

CHAPTER 204

**GOVERNMENT - COUNTY**

**HOUSE BILL 00-1001**

BY REPRESENTATIVES Gotlieb, Coleman, Fairbank, Leyba, Plant, Saliman, Tupa, and Veiga;  
also SENATORS Reeves, Hernandez, Pascoe, Rupert, Sullivant, and Wham.

**AN ACT**

CONCERNING SPECIFIC CRITERIA THAT MAY BE INCLUDED IN LOCAL GOVERNMENT MASTER PLANS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 30-28-106 (1), (2) (a), and (3) (a), Colorado Revised Statutes, are amended to read:

**30-28-106. Adoption of master plan - contents.** (1) It is the duty of a county planning commission to make and adopt a master plan for the physical development of the unincorporated territory of the county. ~~WHEN A COUNTY PLANNING COMMISSION DECIDES TO ADOPT A MASTER PLAN, THE COMMISSION SHALL CONDUCT PUBLIC HEARINGS, AFTER NOTICE OF SUCH PUBLIC HEARINGS HAS BEEN PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN A MANNER SUFFICIENT TO NOTIFY THE PUBLIC OF THE TIME, PLACE, AND NATURE OF THE PUBLIC HEARING, PRIOR TO FINAL ADOPTION OF A MASTER PLAN IN ORDER TO ENCOURAGE PUBLIC PARTICIPATION IN AND AWARENESS OF THE DEVELOPMENT OF SUCH PLAN AND SHALL ACCEPT AND CONSIDER ORAL AND WRITTEN PUBLIC COMMENTS THROUGHOUT THE PROCESS OF DEVELOPING THE PLAN.~~

(2) (a) It is the duty of a regional planning commission to make and adopt a regional plan for the physical development of the territory within the boundaries of the region, but no such plan shall be effective within the boundaries of any incorporated municipality within the region unless such plan is adopted by the governing body of the municipality for the development of its territorial limits and under the terms of paragraph (b) of this subsection (2). ~~WHEN A REGIONAL PLANNING COMMISSION DECIDES TO ADOPT A MASTER PLAN, THE COMMISSION SHALL CONDUCT PUBLIC HEARINGS, AFTER NOTICE OF SUCH PUBLIC HEARINGS HAS BEEN PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE REGION IN A MANNER SUFFICIENT TO NOTIFY THE PUBLIC OF THE TIME, PLACE, AND NATURE OF THE PUBLIC HEARING, PRIOR~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

TO FINAL ADOPTION OF A MASTER PLAN IN ORDER TO ENCOURAGE PUBLIC PARTICIPATION IN AND AWARENESS OF THE DEVELOPMENT OF SUCH PLAN AND SHALL ACCEPT AND CONSIDER ORAL AND WRITTEN PUBLIC COMMENTS THROUGHOUT THE PROCESS OF DEVELOPING THE PLAN.

(3) (a) The master plan of a county or region, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the county or regional planning commission's recommendations for the development of the territory covered by the plan and, AFTER CONSIDERATION OF EACH OF THE FOLLOWING, WHERE APPLICABLE OR APPROPRIATE, may include, BUT NOT BE LIMITED TO:

(I) The general location, character, and extent of EXISTING, PROPOSED, OR PROJECTED streets or roads, RIGHTS-OF-WAY, viaducts, bridges, WATERWAYS, WATERFRONTS, parkways, HIGHWAYS, MASS TRANSIT ROUTES AND CORRIDORS, AND ANY TRANSPORTATION PLAN PREPARED BY ANY METROPOLITAN PLANNING ORGANIZATION THAT COVERS ALL OR A PORTION OF THE COUNTY OR REGION AND THAT THE COUNTY OR REGION HAS RECEIVED NOTIFICATION OF OR, IF THE COUNTY OR REGION IS NOT LOCATED IN AN AREA COVERED BY A METROPOLITAN PLANNING ORGANIZATION, ANY TRANSPORTATION PLAN PREPARED BY THE DEPARTMENT OF TRANSPORTATION THAT THE COUNTY OR REGION HAS RECEIVED NOTIFICATION OF AND THAT APPLIES TO THE COUNTY OR REGION;

