

October 2000

ARPR 00-08



Agricultural and Resource Policy Report

Colorado
State
University

Extension

Department of Agricultural and Resource Economics, Fort Collins, CO 80523-1172
<http://dare.colostate.edu/pubs>

AMENDMENT 24: VOTER APPROVAL OF GROWTH

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On November 7, 2000 Coloradoans once again will be faced with the challenge and opportunity to guide the future of our state at the ballot box. Proposed constitutional Amendment 24, alternatively, Voter Approval of Growth or Citizen Management of Growth, is among the most complex and contentious issues facing Coloradoans at this election. Amendment 24 is likely to influence Coloradoans from the individual resident to the state level, but the implications for each of us are closely tied to where we live, work and recreate.

Where these implications are in conflict, voters may be faced with a decision whether to act in their individual self-interest, the interests of their community or of the state. The approach adopted here is to detail the most important arguments on all sides of Amendment 24 so that you can make a more informed decision. The discussion provided here embraces the educational mission of Colorado State University to provide unbiased information to the best of our ability.

What is Amendment 24?

Amendment 24 is a voter initiated proposed amendment to the Colorado State Constitution. If approved by a simple majority of the voters, specific portions of Amendment 24 would take effect on December 31,

2001 or one year after adoption, whichever is later. The centerpiece of the proposed amendment is voter approved local growth maps.

Why has Amendment 24 been proposed?

Proponents of Amendment 24 cite research showing growth is the greatest public policy concern among Coloradoans. They argue inadequate steps to guide growth have been taken by the Colorado Legislature and that Colorado communities face planning challenges where conflicts of interest, skills or power between elected officials and industries with short-term development objectives may commonly exist. This initiative has been proposed as a constitutional amendment rather than legislation so that all citizens, including those residing in home rule municipalities and counties, would be subject to its provisions. Proponents argue that growth is an issue of statewide importance and its management is essential to the continuance of the way of life current and future Coloradoans have come to expect and value. Opponents argue that a constitutional amendment is inappropriate since the Constitution should only address the basic rights and responsibilities of the people of Colorado.

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What does Amendment 24 require?

The text of Amendment 24 is at http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2000/ballot/Growth256.htm. The provisions of the Amendment are summarized here. Amendment 24 requires voter approval of a local (municipal and/or county) growth map. A majority of voters must approve a proposed local growth map at a normal general election (no special elections) in order to increase the likelihood that the greatest number of residents will participate in the approval process and that the process will not become a financially onerous responsibility for the citizenry.

Amendment 24 requires coordination among government entities affected by growth in common. This implies that the growth plans of neighbors should be mutually agreed upon in order to avoid negative spill-over effects of a community's planning efforts on other communities (e.g., traffic, residential versus commercial tax base, infrastructure and service provision).

Amendment 24 requires communities to create a growth area map that identifies committed areas and growth areas and discloses a variety of growth impacts on the community. Land in committed areas must be found in a subdivision that is 50% developed or with water and sewer as of Dec 31, 2001, or have a valid application indicating development will have sewer and water filed by Sept 13, 2000, or is "infill" (surrounded by committed area), or shares 50% of its border with committed areas and the rest with protected lands. Growth areas are lands intended for future community growth. Growth areas must be served by water, sewer and roads within 10 years of voter approval, or abut committed area or previously approved growth area on at least 1/6 of its perimeter. Committed and growth areas must be indicated on a growth area map, which will be put before the voters for approval. Growth area maps must provide a map and text describing committed and growth areas, indicate the general locations of each land use on the map, and indicate the general range of development densities intended within the growth area.

Amendment 24 requires public disclosure of likely impacts of proposed development plans on people and natural resources within the approving jurisdiction. These public disclosure statements must be based upon best available data routinely used by Colorado planners, describe the elements and anticipated effects of proposed growth area, and report impacts on transportation, water and air quality, fiscal impacts, public

facilities, parks, population, fire and police protection, housing, and water supplies.

What about lands outside of the growth and committed areas?

