

FIRST REGULAR SESSION

SENATE BILL NO. 193

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Pre-filed December 20, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0871S.011

AN ACT

To amend chapter 64, RSMo, by adding thereto fifteen new sections relating to the Missouri county planning act, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 64, RSMo, is amended by adding thereto fifteen new sections, to be known as sections 64.1000, 64.1003, 64.1006, 64.1009, 64.1012, 64.1015, 64.1018, 64.1021, 64.1024, 64.1027, 64.1030, 64.1033, 64.1036, 64.1039, and 64.1042, to read as follows:

64.1000. 1. Sections 64.1000 to 64.1042 shall be known as the "Missouri County Planning Act".

2. Sections 64.1000 to 64.1042 provide for the enactment of plans and regulations in counties for the protection of the public health, safety and welfare, and are not intended to prevent the enactment or enforcement of additional laws and regulations on the same subject which are not in conflict with the provisions of these sections. These sections shall be broadly construed to include any powers that are reasonably expedient to the achievement of these purposes. The enumeration of powers in these sections shall not be exclusive, nor be a limit on the general authority conferred on counties to adopt ordinances.

64.1003. As used in sections 64.1000 to 64.1042, the following terms shall mean:

(1) "Agency", a body with the authority to produce public improvements contemplated under the comprehensive plan;

(2) "Area plan", a part of a comprehensive plan that provides specific planning and design proposals for a defined geographic area;

(3) "Building line" or "building setback line", the line within a

8 **property which defines a horizontal distance to be provided between**
9 **an exterior building wall or building support and the adjacent property**
10 **line;**

11 (4) **"Flood plain", an area along a stream or other water course**
12 **subject to periodic or intermittent flooding, the limits of which are**
13 **designated on maps by federal, state, or county government based on**
14 **engineering studies and determinations and adopted by the local**
15 **legislative authority;**

16 (5) **"Major street plan", a plan established under sections 64.1000**
17 **to 64.1042 defining the system of highways, streets, and drainage**
18 **systems, including any amendments or additions resulting from the**
19 **approval of subdivision plats and the subsequent filing of such**
20 **approved plans;**

21 (6) **"Public improvement", any improvement, facility, or service**
22 **together with its associated public site or right-of-way necessary to**
23 **provide transportation, education, park or recreation, drainage, public**
24 **or private utilities, energy, or other services which benefit the public;**

25 (7) **"Nonconforming use", a use of any principal or accessory**
26 **building, structure, or land which was lawfully established but which**
27 **does not presently conform to the county's land development**
28 **regulations;**

29 (8) **"Subdivision", any land, vacant or improved, which is divided**
30 **or proposed to be divided into two or more lots, parcels, or tracts for**
31 **the purpose of offer, sale, lease, or development, whether immediate or**
32 **future. "Subdivision" includes the division or development of land for**
33 **residential or nonresidential purposes, whether by deed, metes and**
34 **bounds description, devise, intestacy, lease, map, plat, or other**
35 **recorded instrument. "Subdivision" does not include condominiums or**
36 **the division of land into parcels for cemetery purposes.**

64.1006. 1. **A planning commission may be established by the**
2 **procedures provided in subsections 2 or 3 of this section.**

3 2. **Any county in this state may make, adopt, amend, and carry**
4 **out a county plan and any county commission may establish and**
5 **appoint a planning commission with the powers and duties as set forth**
6 **in sections 64.1000 to 64.1042.**

7 3. **Any group of registered voters from any county not having a**
8 **planning commission may circulate a petition for the formation of a**

9 **planning commission.**

10 (1) **Petitions proposing the formation of a planning commission**
11 **shall be signed by the number of registered voters in the county equal**
12 **to at least five percent of the total votes cast in the county for governor**
13 **at the last gubernatorial election.**

14 (2) **Petitions proposing the formation of a planning commission**
15 **shall be filed with the election authority of the county not later than**
16 **5:00 p.m. on the thirteenth Tuesday preceding a general election.**

17 (3) **The petition shall consist of sheets of uniform size. The space**
18 **for signatures on either side of a petition page shall be no larger than**
19 **eight and one-half by fourteen inches, and each page shall contain**
20 **signatures of registered voters from only one county. Each page of**
21 **each petition for the formation of a planning commission shall be in**
22 **substantially the following form:**

23 **To the Honorable County Clerk of**
24 **..... County:**

25 **We, the undersigned, citizens and registered voters of**
26 **..... County, respectfully order that the following**
27 **question be placed on the official ballot, for acceptance or**
28 **rejection, at the next general election to be held on the**
29 **..... day of: "Should a planning commission**
30 **be established in County to assume responsibility**
31 **for preparation of a county comprehensive plan?"; and**
32 **each for himself or herself says: I have personally signed**
33 **this petition; I am a registered voter of the state of**
34 **Missouri and County; my registered voting address**
35 **and the name of the city, town or village in which I live**
36 **are correctly written after my name.**

37 **CIRCULATOR'S AFFIDAVIT**

38 **STATE OF MISSOURI)**
39 **)**
40 **COUNTY OF)**

41 **I, a resident of the state of Missouri, being**
42 **first duly sworn, say (print or type names of signers)**
43 **REGISTERED VOTING NAME, DATE, ADDRESS, ZIP,**
44 **CONGRESSIONAL DISTRICT NAME, (Signature) SIGNED**
45 **(Street)(City, Town or Village) (Printed or Typed)**

46 (Here follow numbered lines for signers) signed this page
 47 of the foregoing petition, and each of them signed his or
 48 her name thereto in my presence; I believe that each has
 49 stated his or her name, registered voting address and city,
 50 town or village correctly, and that each signer is a
 51 registered voter of the state of Missouri and
 52 County.

