SECOND REGULAR SESSION

HOUSE BILL NO. 1832

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (120) (Sponsor), SCHARNHORST, YATES, SUTHERLAND, SCHLOTTACH, THRELKELD, BIVINS, ONDER, RICHARD, PARSON, SCHNEIDER, JONES (89), DEEKEN, FAITH, HOBBS, MOORE, HUNTER, MEINERS, McGHEE, SMITH (150), STREAM, CASEY AND SCHAD (Co-sponsors).

Read 1st time January 24, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4220L.02I

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:

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

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

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

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

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

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

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

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

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

To the Honorable ..... County Clerk of ..... County:

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

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI)

)

COUNTY OF .....)

I, ... a resident of the state of Missouri, being first duly sworn, say (print or type names of signers)

REGISTERED VOTING NAME, DATE, ADDRESS, ZIP, CONGRESSIONAL DISTRICT NAME, (Signature) SIGNED (Street)(City, Town or Village) (Printed or Typed)

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

.....

Signature of Affiant (Person obtaining signatures)

Address of Affiant

Subscribed and sworn to before me this ..... day of .....

.....

Signature of Notary Public (Seal)

My commission expires .....

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) To review and make recommendations to the county commission regarding zoning regulations, amendments to zoning regulations, and zoning maps;

(7) To appoint employees and contract with consultants, as authorized by the county commission;

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

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

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

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

(2) Policies for transportation systems, including their relationship to land use. The transportation element may include a map or maps generally identifying existing,

programmed, planned, or potential transportation facilities, and a description of the design, extent, and qualities of these facilities;

(3) Policies to provide adequate housing quality and supply to meet forecasted population needs. The housing element may include needed support in achieving a range of housing choices for various discrete or special needs populations;

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

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

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

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

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

(9) Policies regarding the cumulative environmental, economic, fiscal, and social impacts of decisions and actions over the life of the plan. The sustainability element may include, but is not limited to, analysis of development, transportation, and building

practices on ecosystems or critical or sensitive resources, and may be conducted on a countywide, ecosystem, watershed, or other similarly comprehensive basis;

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

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

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

(3) At least fifteen days prior to the date of the hearing, notice of the public hearing shall be published at least once in a newspaper having general circulation within the county. The notice shall also be posted continuously for fifteen days prior to the hearing on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the county and also at the location where the meeting is to be held. The notice shall fix the time and place for the hearing and shall describe the topic in general terms. At least fifteen days before the date of the hearing, the plan to be considered at the hearing shall be on file in the office of the planning commission during normal office hours.

(4) The adoption of the plan requires a majority vote of the full membership of the planning commission. The adopting resolution shall refer expressly to the maps, descriptive matter, and other materials intended by the planning commission to form the whole or part of the plan. As the making of the whole county plan progresses, the planning commission may from time to time adopt a part or parts of the plan, any part to correspond generally with one or more of the elements of the plan. The action taken shall be recorded as the adopted plan or part of the plan by the identifying signature of the secretary of the planning commission.

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

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

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

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

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

(3) When a comprehensive plan is amended in segments, it shall include a statement indicating specifically what portions of the existing comprehensive plan are being amended and what portions of the existing comprehensive plan are to remain as part of the adopted comprehensive plan.

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

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

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

(2) The width, area, and arrangement of lots, access, easements, and building lines; and

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

2. The regulations may provide that in lieu of the immediate completion or installation of such work, the planning commission may accept, at the option of the developer, an escrow secured with cash or an irrevocable letter of credit or a surety bond, all in the amount and with surety and conditions satisfactory to the county commission. Such escrow or bond shall secure the county commission for the actual construction of such improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce such escrow or bond by all proper remedies.

3. In the event a developer who has posted an escrow or bond with a county in accordance with subsection 2 of this section transfers title of the subdivision property before full release of the escrow or bond, the county shall accept a replacement escrow or letter of credit from the successor developer in the form allowed in subsection 2 of this section and in the amount of the letter of credit or bond held by the county at the time of the transfer, and the county shall release the original escrow or bond in full and release the prior developer from all further obligations.

4. The county commission shall release any escrow or bond held by the county to secure actual construction on a category of improvements or utilities, such as streets, sewer, sidewalks, within thirty days of completion of that category of improvement or utilities. The county shall inspect each category of improvement or utility work for completion within twenty business days after a request for such inspection.