If the growth area map does not identify a parcel of land as either in the committed or growth areas, development of the parcel is permitted under specific conditions. Out of growth area permitted development must be either previously approved, or is for the immediate family of an agricultural producer and involves no more than three houses on parcels of less than two acres each, or is not subject to subdivision regulations (results in parcels of greater than 35 acres in most counties), or is intended to provide public facilities, or is a rural cluster development where such a program exists, or is a single retail or agriculture serving development, except for confined animal feeding operations in counties where they are considered commercial or industrial (not agricultural) operations.

Who would be required to comply with Amendment 24?

If Amendment 24 passes, all counties, cities and towns of greater than 10,000 in population would be required to comply. All cities or towns of greater than 1,000 people within counties of greater than 10,000 would also be required to comply. In addition, all cities, towns and counties that would reach these threshold population levels by virtue of approval of a proposed development would be required to comply with the Amendment. However, voters in counties of population between 10,000 and 25,000 could vote to exempt themselves from the provisions of the Amendment for up to four years at a time.

Currently, 18 Colorado counties (and 150 municipalities found within them) would be required to comply with Amendment 24. The counties are: Adams, Arapahoe, Boulder, Delta, Denver, Douglas, Eagle, El Paso, Fremont, Garfield, Jefferson, La Plata, Larimer, Mesa, Montrose, Morgan, Pueblo, and Weld.

The voters of 17 counties (72 municipalities) could choose to "opt out" of the Amendment. The counties are: Alamosa, Chaffee, Elbert, Grand, Gunnison, Las Animas, Logan, Moffat, Montezuma, Otero, Park, Pitkin, Prowers, Rio Grande, Routt, Summit, and Teller.

The voters of 29 counties (77 municipalities) would not be required to comply with the provisions of

Amendment 24. The counties are: Archuleta, Baca, Bent, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Dolores, Gilpin, Hinsdale, Huerfano, Jackson, Kiowa, Kit Carson, Lake, Lincoln, Mineral, Ouray, Phillips, Rio Blanco, Saguache, San Juan, San Miguel, Sedgwick, Washington, and Yuma.

Who publicly supports Amendment 24?

A number of organizations have taken a position in support of Amendment 24. They include: Audubon Society of Colorado; Bicycle Colorado; National Wildlife Federation; Green Party of Colorado; Friends of the Foothills; San Juan Citizens Alliance; Clean Water Action; League of Conservation Voters Education Fund; High Country Citizen's Alliance; Coloradoans for Responsible Growth; American Planning Association (Colorado); League of Women Voters (Colorado); Colorado Environmental Coalition; Sierra Club (Rocky Mountain); Colorado Public Issues Research Group (CoPIRG); Western Colorado Congress; and Land & Water Fund of the Rockies.

Who publicly opposes Amendment 24?

A number of organizations have taken a position in opposition to Amendment 24. They include: Habitat for Humanity; Coloradoans for Responsible Reform; Colorado Cattlemen's Association; Colorado Retail Council; Colorado Bankers Association; Northern Colorado Legislative Alliance (NCLA); Colorado Livestock Association; Colorado Association of Realtors; Colorado Association of Homebuilders; Colorado Farm Bureau; Denver Chamber of Commerce; Colorado Municipal League; Colorado Counties Inc.; the Economic Development Council of Colorado; Castle Rock Economic Development Council; Grand Valley Power; Grand Junction Chamber of Commerce; and the City of Gypsum.

What will Amendment 24 cost to implement?

Only very rough estimates of the implementation costs of Amendment 24 are available. The costs of implementation primarily include the costs of preparing the growth map, the development impact disclosure statement and the costs of subjecting the plan to a vote of a people as a portion of the general ballot. Actual costs will depend upon current population and growth rate, land use complexity, the expertise of salaried personnel, the awareness and degree of agreement among residents around land use planning issues, relationships with neighboring jurisdictions, and the current state of land use planning in the county or municipality. For

example, if communities have already carried out a growth plan, it is unlikely that their plan will adhere to the precise provisions of Amendment 24. While their efforts would not be a total loss, there will be costs to adjust the existing plan and gain approval from the voters.

The estimated costs to implement Amendment 24 should not be confused with the potential longer-term financial costs or benefits accruing to Coloradoans due to the Amendment. For example, Amendment 24 is likely to affect the costs of providing community services, real estate values, tax revenues, real estate development costs, and less easily quantifiable quality of life indicators, such as air quality and traffic congestion. Some of these potential impacts of the Amendment are detailed below.