53

54 Signature of Affiant (Person obtaining signatures)

55 Address of Affiant

56 Subscribed and sworn to before me this day of
 57

58

59 Signature of Notary Public (Seal)

60 My commission expires

61 If this form is followed substantially, it shall be sufficient, disregarding
 62 clerical and merely technical errors.

63 (4) The validity of each petition filed under provisions of this
 64 section shall be determined in the manner provided for new party and
 65 independent candidate petitions in sections 115.333, 115.335 and
 66 115.337, RSMo.

67 (5) Upon the filing of a valid petition for the formation of a
 68 planning commission, it shall be the duty of the election authority to
 69 have the following question placed on the official ballot, in the same
 70 manner other questions are placed, at the next general election:

71 "Should a planning commission be established in
 72 County to assume responsibility for the
 73 creation of a county comprehensive plan?"

74 (6) The votes for and against the question shall be counted and
 75 certified in the same manner as votes on other questions.

76 (7) If the question is approved by a majority of the voters at the
 77 election, a planning commission shall be appointed as provided in this
 78 chapter and shall have the same rights and responsibilities provided by
 79 law for all planning commissions. If a majority of the votes cast on the
 80 question are in opposition to the question, a planning commission shall
 81 not be appointed under this section unless and until the question is
 82 resubmitted to the qualified voters and such question is approved by

83 a majority of the qualified voters voting on the question.

84 (8) Any person who is a registered voter of a county not having
85 a planning commission may sign a petition for the formation of a
86 commission in the county. Any person who signs a name other than the
87 person's own to any petition or knowingly signs the person's name
88 more than once to the same petition or who knows the person is not a
89 registered voter at the time of signing such petition, or any officer or
90 person willfully violating any provision of this section shall be guilty
91 of a class two election offense.

92 4. The county commission shall appoint the members of the
93 planning commission, and shall, by resolution, ordinance, or order,
94 establish the procedures for membership, compensation, terms,
95 vacancies, and removal of the planning commissioners. The planning
96 commission shall elect its own chair and shall adopt rules of procedure
97 consistent with sections 64.1000 to 64.1042 and any local regulations
98 delegating authority to the planning commission. The planning
99 commission shall appoint a secretary to keep a public record of its
100 resolutions, transactions, findings, and recommendations; schedule and
101 provide notice of all public meetings; and keep records of all public
102 hearings.

103 5. The planning commission of any county shall have the
104 following powers under sections 64.1000 to 64.1042:

105 (1) To cause to be prepared a comprehensive plan and other
106 associated plans;

107 (2) To review and adopt a comprehensive plan and other
108 associated plans, and to review and adopt any updates, amendments,
109 and revisions to such plans;

110 (3) To recommend regulations and amendments to such
111 regulations for unincorporated areas of the county for adoption by the
112 county commission;

113 (4) To review plat applications in accordance with adopted
114 subdivision regulations;

115 (5) To review all public improvements in the county planning
116 jurisdiction in accordance with the comprehensive plan;

117 (6) To review zoning regulations, and amendments to zoning
118 regulations, and zoning maps;

119 (7) To appoint employees and contract with consultants, as

120 authorized by the county commission;

121 (8) Other powers delegated to it by the county commission.

64.1009. 1. The purpose of a comprehensive plan is to guide and
2 accomplish the coordinated, efficient, and orderly physical
3 development of the county and its environs that will, based on a careful
4 and comprehensive analysis and after sufficient public input and
5 review, best promote the health, safety, and welfare. Each element of
6 the plan, as described in subsection 2 of this section, accomplishes this
7 purpose through analysis of existing conditions and trends,
8 identification of issues, opportunities, goals, and policies, development
9 of reasonable projections, forecasts, and assumptions about anticipated
10 future conditions or impacts, consideration of interrelationships
11 between plan elements, prioritization of issues and actions, and
12 preparation of implementation strategies which identify how goals may
13 be achieved.

