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HOUSE BILL 824

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO PLANNING; REQUIRING COUNTIES AND MUNICIPALITIES TO  
ADOPT A DETAILED COMPREHENSIVE PLAN; REQUIRING REVIEW OF  
EXISTING PLANS; REQUIRING COUNTIES AND MUNICIPALITIES TO  
CONFORM LAND USE ORDINANCES AND REGULATIONS TO A COMPREHENSIVE  
PLAN; AMENDING SECTIONS OF THE NMSA 1978; ENACTING THE PLANNING  
CONSISTENCY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 6 of this act may be cited as the "Planning Consistency  
Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Planning Consistency Act:

A. "comprehensive plan" means a development plan or  
master plan that is prepared, adopted or amended by a local

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1 government for the physical development of land and resources  
2 within its jurisdiction; and

3 B. "local government" means a municipality, city,  
4 village, town or county that may adopt, prepare or amend a  
5 comprehensive plan.

6 Section 3. [NEW MATERIAL] CONFORMING EXISTING MUNICIPAL  
7 OR COUNTY PLANS--UPDATING COMPREHENSIVE PLANS.--A comprehensive  
8 plan that was adopted prior to the effective date of the  
9 Planning Consistency Act shall be reviewed by the local  
10 government that adopted that plan for compliance with that act.  
11 An existing comprehensive plan that does not conform to the  
12 requirements of the Planning Consistency Act shall be amended  
13 no later than January 1, 2010 by the local government agency  
14 that adopted that plan. A comprehensive plan shall be updated  
15 no less than once every ten years.

16 Section 4. [NEW MATERIAL] CONTENTS OF A COMPREHENSIVE  
17 PLAN.--A comprehensive plan shall contain:

18 A. background information on the local government  
19 and a statement of the local government's overall objectives,  
20 policies, goals and programs to guide the future development  
21 and redevelopment of the local government over a twenty-year  
22 planning period. Background information shall include  
23 population, household and employment forecasts that the local  
24 government uses in developing its comprehensive plan and  
25 demographic trends, age distributions, educational levels,

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1 income levels and employment characteristics that exist within  
2 the local government;

3 B. the local government's objectives, policies,  
4 goals, maps and programs to provide an adequate housing supply  
5 that meets existing and forecasted housing demand. The  
6 comprehensive plan shall:

7 (1) assess the age, structural, value and  
8 occupancy characteristics of the local government's housing  
9 stock;

10 (2) identify policies and programs that  
11 promote housing development and the provision of a range of  
12 housing choices to meet the needs of persons of all income  
13 levels and age groups and of persons of with special needs;

14 (3) identify policies and programs that  
15 promote the availability of land for the development or  
16 redevelopment of low-income and moderate-income housing; and

17 (4) identify policies and programs to maintain  
18 or rehabilitate the local government's existing housing stock;

19 C. the local government's objectives, policies,  
20 goals, maps and programs to guide future development of  
21 transportation modes, including highways, mass transit,  
22 transportation systems for persons with disabilities, bicycles,  
23 walking, railroads, air transportation, trucking and water  
24 transportation. The comprehensive plan shall:

25 (1) compare the local government's objectives,

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1 policies, goals and programs to state and regional  
2 transportation plans;

3 (2) identify highways within the local  
4 government by function; and

5 (3) incorporate state, regional and other  
6 applicable transportation plans, including transportation  
7 corridor plans, county highway functional and jurisdictional  
8 studies, urban area and rural area transportation plans,  
9 airport master plans and rail plans that apply to the local  
10 government;

11 D. the local government's objectives, policies,  
12 goals, maps and programs to guide the future development of  
13 utilities and community facilities, including sanitary sewer  
14 service, storm water management, water supply, solid waste  
15 disposal, on-site wastewater treatment technologies, recycling  
16 facilities, parks, telecommunications facilities,  
17 power-generating plants and transmission lines, cemeteries,  
18 health care facilities, child care facilities and other public  
19 facilities, such as police, fire and rescue facilities,  
20 libraries, schools and other governmental facilities. The  
21 comprehensive plan shall:

22 (1) describe the location, use and capacity of  
23 existing public utilities and community facilities that serve  
24 the local government;

25 (2) include an approximate timetable that

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1 forecasts the need to expand or rehabilitate existing utilities  
2 and facilities or to create new utilities and facilities; and

3 (3) assess future needs for government  
4 services in the local government that are related to such  
5 utilities and facilities;

