

Approved February 7, 1991
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Sen. Don Montgomery at
Chairperson

9:00 a.m./~~xxx~~p.m. on February 6, 1991 in room 531-N of the Capitol.

All members were present except:

Sen. Steineger - Excused

Committee staff present:

Theresa Kiernan, Revisor of Statutes
Mike Heim, Legislative Research
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: None.

The minutes of February 5 were approved.

The Chairman called the committee's attention to SB 23 concerning zoning and planning which had been previously heard. He asked the committee to note written testimony submitted by Noelle St. Clair of Topeka regarding the relationship the National Affordable Housing Act of 1990 to SB 23. (Attachment 1).

Written testimony from Scott Andrews of the Sierra Club had also been distributed to committee members. (Attachment 2).

Theresa Kiernan distributed copies of a balloon of the bill and explained each amendment. (Attachment 3). She also had copies of the Water Projects Environmental Coordination Act which is referred to in the bill. (Attachment 4).

With regard to the amendment on line 30, Sen. Langworthy noted that manufactured homes are considered as different from site homes by banks when considering loans and for tax purposes. She feels this differential treatment must be significant, therefore, local control should remain intact. Sen. Lanagworthy made a motion to strike the suggested language on line 30 after "homes" and add "from the entire jurisdiction of the governing body." Sen. Burke seconded the motion for the purpose of discussion.

Discussion followed in which it was determined that Sen. Langworthy's suggested language would allow cities to designate areas where manufactured housing would be allowed. Sen. Gaines expressed his concerns about the variety of styles in manufactured housing, including mobile homes which he feels should be located in a separate place. He asked Jim Kaup of the Kansas League of Municipalities for the report on manufactured housing from the American Planning Association which he had requested at yesterday's meeting. Mr. Kaup briefly outlined the memo. (Attachment 5).

Bob Alderson with the Kansas Manufactured Housing Association stood to inform the committee that the bill does not include the mobile homes of the type to which Sen. Gaines referred. He would be willing to change the definition to say manufactured housing is a structure that is built in compliance with the HUD code.

Sen. Langworthy agreed her suggested language would permit cities to prevent manufactured housing in certain areas but feels that something is needed in the bill to assure control by local units. Sen. Petty summarized that the committee is in agreement not to exclude manufactured housing from cities, but the community has a right to develop standards where manufactured housing can be placed based on aesthetic standards. Sen. Frahm stated that local control could exclude manufactured housing by determining where it can be placed.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,
room 531-N, Statehouse, at 9:00 a.m./~~p.m.~~ on February 6, 1911.

Sen. Langworthy said that if her suggested language is not satisfactory, she would accept any language that leaves control with local government.

Sen. Allen began a brief discussion with Mr. Kaup as to if the bill would take the power of home rule away.

There being no further time, Sen. Langworthy's motion was tabled until such time as the committee resumes discussion of SB 23.

The meeting was adjourned at 10:00 a.m.

Noelle St.Clair
2115 SW Mission
Topeka, KS 66614

February 3, 1991

Senator Don Motgomery
State Of Kansas
Statehouse
Topeka,KS 66612

Dear Senator Motgomery:

I'm writing to express some thoughts for you and the Local Government Committee to take into consideration as you hear testimony and consider action on Senate Bill No. 23.

I am a "Affordable Housing" advocate and have worked in the Housing field for the last 15 years. I currently sit on the State Housing Advisory Concerns Committee. The Housing Advisory Concerns Committee is charged with the task of providing assistance to the Dept. Of Commerce in preparing a 5 year Housing Strategy.

Recently a piece of Federal legislation (National Affordable Housing Act of 1990) mandated an increased state role including the development of a statewide "Community Housing Assistance Strategy" (CHAS). Federal Regulations have mandated that the "CHAS" be very detailed. Senate Bill 23 will have an affect on this plan because of one such requirement under section 91.20 of the Federal Register / Vol. 56, No 9/ Monday, January 14, 1991 / Notices , item 4 (d) that says:

an explanation of whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the geographic area of the State are affected by State as well as local public policies, as embodied in statutes, ordinances, regulations, or administrative procedures and processes. The State must consider the extent to which its policies are encouraging the removal of barriers to affordable housing. Of particular concern are policies such as tax policies affecting land and other property, land use controls, zoning ordinances, building codes, code enforcement, fees and charges, growth limits, and policies that affect the return on residential investment. The explanation must describe the State's strategy to remove directly or ameliorate any negative effects of local policies, encouragement of use of model codes and standards, and provision of technical assistance for local governments;

Leaving the language in New Sec. 20 of Senate Bill 23 as written will be important as we proceed in the development of our State Community Housing Assistance Strategy .

*Senate L.G.
2-6-91
Attachment 1*

The shortage of affordable housing is a critical issue facing this state. I hope that this committee will follow other state legislatures and responded to public concern about the affordability gap and enact this legislation to facilitate planning for and development of affordable manufactured housing in residential districts.

If I can provide any further input on this matter please don't hesitate to contact me at 234-0217.

Sincerely,



Noelle St.Clair

nst

cc:

Jim Allen
Paul Burke
Norma Daniels
Roy Ehrlich
Sheila Frahm
Frank Gaines
Audrey Lagworthy
Janis Lee
Marge Petty
Jack Steineger

from the assisted housing inventory for any reason, including public housing demolition or conversion to homeownership, or prepayment or voluntary termination of a Federally assisted mortgage;

(d) Relevant public policies. An explanation of whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the geographic area of the State are affected by State as well as local public policies, as embodied in statutes, ordinances, regulations, or administrative procedures and processes. The State must consider the extent to which its policies are encouraging the removal of barriers to affordable housing. Of particular concern are policies such as tax policies affecting land and other property, land use controls, zoning ordinances, building codes, code enforcement, fees and charges, growth limits, and policies that affect the return on residential investment. The explanation must describe the State's strategy to remove directly or ameliorate any negative effects, as well as to work with the units of general local government involved to remove or ameliorate any negative effects, including effects of local policies contributing to concentration of racial/ethnic minorities. The strategy should consider direct State action, reform of State enabling legislation to remove or ameliorate any negative effects of local policies, encouragement of use of model codes and standards, and provision of technical assistance for local governments;

(e) Institutional structure. An explanation of the institutional structure at the State level, such as a State Housing Finance Agency or a State-wide non-profit organization, through which the State will carry out its housing strategy. The explanation must assess the strengths and gaps in that delivery system and describe what the State will do to overcome those gaps;

(f) Resources. An indication of how Federal funds expected to be made available to the State in the next year will be used to leverage private and non-Federal public resources.

(1) Private resources. A statement of resources from private sources, such as financial institutions, pension funds, foundations and non-profit organizations, that are reasonably expected to be made available to carry out the purposes of the Act, as stated in § 91.1, and the extent to which they will be used in connection with government funds;

(2) Government resources. A statement identifying the resources reasonably expected to be made

available from HUD, other Federal agencies or the State for rental assistance, homeless assistance, production of new units, rehabilitation of existing units, acquisition of existing units, and any other assistance provided to carry out the purposes of the Act, as stated in § 91.1. These resources will include, where the State deems it appropriate, the identification of any Federally or State-owned land or property located in the geographic area that may be used to carry out the purposes of the Act.

