

CHAPTER 95

**GOVERNMENT - COUNTY**

**HOUSE BILL 94-1240**

BY REPRESENTATIVES Dyer, Kerns, Rupert, Williams, and Wright;  
also SENATORS Cassidy and Pastore.

**AN ACT**

**CONCERNING PLANNING DISTRICTS FOR ZONING REGULATION PURPOSES.**

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

**SECTION 1.** 30-28-119, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**30-28-119. District planning commissions.** (1) Whether or not a county planning commission has been created, the board of county commissioners of any county WHICH IS UNZONED, on petition, from time to time, may appoint district planning commissions for the purpose of preparing plans for zoning certain portions of the unincorporated territory within such county. Such petition shall:

(a) Be signed by more than fifty percent of the qualified electors who are residents in the proposed district and more than fifty percent of the residents and nonresidents who own more than fifty percent of the area of real property situated within the boundaries of the district described in the petition; ~~and shall~~

(b) Request the appointment of a planning commission for such district;

(c) CONTAIN ALL OF THE FOLLOWING:

(I) A LIST OF THE PARCELS OF LAND AS SHOWN IN THE RECORDS OF THE COUNTY ASSESSOR TO BE INCLUDED WITHIN THE PROPOSED DISTRICT;

(II) A LIST OF PROPOSED PLANNING COMMISSIONERS; AND

(III) A MAP THAT SHOWS THE BOUNDARIES OF THE PROPOSED DISTRICT AND THE

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

TOTAL NUMBER OF ACRES WITHIN THE PROPOSED DISTRICT AND THAT MEETS THE MINIMUM STANDARDS FOR LAND SURVEYS AND PLATS PROVIDED IN ARTICLE 51 OF TITLE 38, C.R.S.;

(d) BE SUBMITTED TO THE COUNTY CLERK AND RECORDER.

(1.3) THE COUNTY CLERK AND RECORDER SHALL REVIEW THE PETITION AND PREPARE A REPORT FOR THE BOARD OF COUNTY COMMISSIONERS. THE BOARD OF COUNTY COMMISSIONERS MAY ADOPT RULES ON PROCESSING THE PETITION AND ESTABLISH A REASONABLE FEE FOR THE COST OF REVIEWING THE PETITION.

(1.6) At the next regular meeting following the receipt of ~~such petition~~ THE REPORT, the board of county commissioners shall determine the sufficiency of ~~such~~ THE petition and, if found to be sufficient, shall order a public hearing to be held on the question of ~~the establishment of such district at the county seat within the county~~ WHETHER A PLANNING COMMISSION FOR THE PROPOSED DISTRICT SHOULD BE APPOINTED. THE BOARD OF COUNTY COMMISSIONERS SHALL HOLD THE PUBLIC HEARING not more than sixty days after the date of ~~filing such petition~~ THE PETITION IS DETERMINED SUFFICIENT. THE PETITIONER HAS THE BURDEN OF PROOF THAT A PLANNING COMMISSION FOR THE PROPOSED DISTRICT SHOULD BE APPOINTED.

(2) ~~A~~ Notice of the time, place, and purpose of such hearing, containing a description of the boundaries of the proposed district, shall be given by publication in a newspaper of general circulation within the county by one publication at least ~~thirty~~ FOURTEEN days prior to the date of such hearing AND SHALL BE MAILED BY THE PETITIONER FOR THE APPOINTMENT OF A PLANNING COMMISSION AT LEAST FOURTEEN DAYS BEFORE THE HEARING BY CERTIFIED MAIL TO EACH PERSON WHO OWNS PROPERTY WITHIN THE PROPOSED DISTRICT AS SHOWN IN THE RECORDS OF THE COUNTY ASSESSOR.

(2.3) Any owner of property included within the boundaries of the proposed district shall be entitled to protest the ~~establishment thereof~~ APPOINTMENT OF A PLANNING COMMISSION by filing with the board of county commissioners ~~at least five days prior to the time set for the hearing~~ a written statement setting forth in brief the grounds of the protest OR BY PRESENTING EVIDENCE OF THE GROUNDS OF THE PROTEST AT THE HEARING. At the time and place specified in said notice, the board of county commissioners shall sit for the purpose of determining whether ~~or not such~~ THE PUBLIC INTEREST REQUIRES THAT A PLANNING COMMISSION FOR THE proposed district should be established, and at such time and place it shall consider and pass upon any ~~protests filed. Within five days~~ APPOINTED. A PERSON PROTESTING THE APPOINTMENT OF THE PLANNING COMMISSION FOR THE PROPOSED DISTRICT HAS THE BURDEN OF PROOF THAT A PLANNING COMMISSION SHOULD NOT BE APPOINTED.