(II) THE GENERAL LOCATION OF PUBLIC PLACES OR FACILITIES, INCLUDING PUBLIC SCHOOLS, CULTURALLY, HISTORICALLY, OR ARCHAEOLOGICALLY SIGNIFICANT BUILDINGS, SITES, AND OBJECTS, playgrounds, forests, reservations, SQUARES, parks, airports, AVIATION FIELDS, and other public ways, grounds, ~~places, and~~ OPEN spaces, TRAILS, AND DESIGNATED FEDERAL, STATE, AND LOCAL WILDLIFE AREAS;

(III) The general location and extent of public utilities, ~~and~~ terminals, CAPITAL FACILITIES, AND TRANSFER FACILITIES, whether publicly or privately owned, for water, light, power, sanitation, transportation, communication, heat, and other purposes, AND ANY PROPOSED OR PROJECTED NEEDS FOR CAPITAL FACILITIES AND UTILITIES, INCLUDING THE PRIORITIES, ANTICIPATED COSTS, AND FUNDING PROPOSALS FOR SUCH FACILITIES AND UTILITIES;

(IV) THE GENERAL LOCATION AND EXTENT OF AN ADEQUATE AND SUITABLE SUPPLY OF WATER. IF THE MASTER PLAN INCLUDES A WATER SUPPLY ELEMENT, THE PLANNING COMMISSION SHALL CONSULT WITH THE ENTITIES THAT SUPPLY WATER FOR USE WITHIN THE COUNTY OR REGION TO ENSURE COORDINATION ON WATER SUPPLY AND FACILITY PLANNING, AND THE WATER SUPPLY ELEMENT SHALL IDENTIFY WATER SUPPLIES AND FACILITIES SUFFICIENT TO MEET THE NEEDS OF THE PUBLIC AND PRIVATE INFRASTRUCTURE REASONABLY ANTICIPATED OR IDENTIFIED IN THE PLANNING PROCESS. NOTHING IN THIS SUBPARAGRAPH (IV) SHALL BE CONSTRUED TO SUPERSEDE, ABROGATE, OR OTHERWISE IMPAIR THE ALLOCATION OF WATER PURSUANT TO THE STATE CONSTITUTION OR LAWS, THE RIGHT TO BENEFICIALLY USE WATER PURSUANT TO DECREES, CONTRACTS, OR OTHER WATER USE AGREEMENTS, OR THE OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, OR USE OF ANY WATER FACILITY.

(V) The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, MODIFICATION, or change of use of any of the ~~foregoing~~ public ways, RIGHTS-OF-WAY, INCLUDING THE COORDINATION OF SUCH

RIGHTS-OF-WAY WITH THE RIGHTS-OF-WAY OF OTHER COUNTIES, REGIONS, OR MUNICIPALITIES, grounds, ~~places~~ OPEN spaces, buildings, properties, utilities, or terminals, REFERRED TO IN SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (a);

(VI) Methods for assuring access to ~~sunlight~~ APPROPRIATE CONDITIONS for solar, WIND, OR OTHER ALTERNATIVE energy ~~devices~~ SOURCES;

(VII) The general character, location, and extent of community centers, townsites, housing developments, whether public or private, THE EXISTING, PROPOSED, OR PROJECTED LOCATION OF RESIDENTIAL NEIGHBORHOODS AND SUFFICIENT LAND FOR FUTURE HOUSING DEVELOPMENT FOR THE EXISTING AND PROJECTED ECONOMIC AND OTHER NEEDS OF ALL CURRENT AND ANTICIPATED RESIDENTS OF THE COUNTY OR REGION, and urban conservation or redevelopment areas. IF A COUNTY OR REGION HAS ENTERED INTO A REGIONAL PLANNING AGREEMENT, SUCH AGREEMENT MAY BE INCORPORATED BY REFERENCE INTO THE MASTER PLAN.