(g) Plan. A statement setting forth the State's plan for investment or other use of housing funds and other assistance anticipated under the title II of the Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, the Stewart B. McKinney Homeless Assistance Act, and other programs covered under this part, during the next year, and over the next five-year period, indicating the general priorities for allocating investment geographically within the State and among different activities and housing needs, including new homeownership. If the State plans to distribute its funds competitively, it should describe its priorities for distribution and its procedure. The plan must specifically provide for the distribution of assistance to non-metropolitan areas in amounts that take into account the non-metropolitan share of the State's total population. The plan must include estimates of assistance to be provided for the same categories of need (using the same definitions) as the needs data provided in paragraph (a) of this section;

(h) Intergovernmental cooperation. A description of the means of cooperation and coordination between the State and the unit of general local government, and between States if appropriate, in the development, submission, and implementation of their housing strategies;

(i) Tax credits. A description of the State's strategy to coordinate the Low-Income Tax Credit with development of housing for which rents are affordable to very low-income and low-income families, as determined in accordance with U.S. tax law;

(j) Public housing homeownership. A description of the State's activities to encourage public housing residents to become more involved in management and to participate in homeownership;

(k) Monitoring procedures. A description of the standards and procedures the State will use to monitor activities authorized under the Act and to ensure long-term compliance with the provisions of the Act, whether

administered directly by the State or through a unit of general local government;

(l) Fair housing. A certification that the State will affirmatively further fair housing. A similar certification must be required of any unit of general local government to which the State allocates HUD funds;

(m) Replacement of low-income housing and relocation assistance. A certification that the State is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)), to the extent those requirements are applicable. A similar certification must be required of any unit of general local government to which the State allocates HUD funds; and

(n) Goals. A statement of the number of families that will be assisted using funds reasonably expected to be made available within the area from HUD, either alone or in combination with other sources, as identified in accordance with paragraph (f) of this section. Of those families, a statement of the number of families for whom the State will provide affordable housing, as defined in the HOME Program, authorized by section 215 of the Act. Information must be displayed for new homeownership and for the various groups as it is for the needs data, described in paragraph (a) of this section.

§ 91.25 Abbreviated Strategy

A jurisdiction that is not expected to be a participating jurisdiction may submit an abbreviated housing strategy that is appropriate to the types and amounts of assistance sought from HUD. The elements of strategies required under §§ 91.15 and 91.20 must be included except to the extent that they are clearly unnecessary or inapplicable, as determined by HUD.

Subpart C—Coordination and Consultation

§ 91.30 Coordination of State and Local Housing Strategies

States and units of general local government that are participating jurisdictions must establish a method of coordinating the development and implementation of their housing strategies. States are encouraged to take a leadership role in convening and coordinating meetings to coordinate efforts to increase the availability of affordable housing. A State may adopt



SIERRA CLUB

Kansas Chapter

724 1/2 S. Kansas
Topeka, KS 66603

Local
Testimony to Senate Government Organization

S.B. 23 - Zoning

The Kansas Chapter of the Sierra Club is an environmental organization with 3300 members in the state. I regret that due to a conflict with another committee meeting I am unable to testify in person at the hearing of S.B. 23. I would therefore like to submit this written testimony.

The Sierra Club is not opposed to this bill as a whole. In fact our concerns stem from a single sentence in the bill. Found in section 28, line 35, it reads:

" The provisions of this section shall not apply to properly placed fills other than levees located in the floodway fringe within a participating community as defined by the national flood insurance act."

This provision has the effect of eliminating all state environmental review of fill projects in the floodway fringe of most communities. These areas contain wetlands, riparian forests and other important habitat. To remove them from all state environmental review invites environmental abuse and likely destruction of habitat of animals on the state endangered species list. In addition, because the reporting procedure is eliminated, it is possible that species on the Federal Threatened and Endangered List, legally still covered, would have little de facto protection.

I urge the members of this committee to amend S.B. 23 by striking the sentence quoted above and maintaining state environmental review of these sensitive riparian areas.

Sincerely,

Scott Andrews,
Chapter Representative

Senate L. G.
2-6-91
Attachment 2

SENATE BILL No. 23

By Special Committee on Local Government

Re Proposal No. 22

12-28

AN ACT concerning planning and zoning; amending K.S.A. 24-126 and K.S.A. 1990 Supp. 19-101a and repealing the existing sections; also repealing K.S.A. 12-701 to 12-704, inclusive, 12-704a, 12-705, 12-705a, 12-705b, 12-705c, 12-706, 12-706a, 12-707 to 12-715, inclusive, 12-715a, 12-717 to 12-735, inclusive, 19-2901, 19-2902, 19-2902a, 19-2902b, 19-2902c, 19-2903, 19-2904, 19-2905, 19-2905a, 19-2906 to 19-2914, inclusive, 19-2916, 19-2916a, 19-2918, 19-2918a, 19-2918b, 19-2918c, 19-2919, 19-2921, 19-2924, 19-2925, 19-2925a, 19-2926, 19-2926a, 19-2926b, 19-2927 to 19-2934, inclusive, 19-2934a, 19-2935 to 19-2938, inclusive, and K.S.A. 1990 Supp. 12-716, 19-2915 and 19-2920.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. When used in this act:

- (a) "Base flood" means a flood having a 1% chance of being equaled or exceeded in any one year;
- (b) "floodway fringe" means those portions of a flood plain outside of the boundaries of a regulatory floodway and within stream reaches where such a floodway has been established;
- (c) "flood plain" means land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of 1%;
- (d) "governing body" means the governing body of a city in the case of cities and the board of county commissioners in the case of counties;
- (e) "manufactured home" means a structure which:
 - (1) Is transportable in one or more sections which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and designed to be used as a dwelling, with permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and
 - is subject to the federal manufactured home construction and standards established pursuant to 42 U.S.C. § 5403;

New Section 1. This act is enabling legislation for the enactment of planning and zoning laws and regulations by cities and counties for the protection of the public health, safety and welfare, and is 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 this act.

(League)

Senate L.G.
 2-6-91
 Attachment 3

1 (f) "planning commission" means a city, county, regional or met-
2 tan planning commission;

3 "regulatory floodway" means the channel of a river or other
4 water course and the adjacent land areas that must be reserved in
5 order to discharge the base flood without cumulatively increasing
6 the water surface elevation more than designated height;

7 (h) "subdivision" means the division of a lot, tract or parcel of
8 land into two or more parts for the purpose, whether immediate or
9 future, of sale or building development, including resubdivision;

10 (i) "subdivision regulations" mean the lawfully adopted subdivi-
11 sion ordinances of a city and the lawfully adopted subdivision res-
12 olutions of a county;

13 (j) "zoning" means the regulation or restriction of the location
14 and uses of buildings and uses of land;

15 (k) "zoning regulations" mean the lawfully adopted zoning or-
16 dinances of a city and the lawfully adopted zoning resolutions of a
17 county.

18 New Sec. 2. (a) Before any city adopts a comprehensive plan or
19 part thereof, subdivision regulations, zoning regulations or building
20 or setback lines affecting property located outside the corporate limits
21 of such city, written notice of such proposed action shall be given
22 to the board of county commissioners of the county in which such
23 property is located. Such notice also shall be given to the township
24 board of the township in which such property is located if the town-
25 ship is located in a county not operating under the county unit road
26 system. Such notice shall be given at least 15 days prior to the
27 proposed action.

28 (b) Before any county adopts a comprehensive plan or part
29 thereof, subdivision regulations, zoning regulations or building or
30 setback lines affecting property located within three miles of the
31 corporate limits of a city, written notice of such proposed action
32 shall be given to the governing body of such city. In any county
33 not operating under the county unit road system, before any county
34 adopts a comprehensive plan or part thereof, subdivision regulations
35 or building or setback lines, written notice of such proposed action
36 shall be given to the township board of such township in which the
37 affected property is located. The notice required by this subsection
38 shall be given at least 15 days prior to the proposed action.

39 New Sec. 3. (a) The governing body of any city, by adoption of
40 an ordinance, may create a planning commission for such city and
41 the board of county commissioners of any county, by adoption of a
42 resolution, may create a planning commission for the county. Any
43 such planning commission shall be composed of not less than five

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1 members. The number of members of a planning commission may
 2 determined by ordinance or resolution. If a city planning commission
 3 plans, zones or administers subdivision regulations outside
 4 the city limits, two members of such commission shall reside outside
 5 of but within three miles of the corporate limits of the city, but the
 6 remaining members shall be residents of the city. A majority of the
 7 members of a county planning commission shall reside outside the
 8 corporate limits of any incorporated city in the county. A county,
 9 metropolitan or regional planning commission may serve as the plan-
 0 ning commission for a city.

1 (b) The governing body shall provide by ordinance or resolution
 2 for the term of the members of the planning commission and for
 3 the filling of vacancies. Members of the commission shall serve with-
 4 out compensation. The governing body may adopt rules and regu-
 5 lations providing for removal of members of the planning commission.