Proponents of the Amendment have estimated the cost of implementation at approximately \$12 million. Opponents have tended to cite the \$60.5 million estimate prepared by the Colorado Division of Local Affairs. This estimate includes approximately:

- \$350,000 in costs to state government to provide population estimates;
- \$14.5 million in costs to county government; and
- \$46 million in costs to local government.

Most of these short-term implementation costs would fall to the counties and municipalities with the greatest populations. However, the estimated costs per capita would be greatest in the less populous municipalities and counties.

What are the implications of Amendment 24 for Coloradoans?

Amendment 24 raises a variety of questions about the rights and responsibilities of individuals and communities in Colorado. Many people have tried to predict what the future may hold for particular groups of Coloradoans should Amendment 24 pass the vote of the people on November 7, 2000. Since the answers to many of these questions depend upon the decision-maker's particular circumstances, the logical line of argument followed by each side of the most common discussions surrounding Amendment 24 are provided. Where factual information is available and relevant, it is included in the discussion. Coloradoans are left to make their own decision based upon their particular circumstances and special considerations.

In areas where Amendment 24 applies...

...will housing prices increase?

It is likely, but not necessarily the case, that growth maps will diminish the amount of land available for development relative to the situation without the maps. In those communities where the growth map restricts the amount of land available for development, the price of land is likely to increase. However, the price of land is not the same as the cost of housing. For example, under these conditions, the cost of providing public services (e.g., buses, water, sewer, electricity, police, fire, roads) to higher density development should be lower on a per capita basis. Therefore, the tax burden and impact fees from higher density development may be lower than in lower density development. Whether the price of housing increases also depends upon the rate of population growth and the rate of income growth as well as the types of homes being built. Based upon historical evidence, relatively unfettered residential growth is no more likely to provide "affordable" housing as land constrained development. Real estate developers commonly require government encouragement to provide "affordable" housing under either land availability scenario. Higher tax base revenue to service provision cost ratios may allow local governments the latitude to encourage such development or to assist people with more modest incomes to purchase homes.

...will there be more open space?

If the growth maps that are approved by voters restrict the amount of land available for development, it is logical that there would be more open space. It is possible that land prices outside growth areas will fall, or grow less quickly, because the speculative value for development is diminished. Less development potential should make development rights purchases on these lands more affordable for land trusts and governments, encouraging the preservation of open space. However, significant out of growth area development, including subdivision to 35 acres and rural cluster development, is still permitted under Amendment 24 and just what is open space is in the eye of the beholder. Coloradans have voiced concerns that 35 acres subdivisions neither provide the benefits of a working rural landscape nor the impression of open space and scenic vistas. If the growth maps approved by the voters are more restrictive than can serve local population growth rates or housing preferences, it is likely that neighboring communities with less stringent growth requirements will experience growth due to spillover effects. That growth may be perceived differently and may

develop distinctly depending upon the community. Amendment 24 cannot guarantee that the open space preferences of Coloradans are preserved.

However, real estate does not drive the Colorado economy. The Colorado economy drives the real estate market. Economic growth in the real estate sector is driven by a steady and strong in-migration of lone eagle second home buyers, retirees, telecommuters, high tech company employees who choose to locate in Colorado, in part due to the lifestyle and natural amenities the state offers. If Colorado fails to provide the amenities enjoyed by the employees of our growth industries, these industries can move elsewhere since they are not as tied to location as traditional industries are. To the extent that citizen-managed growth preserves those landscape and lifestyle features demanded by these people, the Colorado economy should improve rather than be harmed. If the growth plan approval process results in highly restrictive or onerous development policies, discouraging the state's growth sectors, it can be expected that the economy as a whole would be harmed.

...will agricultural producers be hurt?

Agricultural producers found within growth areas should see the market value of their property increase commensurate with the density of development outlined by the growth map for their property. Such producers may be put under greater pressure to convert their operation from agriculture to residential or commercial development. The landowner's tax burden depends upon whether the land is taxed based upon its agricultural production or its development potential. However, producers found within growth zones are more likely to have conflicts with non-agricultural landowners than if they were located outside of the growth zones. Location within growth zones may mean more challenges to right-to-farm protections, but higher land values, relative to agricultural operations located outside of the growth area.