(VIII) The general location and extent of forests, agricultural areas, flood control areas, and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, flood control, or the protection of urban development; ~~and~~

(IX) A land classification and utilization program;

(X) PROJECTIONS OF POPULATION GROWTH AND HOUSING NEEDS TO ACCOMMODATE THE PROJECTED POPULATION FOR SPECIFIED INCREMENTS OF TIME. THE COUNTY OR REGION MAY BASE THESE PROJECTIONS UPON DATA FROM THE DEPARTMENT OF LOCAL AFFAIRS AND UPON THE COUNTY'S OR REGION'S LOCAL OBJECTIVES.

(XI) THE LOCATION OF AREAS CONTAINING STEEP SLOPES, GEOLOGICAL HAZARDS, ENDANGERED OR THREATENED SPECIES, WETLANDS, FLOODPLAINS, FLOODWAYS, AND FLOOD RISK ZONES, HIGHLY ERODIBLE LAND OR UNSTABLE SOILS, AND WILDFIRE HAZARDS. FOR PURPOSES OF DETERMINING THE LOCATION OF SUCH AREAS, THE PLANNING COMMISSION SHOULD CONSIDER THE FOLLOWING SOURCES FOR GUIDANCE:

(A) THE COLORADO GEOLOGICAL SURVEY FOR DEFINING AND MAPPING GEOLOGICAL HAZARDS;

(B) THE UNITED STATES FISH AND WILDLIFE SERVICE OF THE UNITED STATES DEPARTMENT OF THE INTERIOR AND THE COLORADO WILDLIFE COMMISSION FOR LOCATING AREAS INHABITED BY ENDANGERED OR THREATENED SPECIES;

(C) THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE UNITED STATES FISH AND WILDLIFE SERVICE NATIONAL WETLANDS INVENTORY FOR DEFINING AND MAPPING WETLANDS;

(D) THE FEDERAL EMERGENCY MANAGEMENT AGENCY FOR DEFINING AND MAPPING FLOODPLAINS, FLOODWAYS, AND FLOOD RISK ZONES;

(E) THE NATURAL RESOURCES CONSERVATION SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR DEFINING AND MAPPING UNSTABLE SOILS AND

HIGHLY ERODIBLE LAND; AND

(F) THE COLORADO STATE FOREST SERVICE FOR LOCATING WILDFIRE HAZARD AREAS.

**SECTION 2.** 31-23-206 (1), Colorado Revised Statutes, is amended to read:

**31-23-206. Master plan.** (1) It is the duty of the commission to make and adopt a master plan for the physical development of the municipality, including any areas outside its boundaries, subject to the approval of the governmental body having jurisdiction thereof, which in the commission's judgment bear relation to the planning of such municipality. WHEN A COMMISSION DECIDES TO ADOPT A MASTER PLAN, THE COMMISSION SHALL CONDUCT PUBLIC HEARINGS, AFTER NOTICE OF SUCH PUBLIC HEARINGS HAS BEEN PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY IN A MANNER SUFFICIENT TO NOTIFY THE PUBLIC OF THE TIME, PLACE, AND NATURE OF THE PUBLIC HEARING, PRIOR TO FINAL ADOPTION OF A MASTER PLAN IN ORDER TO ENCOURAGE PUBLIC PARTICIPATION IN AND AWARENESS OF THE DEVELOPMENT OF SUCH PLAN AND SHALL ACCEPT AND CONSIDER ORAL AND WRITTEN PUBLIC COMMENTS THROUGHOUT THE PROCESS OF DEVELOPING THE PLAN. Such plan, with the accompanying maps, plats, charts, and descriptive matter, shall, AFTER CONSIDERATION OF EACH OF THE FOLLOWING, WHERE APPLICABLE OR APPROPRIATE, show the commission's recommendations for the development of said ~~territory~~ MUNICIPALITY AND OUTLYING AREAS, including, but not limited to:

(a) The general location, character, and extent of EXISTING, PROPOSED, OR PROJECTED streets, ROADS, RIGHTS-OF-WAY, ~~subways~~ bridges, waterways, waterfronts, parkways, HIGHWAYS, MASS TRANSIT ROUTES AND CORRIDORS, AND ANY TRANSPORTATION PLAN PREPARED BY ANY METROPOLITAN PLANNING ORGANIZATION THAT COVERS ALL OR A PORTION OF THE MUNICIPALITY AND THAT THE MUNICIPALITY HAS RECEIVED NOTIFICATION OF OR, IF THE MUNICIPALITY IS NOT LOCATED IN AN AREA COVERED BY A METROPOLITAN PLANNING ORGANIZATION, ANY TRANSPORTATION PLAN PREPARED BY THE DEPARTMENT OF TRANSPORTATION THAT THE MUNICIPALITY HAS RECEIVED NOTIFICATION OF AND THAT COVERS ALL OR A PORTION OF THE MUNICIPALITY;

(b) THE GENERAL LOCATION OF PUBLIC PLACES OR FACILITIES, INCLUDING PUBLIC SCHOOLS, CULTURALLY, HISTORICALLY, OR ARCHAEOLOGICALLY SIGNIFICANT BUILDINGS, SITES, AND OBJECTS, playgrounds, squares, parks, AIRPORTS, aviation fields, and other public ways, grounds, ~~and~~ open spaces, TRAILS, AND DESIGNATED FEDERAL, STATE, AND LOCAL WILDLIFE AREAS;

~~(b)~~ (c) The general location and extent of public utilities ~~and~~ terminals, CAPITAL FACILITIES, AND TRANSFER FACILITIES, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes, AND ANY PROPOSED OR PROJECTED NEEDS FOR CAPITAL FACILITIES AND UTILITIES, INCLUDING THE PRIORITIES, ANTICIPATED COSTS, AND FUNDING PROPOSALS FOR SUCH FACILITIES AND UTILITIES;

(d) THE GENERAL LOCATION AND EXTENT OF AN ADEQUATE AND SUITABLE SUPPLY OF WATER. IF THE MASTER PLAN INCLUDES A WATER SUPPLY ELEMENT, THE PLANNING COMMISSION SHALL CONSULT WITH THE ENTITIES THAT SUPPLY WATER FOR USE

WITHIN THE MUNICIPALITY TO ENSURE COORDINATION ON WATER SUPPLY AND FACILITY PLANNING, AND THE WATER SUPPLY ELEMENT SHALL IDENTIFY WATER SUPPLIES AND FACILITIES SUFFICIENT TO MEET THE NEEDS OF THE PUBLIC AND PRIVATE INFRASTRUCTURE REASONABLY ANTICIPATED OR IDENTIFIED IN THE PLANNING PROCESS. NOTHING IN THIS PARAGRAPH (d) SHALL BE CONSTRUED TO SUPERSEDE, ABROGATE, OR OTHERWISE IMPAIR THE ALLOCATION OF WATER PURSUANT TO THE STATE CONSTITUTION OR LAWS, THE RIGHT TO BENEFICIALLY USE WATER PURSUANT TO DECREES, CONTRACTS, OR OTHER WATER USE AGREEMENTS, OR THE OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, OR USE OF ANY WATER FACILITY.

~~(e)~~ (e) The ACCEPTANCE, removal, relocation, widening, narrowing, vacating, abandonment, MODIFICATION, change of use, or extension of any of the PUBLIC ways, RIGHTS-OF-WAY, INCLUDING THE COORDINATION OF SUCH RIGHTS-OF-WAY WITH THE RIGHTS-OF-WAY OF OTHER MUNICIPALITIES, COUNTIES, OR REGIONS, grounds, open spaces, buildings, property, utility, or terminals, referred to in paragraphs (a) ~~and (b)~~ TO (d) of this subsection (1); ~~and~~

~~(f)~~ (f) A zoning plan for the control of the height, area, bulk, location, and use of buildings and premises. Such a zoning plan may protect and assure access to ~~sunlight~~ APPROPRIATE CONDITIONS for solar, WIND, OR OTHER ALTERNATIVE energy ~~devices~~ SOURCES; however, regulations and restrictions of the height, number of stories, size of buildings and other structures, and the height and location of trees and other vegetation shall not apply to existing buildings, structures, trees, or vegetation except for new growth on such vegetation.

