

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 10-1205

BY REPRESENTATIVE(S) Ryden, Todd, Apuan, Casso, Court, Fischer, Hulinghorst, Labuda, Middleton, Nikkel, Waller;
also SENATOR(S) Spence, Williams.

CONCERNING LAND USE PLANNING BY LOCAL GOVERNMENTS TO ADDRESS
THE IMPACTS OF LAND USE DEVELOPMENT UPON MILITARY
INSTALLATIONS IN CLOSE PROXIMITY TO SUCH GOVERNMENTS.

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

SECTION 1. Part 1 of article 20 of title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

29-20-105.6. [Formerly 29-1-207] Notification to military installations by local governments of land use changes - legislative declaration - definitions. (1) The general assembly hereby finds, determines, and declares that it is desirable for local governments in the state to cooperate with military installations located within the state in order to encourage compatible land use, help prevent incompatible urban encroachment upon military installations, and facilitate the continued presence of major military installations within the state.

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

(2) As used in this section, unless the context otherwise requires:

(a) "Local government" means a county, home rule or statutory city, town, territorial charter city, OR A city and county. ~~or a metropolitan district created pursuant to title 32, C.R.S.~~

(b) "Military installation" means:

(I) A base, camp, post, station, airfield, yard, center, or any other land area under the jurisdiction of the United States department of defense, including any leased facility, the total acreage of which installation is in excess of ~~one thousand~~ FIVE HUNDRED acres; ~~"Military installation" does not include the Rocky Mountain arsenal nor any facility used primarily for civil works, river projects, or flood control projects.~~ OR

(II) THE GREELEY AIR NATIONAL GUARD STATION.

(3) Each local government ~~within~~ whose territorial boundaries is ~~located~~ ARE WITHIN TWO MILES OF all or any portion of a military installation shall timely provide to the INSTALLATION commanding officer ~~of that installation~~ AND THE FLYING MISSION COMMANDING OFFICER, or ~~his~~ ~~or her designee~~ THEIR DESIGNEES, information relating to proposed ZONING changes, AND AMENDMENTS to the local government's comprehensive plan, ~~amendments to the plan,~~ or land development regulations that, if approved, would significantly affect the ~~intensity, density, or~~ use of any area within the territorial boundaries of the local government that is ~~within~~ two miles of the military installation. Nothing in this subsection (3) is intended to require submission of any information in connection with a site-specific development application under consideration by the local government.

(4) Upon submission of the information required to be provided pursuant to subsection (3) of this section, the ~~local government shall provide the~~ military installation ~~an opportunity~~ SHALL HAVE FOURTEEN BUSINESS DAYS WITHIN WHICH to review the information and ~~comment~~ SUBMIT COMMENTS TO THE LOCAL GOVERNMENT on the impact the proposed changes may have on the mission of the military installation. Such comments may include:

(a) If the military installation has an airfield, whether the proposed

changes will be compatible with the safety and noise standards contained in the air installation compatible use zone ~~adopted by the military installation~~ RECOMMENDED BY UNITED STATES DEPARTMENT OF DEFENSE INSTRUCTION 4165.57 for that airfield;

(b) Whether the proposed changes are compatible with the installation environmental noise management program of the ~~United States Army~~ MILITARY INSTALLATION;

(c) Whether the proposed changes are compatible with any joint land use study for the area within which the changes are to take place, if such study has been completed; or

(d) Whether the military installation's mission will be adversely affected by the proposed changes.

(5) The local government shall review any comments received from the commanding officer OR THE FLYING MISSION COMMANDING OFFICER, or ~~his or her designee~~ THEIR DESIGNEES, pursuant to subsection (4) of this section when considering approval of a comprehensive plan, amendments to the plan, or its land development regulations. The local government shall forward a copy of any such comments received to the office of smart growth created in section 24-32-3203 (1) (a), C.R.S.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NOTHING IN THIS SECTION IS INTENDED OR SHALL BE CONSTRUED TO REQUIRE A LOCAL GOVERNMENT TO PREPARE A NEW MASTER PLAN IN EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (6) IN ORDER TO SATISFY ANY OF THE REQUIREMENTS OF THIS SECTION.

SECTION 2. 30-28-106 (3) (a) (II) and (6), Colorado Revised Statutes, are amended to read:

30-28-106. Adoption of master plan - contents. (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:

(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, MILITARY INSTALLATIONS, and other public ways, grounds, open spaces, trails, and designated federal, state, and local wildlife areas. FOR PURPOSES OF THIS SECTION, "MILITARY INSTALLATION" SHALL HAVE THE SAME MEANING AS SPECIFIED IN SECTION 29-20-105.6 (2) (b), C.R.S.

(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~~ SECTION 29-20-105.6, C.R.S., as applicable.

SECTION 3. 31-23-206 (1) (b) and (6), Colorado Revised Statutes, are 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. The master plan of a municipality 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 municipality'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. 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 municipality and outlying areas, including, but not limited to:

(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, MILITARY INSTALLATIONS, and other public ways, grounds, open spaces, trails, and designated federal, state, and local wildlife areas. FOR PURPOSES OF THIS SECTION, "MILITARY INSTALLATION" SHALL HAVE THE SAME MEANING AS SPECIFIED IN SECTION 29-20-105.6 (2) (b), C.R.S.

(6) The master plan of any municipality 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~~ SECTION 29-20-105.6, C.R.S., as applicable.

SECTION 4. Repeal of provisions being relocated in this act. 29-1-207, Colorado Revised Statutes, is repealed.

SECTION 5. Act subject to petition - 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 (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless

approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO