

## Title 51.

### Land Planning.

Chap. 1. Land Planning Act, §§ 1 to 11.

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#### CHAPTER 1.

##### LAND PLANNING ACT.

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**§ 1. Short title.** — This chapter is known and may be cited as the “Land Planning Act.” (P.L. No. 4C-76, § 1.)

**§ 2. Purpose of chapter.** — It is hereby declared that the application of the power to regulate the use of lands in the Trust Territory and to regulate the quality and type of structures placed thereon is a prerogative of the Congress of Micronesia which may be delegated to the several districts to the extent which the congress deems necessary and proper. It is the purpose of this chapter to enable the several districts to establish planning commissions, to develop comprehensive planning programs and to establish certain minimum regulations for the protection and promotion of the public health, safety and general welfare of the people within the district. The establishment of planning commissions and regulatory measures on the use of land by the several districts is deemed necessary by the congress in order to encourage the most appropriate use of land, both public and private, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, to conserve and protect the natural environment, and to assure adequate provision for community utilities and facilities such as water, housing, schools, parks, transportation and thoroughfares and other public requirements. (P.L. No. 4C-76, § 2.)

**§ 3. Definitions.** — Unless the context clearly requires otherwise, the following definitions shall apply for the purposes of this chapter:

(1) “*Master plan*” means a body of text, maps, and descriptive, interpretative and analytical material, which constitutes a comprehensive plan for the development of land and physical resources and facilities of a district or an area of a district of the Trust Territory.

(2) “*Land use control laws*” means zoning, subdivision, building, housing, official map and any other laws which control the use of land and improvements on the land.

(3) “*Capital improvement program*” means the Trust Territory government’s systematic program indicating priorities of expenditures for capital improvements, estimates of costs for capital improvements and source of funds for these expenditures over a period of several years.

(4) "*Capital improvements*" means public improvements which are financed either in whole or in part by public funds, and which require the use of land, either public or private.

(5) "*Planning commission*" means a planning commission established in a district or part thereof in accordance with the provisions of this chapter. (P.L. No. 4C-76, § 3.)

**§ 4. Planning commissions.** — (1) *Establishment*: There may be established within the government of each administrative district of the Trust Territory one or more planning commissions. Each commission shall be established through the enactment of appropriate legislation providing for such commission or commissions by the district legislatures; provided that the provisions of the district law establishing such commission shall not be in conflict with the provisions of this chapter.

(2) *Master plan area*: Only one such commission shall be created for each geographical area designated by the district legislature as a master plan area. In determining the master plan area, the legislature shall give due regard to the size of the population, the geographical integrity and the need for master planning in the area. The master plan area need not be based on any political entity or subdivision within the district and may encompass the whole or part of urbanized areas within the district or the district as a whole. The district legislature shall make provision for the master planning of those areas of the district for which planning commissions have not been established.

(3) *Conflicts between commissions*: In the event there are planning conflicts between any two or more planning commissions established by the district legislature which cannot be resolved by agreement of the chairmen of the affected planning commissions, the chairmen of each commission shall outline the nature of the conflict and promptly refer the matter to the district legislature for appropriate action as the legislature shall deem fit.

(4) *Organization*: Each planning commission established shall consist of an odd number of not more than nine nor less than three members. The district law establishing each commission shall provide for the number and qualifications of members, their method of appointment, term of office, compensation, reimbursement for necessary expenses, filling of vacancies, and other such organization or operational procedures as shall be deemed necessary, provided that any provisions for membership on a planning commission shall include a requirement that members be bona fide residents of the master plan area of said planning commission, and shall provide for fair and adequate representation on the planning commission for all segments of the population of the master plan area; and provided further, that no member of the Congress of Micronesia or the district legislature shall be appointed as a member of a planning commission.