14 2. The planning commission may determine the applicability of
15 the elements described in this subsection to the county. A
16 comprehensive plan for a county may contain any of the following
17 elements addressing all unincorporated areas of the county and any
18 infrastructure or services the county provides to incorporated
19 jurisdictions in the county:

20 (1) Policies and maps or other description of land classifications
21 to guide current and future development and redevelopment in areas
22 to which the county plan is made applicable, including general
23 locations of future land uses, goals, and characteristics of future
24 development. The land use element may consider the suitability of land
25 for development or redevelopment, including topography, geology,
26 hydrology, natural resources, and any existing site or building
27 conditions;

28 (2) Policies for transportation systems, including their
29 relationship to land use. The transportation element may include a
30 map or maps generally identifying existing, programmed, planned, or
31 potential transportation facilities, and a description of the design,
32 extent, and qualities of these facilities;

33 (3) Policies to provide adequate housing quality and supply to
34 meet forecasted population needs. The housing element may include
35 needed support in achieving a range of housing choices for various

36 **discrete or special needs populations;**

37 **(4) Policies for community facilities to serve the population,**
38 **including, but not limited to, solid waste management and disposal,**
39 **water supply, waste water treatment and disposal, electric supply,**
40 **communication facilities, public safety, schools, libraries, parks and**
41 **recreation, and other government or quasi-government services. The**
42 **community facilities element may include an analysis of desired levels**
43 **of service, and recommended levels of service need not be uniform**
44 **throughout the county, but may vary based on population**
45 **characteristics, recommended land uses, or development**
46 **characteristics;**

47 **(5) Policies to promote the stabilization, retention, or expansion**
48 **of the economy and employment opportunities. The economic**
49 **development element may include analysis, forecasts, and policies**
50 **related to labor forces, land markets, consumer markets, business**
51 **sectors, or other applicable economic characteristics;**

52 **(6) Policies for the identification, utilization, and management**
53 **of scarce, threatened, or nonrenewable natural and manmade resources**
54 **in the county, including the risk and impact of natural hazards. The**
55 **preservation element may identify valued resources, assess the relative**
56 **importance of those resources, and provide an analysis of actions or**
57 **strategies that can strengthen the viability of those resources;**

58 **(7) Policies to ensure the social and physical welfare of the**
59 **citizens of the county. The human services element may identify**
60 **sectors of the population that have special needs and may require**
61 **special services, training, assistance, or facilities to attain an**
62 **acceptable quality of life, and may identify the role of county**
63 **government in facilitating or providing such specialized services;**

64 **(8) Policies regarding the design of public and private**
65 **development, considering the character, function, impacts, and**
66 **interrelationship of public and private spaces and buildings, public or**
67 **common open space, and desired building qualities including scale,**
68 **mass, architectural features, or other design or aesthetic elements. The**
69 **community design or urban design element may include general**
70 **countywide recommendations or recommendations for specific land**
71 **areas or for specific land use categories or development patterns;**

72 **(9) Policies regarding the cumulative environmental, economic,**

73 fiscal, and social impacts of decisions and actions over the life of the
74 plan. The sustainability element may include, but is not limited to,
75 analysis of development, transportation, and building practices on
76 ecosystems or critical or sensitive resources, and may be conducted on
77 a countywide, ecosystem, watershed, or other similarly comprehensive
78 basis;

79 (10) Any county that prepares a comprehensive plan may add
80 area plans which contain more detailed policies relating to specific
81 land areas, but which shall not conflict with other portions of the
82 comprehensive plan, and may add any other elements, studies,
83 information, or data that the planning commission determines are not
84 in conflict with the purposes of sections 64.1000 to 64.1042.

85 3. (1) After careful study and consideration of the conditions,
86 issues, goals, public input, anticipated future events or conditions, and
87 comprehensive countywide impacts of plans and policies, the planning
88 commission may adopt the comprehensive plan as a whole by a single
89 resolution. Studies and plans for incorporated jurisdictions in the
90 county or any adjoining county may be considered in the findings and
91 analysis, and may be factored into the recommendations of the
92 comprehensive plan for unincorporated areas of the county.

93 (2) The planning commission shall accept and consider oral and
94 written public comments throughout the process of developing the
95 plan. Before the adoption, amendment, or extension of the plan, the
96 planning commission shall hold at least one public hearing in order to
97 encourage public participation in and awareness of the development of
98 the plan. The hearing may be adjourned from time to time.

99 (3) At least fifteen days prior to the date of the hearing, notice
100 of the public hearing shall be published at least once in a newspaper
101 having general circulation within the county. The notice shall also be
102 posted continuously for fifteen days prior to the hearing on a bulletin
103 board or other prominent place which is easily accessible to the public
104 and clearly designated for that purpose at the principal office of the
105 county and also at the location where the meeting is to be held. The
106 notice shall fix the time and place for the hearing and shall describe
107 the topic in general terms.

108 (4) The adoption of the plan requires a majority vote of the full
109 membership of the planning commission. The adopting resolution shall

110 refer expressly to the maps, descriptive matter, and other materials
111 intended by the planning commission to form the whole or part of the
112 plan. As the making of the whole county plan progresses, the planning
113 commission may from time to time adopt a part or parts of the plan,
114 any part to correspond generally with one or more of the elements of
115 the plan. The action taken shall be recorded as the adopted plan or
116 part of the plan by the identifying signature of the secretary of the
117 planning commission.

