

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 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.

(b) Any plan adopted by a regional planning commission shall not be deemed an official advisory plan of any municipality or county unless adopted by the planning commission of such municipality or county.

(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. The master plan of a county or region shall be an advisory document to guide land development decisions; however, the plan or any part thereof may be made binding by inclusion in the county's or region's adopted subdivision, zoning, platting, planned unit development, or other similar land development regulations after satisfying notice, due process, and hearing requirements for legislative or quasi-judicial processes as appropriate. After consideration of each of the following, where applicable or appropriate, the master plan may include, but shall 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, open spaces, trails, and designated federal, state, and local wildlife areas;

(III) The general location and extent of public utilities, 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 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, open spaces, buildings, properties, utilities, or terminals, referred to in subparagraphs (I) to (IV) of this paragraph (a);

(VI) Methods for assuring access to appropriate conditions for solar, wind, or other alternative energy 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;

(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.

(b) Any master plan of a county or region which includes mass transportation shall be coordinated with that of any adjacent county, region, or other political subdivision, as the case may be, to eliminate conflicts or inconsistencies and to assure the compatibility of such plans and their implementation pursuant to this section and sections [30-11-101](#), [30-25-202](#), and 30-26-301.

(c) The master plan of a county or region shall also include a master plan for the extraction of commercial mineral deposits pursuant to section [34-1-304](#), C.R.S.

(d) The master plan of a county or region may also include plans for the development of drainage basins in all or portions of the county or region. When county subdivision regulations require the payment of drainage fees, as provided in section [30-28-133](#) (11), the master plan shall include the plan for the development of drainage basins.

(e) In creating the master plan of a county or region, the county or regional planning commission may take into consideration the availability of affordable housing within the county or region. Counties are encouraged to examine any regulatory impediments to the development of affordable housing.

(f) (Deleted by amendment, L. 2007, p. 612, § 1, effective August 3, 2007.)

(g) The master plan of a county or region may include designated utility corridors to facilitate the provision of utilities to all developments in the county or region.

(4) (a) Each county that has not already adopted a master plan and that meets one of the following descriptions shall adopt a master plan within two years after January 8, 2002:

(I) Each county or city and county that has a population equal to or greater than ten thousand and the population of which has demonstrated an increase of either:

(A) Ten percent or more during the calendar years 1994 to 1999; or

(B) Ten percent or more during any five-year period ending in 2000 or any subsequent year;

(II) Each county or city and county that has a population of one hundred thousand or more.

(b) To the extent the county does not meet a description specified in subparagraph (I) or (II) of paragraph (a) of this subsection (4), the counties of Clear Creek, Gilpin, Morgan, and Pitkin shall adopt a master plan within two years after January 8, 2002.

(c) The department of local affairs shall annually determine, based on the population statistics maintained by said department, whether a county is subject to the requirements of this subsection (4), and shall notify any county that is newly identified as being subject to said requirements. Any such county shall have two years following receipt of notification from the department to adopt a master plan.

(d) Once a county is identified as being subject to the requirements of this subsection (4), the county shall at all times thereafter remain subject to the requirements of this subsection (4), regardless of whether it continues to meet any of the descriptions in paragraph (a) of this subsection (4).

(5) A master plan adopted in accordance with the requirements of subsection (4) of this section shall contain a recreational and tourism uses element pursuant to which the county shall indicate how it intends to provide for the recreational and tourism needs of residents of the county and visitors to the county through delineated areas dedicated to, without limitation, hiking, mountain biking, rock climbing, skiing, cross country skiing, rafting, fishing, boating, hunting, shooting, or any other form of sports or other recreational activity, as applicable, and commercial facilities supporting such uses.

(6) The master plan of any county adopted or amended in accordance with the requirements of this section on and after August 8, 2005, shall satisfy the requirements of section [29-1-207](#), C.R.S., as applicable.

(7) Notwithstanding any other provision of this section, no master plan originally adopted or amended in accordance with the requirements of this section shall conflict with a master plan for the extraction of commercial mineral deposits adopted by the county pursuant to section [34-1-304](#), C.R.S.

Source: **L. 39:** p. 296, § 5. **CSA:** C. 45A, § 5. **CRS 53:** § 106-2-5. **L. 59:** p. 618, § 3. **C.R.S. 1963:** § 106-2-5. **L. 66:** p. 41, § 4. **L. 73:** pp. 467, 1054, §§ 4, 17. **L. 79:** (3)(a) amended, p. 1159, § 1, effective May 25. **L. 83:** (3)(d) added, p. 1236, § 4, effective April 23. **L. 97:** (3)(e) to (3)(g) added, p. 414, § 1, effective April 24. **L. 2000:** (1), (2)(a), and (3)(a) amended, p. 869, § 1, effective August 2. **L. 2001, 2nd Ex. Sess.:** (4) and (5) added, p. 21, § 1, effective January 8, 2002. **L. 2002:** (5) amended, p. 1036, § 83, effective June 1. **L. 2005:** (6) added, p. 223, § 2, effective August 8. **L. 2007:** IP(3)(a) and (3)(f) amended and (7) added, p. 612, § 1, effective August 3.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974). For comment, "Regionalism or Parochialism: The Land Use Planner's Dilemma", see 48 U. Colo. L. Rev. 575 (1977). For article, "Synthetic Fuels -- Policy and Regulation", see 51 U. Colo. L. Rev. 465 (1980). For article, "Local Government Exactions from Developers after Beaver Meadows", see 16 Colo. Law. 42 (1987). For article, "Growth Management: Recent Developments in Municipal Annexation and Master Plans", see 31 Colo. Law. 61 (March 2002).

