

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1832**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Economic Development, Tourism and Local Government, May 5, 2008, with recommendation that the Senate Committee Substitute do pass.

4220S.03C

TERRY L. SPIELER, Secretary.

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**AN ACT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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:

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  
34 address and the name of the city, town or village in which I live are  
35 correctly 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. The recorder of deeds shall record a plat of a subdivision of  
19 land in the unincorporated area of the county only after having  
20 received a certificate of authority 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, the recorder of deeds shall  
40 be notified in writing of the vacation. 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  
16 zoning regulations authorized under the "Missouri County Planning  
17 Act"?"

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

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

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

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

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

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

49           (4) The extent and design of site elements such as parking,  
50 landscape, or signs subject to the provisions of sections 226.500 to  
51 226.600, RSMo;

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

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

57           (7) Sexually oriented businesses.

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

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

72           6. Farm buildings and farm structures used for such purposes  
73 that are not in a designated flood plain shall be exempt from zoning  
74 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, 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, 2008, 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, 2008.

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