118 (5) The adopted plan shall be filed in the office of the planning
119 commission, identified properly by file number. A notice of the plan
120 adoption shall be provided to other agencies and departments as
121 determined by the county commission, and the adopted plan or portion
122 thereof shall be available at the offices of the planning commission and
123 the county clerk for public inspection during normal office hours.

124 (6) A public involvement record shall be attached to and
125 incorporated in the resolution approving the plan, and shall describe
126 all public participation, notice, and outreach efforts undertaken by the
127 county related to the preparation, consideration, and adoption of the
128 plan.

129 (7) The county commission may review and accept the
130 comprehensive plan by resolution.

131 4. (1) The planning commission may periodically review and
132 amend the comprehensive plan of the county or any part thereof. The
133 review may include discussion of the comprehensive plan during at
134 least one regularly scheduled planning commission meeting. Notice of
135 all review meetings shall be given in the same manner provided in
136 sections 64.1000 to 64.1042 for adoption of the plan. Any interested
137 party shall have the opportunity to comment on the plan during the
138 review.

139 (2) Amendments of an adopted comprehensive plan may be
140 prepared at any time upon the planning commission's initiative to
141 revise, update, replace, add, or supplement elements of the
142 plan. Amendments may be prepared for the plan in its entirety or for
143 segments addressing a specific element or elements, or for a specific
144 area of the county.

145 (3) When a comprehensive plan is amended in segments, it shall
146 include a statement indicating specifically what portions of the existing

147 comprehensive plan are being amended and what portions of the
148 existing comprehensive plan are to remain as part of the adopted
149 comprehensive plan.

150 (4) A comprehensive plan amendment is subject to the same
151 procedures provided in sections 64.1000 to 64.1042 for preparation and
152 adoption of the initial comprehensive plan.

64.1012. 1. The planning commission may recommend and the
2 county commission may adopt and amend regulations governing
3 subdivisions of land in unincorporated areas to protect the public
4 health, safety, and welfare in accordance with the comprehensive
5 plan. The regulations may provide standards for:

6 (1) The location, width, design, and layout of streets, rights-of-
7 way, and blocks;

8 (2) The size and location of open spaces;

9 (3) The width, area, and arrangement of lots, access, easements,
10 and building lines; and

11 (4) The manner in which streets, water, sewer, drainage, and
12 other utility services shall be improved and provided.

13 2. The regulations may provide that in lieu of the immediate
14 completion or installation of such work, the planning commission may
15 accept bond for the county commission in the amount and with surety
16 and conditions satisfactory to the county commission, providing for and
17 securing to the county commission the actual construction of such
18 improvements and utilities within a period specified by the county
19 planning commission, and the county commission shall have power to
20 enforce such bond by all proper remedies.

21 3. Prior to adoption or amendment of the subdivision
22 regulations, the planning commission shall hold a public hearing on the
23 proposed subdivision regulations or amendment. At least fifteen days
24 prior to the date of the hearing, notice of the public hearing shall be
25 published at least once in a newspaper having general circulation
26 within the county. The notice shall also be posted continuously for
27 fifteen days prior to the hearing on a bulletin board or other prominent
28 place which is easily accessible to the public and clearly designated for
29 that purpose at the principal office of the county and at the location
30 where the hearing is to be held. The notice shall fix the time and place
31 for the hearing and shall describe such proposal in general terms. A

32 county commission may hold a public hearing, but no separate hearing
33 is required for the adoption of subdivision regulations by the county
34 commission after receiving the planning commission's recommendation.

35 4. Subdivision regulations shall establish standards for the
36 development of a complete subdivision plat application, and shall
37 designate a person authorized to determine completeness of
38 applications and official acceptance of a plat submitted to the county.

64.1015. 1. After the county commission has adopted and filed
2 certified copies of subdivision regulations, no plat of a subdivision of
3 land within the unincorporated area of the county shall be recorded
4 until the plat is approved by the planning commission or as otherwise
5 provided by the adopted subdivision regulations. If the planning
6 commission does not act upon the plat at an official meeting within
7 thirty days from the date of official acceptance, the plat may then be
8 deemed approved. If the plat is amended or rejected by the planning
9 commission, the action may be overruled and the plat approved only by
10 the county commission after a public hearing, provided the reasons for
11 such overruling shall be specifically stated in the action by the county
12 commission.

13 2. Any approved plat with dedication of public lands to the
14 county or any other public body shall be submitted to the county
15 commission, or other jurisdiction receiving dedicated lands, for
16 acceptance of the dedication prior to recording. The acceptance shall
17 be noted on the plat.

18 3. The legislative body of any municipality within the county
19 may file with the planning commission a certified copy of a resolution
20 of such legislative body protesting against the action of the county
21 planning commission approving a plat of any land lying within one and
22 one-half miles of the limits of the incorporated area of the municipality.
23 If such a protest is filed, the planning commission approval shall be
24 deemed overruled, and such plat may be then approved only by a two-
25 thirds vote of all of the members of the county commission, and only
26 after the county commission has held a public hearing on the plat, with
27 notice of the hearing as provided in sections 64.1000 to 64.1042.