(5) *Existing planning commission*: Upon the establishment of a commission by the district legislature in accordance with the provisions of this chapter, it shall have the powers, duties and responsibilities enumerated in this chapter. Any planning commission established by district law in an administrative district prior to the effective date of this chapter shall, upon the enactment of legislation pursuant to the provisions of this chapter by the district legislature, have the powers, duties and responsibilities enumerated in this chapter.

(6) *Powers, duties and responsibilities*: Each planning commission established pursuant to this chapter shall have the following powers, duties and responsibilities:

(a) It shall prepare and recommend for adoption by the district legislature a proposed master plan, to be known as the master plan, and subsequent amendments thereto;

(b) It shall prepare and recommend for adoption by the district legislature such subsidiary plans and development programs as may be desirable for implementation of the master plan;

(c) It shall prepare and recommend for adoption by the district legislature any land use control laws necessary and proper for implementation of the master plan, and amendments to those laws;

(d) It shall prepare and submit to the district administrator and the district legislature or an appropriate committee thereof recommendations concerning the capital improvements program for the master plan area, and the annual budget request for capital improvements for the master plan area;

(e) It shall conduct a review of any matter submitted to it by any public officer or authority under section 7 of this title, and give its recommendation within thirty days of submission; provided that in the case of a matter submitted by the district legislature during a session, it shall give its recommendation within ten days. The opinion of a planning commission on questions of compliance with its master plan or land use control laws in force in its master plan area shall be binding, subject to court appeals as hereafter provided, and on other matters shall be advisory only. If the recommendations of a planning commission are not received within the appropriate time period, then the commission's approval of the proposed action shall be presumed;

(f) It shall conduct an official review of the entire master plan and land use control laws at least once every two years, or at such shorter interval as the district legislature may fix, to determine if revision is in order. The commission shall formally advise the district legislature when the master plan and land use control laws have been reviewed and whether or not any amendments are proposed;

(g) It shall prepare reports of its activities and expenditures, and such reports shall be submitted to the district legislature and the district administrator;

(h) It shall ensure compliance by all persons with the provisions of this chapter and any district laws enacted pursuant thereto. It shall have the power to conduct investigations and hold hearings, and in connection with such investigations or hearings, a commission may subpoena witnesses, records, books, and documents;

(i) It shall advise the district administrator and the High Commissioner regarding the development of public lands within the master plan area;

(j) It shall recommend tracts of those lands to be designated by the High Commissioner for homesteading;

(k) It shall develop, formulate and recommend to the district administrator and the High Commissioner plans for the utilization of public lands in the master plan area;

(l) It shall advise the district administrator and the High Commissioner relative to the use of lands in the district by noncitizens of the Trust Territory, foreign corporations, other organizations or associations in which a noncitizen of the Trust Territory owns an interest, or an agency of the United States government or any foreign government;

(m) It shall perform such other duties and responsibilities as may be assigned it by the laws of the Trust Territory or the district; provided that such district laws shall be consistent with the provisions of this act and other laws of the Trust Territory.

(7) *Staff and financing:* The district administrator will direct the district planning officer, assigned to the district by the Trust Territory government, to function as administrative and technical advisor to the planning commissions located in the district on planning and zoning matters. The district administrator shall also provide each commission with such additional technical, administrative and secretarial assistance as is required for it to effectively carry out its duties and responsibilities, and as is available in the district. The district planning officer may select his own staff in accordance with applicable Trust Territory personnel regulations. Each commission shall submit its staff and other administrative support requirements to the district

administrator for inclusion in his Trust Territory budget request. In addition, requests for funds and staff may be submitted to the Congress of Micronesia, district legislature, or municipal governments. The commission shall also be empowered to receive gifts, grants-in-aid and other financial support from any appropriate source and to enter into contractual agreements pursuant to its responsibilities, subject to the availability of funds and with the approval of the district administrator.

(8) *Access to information:* All public officials, departments, boards, commissions and other governing or administrative bodies shall cooperate with each planning commission by furnishing such information as the commission may request to carry out its duties and responsibilities under this section. (P.L. No. 4C-76, § 4.)