(2.7) AT THE NEXT REGULAR MEETING after termination of ~~such~~ THE hearing, the board of county commissioners, if satisfied that the public interest requires such action, shall ~~overrule such protests as may be filed and shall enter an order establishing the planning district, describing the boundaries thereof, giving the district an appropriate and distinctive name, and appointing the~~ MAY ENTER AN ORDER APPOINTING A district planning commission AND MAY EXCLUDE PARCELS OF LAND FROM THE PROPOSED DISTRICT. ~~Such~~ THE DISTRICT PLANNING commission shall consist of three OR FIVE members, each of whom shall be a resident of the district and

the owner of real property situated therein.

(3) (a) The members of such commission shall serve for a ~~term~~ TERMS of NOT MORE THAN three years ~~and until their successors are duly appointed and qualify~~ AS DETERMINED BY THE BOARD OF COUNTY COMMISSIONERS. They shall serve without compensation. The board of county commissioners shall provide for the filling of vacancies in the membership of the commission and for the removal of a member for nonperformance of duty or misconduct.

(b) The district planning commission: ~~so appointed and organized~~

(I) Has all the powers and is subject to all the duties by this part 1 conferred and imposed upon county planning commissions insofar as such powers and duties relate to zoning and in respect to the territory included within the boundaries of such PROPOSED district; ~~It is the duty of such commission to make, for certification to the board of county commissioners of the county, plans for zoning the territory included within the boundaries of the district. The commission~~

(II) Shall DEVELOP PROPOSED PLANS AND REGULATIONS FOR THE ZONING OF THE PROPOSED DISTRICT; AND

(III) SHALL HOLD PUBLIC HEARINGS AND certify a copy of the PROPOSED zoning plans, including the full text of the zoning resolution and the maps, to the board of county commissioners of the county, AND, if a county planning commission has been created in the county wherein the said district is situated, such plans must first be ~~approved~~ REVIEWED by ~~such~~ THE commission.

(c) (I) After receiving the certification of said zoning plans from the commission and before the CREATION OF THE PLANNING DISTRICT AND adoption of any zoning resolutions, the board of county commissioners shall hold a public hearing in the manner prescribed in section 30-28-112 ON THE QUESTION OF ESTABLISHING THE PLANNING DISTRICT. NOTICE OF THE TIME, PLACE, AND PURPOSE OF THE HEARING SHALL BE MADE IN THE SAME MANNER AS PROVIDED IN SUBSECTION (2) OF THIS SECTION.

(II) ANY PROPERTY OWNER WITHIN THE PROPOSED DISTRICT MAY PROTEST INCLUSION OF THE OWNER'S PROPERTY WITHIN THE DISTRICT BY FILING WITH THE BOARD OF COUNTY COMMISSIONERS A WRITTEN STATEMENT SETTING FORTH BRIEFLY THE GROUNDS OF THE PROTEST OR BY PRESENTING EVIDENCE OF THE GROUNDS OF THE PROTEST AT THE HEARING. THE OWNER HAS THE BURDEN OF PROOF THAT THE PUBLIC INTEREST REQUIRES EXCLUSION OF THE OWNER'S PROPERTY FROM THE DISTRICT. THE BOARD OF COUNTY COMMISSIONERS MAY EXCLUDE ANY PARCEL OF LAND FROM THE PROPOSED DISTRICT IF THE BOARD DETERMINES IT IS WITHIN THE PUBLIC INTEREST. ~~Thereafter~~

(III) IF the board of county commissioners DETERMINES IT IS IN THE PUBLIC INTEREST, THE BOARD may:

(A) ENTER AN ORDER AFTER THE HEARING THAT ESTABLISHES THE PLANNING DISTRICT, DESCRIBES THE BOUNDARIES OF THE DISTRICT, AND GIVES THE DISTRICT AN APPROPRIATE AND DISTINCTIVE NAME;

(B) By resolution, ADOPT ALL OR ANY PART OF THE PROPOSED ZONING PLAN AND REGULATIONS; AND

(C) BY RESOLUTION, exercise, as to the territory included within the boundaries of such district, all the powers conferred upon it by LAW.