The producer's ability to secure operating loans may remain the same or increase due to location within the growth area. It may remain the same or decrease due to location outside of the growth zone. The impact on the ability to secure loans depends upon whether lenders provide financing based upon the expected value of the land in agricultural production or based upon its collateral value as development. The value of agricultural production should not be strongly affected by its growth zone designation except with regard to

right-to-farm issues. The potential value of the land as development may be affected due to this designation. A recent informal survey of Colorado agricultural lenders did not provide a discernable consensus as to typical lending practices in these cases.

Whether Amendment 24 harms out of growth area agricultural producers depends upon the difference between the development potential of the property before and after approval of the growth map and the intentions of the landowner. High-density development would not be an available option for out of zone producers. However, such development is not likely to have been an option prior to Amendment 24, or may have required subsidization by other citizens' taxes to provide services to be realized. Subdivision to 35 acres, rural cluster development, the sale or lease of water rights, purchase of development rights programs, future inclusion within the growth boundaries, and housing development for workers (if considered an agricultural development) or family members are all permitted under the Amendment. In high growth areas, water rights are the most valuable portion of agricultural property. As a result, agricultural producers who are located outside of growth zones and who were intending to convert their property to residential or commercial uses may suffer some, probably small, reduction in expected income from that conversion.

...will Confined Animal Feeding Operations (CAFOs) be allowed?

Existing and approved CAFOs are allowed as "grandfathered" developments. CAFOs are not excluded in growth areas, but are unlikely to locate in growth areas due to the expense of water and sewer requirements. However, Amendment 24 neither explicitly includes nor excludes agriculture in its definition of development. If agriculture is not considered development, and CAFOs are zoned (taxed) as agriculture in the jurisdiction, then a new operation may be allowed to locate either inside or outside of the growth area under Amendment 24. If CAFOs are taxed as commercial/industrial property then they may not locate outside of the growth area. Commercial/industrial tax rates are higher than agricultural tax rates and provide more revenue to local governments. Landowners have the right to request rezoning. According to Colorado Counties Inc., approximately one half of Colorado counties zone CAFOs as agriculture and one half commercial/industrial.

...will there be longer-term costs and benefits?

The precise long term costs and benefits of Amendment 24 cannot be confidently predicted. A number of factors tend to increase or decrease the costs and benefits of the Amendment. For example, due to the "grandfathering" provision of Amendment 24, planning departments have noted uncharacteristically high numbers of applications for future development. If, as a result, local governments have unintentionally lowered their review standards and have approved developments that are not in the long term best interests of the community, long lasting financial and lifestyle damages may be imposed.

Moreover, if voters do not approve growth maps, there will be additional costs of resubmitting growth plans to the voters and educating the voters as to the salient issues found with the plan. An approved growth plan should result in a more streamlined and predictable development approval process, decreasing the long-term costs of the development approval process. Higher density development should maximize the land use alternatives available in the future and should improve the efficiency of service provision creating desirable options for local government finance.

Multiple jurisdiction and regional planning agreements should diminish the negative impact of single jurisdiction growth management including competition for tax base, non-resident labor supplies, high commuting times, air pollution, and transportation costs. However, reaching these agreements may prove to be time consuming, contentious, expensive and potentially litigious. Amendment 24 does not specify grievance procedures within or among jurisdictions, penalties for non-compliance, or the precise form of agreement that must take place among neighboring jurisdictions. These issues could either be handled through enabling legislation or decided in the courts.

Concluding remarks

Coloradoans face difficult choices in deciding the future of our state. Guiding our extraordinary growth in population is among the most important and complex challenges we collectively face. Amendment 24 is a proposed amendment to the Constitution of the state of Colorado intended to meet that challenge.

The objective of this document was to provide an objective and detailed discussion of the provisions of

The Amendment and potential points of controversy surrounding it in order to increase the quality of information available to voters in making this important decision on behalf of current and future Coloradoans. It is not the mission of Colorado State University or Cooperative Extension to advocate on behalf of one

position or another in the area of public policy. Rather it is our mission to provide the best information available such that citizens of the state can make better informed decisions. It is hoped that this document supports that important mission.