**§ 5. Master plans.** — (1) *Preparation, adoption and amendment:* A master plan shall be prepared by each planning commission in consultation with the district administrator and his staff and with appropriate municipal governments, commissions and the public. The commission shall arrange for public hearings on the proposed master plan prior to approval of such master plan by the commission. Prominent public notice of such hearings shall be made at least fifteen days prior to the date of the hearings. After approval by the commission, the proposed master plan shall be submitted simultaneously to the district administrator and to the district legislature. The district administrator shall transmit any comments to the district legislature within thirty days of receipt of the proposed master plan. The district legislature shall hold at least one public hearing on the proposed master plan which shall occur no earlier than fifteen days after prominent public notice of the hearing. The district legislature may, no earlier than thirty days after submission of the proposed master plan by a commission, adopt, modify and adopt, or reject such proposed master plan. The district legislature may request resubmission of such proposed master plan in whole or in part after modification by the commission along guidelines indicated by the district legislature. The master plan or its various elements may be amended at any time, provided that at least one public hearing shall be held by the district legislature on the proposed amendment with the participation of the appropriate planning commission. This hearing shall occur no earlier than fifteen days after prominent public notice of the hearing.

(2) *Scope and nature of the master plan:* A master plan shall be prepared in such a manner that all or individual elements of it may be adopted. A master plan shall include a statement of goals, standards, principles, and social, economic, and cultural considerations sought to be expressed in the development plan. A master plan shall take into account topography, climate, soil and subsoil conditions, water courses and bodies of water; trends in the economy and demography of the master plan area; the habits, environmental needs, customs and standards of life of the people of the master plan area; and the relation of land use in the master plan to the broader development of the district and Micronesia. A master plan shall include the following elements:

(a) A land use element showing the distribution, location and extent of existing and proposed uses of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, and other categories of public and private land use. The land use element shall include a statement of standards of population density and building intensity recommended for the area covered by the master plan;

(b) A transportation, circulation, and communication element showing the location, character, and extent of existing and proposed roads, terminals, shipping routes, airports, harbors, any local public transportation and major communication facilities;

(c) A conservation element planning for the conservation, development, utilization and protection of natural resources, including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The conservation element may also cover reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, prevention, control and correction of the erosion of soils, beaches and shores, and protection of watersheds;

(d) A recreation element showing the location and proposed development of recreation sites such as natural preserves, parks, beaches, playgrounds, historical areas and areas of scenic importance;

(e) A public services and utilities element showing general locations for sewage, refuse disposal, drainage and local utilities, water supply sources, electrical power sources, and rights-of-way, easements, and facilities for them;

(f) A public facilities element showing locations and arrangements of civic and community centers, public schools, libraries, police and fire stations, and other public service facilities and areas;

(g) A community design element consisting of standards and principles governing the subdivision of land, and showing recommended designs for community and neighborhood development, including schools, parks and playgrounds;

(h) A housing element consisting of standards and plans for the improvement of housing and for provision of adequate sites for housing;

(i) A safety element for the protection of the community from fire, rain, wind and earthquake damage, including such features as shelter areas, peak load water supply requirements, minimum road widths, clearances around structures and optimum dwelling design; and

(j) Any additional elements dealing with other subjects relating to the physical development of the district. (P.L. No. 4C-76, § 5.)

**§ 6. Zoning and land use laws.** — (1) *Authorization:* In the implementation of the master plans, the district legislatures are hereby authorized to enact zoning and land use laws for the master plan areas. Zoning laws shall divide the master plan area, or portions of it as circumstances dictate, into zones as herein provided. Such laws shall be made to achieve the arrangement of land uses depicted in the master plan; to loosen congestion; to secure safety from fire, panic, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, and parks; to provide for adequate parking; to protect real property value; and to safeguard and enhance the appearance of the master plan area. Such laws shall be made with reasonable regard for, among other things, the character of each zone and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the master plan area. Such laws shall further be made with reasonable regard for expansion and development of communities within the master plan area, so as to provide for the orderly growth and development of such communities.