28 4. The recorder of deeds shall record a plat of a subdivision of
29 land in the unincorporated area of the county only after having
30 received a certificate of authority from the planning commission

31 secretary, who shall issue such certificate if such plat has been
32 approved under the provisions of sections 64.1000 to 64.1042 and the
33 subdivision regulations.

34 5. A county planning commission may, upon the written request
35 of the legislative body of an incorporated area in which there is no
36 municipal planning commission, pass upon subdivision plats within
37 said incorporated areas, and said plats shall be subject to all rules and
38 regulations of the county planning commission and shall not be
39 recorded until they have been approved in the same manner as a
40 subdivision plat in an unincorporated area. If, however, the county
41 planning commission does not agree to pass upon plats in an
42 incorporated area, the county recorder shall be advised of the fact by
43 registered letter.

44 6. The planning commission, after hearing, may vacate any plat
45 of a subdivision of land including roads, streets, highways, and alleys.
46 At such hearing, the commission may require that expert witnesses
47 providing evidence be sworn in so that their statements are statements
48 made under oath. Upon the vacation of the plat, the recorder of deeds
49 shall be notified in writing of the vacation. Any vacation of public
50 lands, rights-of-ways, or easements shall be submitted to the county
51 commission, or other jurisdiction in control of such lands, for approval
52 of the vacation.

 64.1018. After a planning commission adopts a comprehensive
2 plan of the county or any part thereof, no street, public improvement,
3 or other public facilities, or no public utility, whether publicly or
4 privately owned, where the location, extent and character thereof
5 having been included in the recommendations and proposals of the
6 plan, shall be constructed or authorized in the county until the
7 location, extent, and character thereof has been submitted to and
8 approved by the planning commission as being in accordance with the
9 comprehensive plan. In the case of disapproval of the planning
10 commission, the planning commission shall communicate its reasons to
11 the county commission, or if the street, public improvement, public
12 facility, or utility is one which the authorization or financing does not
13 fall under the authority of the county commission, then the reasons
14 shall be communicated to the board having authority over the public
15 facility or utility. The county commission or other agency having

16 jurisdiction, by vote of not less than two-thirds of the entire
17 membership of its governing body, may overrule the disapproval
18 stating the reasons for the overruling. Upon the overruling, the council
19 or the appropriate agency or officer may proceed. The failure of the
20 planning commission to act within sixty days after the date of official
21 submission to it shall be deemed approval.

64.1021. The planning commission may adopt a major street plan
2 for all unincorporated areas of the county in accordance with a
3 transportation element of a comprehensive plan. The plan may include
4 standards and recommendations for the location, extent, and design of
5 streets, and for building setback lines of streets. The county may, by
6 ordinance, establish building lines on any public street identified in the
7 major street plan. Such building lines shall be established by the same
8 procedure established in sections 64.1000 to 64.1042 for the adoption
9 and amendment of zoning regulations. After the establishment of any
10 such line, all buildings or other structures shall be erected,
11 reconstructed or substantially repaired as specified by the building
12 lines. The county commission shall appoint an appeals board with the
13 same powers to vary the building lines in specific cases as provided
14 and in the manner specified in sections 64.1000 to 64.1042 for a board
15 of zoning adjustment. If a board of zoning adjustment exists, it shall
16 serve as the appeals board with respect to application of the building
17 lines to specific property.

64.1024. 1. Upon the request of the county commission and after
2 a vote of the people as provided in this section, the planning
3 commission may recommend and the county commission may adopt
4 zoning regulations for all unincorporated areas of the county in
5 accordance with the comprehensive plan or any specific area plan
6 created under the comprehensive plan.

7 (1) Prior to adopting zoning regulations as provided for in
8 sections 64.1024 to 64.1042, the county commission shall submit the
9 question of whether or not it shall adopt zoning regulations to the
10 voters residing within the county at a state general, primary, or special
11 election;

12 (2) The ballot of submission for the zoning regulations
13 authorized under sections 64.1024 to 64.1042 shall be in substantially
14 the following form:

15 "Shall ...(insert name of county) adopt zoning regulations
16 authorized under the "Missouri County Planning Act"?";

17 (3) If a majority of the votes cast on the question are in favor of
18 the adoption of county zoning regulations, the county commission may
19 then proceed to adopt zoning regulations authorized under sections
20 64.1024 to 64.1042. If a majority of the votes cast on the question are in
21 opposition to the question, the county commission shall not adopt
22 zoning regulations authorized under sections 64.1024 to 64.1042 unless
23 and until the question is resubmitted under this section to the qualified
24 voters and such question is approved by a majority of the qualified
25 voters voting on this question.

26 2. Zoning regulations may divide the jurisdiction into districts
27 for different types of buildings, uses of land, character of design, or
28 intensity of development, as may be deemed suited to carry out the
29 purposes of sections 64.1000 to 64.1042. All such regulations shall be
30 uniform for each type of building or land uses throughout each district,
31 but the regulations in one district may differ from those in other
32 districts, and may differ for different building types or use types or
33 mixture of use types in a single district. They may also designate
34 special uses within districts with specific conditions or review
35 processes. The regulations shall give reasonable consideration, among
36 other things, to the existing character of the districts, their suitability
37 for particular uses, conservation of the value of buildings and of
38 existing development, and encouragement of the most appropriate use
39 of land throughout the county.