(IV) THE ZONING REGULATIONS ESTABLISHED FOR THE DISTRICT MAY BE ADMINISTERED IN THE SAME MANNER AS ALL OTHER LAND USE REGULATIONS OF THE COUNTY OR AS OTHERWISE PROVIDED IN THE DISTRICT ZONING REGULATIONS. ~~sections 30-28-113 to 30-28-115 and may amend said resolution from time to time, but any such amendment shall not be made or become effective unless the same has been proposed by or first submitted for the approval, disapproval, or suggestions of the district planning commission and shall likewise have approval by the county planning commission if one has been created. If any such amendment is disapproved by either the county or the district planning commission within thirty days after such submission, to become effective it shall receive the favorable vote of not less than a majority of the entire membership of the board of county commissioners. Before finally adopting any such amendment, the board of county commissioners shall hold a public hearing thereon, at least thirty days' notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the county.~~

(4) ~~Unless or until a board of adjustment has been appointed for the county as a whole pursuant to a county zoning plan submitted by the county planning commission, such resolution shall provide that the district planning commission shall perform the functions of the board of adjustment as specified in sections 30-28-117 and 30-28-118 with respect to the zoning regulations for such district. When a county board of adjustment has been appointed, it shall function with respect to the zoning regulations for such district. Wherever the regulations for a district made pursuant to this section require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater setback from a road or street, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other regulations made under the authority of this part 1 and effective within the same territory, the provisions of the regulations for such district made pursuant to this section shall govern. Wherever the provisions of other regulations made under the authority of this part 1 and effective within the territory of a district established pursuant to this section impose higher standards than are imposed by the regulations for such district made pursuant to this section, the provisions of such other regulations shall govern.~~

(5) The boundaries of a planning district may be ~~enlarged~~ INCREASED OR DECREASED from time to time through the addition OR DELETION of contiguous ~~territory~~ PROPERTY by order of the board of county commissioners pursuant to petition signed by the owners of more than fifty percent of the area of the real property to be added ~~to the district~~ OR DELETED OR ON MOTION OF THE BOARD OF COUNTY COMMISSIONERS after published notice, opportunity for protest, and hearing, as provided in the case of original establishment of a district.

(6) Planning districts may be dissolved by action of the board of county commissioners if the affected county adopts a zoning resolution which covers the

district in question. Action for dissolution may also be initiated by a petition calling for dissolution of the district signed by more than fifty percent of the qualified electors who are residents in the district and more than fifty percent of the residents and nonresidents who own more than fifty percent of the area of real property situated within the boundaries of the district or by the board of county commissioners. The board shall hold a public hearing at the county seat within the county on the question of the dissolution of the district. A notice of the time, place, and purpose of such hearing, containing a description of the boundaries of the district, shall be given by publication in a newspaper of general circulation within the county by one publication at least ~~thirty~~ FOURTEEN days prior to the date of such hearing. ~~The officers of the district, if any, shall be notified, by certified mail at least thirty days prior to the date of the hearing, of the purpose, location, and time of the hearing.~~ Prior to the hearing, the county planning commission shall review the proposed dissolution at a public meeting and shall transmit its findings to the board of county commissioners. Any owner of property included within the boundaries of the proposed district shall be entitled to protest the dissolution ~~thereof~~ by filing with the board of county commissioners ~~at least five days prior to the time set for the hearing,~~ a written statement setting forth in brief the grounds of the protest OR BY PROVIDING EVIDENCE ON THE GROUNDS OF THE PROTEST AT THE HEARING. At the time and place specified in said notice, the board of county commissioners shall sit for the purpose of determining whether or not such district should be dissolved, and, at such time and place, it shall consider and pass upon any protests filed. ~~Within seven days after termination of such hearing,~~ The board of county commissioners, if satisfied that the public interest would be served by such action, shall enter an order dissolving the planning district, or, if satisfied that the public interest would be served by retaining such district, the board shall enter an order dismissing such petition.

**SECTION 2. Applicability.** This act shall apply to members of district planning commissions whether appointed by a board of county commissioners on, before, or after the effective date of this act.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 1994