(2) *Preparation and enactment:* Each planning commission shall prepare and recommend for enactment by the district legislature a comprehensive zoning law. The zoning law shall conform to and shall implement the master plan adopted by the district legislature. It shall include maps delineating zone boundaries. The proposed zoning law shall be submitted simultaneously to the district administrator and to the district legislature. The district administrator shall transmit any comments to the district legislature within fifteen days of receipt of the proposed zoning law. The district legislature shall hold at least one public hearing on the proposed zoning law which shall occur no earlier than fifteen days after prominent public notice of the hearing. The district

legislature may then adopt the zoning law, modify and adopt it, or reject it. The district legislature may request resubmission of the proposed zoning law in whole or in part after modification by the appropriate commission along guidelines indicated by the district legislature. Zoning and land use laws may be amended at any time, provided that at least one public hearing shall be held by the district legislature on the proposed amendment with the participation of the appropriate planning commission. This hearing shall occur no earlier than fifteen days after prominent public notice of the hearing.

(3) *Use zones*: No land shall be used contrary to zoning laws enacted pursuant to this section. The following classifications are hereby adopted as use zones and no other classification shall be adopted by the district legislature. The use zones are defined as follows:

- (a) Residential-1 (R-1): single-family residential — low density.
- (b) Residential-2 (R-2): single-family residential — medium density.
- (c) Residential-3 (R-3): multi-family residential.
- (d) Residential-commercial (RC): mixed residential and commercial-office.
- (e) Commercial (C): commercial-office with restriction on the size of warehouses.
- (f) Resort center (RV): visitors' facilities.
- (g) Transportation center (TC): transportation facilities.
- (h) Industrial-1 (I-1): industrial, including warehousing and limited commercial.
- (i) Industrial-2 (I-2): offensive industrial uses, e.g., slaughterhouses, fish canneries, sewage treatment plants.
- (j) Public (P): public and quasi-public facilities.
- (k) Village (V): low density areas of limited size with multiple land uses.
- (l) Agriculture (A): all types of agriculture uses.
- (m) Conservation (C): public open spaces and recreation areas, wilderness and beach areas, land reserved for control of flooding and soil erosion, and other uses not detrimental to a multiple use conservation concept.
- (n) Watershed (W): area reserved to protect domestic water sources with no development allowed.
- (o) Historic preservation (HP): sites of historical, archaeological and biological interest.
- (p) Planned development (PD): relatively large residential, commercial and other use areas planned as integrated developments.
- (q) Floating zone (F): future nonconforming uses in the public interest, e.g., to allow future electrical substation in R zone.

(4) *Nonconforming uses*: Any zoning law or amendment thereto enacted pursuant to the provisions of this act shall not apply to buildings or structures existing on the effective date of such legislation, nor to the existing use of any building, structure or land to the extent to which it is used on the effective date of such legislation; provided, that the zoning law shall apply to any change of use of a structure or land, to any alteration of a building or structure when the same would amount to reconstruction, extension, or structural change, to any erection of any building or structure and to any alteration of a building or structure to provide for its use for a different purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent; provided, further, that the district legislature upon the recommendation of the appropriate planning commission may enact such laws as are necessary and proper to eliminate a nonconforming use and to adequately compensate the owner of the use. (P.L. No. 4C-76, § 6.)

## **§ 7. Matters requiring mandatory review by planning commissions.**

— (1) *Capital improvement program-planning and budgeting*: The district administrator shall submit the capital improvement program and the annual

budget request for capital improvement projects in the master plan areas to the appropriate planning commission for its review and recommendation at the appropriate times in the budget and planning cycle.

