

HOUSE BILL No. 2581

By Representative Dove

2-6

1 AN ACT concerning zoning and subdivision regulations; requiring an
2 election in certain instances; amending K.S.A. 12-715b, 12-749, 12-
3 750 and 12-754 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. The initiating governing body of any city or county
7 that proposes to enter into an interlocal cooperation agreement with a city
8 or county regarding a city establishing extraterritorial zoning or
9 subdivision regulations shall hold a public hearing on such proposed
10 agreement. Notice of the public hearing shall be published by the initiating
11 governing body at least once in the official county newspaper. The notice
12 shall fix the time and place for the hearing and describe the proposal in
13 general terms. Written notice of the proposed interlocal cooperation
14 agreement shall be mailed by the initiating governing body at least 20 days
15 prior to the hearing to all owners of record in the area where the proposed
16 extraterritorial zoning or subdivision regulations will be applied.

17 New Sec. 2. Within 10 days following the passage of an ordinance by
18 a city adopting extraterritorial zoning under the provisions of K.S.A. 12-
19 715b or 12-754, and amendments thereto, or an ordinance adopting
20 extraterritorial subdivision regulations under K.S.A. 12-749 and 12-750,
21 and amendments thereto, the city clerk shall certify to the county election
22 officer a legal description and a map of the area outside the corporate
23 limits of the city proposed to be regulated by extraterritorial zoning or
24 subdivision regulations and the addresses of all qualified electors as
25 defined in K.S.A. 12-519, and amendments thereto, located therein. The
26 county election officer shall conduct a mail ballot election under the
27 provisions of K.S.A. 25-431 et. seq., and amendments thereto, within 60
28 days of such certification. If a majority of qualified electors vote against
29 coverage by extraterritorial zoning or subdivision regulations, the
30 ordinance adopting such extraterritorial zoning or subdivision regulations
31 shall not become effective.

32 Sec. 3. K.S.A. 12-715b is hereby amended to read as follows: 12-
33 715b. Cities are hereby authorized to adopt zoning regulations affecting all
34 or any designated portion of the land located outside the city but within
35 three miles thereof under the following conditions. Except for flood plain
36 regulations in areas designated as a flood plain, nothing in this act shall be

1 construed as authorizing any city to adopt regulations applying to or
2 affecting any land in excess of three acres under one ownership ~~which that~~
3 is used only for agricultural purposes:

4 (a) The city has established a planning commission under the
5 provisions of K.S.A. ~~12-702~~ 12-744, and amendments thereto, ~~which that~~
6 provides for the appointment of two commission members who reside
7 outside the city but within the area subject to the zoning regulations of the
8 city, or the city has established a joint, metropolitan or regional planning
9 commission in cooperation with the county in which such city is located
10 pursuant to the provisions of K.S.A. 12-718, and amendments thereto.

11 (b) The land outside the city ~~which that~~ is subject to the zoning
12 regulations of the city has been included within a comprehensive plan
13 recommended by either of such planning commissions and has been
14 approved by the city governing body or the board of county
15 commissioners.

16 (c) The county has specifically excluded the land from county zoning
17 regulations or the county does not have in effect zoning regulations for
18 such area adopted in conformity with the statutes prescribing procedure for
19 the adoption of county zoning regulations.

20 (d) The city has notified the board of county commissioners in
21 writing 60 days before initiating zoning regulations by ordinance for such
22 area of its intention to adopt such regulations by ordinance.

23 *(e) The governing body of any city that proposes to establish*
24 *extraterritorial zoning shall hold a public hearing on such proposal.*
25 *Notice of the public hearing shall be published at least once in the official*
26 *county newspaper, fix the time and place for such hearing and describe the*
27 *proposal. Written notice of the proposed extension of zoning regulations*
28 *shall be mailed at least 20 days prior to the hearing to all owners of*
29 *record in the area where the proposed extraterritorial zoning will be*
30 *applied.*

31 Sec. 4. K.S.A. 12-749 is hereby amended to read as follows: 12-749.

32 (a) Following adoption of a comprehensive plan, a city planning
33 commission may adopt and amend regulations governing the subdivision
34 of land. A city planning commission shall apply subdivision regulations to
35 all land located within the city and may apply such regulations to land
36 outside of but within three miles of the nearest point of the city limits
37 provided such land is within the same county in which the city is located
38 and does not extend more than $\frac{1}{2}$ the distance between such city and
39 another city which has adopted regulations under this section. A county
40 planning commission may establish subdivision regulations for all or for
41 parts of the unincorporated areas of the county.

42 (b) Subdivision regulations may include, but not be limited to,
43 provisions for: (1) Efficient and orderly location of streets; (2) reduction of

1 vehicular congestion; (3) reservation or dedication of land for open spaces;
2 (4) off-site and on-site public improvements; (5) recreational facilities
3 which may include, but are not limited to, the dedication of land area for
4 park purposes; (6) flood protection; (7) building lines; (8) compatibility of
5 design; (9) stormwater runoff, including consideration of historic and
6 anticipated 100-year rain and snowfall precipitation records and patterns;
7 and (10) any other services, facilities and improvements deemed
8 appropriate.

9 (c) Subdivision regulations may provide for administrative changes to
10 land elevations designated on a plat. Such regulations may provide for plat
11 approval conditional upon conformance with the comprehensive plan.
12 Such regulations may provide for the payment of a fee in lieu of dedication
13 of land. Such regulations may provide that in lieu of the completion of any
14 work or improvements prior to the final approval of the plat, the governing
15 body may accept a corporate surety bond, cashier's check, escrow account,
16 letter of credit or other like security in an amount to be fixed by the
17 governing body and conditioned upon the actual completion of such work
18 or improvements within a specified period, in accordance with such
19 regulations, and the governing body may enforce such bond by all
20 equitable remedies.