(g) THE GENERAL CHARACTER, LOCATION, AND EXTENT OF COMMUNITY CENTERS, HOUSING DEVELOPMENTS, WHETHER PUBLIC OR PRIVATE, THE EXISTING, PROPOSED, OR PROJECTED LOCATION OF RESIDENTIAL NEIGHBORHOODS AND SUFFICIENT LAND FOR FUTURE HOUSING DEVELOPMENT FOR THE EXISTING AND PROJECTED ECONOMIC AND OTHER NEEDS OF ALL CURRENT AND ANTICIPATED RESIDENTS OF THE MUNICIPALITY, AND REDEVELOPMENT AREAS. IF A MUNICIPALITY HAS ENTERED INTO A REGIONAL PLANNING AGREEMENT, SUCH AGREEMENT MAY BE INCORPORATED BY REFERENCE INTO THE MASTER PLAN.

(h) A MASTER PLAN FOR THE EXTRACTION OF COMMERCIAL MINERAL DEPOSITS PURSUANT TO SECTION 34-1-304, C.R.S.;

(i) A PLAN FOR THE LOCATION AND PLACEMENT OF PUBLIC UTILITIES THAT FACILITATES THE PROVISION OF SUCH UTILITIES TO ALL EXISTING, PROPOSED, OR PROJECTED DEVELOPMENTS IN THE MUNICIPALITY;

(j) PROJECTIONS OF POPULATION GROWTH AND HOUSING NEEDS TO ACCOMMODATE THE PROJECTED POPULATION FOR SPECIFIED INCREMENTS OF TIME. THE MUNICIPALITY MAY BASE THESE PROJECTIONS UPON DATA FROM THE DEPARTMENT OF LOCAL AFFAIRS AND UPON THE MUNICIPALITY'S LOCAL OBJECTIVES.

(k) THE AREAS CONTAINING STEEP SLOPES, GEOLOGICAL HAZARDS, ENDANGERED OR THREATENED SPECIES, WETLANDS, FLOODPLAINS, FLOODWAYS, AND FLOOD RISK ZONES, HIGHLY ERODIBLE LAND OR UNSTABLE SOILS, AND WILDFIRE HAZARDS. FOR PURPOSES OF DETERMINING THE LOCATION OF SUCH AREAS, THE PLANNING COMMISSION SHOULD CONSIDER THE FOLLOWING SOURCES FOR GUIDANCE:

(I) THE COLORADO GEOLOGICAL SURVEY FOR DEFINING AND MAPPING GEOLOGICAL HAZARDS;

(II) THE UNITED STATES FISH AND WILDLIFE SERVICE OF THE UNITED STATES DEPARTMENT OF THE INTERIOR AND THE COLORADO WILDLIFE COMMISSION FOR LOCATING AREAS INHABITED BY ENDANGERED OR THREATENED SPECIES;

(III) THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE UNITED STATES FISH AND WILDLIFE SERVICE NATIONAL WETLANDS INVENTORY FOR DEFINING AND MAPPING WETLANDS;

(IV) THE FEDERAL EMERGENCY MANAGEMENT AGENCY FOR DEFINING AND MAPPING FLOODPLAINS, FLOODWAYS, AND FLOOD RISK ZONES;

(V) THE NATURAL RESOURCES CONSERVATION SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR DEFINING AND MAPPING UNSTABLE SOILS AND HIGHLY ERODIBLE LAND; AND

(VI) THE COLORADO STATE FOREST SERVICE FOR LOCATING WILDFIRE HAZARD AREAS.

**SECTION 3. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 24, 2000