5. If the county has not released the escrow or bond amount as set forth in subsection 4 of this section, the county shall pay the owner or developer, in addition to the escrow or bond funds due, interest at the rate of one and one-half percent per month calculated from the expiration of the thirty-day period until full release of the escrow or bond funds. Any owner or developer aggrieved by the county's failure to observe the requirements of this section may bring a civil action to enforce the provisions of this section, and in such action, the court may award the prevailing party the amount of all costs attributable to the action, including reasonable attorneys' fees.

6. Prior to adoption or amendment of the subdivision regulations, the planning commission shall hold a public hearing on the proposed subdivision regulations or amendment. At least fifteen days prior to the date of the hearing, notice of the public hearing shall be published at least once in a newspaper having general circulation within the county. The notice shall also be posted continuously for fifteen days prior to the hearing on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the county and at

the location where the hearing is to be held. The notice shall fix the time and place for the hearing and shall describe such proposal in general terms. A county commission may hold a public hearing, but no separate hearing is required for the adoption or amendment of subdivision regulations by the county commission after receiving the planning commission's recommendation.

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

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

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

3. The recorder of deeds shall record a plat of a subdivision of land in the unincorporated area of the county only after having received a certificate of authority from the planning commission secretary, who shall issue such certificate if such plat has been approved under the provisions of sections 64.1000 to 64.1042 and the subdivision regulations.

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

5. The planning commission, after a public hearing, may vacate any plat of a subdivision of land including roads, streets, highways, and alleys located in the unincorporated areas of the county. At such hearing, the commission may require that expert witnesses providing evidence be sworn in so that their statements are statements

made under oath. Upon the vacation of the plat, the recorder of deeds shall be notified in writing of the vacation. Any vacation of public lands, rights-of-ways, or easements shall be submitted to the county commission, or other jurisdiction in control of such lands, for approval of the vacation.

64.1018. After a planning commission adopts a comprehensive plan of the county or any part thereof, no street, public improvement, or other public facilities, or no public utility, whether publicly or privately owned, where the location, extent and character thereof having been included in the recommendations and proposals of the plan, shall be constructed or authorized in the county until the location, extent, and character thereof has been submitted to and, after review and consideration of the comprehensive plan, approved by the planning commission. In the case of disapproval of the planning commission, the planning commission shall communicate its reasons to the county commission, or if the street, public improvement, public facility, or utility is one which the authorization or financing does not fall under the authority of the county commission, then the reasons shall be communicated to the board having authority over the public facility or utility. The county commission or other agency having jurisdiction, by vote of not less than two-thirds of the entire membership of its governing body, may overrule the disapproval stating the reasons for the overruling. Upon the overruling, the county commission or the appropriate agency or officer may proceed. The failure of the planning commission to act within sixty days after the date of official submission to it shall be deemed approval.

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

64.1024. 1. Upon the request of the county commission and after a vote of the people as provided in this section, the planning commission may recommend and the county commission may adopt zoning regulations for all unincorporated areas of the

county in accordance with the comprehensive plan or any specific area plan created under the comprehensive plan.

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

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

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

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

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

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

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

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

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

(4) The extent and design of site elements such as parking, landscape, or signs subject to the provisions of sections 226.500 to 226.600, RSMo;

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

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

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

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

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

64.1027. 1. After zoning regulations and districts are adopted by a county commission, the county commission may amend the regulations, map, or districts as provided in this section. Amendments may be initiated by the planning commission, county commission, or a property owner as provided in this section.

2. The planning commission shall hold a public hearing on the proposed amendment. At least fifteen days prior to the date of the hearing, notice of the public hearing shall be published at least once in a newspaper having general circulation within the county. The notice shall also be posted continuously for fifteen days prior to the hearing on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the county and also at the location where the hearing is to be held. The notice shall fix the time and place for the hearing and shall describe such proposal in general terms. The hearing may be adjourned from time to time, but in the event there are amendments to the zoning map that affect regulations of a specific property, the hearing shall be concluded within sixty days of the commencement of the hearing, unless the county and the property owner agree to extend such deadline. Within thirty days from the conclusion of the hearing, the planning commission shall submit its recommendations to the county commission, together with a written summary of the hearing and how the amendment is in accordance with the comprehensive plan, or if not, justification for the recommendations. Any recommendation shall be by the affirmative vote of a majority of the entire membership of the planning commission.

3. The county commission may:

(1) Approve the planning commission's recommendations by the adoption of the amendment;

(2) Override the planning commission's recommendations or otherwise revise the recommendations by a two-thirds vote of all of the members of the county commission, provided that the reasons for such overruling or revision shall be stated in the action by the county commission; or

(3) Return the recommendation to the planning commission for further consideration, together with a statement specifying the basis for the needed further consideration. If the county commission returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefore or submit new and amended recommendations. Upon the receipt of any new recommendations, the county commission, by a simple majority of all of the members, may adopt, revise, or override such recommendations. If the planning commission fails to deliver its recommendations to the county commission following the planning commission's next regular meeting after receipt of the county commission's report, the county commission shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and may proceed accordingly.