Function and duty of planning commission initially is to make and adopt a master plan for the physical development of the unincorporated territory of a county. To that end, the commission is empowered to employ experts and to make detailed surveys and studies to accomplish the harmonious development of the county in terms of the general welfare of the inhabitants and the efficient and economic use of its land. *Johnson v. Bd. of County Comm'rs*, 34 Colo. App. 14, 523 P.2d 159 (1974), *aff'd sub nom. Colo. Leisure Prods., Inc. v. Johnson*, 187 Colo. 443, 532 P.2d 742 (1975).

It is the duty of zoning officials to have proper information available in a public office so that those affected can determine their rights and privileges, as well as the duties and restrictions applicable to them. *Holly Dev., Inc. v. Bd. of County Comm'rs*, 140 Colo. 95, 342 P.2d 1032 (1959).

Master plan is advisory only. The master plan is only one source of comprehensive planning, and is generally held to be advisory only, and not the equivalent of zoning, nor binding upon the zoning discretion of the legislative body. *Theobald v. Bd. of County Comm'rs*, 644 P.2d 942 (Colo. 1982).

Conceptually, a master plan is a guide to development rather than an instrument to control land use. *Theobald v. Bd. of County Comm'rs*, 644 P.2d 942 (Colo. 1982).

Planning commission's decisions regarding an amendment to the land use plan are advisory only and legislative in nature. *Stuart v. Bd. of County Comm'rs*, 699 P.2d 978 (Colo. App. 1985).

And does not confer standing to challenge the plan. Considered alone, a master plan is merely advisory and does not affect legally protected interests of property owners so as to confer standing to challenge the plan. *Theobald v. Bd. of County Comm'rs*, 644 P.2d 942 (Colo. 1982).

And is implemented through zoning ordinances. In order to have a direct effect on property rights, the master plan must be further implemented through zoning, with proper notice and hearing. *Theobald v. Bd. of County Comm'rs*, 644 P.2d 942 (Colo. 1982).

The master plan embodies policy determination and guiding principles; the zoning ordinances provide the detailed means of giving effect to those principles. *Theobald v. Bd. of County Comm'rs*, 644 P.2d 942 (Colo. 1982).

Master plan was not used as a guide to future zoning but was used, in effect, to rezone property into a classification in which residences are not permitted. *Vick v. Bd. of County Comm'rs*, 689 P.2d 699 (Colo. App. 1984).

Although master plans are generally advisory only, a county has the authority to require compliance with a master plan when the county includes compliance with the master plan in its legislatively adopted subdivision regulations so long as the master plan is drafted with sufficient exactitude that proponents of a subdivision are afforded due process, the county does not retain unfettered discretion, and the basis for a county's decision is clear for purposes of a reasoned judicial review. *Bd. of County Comm'rs v. Conder*, 927 P.2d 1339 (Colo. 1996).

Adoption authorized but not mandated. That statutory scheme in Colorado does not mandate the adoption of a master plan by a county, but rather it authorizes the board of county commissioners to appoint a planning commission whose duty it is to make and adopt a master plan. *Concerned Citizens v. Bd. of County Comm'rs*, 636 P.2d 1338 (Colo. App. 1981).

Adoption not prerequisite to zoning resolution. Absent a statutory requirement that a county adopt a master plan, a zoning resolution need not be preceded by the adoption of a formal written plan. *Concerned Citizens v. Bd. of County Comm'rs*, 636 P.2d 1338 (Colo. App. 1981).

County had authority under the Local Government Land Use Control Enabling Act, article 20 of title 29 (enabling act), to impose temporary moratorium on developmental approvals concerning certain land within county. The enabling act is designed to give local governments additional or supplemental powers for the purposes set forth in the act, including development in hazardous areas, protecting wildlife habitats, protecting areas of historical or archeological significance, controlling population density, and providing for the phasing in of infrastructure. These special considerations, in many instances, supplement those normally involved in creating a zoning master plan or administering a zoning regimen. Accordingly, the enabling act and this article (county planning statute) have different, though complementary, purposes, and the limitation on temporary zoning in § [30-28-121](#) does not prohibit or limit a moratorium on development for the purpose of studies under the enabling act. *Droste v. Bd. of County Comm'rs of Pitkin*, 141 P.3d 852 (Colo. App. 2005), *aff'd*, 159 P.3d 601 (Colo. 2007).

Applied in *City & County of Denver v. Bergland*, 517 F. Supp. 155 (D. Colo. 1981); *Bd. of County Comm'rs v. City of Thornton*, 629 P.2d 605 (Colo. 1981); *Beaver Meadows v. Bd. of County Comm'rs*, 709 P.2d 928 (Colo. 1985).