40 3. The regulations may include, but not be limited to, provisions
41 regulating:

42 (1) The kind, class, or form of buildings, including height, bulk,
43 use, location, and design;

44 (2) The use of land and buildings for particular purposes, or
45 classes or categories or mixtures of uses;

46 (3) The density of population or intensity of nonresidential
47 structures;

48 (4) The extent and design of site elements such as parking,
49 landscape, or signs;

50 (5) The design, size, location, and relationship of courts, yards,
51 plazas, natural areas, or other open spaces; and

52 **(6) The preservation of resources including water or other**
53 **natural resources, agriculture land, flood plains, or historical**
54 **structures.**

55 **4. The regulations shall define the boundaries of zoning districts**
56 **or any other special area under which the regulations differ from one**
57 **area to another by incorporating a map or maps as part of the**
58 **regulations, or by defining the boundaries in any other manner that**
59 **clearly establishes the boundaries of the district or districts. The**
60 **county shall designate one map as the official zoning map for the**
61 **county, which shall indicate all zoning districts, or which may**
62 **incorporate by reference any specific zoning map or materials which**
63 **establish regulations for the property. The official zoning map shall be**
64 **filed in the office of the county clerk or other such public office**
65 **designated by the county commission.**

66 **5. The regulations shall designate an individual as the**
67 **administrative official responsible for interpretation and**
68 **administration of the zoning regulations.**

69 **6. Farm buildings and farm structures used for such purposes**
70 **that are not in a designated flood plain shall be exempt from zoning**
71 **regulations.**

64.1027. 1. Upon the request of the county commission and after
2 **a vote of the people and a public hearing, the planning commission may**
3 **recommend necessary and appropriate regulations or amendments in**
4 **accordance with the comprehensive plan or any specific area plan**
5 **created under the comprehensive plan, and the county commission may**
6 **adopt or amend zoning regulations as provided in this section.**

7 **2. The planning commission shall hold a public hearing on the**
8 **proposed zoning regulations or amendment. At least fifteen days prior**
9 **to the date of the hearing, notice of the public hearing shall be**
10 **published at least once in a newspaper having general circulation**
11 **within the county. The notice shall also be posted continuously for**
12 **fifteen days prior to the hearing on a bulletin board or other prominent**
13 **place which is easily accessible to the public and clearly designated for**
14 **that purpose at the principal office of the county and also at the**
15 **location where the hearing is to be held. The notice shall fix the time**
16 **and place for the hearing and shall describe such proposal in general**
17 **terms. The hearing may be adjourned from time to time and within**

18 sixty days of the conclusion of the hearing, the planning commission
19 shall submit its recommendations to the county commission, together
20 with a written summary of the hearing. Any recommendation shall be
21 by the affirmative vote of a majority of the entire membership of the
22 planning commission.

23 3. The county commission may:

24 (1) Approve the recommendations by the adoption of the
25 regulations or amendment;

26 (2) Override the planning commission's recommendations or
27 otherwise revise the recommendation by a two-thirds vote of all of the
28 members of the county commission; or

29 (3) Return the recommendation to the planning commission for
30 further consideration, together with a statement specifying the basis
31 for the needed further consideration. If the county commission returns
32 the planning commission's recommendations, the planning commission,
33 after considering the same, may resubmit its original recommendations
34 giving the reasons therefore or submit new and amended
35 recommendations. Upon the receipt of any new recommendations, the
36 county commission, by a simple majority of all of the members, may
37 adopt, revise, or override such recommendations. If the planning
38 commission fails to deliver its recommendations to the county
39 commission following the planning commission's next regular meeting
40 after receipt of the county commission's report, the county commission
41 shall consider such course of inaction on the part of the planning
42 commission as a resubmission of the original recommendations and
43 may proceed accordingly. Any regulation, if in accordance with the
44 land use element or community design or urban design element of a
45 plan, shall be presumed to be reasonable.

46 4. The county commission may from time to time change,
47 supplement, or revise the regulations or boundaries of districts in
48 accordance with the comprehensive plan or any specific area plan
49 created under the comprehensive plan. The county commission shall
50 establish in its zoning regulations the matters to be considered when
51 approving or disapproving a request to amend the zoning map.

52 (1) Amendments to the text of the generally applicable zoning
53 regulations may be initiated by the planning commission or county
54 commission. Amendments to generally applicable zoning regulations

55 shall follow the procedures established in this section and any other
56 additional procedures in the approved county zoning regulations.

