

76-2-101. Planning and zoning commission and district. (1) Subject to the provisions of subsection (5), whenever the public interest or convenience may require and upon petition of 60% of the affected real property owners in the proposed district, the board of county commissioners may create a planning and zoning district and appoint a planning and zoning commission consisting of seven members.

(2) A planning and zoning district may not be created in an area that has been zoned by an incorporated city pursuant to 76-2-310 and 76-2-311.

(3) For the purposes of this part, the word "district" means any area that consists of not less than 40 acres.

(4) Except as provided in subsection (5), an action challenging the creation of a planning and zoning district must begin within 6 months after the date of the order by the board of county commissioners creating the district.

(5) If real property owners representing 50% of the titled property ownership in the district protest the establishment of the district within 30 days of its creation, the board of county commissioners may not create the district. An area included in a district protested under this subsection may not be included in a zoning district petition under this section for a period of 1 year.

History: (1), (2)En. Sec. 1, Ch. 154, L. 1953; amd. Sec. 16, Ch. 273, L. 1971; Sec. 16-4101, R.C.M. 1947; (3)En. Sec. 7, Ch. 154, L. 1953; amd. Sec. 1, Ch. 229, L. 1955; Sec. 16-4107, R.C.M. 1947; R.C.M. 1947, 16-4101(part), 16-4107; (4)En. Sec. 1, Ch. 441, L. 1989; amd. Sec. 1, Ch. 591, L. 1995; amd. Sec. 1, Ch. 288, L. 2001; amd. Sec. 3, Ch. 446, L. 2009.

76-2-102. Organization and operation of commission. (1) The planning and zoning commission consists of three county commissioners, either the county surveyor or the county clerk and recorder, two citizen members, each of whom resides in a different planning and zoning district or, if only one district exists in a county or is proposed, both from that district, and a county official appointed by the county commissioners. The citizen members must be appointed by the board of county commissioners to 2-year staggered terms, with one member initially appointed to a 2-year term and the remaining member initially appointed to a 1-year term. Members of the commission shall serve without compensation other than reimbursement for authorized expenses and must be residents of the county in which they serve.

(2) The commission may appoint necessary employees and fix their compensation with the approval of the board of county commissioners, select a presiding officer to serve for 1 year, appoint a secretary to keep permanent and complete records of its proceedings, and adopt rules governing the transaction of its business.

(3) Subject to 15-10-420, the finances necessary for the transaction of the planning and zoning commission's business and to pay the expenses of the employees and justified expenses of the commission's members must be paid from a levy on the taxable value of all taxable property within the district.

History: En. Sec. 1, Ch. 154, L. 1953; amd. Sec. 16, Ch. 273, L. 1971; R.C.M. 1947, 16-4101(part); amd. Sec. 137, Ch. 27, Sp. L. November 1993; amd. Sec. 143, Ch. 584, L. 1999; amd. Sec. 2, Ch. 288, L. 2001; amd. Sec. 193, Ch. 574, L. 2001; amd. Sec. 4, Ch. 446, L. 2009.

76-2-103. Powers of commission and employees. (1) In general, the planning and zoning commission shall have such powers as may be appropriate to enable it to fulfill its functions and

duties to promote county planning and to carry out the purposes of this part.

(2) The planning and zoning commission and any of its members, officers, and employees in the performance of their functions may enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon.

History: En. Sec. 4, Ch. 154, L. 1953; R.C.M. 1947, 16-4104(part).

76-2-104. Development pattern. (1) For the purpose of furthering the health, safety, and general welfare of the people of the county, the county planning and zoning commission hereby is empowered and it shall be its duty to make and adopt a development pattern for the physical and economic development of the planning and zoning district.

(2) Such development pattern, with the accompanying maps, plats, charts, and descriptive matter, shall show the planning and zoning commission's recommendations for the development of the districts, within some of which it shall be lawful and within others of which it shall be unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain trades, industries, or callings or within which the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings shall be limited and future building setback lines shall be established.

History: En. Sec. 2, Ch. 154, L. 1953; R.C.M. 1947, 16-4102(part).

76-2-105. Continuation of prior nonconforming uses. Existing nonconforming uses may be continued although not in conformity with such zoning regulations.

