 21-52(a)(30) shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

Section 21-56 Permitted uses in the Commercial (B-1) District.

- (a) The following shall be uses permitted by right in the Commercial (B-1) District:
- (1) Animal Hospital/Veterinary Office
 - (2) Automobile Car Wash
 - (3) Automobile Repair/Service
 - (4) Bakery
 - (5) Bank/Financial Institution
 - (6) Bed and Breakfast Inn I
 - (7) Bed and Breakfast Inn II
 - (8) Bed and Breakfast Inn III
 - (9) Boat and Marine Sales/Service
 - (10) Brewery Pub
 - (11) Broadcasting Studio (radio/television)
 - (12) Building Materials Facility
 - (13) Bus/Transit Facilities
 - (14) Bus/Transit Shelter
 - (15) Butcher Shop

- (16) Catering Business
- (17) Child Day Care Facility, Class 1
- (18) Child Day Care Facility, Class 2
- (19) Child Day Care Facility, Class 3
- (20) Child Day Care Facility, Class 4
- (21) Clinic
- (22) Community Facility
- (23) Continuing Care Facility
- (24) Convenience Store
- (25) Cultural Service
- (26) Distillery
- (27) Distribution Facility
- (28) Dock
- (29) Dog Day Care
- (30) Dry Cleaner
- (31) Dwelling, Mixed Use
- (32) Dwelling, Multi-family
- (33) Dwelling, Single-family
- (34) Dwelling, Two-family
- (35) Educational Institution
- (36) Equipment Rental/Repair
- (37) Essential Utilities and Equipment
- (38) Event, Mass Gathering
- ~~(39) Event, Special~~
- (40) Farm/Construction Equipment and Supply Sales
- (41) Farmer's Market
- (42) Funeral Home/Mortuary
- (43) Garden Center
- (44) Governmental Operations
- (45) Greenhouse, Commercial
- (46) Greenhouse, Noncommercial
- (47) Group Residential Facility
- (48) Group Residential Home
- (49) Health Club
- (50) Home-based Business (Low Impact)
- (51) Home-based Business (No Impact)
- (52) Hotel/Motel
- (53) Laboratory
- (54) Laundromat
- (55) Liquor Store
- (56) Medical Adult Day Care Center
- (57) Medical Cannabis Dispensary
- (58) Medical Cannabis Organization, Health Care
- (59) Office Supply Establishment
- (60) Park

- (61) Personal Service
- (62) Pet Shop
- (63) Pharmacy
- (64) Photographic Studio
- (65) Place of Worship/Religious Institution
- (66) Private Club
- (67) Professional Services
- (68) Reception Facility
- (69) Recreation, Commercial Indoor
- (70) Recreation, Commercial Outdoor
- (71) Recreation, Municipal
- (72) Restaurant
- (73) Retail Store/Shop <7,000
- (74) Retail Store/Shop 7,000 to 25,000
- (75) School, Commercial
- (76) School, PreK-12
- (77) Senior Independent Housing
- (78) Shopping Center
- (79) Solar Energy Facility, Small
- (80) Studio, Dancing, Music or Art
- (81) Tattoo Parlor/Body Piercing Studio
- (82) Tavern/Drinking Establishment
- (83) Theater
- (84) Vehicles Sales/Rental and Service
- (85) Video Gaming or Lottery Establishment
- (86) Winery
- (87) Wireless Telecommunications Facility, Small Cells

The reference to Section 21-56(a)(39) shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

Section 21-60 Permitted uses in the Educational (E) District.

- (a) The following shall be uses permitted by right in the Educational (E) District:
 - (1) Amphitheater
 - (2) Bed and Breakfast Inn II
 - (3) Broadcasting Studio (radio/television)
 - (4) Bus/Transit Shelter
 - (5) Catering Business
 - (6) Clinic
 - (7) Cultural Service
 - (8) Dock
 - (9) Dwelling, Single-family

- (10) Dwelling, Two-family
- (11) Educational Institution
- (12) Equipment Rental/Repair
- (13) Essential Utilities and Equipment
- (14) Event, Mass Gathering
- ~~(15) Event, Special~~
- (16) Greenhouse, Noncommercial
- (17) Group Residential Facility
- (18) Group Residential Home
- (19) Health Club
- (20) Home-based Business (Low Impact)
- (21) Home-based Business (No Impact)
- (22) Hotel/Motel
- (23) Laboratory
- (24) Park
- (25) Parking Lot
- (26) Pharmacy
- (27) Places of Worship/Religious Institution
- (28) Reception Facility
- (29) Recreation, Commercial Indoor
- (30) Recreation, Municipal
- (31) Restaurant
- (32) School, PreK to 12
- (33) Solar Energy Facility, Small
- (34) Solar Energy Facility, Large
- (35) Sports Arena
- (36) Studio, Dancing, Music, or Art
- (37) Tavern/Drinking Establishment
- (38) Temporary Shelter
- (39) Theater
- (40) Wind Energy Facility, Small
- (41) Wireless Telecommunications Facility
- (42) Wireless Telecommunications Facility, Small Cells

The reference to Section 21-60(a)(15) shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

Section 21-64 Permitted Uses in the Industrial (I-1) District.