6 (c) Any two or more cities or counties of this state may cooperate,
 7 pursuant to written agreement, in the exercise and performance of
 8 planning powers, duties and functions. Any city or county of this
 9 state may cooperate, pursuant to written agreement, with any city
 0 or county of any other state having adjoining planning jurisdiction
 1 in the exercise and performance of any planning powers, duties and
 2 functions provided by state law for cities and counties of this state
 3 and to the extent that the laws of such other state permit such joint
 4 cooperation. Any agreement entered pursuant to this subsection shall
 5 be subject to the provisions of K.S.A. 12-2901 et seq., and amend-
 6 ments thereto.

7 When two or more of such cities or counties, by ordinance of each
 8 city and by resolutions of the boards of county commissioners enter
 9 into agreements providing for such joint planning cooperation, there
 0 ~~shall~~ be established a joint planning commission for the metropolitan
 1 area or region comprising that portion of the areas of planning ju-
 2 risdiction of the cities or counties cooperating jointly as shall be
 3 designated by the joint ordinances and resolutions. Such a joint
 4 planning commission for the metropolitan area or region may be
 5 empowered to carry into effect such provisions of state law relating
 6 to planning which are authorized for such joining cities or counties
 7 and which each may under existing laws separately exercise and
 8 perform.

may

9 Any city or county, whenever the governing body of the city or
 0 the board of commissioners of the county deems necessary, may join
 1 and cooperate in two or more metropolitan area or regional planning
 2 commissions. Any regional or metropolitan planning commission in
 3 existence on the effective date of this act shall continue in existence,

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shall be governed by the provisions of this act.

New Sec. 4. The members of the planning commission shall meet at such time and place as may be fixed in the commission's bylaws. The commission shall elect one member as chairperson and one member as vice-chairperson who shall serve one year and until their successors have been elected. A secretary also shall be elected who may or may not be a member of the commission. Special meetings may be called at any time by the chairperson or in the chairperson's absence by the vice-chairperson. The commission shall adopt bylaws for the transaction of business and hearing procedures.

Unless otherwise provided by this act,

No action by the planning commission shall be taken except by a majority vote of the membership thereof. A record of all proceedings of the planning commission shall be kept. The commission may employ such persons deemed necessary and may contract for such services as the commission requires. The commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the commission.

New Sec. 5. The governing body shall approve a planning commission budget and make such allowances to the planning commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary for the purposes of this act and may receive and expend funds and moneys from the state or federal government or from any other source for such purpose.

purposes

New Sec. 6. (a) A city planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city but within the same county in which such city is located, which in the opinion of the planning commission, forms the total community of which the city is a part. The city shall notify the board of county commissioners in writing of its intent to extend the planning area into the county. A county planning commission is authorized to make or cause to be made a comprehensive plan for the coordinated development of the county, including references to planning for cities as deemed appropriate. The provisions of this subsection may be varied through interlocal agreements. Such plan shall include, but not be limited to, provisions regarding land use, trans-

ion, public facilities and natural features.

The planning commission may approve the recommended

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comprehensive plan as a whole by a single resolution or by successive resolutions may approve parts of the plan. Such resolution shall identify specifically any written presentations, maps, plats, charts or other materials made a part of such plan. Before the approval of any such plan or part thereof, the planning commission shall hold a public hearing thereon, notice of which shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county. Such notice shall be published at least 15 days prior to the date of the hearing. Upon the approval of any such plan or part thereof by adoption of the appropriate resolution by the planning commission, a certified copy of the plan or part thereof shall be submitted to the governing body and to all other taxing subdivisions in the planning area which request a copy of such plan.

(c) The governing body, within 60 days after the receipt thereof, shall consider such proposed plan or part thereof and submit a statement containing its recommendations regarding the same to the planning commission. The planning commission shall reconsider the recommendations of the governing body and thereafter may adopt such proposed plan or part thereof as the official plan of the respective city or county. All reports and documents forming the plan or part thereof as adopted shall bear the signature of the chairperson and secretary of the planning commission and an attested copy of the same shall be sent to the respective governing body and to all other taxing subdivisions in the planning area which request a copy of such plan. Such plan or part thereof shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as wise and efficient expenditure of public funds.

(d) At least once each year, the planning commission shall review or reconsider the plan or any part thereof and may propose amendments, extensions or additions to the same. The procedure for the adoption of any such amendment, extension or addition to any plan or part thereof shall be the same as that required for the adoption of the original plan or part thereof. The planning commission shall make a report to the governing body regarding the plan and any amendments thereto on or before the date specified in the commission's bylaws.

New Sec. 7. (a) Except as provided in subsection (b), whenever the planning commission has adopted and certified the comprehensive plan for one or more major sections or functional subdivisions thereof, no public improvement, public facility or public utility of

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1 type embraced within the recommendations of the comprehensive
 2 plan or portion thereof shall be constructed without first being sub-
 3 mitted to and being approved by the planning commission as being
 4 in conformity with the plan. If the planning commission does not
 5 make a report within 60 days, the project shall be deemed to have
 6 been approved by the planning commission. If the planning com-
 7 mission finds that any such proposed public improvement, facility
 8 or utility does not conform to the plan, the commission shall submit,
 9 in writing to the governing body, the manner in which such proposed
 0 improvement, facility or utility does not conform. The governing
 1 body may override the plan and the report of the planning com-
 2 mission, and the plan for the area concerned shall be deemed to
 3 have been amended.

4 (b) Whenever the planning commission has reviewed a capital
 5 improvement program and found that a specific public improvement,
 6 public facility or public utility of a type embraced within the rec-
 7 ommendations of the comprehensive plan or portion thereof is in
 8 conformity with such plan, no further approval by the planning
 9 commission is necessary under this section.

0 New Sec. 8. (a) Following adoption of a comprehensive plan, a
 1 city planning commission may adopt and amend regulations govern-
 2 ing the subdivision of land. A city planning commission shall apply
 3 subdivision regulations to all land located within the city and may
 4 apply such regulations to land outside of but within three miles of
 5 the nearest point of the city limits provided such land is within the
 6 same county in which the city is located and does not extend more
 7 than 1/2 the distance between such city and another city which has
 8 adopted regulations under this section. A county planning commis-
 9 sion may establish subdivision regulations for all or for parts of the
 0 unincorporated areas of the county. Subdivision regulations may in-
 1 clude provisions for the: (1) Efficient and orderly location of streets;
 2 (2) reduction of vehicular congestion; (3) reservation or dedication of
 3 land for open spaces; (4) off-site and on-site public improvements;
 4 (5) recreational facilities which may include, but are not limited to,
 5 the dedication of land area for park purposes; (6) flood protection;
 6 (7) building lines; (8) compatibility of design; and (9) any other serv-
 7 ices, facilities and improvements deemed appropriate.

□, but not be limited to,

8 (b) Subdivision regulations may provide for administrative
 9 changes to elevations designated on a plat. Such regulations may
 0 provide for plat approval conditional upon conformance with the
 1 comprehensive plan. Such regulations may provide for the payment
 2 in lieu of dedication of land. Such regulations may provide
 3 in lieu of the completion of any work or improvements prior

□ land

1 to the final approval of the plat, the governing body may accept a
 2 corporate surety bond, cashier's check, escrow account, letter of
 3 credit or other like security in an amount to be fixed by the governing
 4 body and conditioned upon the actual completion of such work or
 5 improvements within a specified period, in accordance with such
 6 regulations, and the governing body may enforce such bond by all
 7 equitable remedies.

