

FIRST REGULAR SESSION

# HOUSE BILL NO. 679

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BAKER (123) (Sponsor),  
SCAVUZZO AND MCGHEE (Co-sponsors).

Read 1st time January 30, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1685L.01I

### AN ACT

To repeal sections 64.090, 64.235, and 64.620, RSMo, and to enact in lieu thereof three new sections relating to county land use regulation.

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

Section A. Sections 64.090, 64.235, and 64.620, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 64.090, 64.235, and 64.620, to read as follows:

64.090. 1. For the purpose of promoting health, safety, morals, comfort or the general welfare of the unincorporated portion of counties, to conserve and protect property and building values, to secure the most economical use of the land, and to facilitate the adequate provision of public improvements all in accordance with a comprehensive plan, the county commission in all counties of the first class, as provided by law, except in counties of the first class not having a charter form of government, is hereby empowered to regulate and restrict, by order, in the unincorporated portions of the county, the height, number of stories and size of buildings, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence or other purposes, including areas for agriculture, forestry and recreation.

2. The provisions of this section shall not apply to the incorporated portions of the counties, nor to the raising of crops, livestock, orchards, or forestry, nor to seasonal or temporary impoundments used for rice farming or flood irrigation. As used in this section, the term "rice

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.

14 farming or flood irrigation" means small berms of no more than eighteen inches high that are  
15 placed around a field to hold water for use for growing rice or for flood irrigation. This section  
16 shall not apply to the erection, maintenance, repair, alteration or extension of farm structures  
17 used for such purposes in an area not within the area shown on the flood hazard area map. This  
18 section shall not apply to underground mining where entrance is through an existing shaft or  
19 shafts or through a shaft or shafts not within the area shown on the flood hazard area map.

20 3. The powers by sections 64.010 to 64.160 given shall not be exercised so as to deprive  
21 the owner, lessee or tenant of any existing property of its use or maintenance for the purpose to  
22 which it is then lawfully devoted except that reasonable regulations may be adopted for the  
23 gradual elimination of nonconforming uses, nor shall anything in sections 64.010 to 64.160  
24 interfere with such public utility services as may have been or may hereafter be specifically  
25 authorized or permitted by [a certificate of public convenience and necessity, or order issued by  
26 the public service commission, or by permit] **assent** of the county commission **under section**  
27 **229.100, RSMo.**

28 4. For the purpose of any zoning regulation adopted under the provisions of sections  
29 64.010 to 64.160, the classification of single-family dwelling or single-family residence shall  
30 include any home in which eight or fewer unrelated mentally or physically handicapped persons  
31 reside, and may include two additional persons acting as houseparents or guardians who need  
32 not be related to each other or to any of the mentally or physically handicapped persons. The  
33 classification of single-family dwelling or single-family residence shall also include any private  
34 residence licensed by the division of family services or department of mental health to provide  
35 foster care to one or more but less than seven children who are unrelated to either foster parent  
36 by blood, marriage or adoption. A zoning regulation may require that the exterior appearance  
37 of the home and property be in reasonable conformance with the general neighborhood standards  
38 and may also establish reasonable standards regarding the density of such individual homes in  
39 any specific single-family dwelling or single-family residence area. Should a single-family  
40 dwelling or single-family residence as defined in this subsection cease to operate for the purposes  
41 specified in this subsection, any other use of such dwelling or residence, other than that allowed  
42 by the zoning regulations, shall be approved by the county board of zoning adjustment. Nothing  
43 in this subsection shall be construed to relieve the division of family services, the department of  
44 mental health or any other person, firm or corporation occupying or utilizing any single-family  
45 dwelling or single-family residence for the purposes specified in this subsection from compliance  
46 with any ordinance or regulation relating to occupancy permits except as to number and  
47 relationship of occupants or from compliance with any building or safety code applicable to  
48 actual use of such single-family dwelling or single-family residence.

49           5. Except in subsection 4 of this section, nothing contained in sections 64.010 to 64.160  
50 shall affect the existence or validity of an ordinance which a county has adopted prior to March  
51 4, 1991.

64.235. From and after the adoption of the master plan or portion thereof and its proper  
2 certification and recording, then and thenceforth no improvement of a type embraced within the  
3 recommendations of the master plan shall be constructed or authorized without first submitting  
4 the proposed plans thereof to the county planning board and receiving the written approval and  
5 recommendations of the board; except that this requirement shall be deemed to be waived if the  
6 county planning board fails to make its report and recommendations within forty-five days after  
7 the receipt of the proposed plans. If a development or public improvement is proposed to be  
8 located in the unincorporated territory of the county by any municipality, county, public board  
9 or commission, the disapproval or recommendations of the county planning board may be  
10 overruled by the county commission, which shall certify its reasons therefor to the planning  
11 board[, nor shall anything herein] . **Nothing in this section shall** interfere with such  
12 development or public improvement as may have been, or may hereafter be, specifically  
13 authorized or permitted by [a certificate of public convenience and necessity, or order issued by  
14 the public service commission, or by permit] **assent** of the county commission **under section**  
15 **229.100, RSMo, or** after public hearing in the manner provided by section 64.231.

64.620. 1. For the purpose of promoting health, safety, morals, comfort or the general  
2 welfare of the unincorporated portion of counties of the second or third class to conserve and  
3 protect property and building values, to secure the most economical use of the land, and to  
4 facilitate the adequate provision of public improvements all in accordance with a comprehensive  
5 plan, the county commission of any county to which sections 64.510 to 64.690 are applicable as  
6 provided in section 64.510 shall have power after approval by vote of the people as provided in  
7 section 64.530 to regulate and restrict, by order of record, in the unincorporated portions of the  
8 county, the height, number of stories, and size of buildings, the percentage of lots that may be  
9 occupied, the size of yards, courts and other open spaces, the density of population, the location  
10 and use of buildings, structures and land for trade, industry, residence or other purposes,  
11 including areas for agriculture, forestry, and recreation.

12           2. The provisions of this section shall not apply to the incorporated portions of the  
13 counties, or to the raising of crops, livestock, orchards, or forestry, or to seasonal or temporary  
14 impoundments used for rice farming or flood irrigation. As used in this section, the term "rice  
15 farming or flood irrigation" means small berms of no more than eighteen inches high that are  
16 placed around a field to hold water for use for growing rice or for flood irrigation. This section  
17 shall not apply to the erection, maintenance, repair, alteration or extension of farm buildings or  
18 farm structures used for such purposes in an area not within the area shown on the flood hazard

19 area map. This section shall not apply to underground mining where entrance is through an  
20 existing shaft or shafts or through a shaft or shafts not within the area shown on the flood hazard  
21 area map.

22 3. The powers granted by sections 64.510 to 64.690 shall not be construed:

23 (1) So as to deprive the owner, lessee or tenant of any existing property of its use or  
24 maintenance for the purpose to which it is then lawfully devoted;

25 (2) So as to deprive any court of the power of determining the reasonableness of  
26 regulations and powers in any action brought in any court affecting the provisions of sections  
27 64.510 to 64.690, or the rules and regulations adopted thereunder;

28 (3) To authorize interference with such public utility services as may have been or may  
29 hereafter be authorized [or ordered by the public service commission or] by [permit] **assent** of  
30 the county commission[, as the case may be] **under section 229.100, RSMo.**

31 4. Nothing contained in sections 64.510 to 64.695 shall affect the existence or validity  
32 of an ordinance or order which a county has adopted prior to March 4, 1991.

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