- (a) The following shall be uses permitted by right in the Industrial (I-1) District:
- (1) Animal Hospital/Veterinary Office
 - (2) Automobile Car Wash
 - (3) Automobile Repair/Service
 - (4) Bakery

- (5) Bank/Financial Institution
- (6) Boat and Marine Sales/Service
- (7) Brewery Pub
- (8) Broadcasting Studio (radio/television)
- (9) Building Material Facility
- (10) Bus/Transit Facilities
- (11) Bus/Transit Shelter
- (12) Butcher Shop
- (13) Distribution Facility
- (14) Convenience Store
- (15) Distillery
- (16) Dock
- (17) Dog Day Care
- (18) Dry Cleaner
- (19) Equipment Rental/Repair
- (20) Essential Utilities and Equipment
- (21) Event, Mass Gathering
- ~~(22) Event, Special~~
- (23) Farm/Construction Equipment and Supply Sales
- (24) Farmer's Market
- (25) Garden Center
- (26) Gas Station
- (27) Gas Station, Large
- (28) Governmental Operations
- (29) Greenhouse, Commercial
- (30) Greenhouse, Noncommercial
- (31) Group Residential Facility
- (32) Group Residential Home
- (33) Home-based Business (No Impact)
- (34) Industrial Park
- (35) Laboratory
- (36) Manufacturing (Light)
- (37) Medical Cannabis Dispensary
- (38) Medical Cannabis Growing Facility
- (39) Medical Cannabis Processing Facility
- (40) Parcel Delivery Facility
- (41) Parking Lot
- (42) Places of Worship/Religious Institution
- (43) Photographic Studio
- (44) Reception Facility
- (45) Recreation, Indoor
- (46) Recreation, Outdoor
- (47) Recreation, Municipal
- (48) Recycling Facility
- (49) Research and Development

- (50) Restaurant
- (51) Retail Store/Shop <7,000 square feet
- (52) Retail Store/Shop 7,000 square feet to 25,000 square feet
- (53) School, Commercial
- (54) Self-storage Facility
- (55) Solar Energy Facility, Small
- (56) Solar Energy Facility, Large
- (57) Solid Waste Disposal Area/Facility, Private
- (58) Solid Waste Disposal Area/Facility, Public
- (59) Tavern/Drinking Establishment
- (60) Warehouse
- (61) Wholesale Establishment
- (62) Winery
- (63) Wireless Telecommunications Facility
- (64) Wireless Telecommunications Facility, Small Cells

The reference to Section 21-64(a)(22) shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

Section 21-84 Events, Special.

- ~~(a) A permit is required for each special event.~~
- ~~(b) All garbage shall be removed from site within five (5) days.~~
- ~~(c) The permit applicant shall be the owner or co-owner of the property. An owner or a representative of the owner shall be present on the property at all times during the special event.~~
- ~~(d) Unique events shall occur outdoors, in temporary structures, or existing permanent structures. New permanent structures shall not be constructed for unique events.~~
- ~~(e) Dedicated events shall cause no alteration to land including, but not limited to, grading, filling, or paving.~~
- ~~(f) The duration of each special event shall not exceed three (3) consecutive days, provided activities shall occur only between the hours of 7:00 a.m. and 11:59 p.m.~~
- ~~(g) A parking plan shall be submitted as part of the permit process.~~
- ~~(h) The owner of the property shall procure a liability insurance policy. Proof of the liability insurance in the minimum amount of \$1,000,000 per occurrence and which lists the City of Elkins as co-insured on the policy shall be submitted with the permit application.~~
- ~~(i) Local emergency medical services (EMS) shall be notified of all events. The holder of the event shall provide EMS with the number of people projected to attend.~~

The reference to Section 21-84 Events, Special shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance.

On Appendix B:Use Table, the reference to Event Special shall be removed and repealed from Ordinance 301, City of Elkins Zoning Ordinance. (See attached hereto "Appendix B: Use Table)

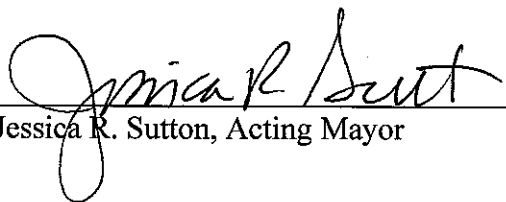
If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and Common Council determines that it would have adopted this Ordinance without the invalid provision.

This Ordinance shall become effective upon passage.

PASSED AND APPROVED ON THE FIRST READING: October 20, 2022.

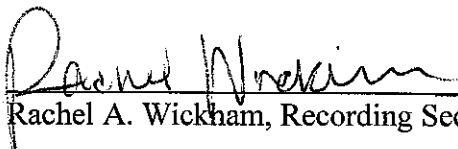
PASSED AND APPROVED ON THE SECOND AND FINAL READING: November 3, 2022.

CITY OF ELKINS, WEST VIRGINIA



Jessica R. Sutton, Acting Mayor

Attest:



Rachel A. Wickham, Recording Secretary