

# Where Does the 2014 Comprehensive Plan Deadline Come From?

Fact Sheet

Winter 2014

## Background

In 2004, the West Virginia legislature rewrote the state laws governing land use planning and regulation. Those provisions make up Chapter 8A of the West Virginia Code. Chapter 8A covers comprehensive plans, subdivision and land development ordinances, improvement location permits and more. These provisions provide some deadlines for local governments. However, the Code fails to clearly set out these deadlines.

This article summarizes the provisions of Chapter 8A of the West Virginia Code that, together, require that a local government adopt a comprehensive plan or update an existing comprehensive plan by June 11, 2014. If the local government wishes to enforce land use regulations like zoning and subdivision ordinances, it must comply with the deadline. Note that Chapter 8A provides exceptions for some local governments. This article merely summarizes the law regarding the deadline for adopting a comprehensive plan in West Virginia. You should consult with your local government attorney for more information.

## West Virginia Code requirements

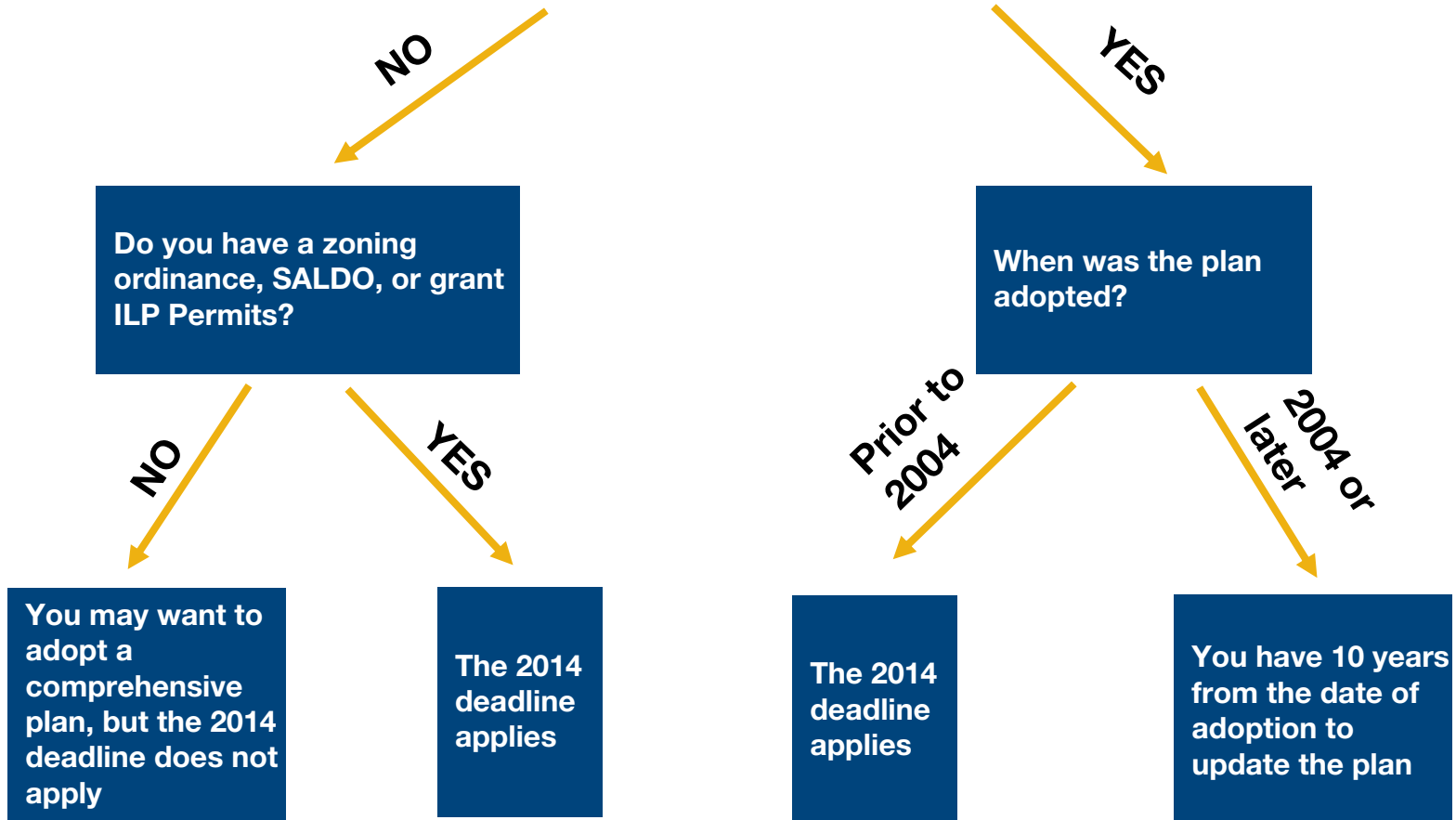
- Governing bodies must have a comprehensive plan before enacting a subdivision and land development ordinance, requiring plans and plats for development, issuing improvement location permits for construction, or enacting a zoning ordinance.<sup>1</sup> -West Virginia Code § 8A-1-1(b)(8).
- The planning commission must update the comprehensive plan every ten years. -West Virginia Code § 8A-3-11(a).
- Amendments to comprehensive plans made prior to the adoption of Chapter 8A must comply with the provisions of Chapter 8A. -West Virginia Code § 8A-3-12(b).
- The adoption of a comprehensive plan or any general development plans by a planning commission, under the authority of prior acts, is valid and the plans may continue in effect for ten years after the effective date of [Chapter 8A] or until the plans are revised, amended or replaced in accordance with [Chapter 8A].” West Virginia Code § 8A-3-12(a). Note the effective date is June 11, 2004. (90 days after March 13, 2004).

Putting all of this together, if a comprehensive plan adopted prior to the effective date of Chapter 8A is not “updated” by June 11, 2014 (ten years after the effective date of the act), the plan is not valid. Any subdivision and land development ordinance, requirement for plans and plats for development, issuance of improvement location permits or zoning ordinance is not enforceable due to the lack of a valid comprehensive plan.

<sup>1</sup>Note that West Virginia Code § 8A-4-1(a)(2) allows a local government to enact a subdivision and land development ordinance first, so long as the comprehensive plan is adopted within 3 years of the enactment of the subdivision and land development ordinance.

Therefore, local governments must “update” any existing comprehensive plan prior to June 11, 2014, or any legal requirements based on that plan, such as a subdivision ordinance, become invalid on that date. Local governments that do not have a comprehensive plan may not enforce a zoning ordinance, subdivision and land development ordinance, improvement location permit requirements, or almost any other land use regulation. After the initial update or adoption of the plan, updates must be done every 10 years or legal requirements based on that plan become unenforceable.

## Do you have a Comprehensive Plan?



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