8 (c) Before adopting or amending any subdivision regulations, the
 9 planning commission shall call and hold a hearing on such regulations
 10 or amendments thereto. Notice of such hearing shall be published
 11 at least once in the official city newspaper in the case of a city or
 12 in the official county newspaper in the case of a county. Such notice
 13 shall be published at least 15 days prior to the hearing. Such notice
 14 shall fix the time and place for such hearing and shall describe such
 15 proposal in general terms. In the case of a joint committee on
 16 subdivision regulations, such notice shall be published in the official
 17 city and official county newspapers. The hearing may be adjourned
 18 from time to time and at the conclusion of the same, the planning
 19 commission shall prepare its recommendations and by an affirmative
 20 vote of a majority of the entire membership of the commission adopt
 21 the same in the form of proposed subdivision regulations and shall
 22 submit the same, together with the written summary of the hearing
 23 thereon, to the governing body. The governing body either may: (1)
 24 Approve such recommendations by ordinance in a city or resolution
 25 in a county; (2) override the planning commission's recommendations
 26 by a 2/3 majority vote; or (3) may return the same to the planning
 27 commission for further consideration, together with a statement spec-
 28 ifying the basis for the governing body's failure to approve or dis-
 29 approve. If the governing body returns the planning commission's
 30 recommendations, the planning commission, after considering the
 31 same, may resubmit its original recommendations giving the reasons
 32 therefor or submit new and amended recommendations. Upon the
 33 receipt of such recommendations, the governing body may adopt or
 34 may revise or amend and adopt such recommendations by the re-
 35 spective ordinance or resolution, or it need take no further action
 36 thereon. If the planning commission fails to deliver its recommen-
 37 dations to the governing body following the planning commission's
 38 next regular meeting after receipt of the governing body's report,
 39 the governing body shall consider such course of inaction on the
 40 part of the planning commission as a resubmission of the original
 41 mendations and proceed accordingly. The proposed subdivision
 42 ations and any amendments thereto shall become effective upon
 43 publication of the respective adopting ordinance or resolution.

by a simple majority

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1 New Sec. 9. If the governing body of a city proposes to adopt
 2 subdivision regulations affecting property lying outside of the city
 3 and governed by subdivision regulations of the county, a copy of
 4 the city's proposal shall be certified to the board of county com-
 5 missioners or if at any time subsequent to the adoption of regulations
 6 governing the subdivision of land by the city planning commission,
 7 the board of county commissioners shall designate an area for such
 8 purposes which shall include lands lying within the area governed
 9 by subdivision regulations of the city, the board of county commis-
 0 sioners shall certify a copy of such resolution to the governing body
 1 of the city and regulations governing the subdivision of land within
 2 the area designated by the city shall be adopted and administered
 3 in the manner hereinafter provided. Within 60 days after the date
 4 of the certification of the resolution by the board of county com-
 5 missioners or the governing body of the city, there shall be estab-
 6 lished by joint resolution of the board of commissioners and
 7 governing body, a joint committee for subdivision regulation which
 8 shall be composed of three members of the county planning com-
 9 mission to be appointed by the chairperson of the county planning
 0 commission and three members of the city planning commission to
 1 be appointed by the chairperson of the city planning commission
 2 and one member to be selected by the other six members. Such
 3 joint committee shall have such authority as provided by law for
 4 county planning and city planning commissions relating to the adop-
 5 tion and administration of regulations governing the subdivision of
 6 land within the area of joint ~~designation~~ regulation. Regulations adopted by
 7 the county or city and in effect at the time of the certification of
 8 such resolution by the board of county commissioners or the gov-
 9 erning body of the city shall remain in effect until new regulations
 0 shall have been adopted by the joint committee or for a period not
 1 exceeding six months from and after the date of the certification of
 2 such resolution. The provisions of this section shall not apply to any
 3 city and county jointly cooperating in the exercise of planning and
 4 zoning under the provisions of this act.

regulation

New Sec. 10. (a) Compliance with subdivision regulations may
 be required as the condition of an issuance of a building or zoning
 permit when so specified in the subdivision regulations.
 (b) In conjunction with subdivision or zoning regulations, the
 governing body of any city may adopt and enforce building codes
 outside the city limits.

Sec. 11. (a) The owner or owners of any land located within
 a. governed by regulations subdividing the same into lots and
 blocks or tracts or parcels, for the purpose of laying out any sub-

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divisions, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall have a plat drawn as may be required by the subdivision regulations. Such plat shall accurately describe the subdivision, lots, tracts or parcels of land giving the location and dimensions thereof ~~or~~ the location and dimensions of all streets, alleys, parks or other properties intended to be dedicated to public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto. All plats shall be verified by the owner or owners thereof. All such plats shall be submitted to the planning commission or to the joint committee for subdivision regulation.

(b) The planning commission or the joint committee shall determine if the plat conforms to the provisions of the subdivision regulations. If such determination is not made within 60 days after the first meeting of such commission or committee following the date of the submission of the plat to the secretary thereof, such plat shall be deemed to have been approved and a certificate shall be issued by the secretary of the planning commission or joint committee upon demand. If the planning commission or joint committee finds that the plat does not conform to the requirements of the subdivision regulations, the planning commission or joint committee shall notify the owner or owners of such fact. If the plat conforms to the requirements of such regulations, there shall be endorsed thereon the fact that the plat has been submitted to and approved by the planning commission or joint committee.

(c) The governing body shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the governing body following the date of the submission of the plat to the clerk thereof. The governing body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the governing body. No additional filing fees shall be assessed during that period. If the governing body defers or refuses such dedication, it shall advise the ~~commission or committee~~ of the reasons therefor.

(d) The governing body may establish a scale of reasonable fees to be paid to the secretary of the planning commission or joint committee by the applicant for approval for each plat filed with the planning commission or joint committee.

No ~~zoning or building~~ permit shall be issued for the use or construction of any structure upon any lot, tract or parcel of land located within the area governed by the subdivision regulations that

and

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or zoning

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has been subdivided, resubdivided or replatted after the date of the adoption of such regulations by the governing body or governing bodies but which has not been approved in the manner provided by this act.

(f) Any regulations adopted by a governing body with reference to subdividing lots shall provide for the issuance of building permits on lots divided into not more than two tracts without having to replat the lot, provided that the resulting tracts shall not again be divided without replatting. Such regulations shall provide that lots zoned for industrial purposes may be divided into two or more tracts without replatting such lot. Such regulations shall contain a procedure for issuance of building permits on divided lots which shall take into account the need for adequate street rights-of-way, easements, improvement of public facilities, and zoning regulations if in existence.

or zoning

(g) The regulations shall provide for a procedure which specifies a time limit within which action shall be taken, and shall further provide, where applicable, for the final decision on the issuance of such building permit to be made by the governing body, except as may be provided by law.

(h) The register of deeds shall not file any plat until such plat shall bear the endorsement hereinbefore provided and the land dedicated to public purposes has been accepted by the governing body.

for

New Sec. 12. The governing body of any city, by adoption of an ordinance, and the board of county commissioners of any county, by adoption of a resolution, may provide for the adoption or amendment of zoning regulations in the manner provided by this act. The governing body may divide the territory subject to its jurisdiction into districts of such number, shape, area and of such different classes, according to the use of land and buildings and the intensity of such use, as may be deemed suited to carry out the purposes of this act. Such regulations may restrict and regulate 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, use and appearance of buildings, structures and land for residential, commercial, industrial and other purposes; the conservation of natural resources, including agricultural land; and the use of land located in areas designated as flood plains and other uses, including the distance of any buildings and structures from a street or highway. Such regulations shall define the boundaries of zoning districts by description contained therein or by setting out boundaries upon a map or maps incorporated and published as part of such regulations or by providing for the incorporation by

include, but not be limited to, provisions restricting and regulating

each lot

areas

1 reference in such regulations of an official map or maps upon which
 2 such boundaries shall be fixed. For a county, such map or maps
 3 shall be marked "official copy of zoning district map incorporated
 4 into zoning regulations by adoption of a resolution of the board of
 5 county commissioners on the _____ day of _____,
 6 19____" and filed in the office of the county clerk or such other
 7 public office as may be designated by the board of county commis-
 8 sioners. For a city, such map or maps shall be marked "official copy
 9 of zoning district map incorporated into zoning regulations by adop-
 10 tion of an ordinance by the governing body of the city on the ____
 11 day of _____, 19____" and filed in the office of the city
 12 clerk or such other public office as may be designated by the gov-
 13 erning body. Such regulations and accompanying map or maps shall
 14 be public records.

15 New Sec. 13. The zoning regulations for a county shall define
 16 the area of zoning jurisdiction as all or any portion of the unincor-
 17 porated area. The zoning regulations for a city shall define the zoning
 18 jurisdiction as including the area within the city limits and may also
 19 include land located outside the city which is not currently subject
 20 to county zoning regulations and is within three miles of the city
 21 limits, but in no case shall it include land which is located more
 22 than 1/2 the distance to another city. The governing body of the city
 23 shall notify the board of county commissioners in writing of the city's
 24 intention at least 60 days before adopting zoning regulations affecting
 25 such an area outside the city limits.