(2) *Capital improvement projects:* Any proposed capital improvement project, whether funded at the territorial, district or municipal level, which is to be constructed within an area for which a master plan has been officially adopted, shall be submitted by the appropriate official to the appropriate planning commission for its review and recommendation before the project is funded.

(3) *Matters affecting master plans or land use control laws:* Any administrative act or any proposed legislation which in any manner affects the master plans or land use control laws of the district shall be submitted by the appropriate official to the appropriate planning commission for its review and recommendation before such legislation is enacted or such act is initiated.

(4) *Procedure for review:* In all cases where review by a planning commission is mandatory under the provisions of this section, the appropriate government official shall submit the matter to the appropriate planning commission, together with a request in writing for review and recommendation. The planning commission shall then consider the matter, and shall submit its written recommendations to the official within fifteen days of receipt of each request, and if such written recommendation is not submitted by the planning commission within that period, its approval shall be presumed; provided that, in the case of a matter submitted by the district legislature during a session, the planning commission shall give its recommendation within ten days. (P.L. No. 4C-76, § 7.)

**§ 8. Compliance with master plan.** — No land, way, ground, open space, water resources, building, structure or contract right shall be acquired, developed, improved, constructed, used, leased or disposed of unless in conformity with the master plan and land use control laws. (P.L. No. 4C-76, § 8.)

**§ 9. Appeals.** — (1) The planning commission shall hear and decide appeals from any order, requirement, decision or determination made by an administrative official charged with enforcement of any provision of the master plan or land use control laws. An appeal must be filed with the planning commission, in writing, within thirty days of the effective date of the decision by the enforcing official. The planning commission shall meet upon notice of the chairman within fifteen days of the filing of an appeal or at stated periodic intervals if warranted by the volume of work. All hearings shall be public and the appellant, his representative, the relevant officials and any other person whose interest may be affected by the matter on appeal shall be afforded an opportunity to give oral testimony.

(2) The planning commission shall affirm, modify or reverse the decision of the enforcing official by a majority vote of its total membership. Every decision shall be in writing and a certified copy shall be furnished without charge to the appellant and to the enforcing official. The enforcing official shall take immediate action to fully conform to the decision of the planning commission.

(3) Any person aggrieved by a decision of the planning commission on matters relating to an appeal may apply to the appropriate court to review questions of law.

(4) The provisions of this section shall supersede and control any conflicting provisions of law regarding administrative procedure, insofar as such conflict exists. (P.L. No. 4C-76, § 9.)

**§ 10. Civil and criminal enforcement penalties and remedies.** — (1) The planning commission, district administrator, district attorney or any

aggrieved person may bring suit for an injunction or any other civil remedy against any person or agency which violates a provision of the master plan or land use control laws.

(2) Any person who wilfully and knowingly violates a land use control law shall be guilty of a misdemeanor, and upon conviction thereof shall be fined up to fifty dollars, or imprisoned for not longer than one month, or both, for each day the violation continues. Complaints against a violator may be filed by the planning commission, district administrator, district attorney, or any person having knowledge of the violation. (P.L. No. 4C-76, § 10.)

**§ 11. Noncitizen use of land.** — No agreement for use of land, either public or private, within the master plan area may be granted or approved by the High Commissioner to any noncitizen of the Trust Territory, foreign corporation, other organization or association in which a noncitizen of the Trust Territory owns an interest, or any agency of the United States government or any foreign government until the advice and opinion of the planning commission for the master plan area which would thereby be affected is first obtained. In such cases the commission shall give its advice and opinion within thirty days after receipt of a request for such advice from the district administrator or the High Commissioner; provided, that the High Commissioner may extend the thirty-day period either upon his own initiative or at the request of the commission. If the advice and opinion of the commission is not dispatched within the appropriate time period, then the commission's approval of the proposed action shall be presumed. (P.L. No. 4C-76, § 11.)