4. After review and consideration of the comprehensive plan, the county commission may from time to time change, supplement, or revise the regulations or boundaries of districts according to the procedures in this section. The county commission shall establish in its zoning regulations the matters to be considered when approving or disapproving a request to amend the zoning map.

(1) Amendments to the text of the generally applicable zoning regulations may be initiated by the planning commission or county commission. Amendments to generally applicable zoning regulations shall follow the procedures established in this section and any other additional procedures in the approved county zoning regulations.

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

(a) Published notice for any required public hearing shall include a legal description or a general description sufficient to identify the property under consideration. In addition to published notice, written notice of the proposed amendment shall be mailed at least fifteen days before the hearing to all owners of record of real property within the

area to be altered and to all owners of record of real property located within at least six hundred feet of the area proposed to be altered, or greater distance specified in the county zoning ordinance;

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

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

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

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

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

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

(3) To authorize variances where, by reason of exceptional narrowness, shallowness, shape, or topography, or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under sections 64.1000 to 64.1042 would result in peculiar and exceptional difficulties to, or exceptional and demonstrable undue hardship upon, the owner of the property as an

unreasonable deprivation of use as distinguished from the mere grant of a privilege. Upon an appeal relating to the property by the owner or person with a real property interest in such property, the board may authorize a variance from the strict application so as to relieve the demonstrable difficulties or hardships, provided the relief can be granted without substantial detriment to the public safety and welfare and without substantially impairing the intent, purpose, and integrity of the zoning map and regulations.

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

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

5. Any owners, lessees, or tenants of buildings, structures, or land jointly or severally aggrieved by any decision of the board of zoning adjustment under the provisions of sections 64.1000 to 64.1042, may present to the circuit court of the county in which the property affected is located, a petition, duly verified, stating that the decision is illegal in whole or in part, specifying the grounds of the illegality, and asking for relief. Upon the presentation of the petition, the court shall allow a writ of certiorari directed to the board of adjustment or the county commission, respectively, of the action taken and data and records acted upon, and may appoint a referee to take additional evidence in the case. The court may reverse or affirm or may modify the decision brought up for review. After entry of judgment in the circuit court in the action in review, any party to the cause may bring an appeal to the appropriate appellate court.

64.1033. 1. Any violation of any regulation adopted under the authority of sections 64.1000 to 64.1042 shall be a misdemeanor. Any person with an interest in the property

where a violation exists, or any person who knowingly commits, takes part or assists in the violation, may be subject to fines and penalties for other misdemeanors resulting from the same action. Each day of the offense may be considered a separate offense.

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

3. The county may institute any appropriate action or proceedings to enforce the adopted regulations and to remove violations.

4. No owner, or agent of the owner, of any land located within the platting jurisdiction of any county that has adopted subdivision regulations may transfer, sell, agree to sell, or negotiate to sell that land by reference to or by other use of a plat of any purported subdivision of the land before the plat has been approved by the county commission or planning commission and recorded in the office of the appropriate county recorder, unless the owner or agent shall disclose in writing that such plat has not been approved and the sale is contingent upon the approval of such plat by the planning commission or county commission. Each such transfer, sale, or agreement shall be a separate violation, and in addition to all other remedies, a county may enjoin or vacate the transfer or sale or agreement by legal action, and may recover the penalty in such action.

5. The county may designate an administrative officer or official with power to cause any land, building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any of the regulations or orders adopted or made under the authority of sections 64.1000 to 64.1042.

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

64.1036. 1. The authority granted by sections 64.1000 to 64.1042 shall not be exercised so as to deprive the owner, lessee, or tenant of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted.

2. The authority granted by sections 64.1000 to 64.1042 shall not interfere with such public utility services as may have been or may hereafter be specifically authorized or

permitted by a certificate of public convenience and necessity, or order issued by the public service commission, or by permit of the county commission.

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

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

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

(3) The county commission may adopt regulations under cooperative agreements in the same manner as subdivision regulations as enabled in sections 64.1000 to 64.1042.

64.1042. 1. After August 28, 2008, any county commission may by resolution elect to utilize the authority and procedures in sections 64.1000 to 64.1042 for county planning and implementation.

2. Nothing contained in sections 64.1000 to 64.1042 shall affect the existence or validity of a county ordinance or order adopted prior to August 28, 2008.

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