26 Any flood plain zone or district shall include the flood plain area
 27 within the incorporated area of the city and may include any extra-
 28 territorial jurisdiction lying outside, but within three miles, of the
 29 nearest point on the contiguous city limits when such jurisdiction
 30 has not otherwise been designated a flood plain zone or district by
 31 any other governmental unit or subdivision.

32 New Sec. 14. The governing body may establish flood plain
 33 zones and districts and restrict the use of land therein, including
 34 land devoted to agricultural purposes, and may restrict the appli-
 35 cation thereof to lands, adjacent to watercourses, subject to floods
 36 of a lesser magnitude than that having a chance occurrence in any
 37 one year of 1%. ~~Nothing in this act or any flood plain zoning reg-
 38 ulation adopted hereunder shall be construed as affecting the eli-
 39 gibility of any existing structure located within such area for flood
 40 insurance under the national flood insurance act.~~

(FEMA)

41 New Sec. 15. The governing body may adopt zoning regulations
 42 which may include, but not be limited to, provisions which:
 43 (a) Provide for planned unit developments;

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- (b) permit the transfer of development rights;
- (c) preserve structures and districts listed on the local, state or national historic register;
- (d) control the aesthetics of redevelopment or new development;
- (e) provide for the issuance of special use or conditional use permits; and
- (f) establish overlay zones.

New Sec. 16. (a) All resolutions, ordinances and regulations relating to flood plains shall be submitted to the chief engineer, division of water resources, Kansas state board of agriculture, for review and approval thereby prior to adoption, and all proposed variances or changes from such approved resolutions, ordinances and regulations shall be reviewed and approved by the chief engineer prior to adoption.

(b) The governing body shall submit to the chief engineer of the division of water resources any ordinance, resolution, regulation or plan that proposes to create or to effect any change in a flood plain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area. Each submission hereunder to the chief engineer shall be accompanied by complete maps, plans, profiles, specifications, textual matter, and such other data and information as the chief engineer may require. The chief engineer shall approve or disapprove any such ordinance, resolution, regulation or plan or variances or changes thereof within 90 days of the date of receipt thereof.

New Sec. 17. (a) Before any city or county establishes any zone or district or regulates or restricts the use of buildings or land therein, the governing body shall require the planning commission to recommend the nature and number of zones or districts which it deems necessary and the boundaries of the same and appropriate regulations or restrictions to be enforced therein. Except as provided in zoning regulations, all such regulations shall be uniform for each class or kind of building or land uses throughout each district, but the regulations in one district may differ from those in other districts and special uses may be designated within each district with conditions attached.

the

(b) Upon the development of proposed zoning regulations, the planning commission shall hold a public hearing thereon. Notice of such public hearing shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county at least 15 days prior to the date of the hearing.

g. In the case of a joint zoning board, notice of such hearing shall be published in the official city and official county newspapers.

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1 such notice shall fix the time and place for such hearing and shall
 2 describe such proposal in general terms. The hearing may be ad-
 3 journed from time to time and at the conclusion of the same, the
 4 planning commission shall prepare its recommendations and by an
 5 affirmative vote of a majority of the entire membership of the com-
 6 mission adopt the same in the form of proposed zoning regulations
 7 and shall submit the same, together with the written summary of
 8 the hearing thereon, to the governing body. The governing body
 9 either may: (1) Approve such recommendations by the adoption of
 10 the same by ordinance in a city or resolution in a county; (2) override
 11 the planning commission's recommendations by a 2/3 majority vote
 12 of the membership of the governing body; or (3) may return the
 13 same to the planning commission for further consideration, together
 14 with a statement specifying the basis for the governing body's failure
 15 to approve or disapprove. If the governing body returns the planning
 16 commission's recommendations, the planning commission, after con-
 17 sidering the same, may resubmit its original recommendations giving
 18 the reasons therefor or submit new and amended recommendations.
 19 Upon the receipt of such recommendations, the governing body may
 20 adopt or may revise or amend and adopt such recommendations by
 21 the respective ordinance or resolution, or the governing body need
 22 take no further action thereon. If the planning commission fails to
 23 deliver its recommendations to the governing body following the
 24 planning commission's next regular meeting after receipt of the gov-
 25 erning body's report, the governing body shall consider such course
 26 of inaction on the part of the planning commission as a resubmission
 27 of the original recommendations and proceed accordingly. The pro-
 28 posed zoning regulations and any amendments thereto shall become
 29 effective upon publication of the respective adopting ordinance or
 30 resolution.

by a simple majority

31 New Sec. 18. (a) The governing body, from time to time, may
 32 supplement, change or generally revise the boundaries or regulations
 33 contained in zoning regulations by amendment. A proposal for such
 34 amendment may be initiated by the governing body or the planning
 35 commission. If such proposed amendment is not a general revision
 36 of the existing regulations and affects specific property, the amend-
 37 ment may be initiated by application of the owner of property af-
 38 fected. Any such amendment, if in accordance with the land use
 39 plan or the land use element of a comprehensive plan, shall be
 40 presumed to be reasonable. The governing body shall establish in
 41 zoning regulations the matters to be considered when approving
 42 approving a rezoning request. The governing body may estab-
 43 lish reasonable fees to be paid in advance by the owner of any

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1 property at the time of making application for a zoning amendment.

2 (b) All such proposed amendments first shall be submitted to the
3 planning commission for recommendation. The planning commission
4 shall hold a public hearing thereon, shall cause an accurate written
5 summary to be made of the proceedings, and shall give notice in
6 like manner as that required for recommendations on the original
7 proposed zoning regulations provided in section 17. Such notice shall
8 fix the time and place for such hearing and contain a statement
9 regarding the proposed changes in regulations or restrictions or in
10 the boundary or classification of any zone or district. If such proposed
11 amendment is not a general revision of the existing regulations and
12 affects specific property, the property shall be designated by legal
13 description or a general description sufficient to identify the property
14 under consideration. In addition to such publication notice, written
15 notice of such proposed amendment shall be mailed at least 15 days
16 before the hearing to all owners of record of lands located within
17 at least 200 feet of the area proposed to be altered for regulations
18 of a city and to all owners of record of lands located within at least
19 1,000 feet of the area proposed to be altered for regulations of a
20 county. If a city proposes a zoning amendment to property located
21 adjacent to or outside the city's limits, the area of notification of the
22 city's action shall be extended to at least 1,000 feet in the unincor-
23 porated area. Notice of a county's action shall extend 200 feet in
24 those areas where the notification area extends within the corporate
25 limits of a city. All notices shall include a statement that a complete
26 legal description is available for public inspection and shall indicate
27 where such information is available. When the notice has been prop-
28 erly addressed and deposited in the mail, failure of a party to receive
29 such notice shall not invalidate any subsequent action taken by the
30 planning commission or the governing body. Such notice is sufficient
31 to permit the planning commission to recommend amendments to
32 zoning regulations which affect only a portion of the land described
33 in the notice or which give all or any part of the land described a
34 zoning classification of lesser change than that set forth in the notice.
35 A recommendation of a zoning classification of lesser change than
36 that set forth in the notice shall not be valid without republication
37 and, where necessary, remailing, unless the planning commission
38 has previously established a table or publication available to the
39 public which designates what zoning classifications are lesser changes
40 authorized within the published zoning classifications. At any public
41 hearing held to consider a proposed rezoning, an opportunity shall
42 be granted to interested parties to be heard.

