

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 5
95TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, February 26, 2009, with recommendation that the Senate Committee Substitute do pass.

0233S.03C

TERRY L. SPIELER, Secretary.

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; provided however, that nothing in these sections shall be applicable to any property owned, used, or operated for rail purposes by any entity subject to jurisdiction or regulations by the Federal Railroad Administration or the federal Surface Transportation Board and these sections shall not be construed to authorize any county commission, county health center board, or planning commission to make or promulgate orders, ordinances, rules, or regulations that would apply to agricultural operations. The enumeration of powers in these sections shall not be exclusive, nor be a limit on the general authority

19 conferred on counties to adopt ordinances.

20 64.1003. As used in sections 64.1000 to 64.1042, the following
21 terms shall mean:

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

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

26 (3) "Building line" or "building setback line", the line within a
27 property which defines a horizontal distance to be provided between
28 an exterior building wall or building support and the adjacent property
29 line;

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

35 (5) "Major street plan", a plan established under sections 64.1000
36 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
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 rejection, at
28 the next general election to be held on the day of

29 "Should a planning commission be established in
30 County to assume responsibility for preparation of a county
31 comprehensive plan?"; and each for himself or herself says: I have
32 personally signed this petition; I am a registered voter of the state of
33 Missouri and County; my registered voting address
34 and the name of the city, town or village in which I live are correctly
35 written after my name.

36 CIRCULATOR'S AFFIDAVIT
37 STATE OF MISSOURI)

38)

39 COUNTY OF)

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

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

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

51

52 Signature of Affiant (Person obtaining signatures)

53 Address of Affiant

54 Subscribed and sworn to before me this day of

55

56

57 Signature of Notary Public (Seal)

58 My commission expires

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

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

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

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

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

74 (7) If the question is approved by a majority of the voters at the

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

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

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

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

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

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

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

111 (4) To review plat applications in accordance with adopted

112 subdivision regulations;

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

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

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

120 (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 public health, safety, and welfare. Each
6 element of the plan, as described in subsection 2 of this section,
7 accomplishes this purpose through analysis of existing conditions and
8 trends, identification of issues, opportunities, goals, and policies,
9 development of reasonable projections, forecasts, and assumptions
10 about anticipated future conditions or impacts, consideration of
11 interrelationships between plan elements, prioritization of issues and
12 actions, and preparation of implementation strategies which identify
13 how goals may be achieved.

14 2. The planning commission may determine the applicability to
15 the county of the elements described in this subsection. 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. At least fifteen days before the date of the
108 hearing, the plan to be considered at the hearing shall be on file in the
109 office of the planning commission during normal office hours.

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

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

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

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

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

140 review.

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

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

152 (4) A comprehensive plan amendment is subject to the same
153 procedures provided in sections 64.1000 to 64.1042 for preparation and
154 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 width, area, and arrangement of lots, access, easements,
9 and building lines; and

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

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

22 3. In the event a developer who has posted an escrow or bond

23 with a county in accordance with subsection 2 of this section transfers
24 title of the subdivision property before full release of the escrow or
25 bond, the county shall accept a replacement escrow or letter of credit
26 from the successor developer in the form allowed in subsection 2 of this
27 section and in the amount of the letter of credit or bond held by the
28 county at the time of the transfer, and the county shall release the
29 original escrow or bond in full and release the prior developer from all
30 further obligations.

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

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

48 6. Prior to adoption or amendment of the subdivision
49 regulations, the planning commission shall hold a public hearing on the
50 proposed subdivision regulations or amendment. At least fifteen days
51 prior to the date of the hearing, notice of the public hearing shall be
52 published at least once in a newspaper having general circulation
53 within the county. The notice shall also be posted continuously for
54 fifteen days prior to the hearing on a bulletin board or other prominent
55 place which is easily accessible to the public and clearly designated for
56 that purpose at the principal office of the county and at the location
57 where the hearing is to be held. The notice shall fix the time and place
58 for the hearing and shall describe such proposal in general terms. A
59 county commission may hold a public hearing, but no separate hearing

60 is required for the adoption or amendment of subdivision regulations
61 by the county commission after receiving the planning commission's
62 recommendation.