6 E. the local government's objectives, policies,  
7 goals, maps and programs for the conservation and effective  
8 management of natural resources, including ground water,  
9 forests, productive agricultural areas, environmentally  
10 sensitive areas, threatened and endangered species, stream  
11 corridors, surface water, floodplains, wetlands, wildlife  
12 habitat, metallic and nonmetallic mineral resources, parks,  
13 open spaces, historical and cultural resources, community  
14 design and recreational resources;

15 F. the local government's objectives, policies,  
16 goals, maps and programs to promote the stabilization,  
17 retention or expansion of the economic base and quality  
18 employment opportunities in the local government, including an  
19 analysis of the labor force and economic base of the local  
20 government. The comprehensive plan shall:

21 (1) determine categories or particular types  
22 of new businesses and industries that are desired by the local  
23 government;

24 (2) assess the local government's strengths  
25 and weaknesses with respect to attracting and retaining

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1 businesses and industries;

2 (3) designate an adequate number of sites for  
3 desired businesses and industries;

4 (4) evaluate and promote the use of  
5 environmentally contaminated sites for commercial or industrial  
6 uses; and

7 (5) identify county, regional and state  
8 economic development programs that apply to the local  
9 government;

10 G. the local government's objectives, policies,  
11 goals, maps and programs for joint planning and decision-making  
12 with other jurisdictions, school districts and adjacent local  
13 governments for siting and building public facilities and  
14 sharing public services. The comprehensive plan shall:

15 (1) analyze the relationship of the local  
16 government to school districts and adjacent local governmental  
17 units and to the region, the state and other governmental  
18 units; and

19 (2) identify existing or potential conflicts  
20 between the local government and other governments and describe  
21 processes to resolve such conflicts;

22 H. the local government's objectives, policies,  
23 goals, maps and programs to guide the future development and  
24 redevelopment of public and private property. The  
25 comprehensive plan shall:

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1 (1) contain a listing of the amount, type,  
2 intensity and net density of existing uses of land in the local  
3 government, including agricultural, residential, commercial,  
4 industrial and other public and private uses;

5 (2) analyze trends in the supply, demand and  
6 price of land, opportunities for redevelopment and existing and  
7 potential land-use conflicts;

8 (3) contain twenty-year projections, in five-  
9 year increments, of future residential, agricultural,  
10 commercial and industrial land uses, including the assumptions  
11 of net densities or other spatial assumptions upon which the  
12 projections are based; and

13 (4) include maps that show current and future  
14 land uses that indicate productive agricultural soils, natural  
15 limitations for building-site development, floodplains,  
16 wetlands and other environmentally sensitive lands, the  
17 boundaries of areas to which services of public utilities and  
18 community facilities will be provided in the future and the  
19 general location of future land uses by net density or other  
20 classifications;

21 I. an analysis of the risks of wildfire, floods,  
22 extreme weather conditions, accidents, terrorism and other  
23 hazards. The comprehensive plan shall include goals,  
24 objectives, policies and a plan of action for hazard  
25 mitigation;

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1           J. the local government's goals, objectives and  
2 policies for promoting the efficient use of water and for  
3 managing periods of drought. The comprehensive plan shall  
4 include:

5                   (1) a description and assessment of the  
6 sources of water supply and of the demand for water by  
7 residential, commercial, institutional, industrial and  
8 recreational sectors;

9                   (2) an assessment of water losses that are  
10 unaccounted for due to leaks, theft or other reasons;

11                   (3) an analysis of the future demand for water  
12 that will result from growth projected in the plan; and

13                   (4) an analysis of how future demand for water  
14 will be served; and

15           K. a compilation of programs and specific actions  
16 to be completed in a stated sequence, including proposed  
17 changes to any applicable zoning ordinances, official maps or  
18 subdivision ordinances, to implement the objectives, policies,  
19 plans and programs contained in the Planning Consistency Act.  
20 The comprehensive plan shall:

21                   (1) describe how each element of the  
22 comprehensive plan will be integrated and made consistent with  
23 the other elements of the comprehensive plan;

24                   (2) include a mechanism to measure the local  
25 government's progress toward achieving all aspects of the

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1 comprehensive plan; and

2 (3) include a process for updating the  
3 comprehensive plan.