43 (c) Unless otherwise provided by this act, the procedure for the

1 consideration and adoption of any such proposed amendment shall
 2 in the same manner as that required for the consideration and
 3 adoption of the original zoning regulations. A majority of the mem-
 4 bers of the planning commission present and voting at the hearing
 5 shall be required to recommend approval or denial of the amendment
 6 to the governing body. If the planning commission fails to make a
 7 recommendation on a rezoning request, the planning commission
 8 shall be deemed to have made a recommendation of disapproval.
 9 When the planning commission submits a recommendation of ap-
 10 proval or disapproval of such amendment and the reasons therefor,
 11 the governing body may: (1) Adopt such recommendation by ordi-
 12 nance in a city or by resolution in a county; (2) override the planning
 13 commission's recommendation by a $\frac{2}{3}$ majority vote of the mem-
 14 bership of the governing body; or (3) return such recommendation
 15 to the planning commission with a statement specifying the basis for
 16 the governing body's failure to approve or disapprove. If the gov-
 17 erning body returns the planning commission's recommendation, the
 18 planning commission, after considering the same, may resubmit its
 19 original recommendation giving the reasons therefor or submit new
 20 and amended recommendation. Upon the receipt of such recom-
 21 mendation, the governing body may adopt or may revise or amend
 22 and adopt such recommendation by the respective ordinance or res-
 23 olution, or it need take no further action thereon. If the planning
 24 commission fails to deliver its recommendation to the governing body
 25 following the planning commission's next regular meeting after re-
 26 ceipt of the governing body's report, the governing body shall con-
 27 sider such course of inaction on the part of the planning commission
 28 as a resubmission of the original recommendation and proceed ac-
 29 cordingly. The proposed rezoning shall become effective upon pub-
 30 lication of the respective adopting ordinance or resolution.

by a simple majority

1 (d) If such amendment affects the boundaries of any zone or
 2 district, the respective ordinance or resolution shall describe the
 3 boundaries as amended, or if provision is made for the fixing of the
 4 same upon an official map which has been incorporated by reference,
 5 the amending ordinance or resolution shall define the change or the
 6 boundary as amended, shall order the official map to be changed to
 7 reflect such amendment, shall amend the section of the ordinance
 8 or resolution incorporating the same and shall reincorporate such
 9 map as amended.

0 (e) Regardless of whether or not the planning commission ap-
 1 proves or disapproves a zoning amendment, if a protest petition
 2 against such amendment is filed in the office of the city clerk or the
 3 county clerk within 14 days after the date of the conclusion of the

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1 public hearing pursuant to the publication notice, signed by the
 2 owners of record of 20% or more of any real property proposed to
 3 be rezoned or by the owners of record of 20% or more of the total
 4 area required to be notified of the proposed rezoning of a specific
 5 property, the ordinance or resolution adopting such amendment shall
 6 not be passed except by at least a three-fourths vote of all of the
 7 members of the governing body.

by this act

excluding streets and public ways,

8 (f) Zoning regulations may provide additional notice by providing
 9 for the posting of signs on land which is the subject of a proposed
 10 rezoning, for the purpose of providing notice of such proposed
 11 rezoning.

12 New Sec. 19. (a) Regulations adopted under authority of this act
 13 shall not apply to the existing use of any building or land, but shall
 14 apply to any alteration of a building to provide for a change in use
 15 or a change in the use of any building or land after the effective
 16 date of any regulations adopted under this act. If a building is
 17 damaged by more than 50% of its fair market value such building
 18 shall not be restored if the use of such building is not in conformance
 19 with the regulations adopted under this act.

20 (b) Except for flood plain zoning regulations in areas designated ✓
 21 as a flood plain, regulations adopted by a city pursuant to K.S.A.
 22 12-715b, and amendments thereto, or a county pursuant to this act
 23 shall not apply to the use of land for agricultural purposes, nor for
 24 the erection or maintenance of buildings thereon for such purposes
 25 so long as such land and buildings are used for agricultural purposes
 26 and not otherwise. ~~No plat or dedication of such land for public~~ ✓
 27 ~~purposes may be made except as provided by this act.~~

(FEMA)

(T.K.)

28 New Sec. 20. The governing body shall not adopt or enforce
 29 zoning regulations which have the effect of excluding manufactured
 30 homes.

(a)

from single-family residential districts solely because they are manufactured homes

31 New Sec. 21. (a) Any governing body which has enacted a zoning
 32 ordinance or resolution shall create a board of zoning appeals by
 33 adoption of the appropriate ordinance or resolution. Such board shall
 34 consist of not less than three nor more than seven members. If a
 35 city enacts zoning regulations which affect land outside the corporate
 36 limits of such city, at least one member of the board shall be a
 37 resident of the area outside the city's limits. The members first
 38 appointed shall serve respectively for terms of one, two and three
 39 years, divided equally or as nearly equally as possible among the
 40 members. Thereafter the terms of the members may be changed to

(b) Nothing in this section shall be construed as precluding the establishment or architectural or aesthetic standards applicable to manufactured housing, so as to ensure its compatibility with site-built housing in the same zoning district.

(c) Nothing in this section shall be construed to preempt or supersede valid restrictive covenants running with the land.

41 her three or four years, whichever is deemed to be in the best
 42 interest of the city or county. Vacancies shall be filled by appointment
 for the unexpired terms. The members of such board shall serve

(K.H.M.A.)

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1 at compensation. The board annually shall elect one of its
 2 members as chairperson, and shall appoint a secretary who may be
 3 an officer or an employee of the city or county. The board shall
 4 adopt rules in accordance with the provisions of the ordinance or
 5 resolution creating the board. Meetings of the board shall be held
 6 at the call of the chairperson and at such other times as the board
 7 may determine. The board shall keep minutes of its proceedings,
 8 showing evidence presented, findings of fact by the board, decisions
 9 of the board and the vote upon each question. Records of all official
 10 actions of the board shall be filed in its office and shall be a public
 11 record. The governing body, in the ordinance or resolution creating
 12 such board, may establish a scale of reasonable fees to be paid in
 13 advance by the party appealing. Any two or more cities or counties
 14 which have established a joint planning commission may establish a
 15 joint board of zoning appeals.

16 (b) Any board of zoning appeals in existence on the effective date
 17 of this act shall continue in existence, but shall be governed by the
 18 provisions of this act.

19 (c) The board of zoning appeals shall administer the details of
 20 appeals from or other matters referred to it regarding the application
 21 of the zoning ordinance or resolution as hereinafter provided. The
 22 board shall fix a reasonable time for the hearing of an appeal or any
 23 other matter referred to it. Notice of the time, place and subject of
 24 such hearing shall be published once in the official city newspaper
 25 in the case of a city and in the official county newspaper in the case
 26 of a county at least 15 days prior to the date fixed for hearing. A
 27 copy of the notice shall be mailed to each party to the appeal and
 28 to the appropriate planning commission.

29 (d) Appeals to the board of zoning appeals may be taken by any
 30 person aggrieved, or by any officer of the city, county or any gov-
 31 ernmental agency or body affected by any decision of the officer
 32 administering the provisions of the zoning ordinance or resolution.
 33 Such appeal shall be taken within a reasonable time as provided by
 34 the rules of the board, by filing a notice of appeal specifying the
 35 grounds thereof and the payment of the fee required therefor. The
 36 officer from whom the appeal is taken, when notified by the board
 37 or its agent, shall transmit to the board all the papers constituting
 38 the record upon which the action appealed from was taken. The
 39 board shall have power to hear and decide appeals where it is alleged
 40 there is error in any order, requirement, decision or determination
 41 made by an administrative official in the enforcement of the zoning
 42 ordinance or resolution.

43 When deemed necessary by the board of zoning appeals, the

In exercising the foregoing powers, the board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

1 Board may grant variances and exceptions from the zoning regulations
2 on the basis and in the manner hereinafter provided: (1) To authorize
3 in specific cases a variance from the specific terms of the regulations
4 which will not be contrary to the public interest and where, due to
5 special conditions, a literal enforcement of the provisions of the
6 regulations, in an individual case, results in unnecessary hardship,
7 and provided that the spirit of the regulations shall be observed,
8 public safety and welfare secured, and substantial justice done. Such
9 variance shall not permit any use not permitted by the zoning reg-
10 ulations in such district. A request for a variance may be granted
11 in such case, upon a finding by the board that all of the following
12 conditions have been met: (A) That the variance requested arises
13 from such condition which is unique to the property in question
14 and which is not ordinarily found in the same zone or district; and
15 is not created by an action or actions of the property owner or the
16 applicant; (B) that the granting of the permit for the variance will
17 not adversely affect the rights of adjacent property owners or resi-
18 dents; (C) that the strict application of the provisions of the zoning
19 regulations of which variance is requested will constitute unnecessary
20 hardship upon the property owner represented in the application;
21 (D) that the variance desired will not adversely affect the public
22 health, safety, morals, order, convenience, prosperity, or general
23 welfare; and (E) that granting the variance desired will not be op-
24 posed to the general spirit and intent of the zoning regulations; and
25 (2) To grant exceptions to the provisions of the zoning regulation in
26 those instances where the board is specifically authorized to grant
27 such exceptions and only under the terms of the zoning regulation.
28 In no event shall exceptions to the provisions of the zoning regulation
29 be granted where the use or exception contemplated is not specif-
30 ically listed as an exception in the zoning regulation. Further, under
31 no conditions shall the board of zoning appeals have the power to
32 grant an exception when conditions of this exception, as established
33 in the zoning regulation by the governing body, are not found to
34 be present. ~~In exercising the foregoing powers, the board, in con-~~ ✓
35 ~~formity with the provisions of this act, may reverse or affirm, wholly~~
36 ~~or partly, or may modify the order, requirement, decision, or de-~~
37 ~~termination, and to that end shall have all the powers of the officer~~
38 ~~from whom the appeal is taken, may attach appropriate conditions,~~
39 ~~and may issue or direct the issuance of a permit.~~