63 7. Subdivision regulations shall establish standards for the
64 development of a complete subdivision plat application, and shall
65 designate a person authorized to determine completeness of
66 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. No plat of a subdivision of land in the unincorporated area of
19 the county shall be submitted to the recorder of deeds unless a
20 certificate of authority is issued from the planning commission
21 secretary, who shall issue such certificate if such plat has been
22 approved under the provisions of sections 64.1000 to 64.1042 and the
23 subdivision regulations.

24 4. A county planning commission may, upon the written request
25 of the legislative body of an incorporated area in which there is no
26 municipal planning commission, pass upon subdivision plats within
27 said incorporated areas, and said plats shall be subject to all rules and
28 regulations of the county planning commission and shall not be
29 recorded until they have been approved in the same manner as a
30 subdivision plat in an unincorporated area. If, however, the county

31 planning commission does not agree to pass upon plats in an
32 incorporated area, the county recorder shall be advised of the fact by
33 registered letter.

34 5. The planning commission, after a public hearing, may vacate
35 any plat of a subdivision of land including roads, streets, highways, and
36 alleys located in the unincorporated areas of the county. At such
37 hearing, the commission may require that expert witnesses providing
38 evidence be sworn in so that their statements are statements made
39 under oath. Upon the vacation of the plat, a notice of vacation shall be
40 recorded with the recorder of deeds. Any vacation of public lands,
41 rights-of-ways, or easements shall be submitted to the county
42 commission, or other jurisdiction in control of such lands, for approval
43 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, after
8 review and consideration of the comprehensive plan, approved by the
9 planning commission. 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 county
19 commission or the appropriate agency or officer may proceed. The
20 failure of the planning commission to act within sixty days after the
21 date of official 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 subdivision regulations. After the establishment of
10 any 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 subject to the provisions of sections 226.500 to
50 226.600, RSMo;

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

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

56 4. The regulations shall define the boundaries of zoning districts
57 or any other special area under which the regulations differ from one
58 area to another by incorporating a map or maps as part of the
59 regulations, or by defining the boundaries in any other manner that
60 clearly establishes the boundaries of the district or districts. The

61 county shall designate one map as the official zoning map for the
62 county, which shall indicate all zoning districts, or which may
63 incorporate by reference any specific zoning map or materials which
64 establish regulations for the property. The official zoning map shall be
65 filed in the office of the county clerk or other such public office
66 designated by the county commission.

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

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

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

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

26 of the planning commission.

27 3. The county commission may:

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

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

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

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

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

61 (2) Amendments to the zoning map that affect regulations to a
62 specific property may be initiated by the planning commission, the

63 county commission, or a property owner or property owner's
64 authorized agent. Amendments to the zoning map shall follow the
65 procedures established in this section, any other additional procedures
66 in the approved county zoning regulations, and the following specific
67 procedures:

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

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

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

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, and 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 county zoning regulations. The appeals shall be taken
48 within a period of not more than three months of such decision, and in
49 the 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 the officer's opinion,
53 cause imminent peril to life or property. In exercising the above
54 powers, the board may reverse or affirm wholly or partly, or may
55 modify the order, requirement, decision, or determination appealed
56 from and may take such order, requirement, decision, or determination
57 as ought to be made, and to that end shall have all the powers of the
58 officer from 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. The county may institute any appropriate action or
17 proceedings to enforce the adopted regulations and to remove
18 violations.

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

32 5. The county may designate an administrative officer or official
33 with power to cause any land, building, structure, place or premises to
34 be inspected and examined and to order in writing the remedying of
35 any condition found to exist therein or thereat in violation of any of the
36 regulations or orders adopted or made under the authority of sections
37 64.1000 to 64.1042.

38 6. Any owner, lessee, or tenant who, having been served with an
39 order in writing signed by the zoning administrative official to correct
40 or remove any such violations, shall fail to comply with the order
41 within ten days after service, or who shall continue to violate any of
42 the regulations or orders made under the authority of sections 64.1000
43 to 64.1042 in the respect named in the order, shall be guilty of a
44 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.

5 2. The authority granted by sections 64.1000 to 64.1042 shall not
6 interfere with:

7 (1) 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; or

11 (2) Services of a rural electric cooperative organized under
12 chapter 394, RSMo.

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 county planning commission may adopt plans prepared
14 under cooperative agreements in the same manner as other plans
15 enabled in sections 64.1000 to 64.1042.

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

64.1042. 1. After August 28, 2009, 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, 2009.