4 Section 5. [NEW MATERIAL] ACTIONS AND PROCEDURES THAT  
5 MUST BE CONSISTENT WITH COMPREHENSIVE PLANS.--Beginning on  
6 January 1, 2011, the following actions by a local government  
7 shall be consistent with that local government's comprehensive  
8 plan:

- 9 A. official mapping;
- 10 B. regulation of municipal subdivisions;
- 11 C. regulation of county subdivisions;
- 12 D. enacting or amending county zoning ordinances;
- 13 E. enacting or amending municipal zoning  
14 ordinances;
- 15 F. enacting or amending economic development  
16 ordinances;
- 17 G. creating or amending tax increment financing  
18 districts;
- 19 H. creating or amending public improvement  
20 districts;
- 21 I. creating or amending business improvement  
22 districts;
- 23 J. creating or amending metropolitan redevelopment  
24 districts;
- 25 K. imposing or amending impact fees; and

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1 L. transfer of development rights programs.

2 Section 6. [NEW MATERIAL] PROCEDURE FOR ADOPTING A  
3 COMPREHENSIVE PLAN.--A comprehensive plan that is recommended  
4 for adoption or amendment shall not take effect until the local  
5 government, after notice and public hearing, enacts an  
6 ordinance adopting the plan or amendment.

7 Section 7. Section 3-19-9 NMSA 1978 (being Laws 1965,  
8 Chapter 300, Section 14-18-9, as amended) is amended to read:

9 "3-19-9. MASTER PLAN--PURPOSES.--

10 A. The planning commission shall prepare and adopt  
11 a master plan for the physical development of the municipality  
12 and the area within the planning and platting jurisdiction of  
13 the municipality which in the planning commission's judgment  
14 bears a relationship to the planning of the municipality and  
15 that is in accordance with the Planning Consistency Act. The  
16 planning commission may amend, extend or add to the plan or  
17 carry any part or subject matter into greater detail. In  
18 preparing the master plan, the planning commission shall make  
19 careful and comprehensive surveys and studies of existing  
20 conditions and probable future growth of the municipality and  
21 its environs. The plan shall be made with the general purpose  
22 of guiding and accomplishing a coordinated, adjusted and  
23 harmonious development of the municipality which will, in  
24 accordance with existing and future needs, best promote health,  
25 safety, morals, order, convenience, prosperity or the general

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1 welfare as well as efficiency and economy in the process of  
2 development.

3 B. Among other things, the master plan with  
4 accompanying maps, plats and charts, descriptive and  
5 explanatory matter and recommendations of the planning  
6 commission for the physical development of the municipality and  
7 for its planning jurisdiction may include:

8 (1) the general location, character and extent  
9 of streets, bridges, viaducts and parkways, parks and  
10 playgrounds, floodways, waterways and waterfront development,  
11 airports and other ways, grounds, places and spaces;

12 (2) the general location of public schools,  
13 public buildings and other public property;

14 (3) the general location and extent of public  
15 utilities and terminals, whether publicly or privately owned;

16 (4) the general location, character, layout  
17 and extent of community centers and neighborhood units and the  
18 replanning of blighted districts and slum areas; and

19 (5) the acceptance, widening, removal,  
20 extension, relocation, narrowing, vacation, abandonment or  
21 change of use of any of the foregoing public ways, grounds,  
22 places, spaces, buildings, properties, utilities or terminals.

23 C. Copies of the master plan shall be available at  
24 the office of the municipal clerk and may be purchased at a  
25 reasonable price."

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1 Section 8. Section 3-21-5 NMSA 1978 (being Laws 1965,  
2 Chapter 300, Section 14-20-3, as amended) is amended to read:

3 "3-21-5. ZONING--CONFORMANCE TO COMPREHENSIVE PLAN.--

4 A. The regulations and restrictions of the county  
5 or municipal zoning authority [~~are to~~] shall be [~~in accordance~~]  
6 consistent with a comprehensive plan pursuant to the Planning  
7 Consistency Act and shall be designed to:

- 8 (1) lessen congestion in the streets and  
9 public ways;
- 10 (2) secure safety from fire, flood waters,  
11 panic and other dangers;
- 12 (3) promote health and the general welfare;
- 13 (4) provide adequate light and air;
- 14 (5) prevent the overcrowding of land;
- 15 (6) avoid undue concentration of population;
- 16 (7) facilitate adequate provision for  
17 transportation, water, sewerage, schools, parks and other  
18 public requirements; and
- 19 (8) control and abate the unsightly use of  
20 buildings or land.

21 B. The zoning authority in adopting regulations and  
22 restrictions shall give reasonable consideration, among other  
23 things, to the character of the district and its peculiar  
24 suitability for particular uses and to conserving the value of  
25 buildings and land and encouraging the most appropriate use of

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land throughout its jurisdiction."

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