57 (2) Amendments to the zoning map that affect regulations to a
58 specific property may be initiated by the planning commission, the
59 county commission, or a property owner or property owner's
60 authorized agent. Amendments to the zoning map shall follow the
61 procedures established in this section, any other additional procedures
62 in the approved county zoning regulations, and the following specific
63 procedures:

64 (a) Published notice for any required public hearing shall
65 include a legal description or a general description sufficient to
66 identify the property under consideration. In addition to published
67 notice, written notice of the proposed amendment shall be mailed at
68 least fifteen days before the hearing to all owners of record of real
69 property within the area to be altered and to all owners of record of
70 real property located within at least six hundred feet of the area
71 proposed to be altered, or greater distance specified in the county
72 zoning ordinance;

73 (b) All notices shall include a statement that a complete legal
74 description and application file is available for public inspection and
75 shall indicate where such information is available;

76 (c) Regardless of the recommendation of the planning
77 commission, if a valid protest petition against the amendment is filed
78 in the office of the county clerk within fifteen days after the date of the
79 conclusion of the planning commission public hearing or any additional
80 public hearings required by the county zoning regulations, the
81 amendment shall not be passed except by at least a two-thirds vote of
82 all of the members of the county commission. A valid protest petition
83 requires the signatures of the owners of record of thirty percent or
84 more of the land area of any real property proposed to be rezoned,
85 excluding streets and public ways, or signatures of the owners of
86 record of thirty percent or more of the land area of real property,
87 excluding streets and public ways, within the area required to be
88 notified by this section of the proposed rezoning of a specific property;

89 (d) Regardless of the recommendation of the planning
90 commission, if a valid municipal protest is filed in the office of the
91 county clerk within fifteen days after the conclusion of the planning

92 commission public hearing or any additional public hearings required
93 by the county zoning regulations, the amendment shall not be passed
94 except by at least a two-thirds vote of all members of the county
95 commission. A valid municipal protest requires a resolution of the
96 governing body of any municipality whose corporate limits are within
97 one and one-half miles of any land subject to the proposed amendment
98 and the municipality has adopted a valid zoning ordinance within its
99 corporate limits.

64.1030. 1. Any county commission which has adopted a zoning
2 map and regulations as provided in sections 64.1000 to 64.1042 shall
3 appoint a county board of zoning adjustment. The board shall consist
4 of five residents of the county, but not more than two shall be residents
5 of the incorporated area of the county. The membership of the first
6 board appointed shall serve respectively: one for one year, one for two
7 years, one for three years, two for four years. Thereafter members
8 shall be appointed for terms of four years each. Members shall be
9 removable for cause by the county commission upon written charges
10 and after a public hearing. Vacancies shall be filled by the county
11 commission for the unexpired term of any member whose term becomes
12 vacant.

13 2. The board of zoning adjustment shall have the following
14 powers and it shall be its duty:

15 (1) To hear and decide appeals where it is alleged there is error
16 of law in any order, requirement, decision, or determination made by
17 an administrative official or body in the enforcement or administration
18 of the county zoning regulations;

19 (2) To hear and decide all matters referred to it or which it is
20 required to determine under the zoning ordinance adopted by the
21 county commission as herein provided;

22 (3) To authorize variances where, by reason of exceptional
23 narrowness, shallowness, shape, or topography, or other extraordinary
24 or exceptional situation or condition of a specific piece of property, the
25 strict application of any regulation adopted under sections 64.1000 to
26 64.1042 would result in peculiar and exceptional difficulties to, or
27 exceptional and demonstrable undue hardship upon, the owner of the
28 property as an unreasonable deprivation of use as distinguished from
29 the mere grant of a privilege. Upon an appeal relating to the property

30 by the owner or person with a real property interest in such property,
31 the board may authorize a variance from the strict application so as to
32 relieve the demonstrable difficulties or hardships, provided the relief
33 can be granted without substantial detriment to the public safety and
34 welfare and without substantially impairing the intent, purpose, and
35 integrity of the zoning map and regulations.

36 3. The board of zoning adjustment shall elect its own chair and
37 shall adopt rules of procedure consistent with the provisions of the
38 zoning regulations and the provisions of sections 64.1000 to
39 64.1042. The chair or the acting chair may administer oaths and compel
40 the attendance of witnesses. All meetings of the board of zoning
41 adjustment shall be open to the public, and minutes shall be kept of all
42 proceedings and official actions, which minutes shall be filed in the
43 office of the board and shall be a public record.

44 4. Appeals to the board of zoning adjustment may be taken by
45 any owner, lessee or tenant of land, or by a public officer, department,
46 board or bureau, affected by any decision of a body or official acting to
47 administer zoning regulations. The appeals shall be taken within a
48 period of not more than three months of such decision, and in the
49 manner provided by the rules of the board. An appeal shall stay all
50 proceedings in furtherance of the action appealed, unless the officer
51 from whom the appeal is taken shall certify to the board that by reason
52 of facts stated in the certificate a stay would, in his opinion, cause
53 imminent peril to life or property. In exercising the above powers, the
54 board may reverse or affirm wholly or partly, or may modify the order,
55 requirement, decision, or determination appealed from and may take
56 such order, requirement, decision, or determination as ought to be
57 made, and to that end shall have all the powers of the officer from
58 whom the appeal is taken.