21 (d) (1) Before adopting or amending any subdivision regulations, the
22 planning commission shall call and hold a hearing on such regulations or
23 amendments thereto. Notice of such hearing shall be published at least
24 once in the official city newspaper in the case of a city or in the official
25 county newspaper in the case of a county. Such notice shall be published at
26 least 20 days prior to the hearing. Such notice shall fix the time and place
27 for such hearing and shall describe such proposal in general terms. In the
28 case of a joint committee on subdivision regulations, such notice shall be
29 published in the official city and official county newspapers.

30 (2) *If the proposed subdivision regulations involve land in any*
31 *unincorporated area, a copy of such notice shall be mailed to all owners*
32 *of record in the unincorporated area that will be affected by the proposed*
33 *regulations by the city or county.*

34 (3) The hearing may be adjourned from time to time and at the
35 conclusion of the same, the planning commission shall prepare its
36 recommendations and by an affirmative vote of a majority of the entire
37 membership of the commission adopt the same in the form of proposed
38 subdivision regulations and shall submit the same, together with the
39 written summary of the hearing thereon, to the governing body. The
40 governing body either may: (1) Approve such recommendations by
41 ordinance in a city or resolution in a county; (2) override the planning
42 commission's recommendations by a $\frac{2}{3}$ majority vote; or (3) may return
43 the same to the planning commission for further consideration, together

1 with a statement specifying the basis for the governing body's failure to
2 approve or disapprove. If the governing body returns the planning
3 commission's recommendations, the planning commission, after
4 considering the same, may resubmit its original recommendations giving
5 the reasons therefor or submit new and amended recommendations. Upon
6 the receipt of such recommendations, the governing body, by a simple
7 majority thereof, may adopt or may revise or amend and adopt such
8 recommendations by the respective ordinance or resolution, or it need take
9 no further action thereon. If the planning commission fails to deliver its
10 recommendations to the governing body following the planning
11 commission's next regular meeting after receipt of the governing body's
12 report, the governing body shall consider such course of inaction on the
13 part of the planning commission as a resubmission of the original
14 recommendations and proceed accordingly. The proposed subdivision
15 regulations and any amendments thereto shall become effective upon
16 publication of the respective adopting ordinance or resolution.

17 Sec. 5. K.S.A. 12-750 is hereby amended to read as follows: 12-750.
18 (a) If the governing body of a city proposes to adopt subdivision
19 regulations affecting property lying outside of the city and governed by
20 subdivision regulations of the county, a copy of the city's proposal shall be
21 certified to the board of county commissioners or if at any time subsequent
22 to the adoption of regulations governing the subdivision of land by the city
23 planning commission, the board of county commissioners shall designate
24 an area for such purposes which shall include lands lying within the area
25 governed by subdivision regulations of the city, the board of county
26 commissioners shall certify a copy of such resolution to the governing
27 body of the city and regulations governing the subdivision of land within
28 the area designated by the city shall be adopted and administered in the
29 manner hereinafter provided. Within 60 days after the date of the
30 certification of the resolution by the board of county commissioners or the
31 governing body of the city, there shall be established by joint resolution of
32 the board of commissioners and governing body, a joint committee for
33 subdivision regulation which shall be composed of three members of the
34 county planning commission to be appointed by the chairperson of the
35 county planning commission and three members of the city planning
36 commission to be appointed by the chairperson of the city planning
37 commission and one member to be selected by the other six members.
38 Such joint committee shall have such authority as provided by law for
39 county planning and city planning commissions relating to the adoption
40 and administration of regulations governing the subdivision of land within
41 the area of joint regulation. Regulations adopted by the county or city and
42 in effect at the time of the certification of such resolution by the board of
43 county commissioners or the governing body of the city shall remain in

1 effect until new regulations shall have been adopted by the joint committee
2 or for a period not exceeding six months from and after the date of the
3 certification of such resolution. The provisions of this section shall not
4 apply to any city and county jointly cooperating in the exercise of planning
5 and zoning under the provisions of this act.

6 ~~(b) The provisions of this section shall become effective on and after~~
7 ~~January 1, 1992~~ *The governing body of any city that proposes to establish*
8 *subdivision regulations shall hold a public hearing on such proposal.*
9 *Notice of the public hearing shall be published at least once in the official*
10 *county newspaper; fix the time and place for such hearing and describe the*
11 *proposal in general terms. Written notice of the proposed extension of*
12 *subdivision regulations shall be mailed at least 20 days prior to the*
13 *hearing to all owners of record in the area where the proposed*
14 *extraterritorial subdivision regulations will be applied.*

15 Sec. 6. K.S.A. 12-754 is hereby amended to read as follows: 12-754.

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

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

32 ~~(b) The provisions of this section shall become effective on and after~~
33 ~~January 1, 1992~~ *The governing body of any city that proposes to establish*
34 *extraterritorial zoning shall hold a public hearing on such proposal.*
35 *Notice of the public hearing shall be published at least once in the official*
36 *county newspaper; fix the time and place for such hearing and describe the*
37 *proposal in general terms. Written notice of the proposed extraterritorial*
38 *zoning shall be mailed at least 20 days prior to the hearing to all owners*
39 *of record in the area where the proposed extraterritorial zoning will be*
40 *applied.*

41 Sec. 7. K.S.A. 12-715b, 12-749, 12-750 and 12-754 are hereby
42 repealed.

43 Sec. 8. This act shall take effect and be in force from and after its

- 1 publication in the statute book.