

ORDINANCE 317

**AN ORDINANCE OF THE COMMON COUNCIL OF ELKINS, WEST VIRGINIA  
AMENDING SECTION OF CITY CODE, CHAPTER 152, ZONING, § 152.08**

**WHEREAS**, the Common Council previously adopted a zoning ordinance which is codified in City Code Chapter 152, Zoning; and

**WHEREAS**, following the enactment of the zoning ordinance it has come to the attention of the City that there are several parcels of land that are unzoned because they were believed to be part of a railroad right of way, which were not zoned during the process of zoning by the Planning Commission because no rights of way were zoned, including railroad rights of way and public streets; and

**WHEREAS** the Elkins Planning Commission has met and reviewed the circumstance and situation where parcels of land within the City where unzoned for the reasons set forth above; and

**WHEREAS**, the Elkins Planning Commission, pursuant to City Code §152.04, recommends to the Common Council that §152.08 of Chapter 152; Zoning be amended as set forth below; and

**WHEREAS** it appears that the Elkins Planning Commission has made this recommendation in furtherance of its authority and responsibilities to advise Council of any proposed amendments to Chapter 152: Zoning; and

**WHEREAS**, the Common Council has determined that by accepting the recommendation of the Elkins Planning Commission it is in the best interest of the citizens

of the City and that said proposed amendment is consistent with the adopted comprehensive plan.

**NOW THEREFORE BE IT ORDAINED and ENACTED** by the Common Council that City Code, Chapter 152: Zoning, §152.08, be amended, supplemented, and shall read as follows:

**§ 152.068 PROCEDURES RELATING TO ANNEXED LANDS, VACATED AREAS AND UNZONED LANDS.**

(A) Zoning of annexed lands. Zoning classification for any land annexed into the city shall be established by ordinance, pursuant to W.Va. Code Ch. 8A, Art. 7, simultaneously with the adoption of the annexation resolution required by W.Va. Code Ch. 8, Art. 6, as amended. City Council shall hear zoning recommendations from the Planning Commission for the subject area during the required hearing for annexation. Prior to any hearings, the Elkins Planning Commission shall submit its written recommendations, to be consistent with the comprehensive plan, to City Council at least 30 days prior to the hearing for annexation.

(1) Prior to the annexation hearing and formal zoning designation of any parcel(s) of land being annexed, the city shall, at least 30 days prior to the enactment of the zoning map amendment:

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

(b) Publish a notice of the proposed amendment to the zoning ordinance map as a Class II-0 legal advertisement, pursuant to W.Va. Code Ch. 59.

(2) After the required 30-day notice period ends and the property owners have been notified by certified mail, the City Council shall hold a public hearing regarding the zoning designation of the newly annexed land. After the hearing, City Council can, by ordinance, designate the zoning districts for the annexed land.

(B) Whenever any street, place, alley, public right-of-way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the districts adjoining each side of such street, place, alley, public way, railroad right-of-way, waterway, or similar area shall be extended automatically to the center of such vacation and all area included in the vacation shall then and thenceforth be subject to all appropriate provisions of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

[C] Zoning of Lands Unzoned Within the City of Elkins. Zoning of any unzoned lands within the City of Elkins shall be zoned and assigned a zoning district by ordinance, pursuant to W. Va. Code Chapter 8A, Art 7. City Council shall hear zoning recommendations from the Planning Commission for the subject area. Prior to any hearing, the Elkins Planning Commission shall submit its written recommendations, to be consistent with the comprehensive plan to the City Council at least 30 days prior to the hearing for zoning.

(1) Prior to the zoning hearing and formal designation of any unzoned parcel(s) of land being zoned, the City shall, at least 30 days prior to the enactment of an ordinance amending the zoning map:

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

b) Publish a notice of the proposed amendment to the zoning ordinance map as a Class II-0 legal advertisement, pursuant to W. Va. Code Ch. 59.

(2) After the required 30-day notice period ends and the property owners have been notified by certified mail, the City Council shall hold a public hearing regarding the zoning designation of the unzoned land. After the hearing, City Council can, by ordinance, designate the zoning district for the unzoned land, treating the unzoned land in the same manner that vacated land is treated in Section [B] above.

The changes to Chapter 152: Zoning are only to the section referred to herein and all other sections of said Chapter shall remain in full force in effect.

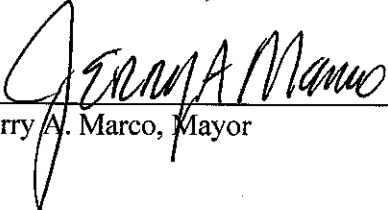
If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and Common Council determines that it would have adopted this Ordinance without the invalid provision.

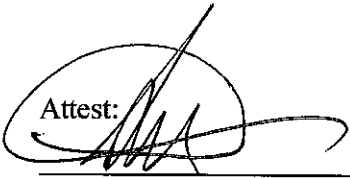
This Ordinance shall become effective upon passage.

**PASSED AND APPROVED ON THE FIRST READING: November 16, 2023.**

**PASSED AND APPROVED ON THE SECOND AND FINAL READING: December 7, 2023.**

CITY OF ELKINS, WEST VIRGINIA

  
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Jerry A. Marco, Mayor

Attest:   
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Sutton Stokes, City Clerk