59 5. Any owners, lessees, or tenants of buildings, structures, or
60 land jointly or severally aggrieved by any decision of the board of
61 zoning adjustment under the provisions of sections 64.1000 to 64.1042,
62 may present to the circuit court of the county in which the property
63 affected is located, a petition, duly verified, stating that the decision is
64 illegal in whole or in part, specifying the grounds of the illegality, and
65 asking for relief. Upon the presentation of the petition, the court shall
66 allow a writ of certiorari directed to the board of adjustment or the

67 county commission, respectively, of the action taken and data and
68 records acted upon, and may appoint a referee to take additional
69 evidence in the case. The court may reverse or affirm or may modify
70 the decision brought up for review. After entry of judgment in the
71 circuit court in the action in review, any party to the cause may bring
72 an appeal to the appropriate appellate court.

64.1033. 1. Any violation of any regulation adopted under the
2 authority of sections 64.1000 to 64.1042 shall be a misdemeanor. Any
3 person with an interest in the property where a violation exists, or any
4 person who knowingly commits, takes part or assists in the violation,
5 may be subject to fines and penalties for other misdemeanors resulting
6 from the same action. Each day of the offense may be considered a
7 separate offense.

8 2. The county commission of any county that has appointed a
9 county counselor and adopts or has adopted rules, regulations, or
10 ordinances under the authority of sections 64.1000 to 64.1042 may by
11 rule, regulation, or ordinance impose a civil fine for each
12 violation. Any fines imposed and collected under such rules,
13 regulations, or ordinances shall be payable to the county general fund
14 to be used to pay for the cost of enforcement of such rules, regulations,
15 or ordinances.

16 3. A county, county commission, or planning commission, and
17 any person, the value or use of whose property is or may be affected by
18 such violation, may institute any appropriate action or proceedings to
19 enforce the adopted regulations and to remove violations.

20 4. No owner, or agent of the owner, of any land located within
21 the platting jurisdiction of any county that has adopted subdivision
22 regulations may transfer, sell, agree to sell, or negotiate to sell that
23 land by reference to or by other use of a plat of any purported
24 subdivision of the land before the plat has been approved by the county
25 commission or planning commission and recorded in the office of the
26 appropriate county recorder. Each such transfer, sale, or agreement
27 shall be a separate violation, and in addition to all other remedies, a
28 county may enjoin or vacate the transfer or sale or agreement by legal
29 action, and may recover the penalty in such action.

30 5. The county may designate an administrative officer or official
31 with power to cause any land, building, structure, place or premises to

32 be inspected and examined and to order in writing the remedying of
33 any condition found to exist therein or thereat in violation of any of the
34 regulations or orders adopted or made under the authority of sections
35 64.1000 to 64.1042.

36 6. Any owner, lessee, or tenant who, having been served with an
37 order in writing signed by the zoning administrative official to correct
38 or remove any such violations, shall fail to comply with the order
39 within ten days after service, or who shall continue to violate any of
40 the regulations or orders made under the authority of sections 64.1000
41 to 64.1042 in the respect named in the order, shall be guilty of a
42 misdemeanor.

64.1036. 1. The authority granted by sections 64.1000 to 64.1042
2 shall not be exercised so as to deprive the owner, lessee, or tenant of
3 any existing property of its use or maintenance for the purpose to
4 which it is then lawfully devoted, except that reasonable regulations
5 may be adopted for the gradual elimination of nonconforming uses.

6 2. The authority granted by sections 64.1000 to 64.1042 shall not
7 interfere with such public utility services as may have been or may
8 hereafter be specifically authorized or permitted by a certificate of
9 public convenience and necessity, or order issued by the public service
10 commission, or by permit of the county commission.

64.1039. Counties are hereby authorized to enter into agreements
2 to cooperate with any public or private organization, agency, or public
3 body in the exercise and performance of any planning powers, duties,
4 and functions; provided that the subject and purposes of any such
5 agreement shall be within the scope of the powers of such organization,
6 agency, or body.

7 (1) A county may by legislative action or order enter into an
8 agreement with one or more municipalities, counties, agencies, public
9 bodies, or other organizations for joint planning cooperation, and may
10 establish a joint planning committee for the designated joint planning
11 area. The agreement shall specify the extent of authority for the joint
12 planning committee.

13 (2) The planning commission may adopt plans prepared under
14 cooperative agreements in the same manner as other plans enabled in
15 sections 64.1000 to 64.1042.

16 (3) The county commission may adopt regulations under

17 **cooperative agreements in the same manner as zoning or subdivision**
18 **regulations as enabled in sections 64.1000 to 64.1042.**

64.1042. 1. **After August 28, 2007, any county commission may by**
2 **resolution elect to utilize the authority and procedures in sections**
3 **64.1000 to 64.1042 for county planning and implementation.**

4 2. **Nothing contained in sections 64.1000 to 64.1042 shall affect**
5 **the existence or validity of a county ordinance or order adopted prior**
6 **to August 28, 2007.**

Unofficial

Bill

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