40 ~~(f) The board may reverse or affirm, wholly or partly, or may~~
41 ~~modify the order, requirement, decision, or determination, and to~~
42 ~~end shall have all the powers of the officer from whom the~~
43 ~~appeal is taken, may attach appropriate conditions, and may issue~~

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1 ~~or direct the issuance of a permit.~~ Any person, official or govern- ✓
 2 mental agency dissatisfied with any order or determination of the
 3 board may bring an action in the district court of the county to
 4 determine the reasonableness of any such order or determination.
 5 Such appeal shall be filed within 30 days of the final decision of the
 6 board.

7 (g) A planning commission also may be designated as a board of
 8 zoning appeals under this section.

9 New Sec. 22. (a) For the purpose of single-family residential
 10 developments, development rights in such land use shall vest upon
 11 recording of a plat of such land. If construction is not commenced
 12 on such land within five years of recording a plat, the development
 13 rights in such shall expire.

14 (b) For all purposes other than single-family developments, the
 15 right to use land for a particular purpose shall vest upon the issuance
 16 of all permits required for such use by a city or county and con-
 17 struction has begun ~~or~~ substantial amounts of work have been com-
 18 pleted under a validly issued permit.

and

19 (c) The governing body may provide in zoning regulations for
 20 earlier vesting of development rights, however, vesting shall occur
 21 in the same manner for all uses of land within a land-use classification
 22 under the adopted zoning regulations.

23 New Sec. 23. Whenever any city or county has as a part of a
 24 comprehensive plan adopted a plan for its major street or highway
 25 system, after consultation with the secretary of transportation and
 26 the county engineer and any planning commission of the county or
 27 counties within which such system lies, the governing body is hereby
 28 authorized and empowered, to establish by the appropriate ordinance
 29 or resolution building or setback lines on such existing and proposed
 30 major streets or highways and to prohibit any new building being
 31 located within such building or setback lines on property within the
 32 plat approval jurisdiction of the city. Such ordinance or resolution
 33 may incorporate by reference an official map, which may include
 34 supplementary documents, setting forth such plan which shall show
 35 with reasonable survey accuracy the location and width of existing
 36 or proposed major streets or highways and any building or setback
 37 lines. The governing body shall provide for the method by which
 38 this section shall be enforced. Such official map shall not be enforced
 39 until after a certified copy of such map and adopting ordinance has
 40 been filed with the register of deeds of the county or counties in

or resolution

41 in such system lies. The board of zoning appeals shall have the
 42 power to modify or vary the building restrictions herein authorized
 43 in specific cases, in order that unwarranted hardship, which consti-

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tes a complete deprivation of use as distinguished from merely granting a privilege, may be avoided, yet the intended purpose of the regulations shall be strictly observed and the public welfare and public safety protected. The setback ordinance or official map shall not be adopted, changed or amended by the governing body until a public hearing has been held thereon by the governing body. A notice of the time and place of such hearing shall be published in the official city newspaper. Such notice shall be published at least 15 days prior to the date of the hearing. The powers of this section shall not be exercised so as to deprive the owner of any existing property or of its use or maintenance for the purpose to which such property is then lawfully devoted.

[, resolution

[in the case of a city or the official county newspaper in the case of a county

New Sec. 24. Within 30 days of the final decision of the city or county, any person aggrieved thereby may maintain an action in the district court of the county to determine the reasonableness of such final decision.

New Sec. 25. (a) Any violation of any regulation adopted under the authority of this act shall be a misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

(b) Any city or county, and any person the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce the adopted zoning regulations and to abate nuisances maintained in violation thereof.

(c) Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the city or county, or in the event the violation relates to a provision concerning flood plain zoning, the attorney general and the chief engineer of the division of water resources of the Kansas state board of agriculture, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such building, structure or land.

New Sec. 26. The governing body shall not authorize, pursuant to its building codes, the construction, reconstruction or renovation of any building, facility or structure which does not comply with the requirements of the national flood insurance act or any rules or regulations adopted pursuant thereto. (FEMA)

(d) Any person, company, corporation, institution, municipality (FEMA) or agency of the state or ~~federal government~~ who violates any provision of any regulation relating to flood plain zoning shall be subject to the penalties and remedies provided for herein.

New Sec. 26. Any comprehensive plan or part thereof, subdi- ✓

visions, regulations, zoning regulations or building or setback lines adopted by the governing body or planning commission of any city adopted prior to the effective date of this act shall continue in force and effect the same as though adopted under the provisions of this act, until the same is modified or a new comprehensive plan or part thereof, subdivision regulations or building or setback lines are adopted as provided in this act.

~~Sec. 27. K.S.A. 1990 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions: (1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.~~

(K.A.C.)

~~(2) Counties may not consolidate or alter county boundaries.~~

~~(3) Counties may not affect the courts located therein.~~

~~(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.~~

~~(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.~~

~~(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.~~

~~(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.~~

~~(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.~~

~~(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.~~

~~(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.~~

~~1 (1) Counties shall have no power under this section to exempt
2 from any statute authorizing or requiring the levy of taxes and pro-
3 viding substitute and additional provisions on the same subject, un-
4 less the resolution authorizing the same specifically provides for a
5 portion of the proceeds of such levy to be used to pay a portion of
6 the principal and interest on bonds issued by cities under the au-
7 thority of K.S.A. 12-1774, and amendments thereto.~~

~~8 (12) Counties may not exempt from or effect changes in the
9 provisions of K.S.A. 19-4601 to 19-4625, inclusive, and amendments
10 thereto.~~

~~11 (13) Except as otherwise specifically authorized by K.S.A. 12-
12 1,101 to 12-1,109, inclusive, and amendments thereto, counties may
13 not levy and collect taxes on incomes from whatever source derived.~~

~~14 (14) Counties may not exempt from or effect changes in K.S.A.
15 19-430, and amendments thereto. Any charter resolution adopted by
16 a county prior to July 1, 1983, exempting from or effecting changes
17 in K.S.A. 19-430, and amendments thereto, is null and void.~~

~~18 (15) Counties may not exempt from or effect changes in K.S.A.
19 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments
20 thereto.~~

~~21 (16) Counties may not exempt from or effect changes in K.S.A.
22 13-13a26, and amendments thereto. Any charter resolution adopted
23 by a county, prior to the effective date of this act, exempting from
24 or effecting changes in K.S.A. 13-13a26, and amendments thereto,
25 is null and void.~~

~~26 (17) Counties may not exempt from or effect changes in K.S.A.
27 71-301, and amendments thereto. Any charter resolution adopted by
28 a county, prior to the effective date of this act, exempting from or
29 effecting changes in K.S.A. 71-301, and amendments thereto, is null
30 and void.~~

~~31 (18) Counties may not exempt from or effect changes in K.S.A.
32 19-15,139, 19-15,140 and 19-15,141, and amendments thereto. Any
33 charter resolution adopted by a county prior to the effective date of
34 this act, exempting from or effecting changes in such sections is null
35 and void.~~

~~36 (19) Counties may not exempt from or effect changes in the
37 provisions of K.S.A. 12-1223, 12-1225 and 12-1226 and K.S.A. 1990
38 Supp. 12-1225a, 12-1225b and 12-1225c, and amendments thereto.~~

~~39 (20) Counties may not exempt from or effect changes in the
40 provisions of K.S.A. 19-211, and amendments thereto.~~

~~41 (21) Counties may not exempt from or effect changes in the
42 provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments
43 thereto.~~

~~(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.~~

~~(23) Counties may not exempt from or effect changes in K.S.A. 19-2920, and amendments thereto 19-2950 to 19-2966, inclusive, and sections 1 to 25, inclusive.~~

~~(24) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.~~

~~(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.~~

Sec. 28. K.S.A. 24-126 is hereby amended to read as follows: 24-126. It shall be unlawful for any person, corporation, drainage or levee district, county, city, town or township, without first obtaining the approval of plans for the same by the chief engineer of the division of water resources, to construct, cause to be constructed, maintain or cause to be maintained, any levee or other such improvement on, along or near any stream of this state which is subject to floods, freshets or overflows, so as to control, regulate or otherwise change the flood waters of such stream; and Any person, corporation, county, city, town, township or district violating any provision of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for a period more than one year, or by both such fine and imprisonment; Each day any structure is maintained or caused to be maintained shall constitute a separate offense.