History: En. Sec. 2, Ch. 154, L. 1953; R.C.M. 1947, 16-4102(part).

76-2-106. Adoption of development district. (1) Adoption by the planning and zoning commission of the development district or any change therein may be in whole or in part but must be by the affirmative vote of the majority of the whole commission, provided, however, that prior to any such adoption, a public hearing shall have been held not less than 15 days after notice thereof shall have been posted in at least three public places within the area affected.

(2) The resolution adopting the district or any part or parts covering one or more of the functional elements which may be included within the district shall refer expressly to the maps, charts, and descriptive matters forming the pattern or part thereof. The board of county commissioners shall have the power to authorize such variance from the recommendations of the planning commission as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the decision of the planning and zoning commission will result in unnecessary hardship.

History: En. Sec. 3, Ch. 154, L. 1953; R.C.M. 1947, 16-4103.

76-2-107. Preparation of resolutions and other materials. (1) The planning and zoning commission may, for the benefit and welfare of the county, prepare and submit to the board of county commissioners drafts of resolutions for the purpose of carrying out the development districts or any part of the development districts previously adopted by the commission, including zoning and land use regulations, the making of official maps, and the preservation of

the integrity of the development districts and the official maps and including procedure for appeals from decisions made under the authority of the regulations and regulations for the conservation of the natural resources of the county. The board of county commissioners is authorized to adopt these resolutions.

(2) Notwithstanding the provisions of 76-2-104 and subsection (1) of this section, if the planning and zoning commission is unable to make and adopt a development pattern or to adopt a development district, the board of county commissioners may adopt a resolution to void a planning and zoning district created pursuant to 76-2-101.

History: En. Sec. 5, Ch. 154, L. 1953; R.C.M. 1947, 16-4105(part); amd. Sec. 5, Ch. 446, L. 2009.

76-2-108. Permits authorized. The planning and zoning commission hereby is empowered to authorize and provide for the issuance of permits as a prerequisite to construction, alteration, or enlargement of any building or structure otherwise subject to the provisions of this part and may establish and collect reasonable fees therefor. The fees so collected are to go to the general fund of the county.

History: En. Sec. 5, Ch. 154, L. 1953; R.C.M. 1947, 16-4105(part).

76-2-109. Effect on natural resources. No planning district or recommendations adopted under this part shall regulate lands used for grazing, horticulture, agriculture, or the growing of timber.

History: En. Sec. 2, Ch. 154, L. 1953; R.C.M. 1947, 16-4102(part).

76-2-110. Appeal procedure. Any person aggrieved by any decision of the commission or the board of county commissioners may, within 30 days after such decision or order, appeal to the district court in the county in which the property involved is located.

History: En. Sec. 5, Ch. 154, L. 1953; R.C.M. 1947, 16-4105(part).

76-2-111. Cooperation by public agencies with commission. All public officials, departments, and agencies having information, maps, and data deemed by the commission pertinent to county planning are hereby empowered and directed to make such information available for the use of the county planning and zoning commission.

History: En. Sec. 4, Ch. 154, L. 1953; R.C.M. 1947, 16-4104(part).

76-2-112. Effect on powers of incorporated communities to plan adjacent areas. The authority heretofore granted by law to the incorporated communities to approve subdivision plats within the unincorporated area adjacent to their corporate limits is not abrogated by this part except and until the board of county commissioners having jurisdiction over such adjacent area establishes a planning commission and adopts initial regulations for subdivision control within adjacent areas or districts. Authority of the adjacent municipality shall be suspended on the effective date of the county regulation with respect to all areas governed by county subdivision regulations.

History: En. Sec. 6, Ch. 154, L. 1953; R.C.M. 1947, 16-4106.

76-2-113. Enforcement of zoning provisions. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may take any appropriate action or begin proceedings to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate a violation;

(3) prevent the occupancy of a building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use in or near the premises.

History: En. Sec. 3, Ch. 288, L. 2001.

76-2-117. Addition of territory adjacent to existing planning and zoning district. Territory that is directly adjacent to an existing planning and zoning district but that is not part of the district may be added to the district subject to the procedures provided in this part.

History: En. Sec. 1, Ch. 439, L. 2003.