Plans submitted for approval shall include maps, profiles, cross sections, data and information as to the effect upon upstream and downstream areas resulting from the proposed levee or other such improvement and such other data and information as the chief engineer of the division of water resources may require. If the chief engineer finds from an examination of such plans and pertinent information that the construction of the proposed levee or other such improvement is feasible and not adverse to the public interest, the chief engineer shall approve the same. In determining whether or not the construction of any proposed levee or other such improvement designed so as to reduce flood risks to a chance of occurrence in any one year of 1% or less is adverse to the public interest, the chief engineer shall consider the following: (1) The effect upon areas downstream or upstream as a result of the construction of such proposed levee or other such improvement; and (2) the effect of the proposed levee or other such improvement and any other existing or proposed levees or other such improvements upon downstream and upstream areas. In the event any such levee or other such improvement is about to be constructed, is constructed or maintained by any person, corporation, county, city, ~~town~~, township or district without approval of plans by the chief engineer, it shall be the duty of the attorney general, to file suit in a court of competent jurisdiction, to enjoin the construction or maintenance of such levee or other such improvement. Prior to the adoption of a general plan of drainage and flood protection, as provided in K.S.A. 24-901, *and amendments thereto*, and the commencement of construction in carrying such plan into effect, the chief engineer of the division of water resources may give temporary approval for the repair and maintenance of any levee or other drainage work in existence on May 28, 1929; ~~but~~. Such approval for such temporary repair and maintenance shall be without prejudice to withdrawal of such approval when a general plan shall be adopted. Nothing contained in this section shall apply to any drainage district heretofore organized under K.S.A. 24-401 *et seq.*, *and amendments thereto*, and having therein property of an assessed valuation of \$50,000,000 or more. *The provisions of this section shall not apply to properly placed fills other than levees located in the floodway fringe within a participating community as defined and identified by the national flood insurance act.* The chief engineer shall adopt such rules and regulations deemed necessary to administer and enforce the provisions of this section.

29. K.S.A. 12-701 to 12-704, inclusive, 12-704a, 12-705, 12-705b, 12-705c, 12-706, 12-706a, 12-707 to 12-715, inclusive, 12-715a, 12-717 to 12-735, inclusive, 19-2901, 19-2902, 19-2902a, 19-

3-24

3-25

1 2902b, 19-2902c, 19-2903, 19-2904, 19-2905, 19-2905a, 19-2906 to
2 19-2914, inclusive, 19-2916, 19-2916a, 19-2918, 19-2918a, 19-2918b,
3 19-2918c, 19-2919, 19-2921, 19-2924, 19-2925, 19-2925a, 19-2926,
4 19-2926a, 19-2926b, 19-2927 to 19-2934, inclusive, 19-2934a, 19-2935
5 to 19-2938, inclusive, 24-126 and K.S.A. 1990 Supp. 12-716, 19-
6 101a, 19-2915 and 19-2920 are hereby repealed.

7 Sec. 30. This act shall take effect and be in force from and after
8 January 1, 1992, and its publication in the statute book.

WATER PROJECTS ENVIRONMENTAL COORDINATION ACT
K.S.A. 82a-325 through 82a-327

K.S.A. 82a-325. Water projects environmental coordination act; purpose.

- (a) This act shall be known and may be cited as the water projects environmental coordination act.
- (b) In order to protect the environment while facilitating the use, enjoyment, health and welfare of the people of the state of Kansas, it is necessary that the environmental effect of any water development project be considered before such water development project is approved or permitted.

History: L. 1987, ch. 400, §1; July 1.

K.S.A. 82a-326. Same; definitions. When used in this act:

- (a) "Water development project" means any project or plan which may be allowed or permitted pursuant to K.S.A. 24-126, 24-1213 and 82a-301 et seq., and amendments thereto;
- (b) "environmental review agencies" means the:
 - (1) Kansas department of wildlife and parks;
 - (2) office of extension forestry;
 - (3) state biological survey;
 - (4) Kansas department of health and environment;
 - (5) state historical society;
 - (6) state conservation commission; and
 - (7) state corporation commission.

History: L. 1988, ch. 400, §2; L. 1989, ch 118, §192;

K.S.A. 82a-327. Same; review of proposed project; considerations.

- (a) Prior to approval or issuance of a permit for a proposed water development project, the permitting agency shall obtain a review of the proposed project for environmental effects by the appropriate state environmental review agencies, and shall consider their comments in determining whether to approve or issue a permit for such project. The permitting agency may condition the approval of or permit for the project in a manner to address the environmental concerns of the environmental review agencies.
- (b) In reviewing a proposed water development project, the environmental review agency shall consider:
 - (1) The beneficial and adverse environmental effects of a proposed project on water quality, fish and wildlife, forest and natural vegetation, historic, cultural, recreational, aesthetic, agricultural and other natural resources;

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- (2) the means and methods to reduce adverse environmental effects of a proposed project; and
- (3) alternatives to a proposed project with significant adverse environmental effects.
- (c) Each environmental review agency shall send its written comments on the proposed project within 30 days of receipt of the proposal from the permitting agency.
- (d) Nothing in this act shall be construed as prohibiting a permitting agency from approving or issuing a permit if an environmental review agency determines adverse environmental effects will result if the project is approved or permitted. Nothing in this act shall be construed as preempting or duplicating any existing environmental review process otherwise provided or authorized by law.

History: L. 1987, ch. 400, §3; July 1.

The following is a listing of addresses for the notification of the environmental coordination agencies:

Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604-4027
(913) 271-3100

State Biological Survey
2041 Constant Ave.-Campus West
Lawrence, KS 66047-2906
(913) 864-7727

Kansas Dept. of Health & Environment
Forbes Field - Bldg 740
Topeka, KS 66620
(913) 296-5574

State Conservation Commission
901 S. Kansas Ave, 2nd Floor
Topeka, KS 66612
(913) 296-3600

Kansas State Board of Agriculture
Division of Water Resources
901 S. Kansas Ave, 2nd Floor
Topeka, KS 66612-1283
(913) 296-3717

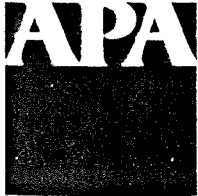
State Historical Society
120 W. 10th - 4th Floor
Topeka, KS 66612
(913) 296-47793

Kansas State University
Office of Extension Forestry
2610 Claflin Road
Manhattan, KS 66502
(913) 537-7050

Wildlife and Parks, Dept. of
Attn: Environmental Services
R.R. 2 - Box 54A
Pratt, KS 67124
(316) 672-5911

Kansas Water Office
901 S. Kansas Ave, 2nd Floor
Topeka, KS 66612
(913) 296-3185

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KANSAS CHAPTER
AMERICAN PLANNING ASSOCIATION

TO: Jim Kaup, General Counsel, Kansas League of
Municipalities

FROM: Art Chambers, President, APA *ADC*

DATE: 5 February, 1991

RE: SB-23, Section 20, Manufactured Housing

This issue was debated at length by the APA Legislative Committee. My recollection is that when the language was adopted it was our intent to make the county language from K.S.A. 19-2938 applicable to cities and to remove the word "arbitrary" because it added nothing.

In my opinion, most of the committee members were of the impression that we were prohibiting exclusion of manufactured housing from the entire zoning jurisdiction. It was not our intent to permit manufactured housing in all zoning districts.

*Senate L.G.
2-6-91
Attachment 5*