

SENATE BILL No. 248

By Senator Holland

12-17

1 AN ACT concerning zoning and subdivision regulations; amending K.S.A.
2 12-715b, 12-749, 12-750 and 12-754 and repealing the existing
3 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 Sec. 2. K.S.A. 12-715b is hereby amended to read as follows: 12-
18 715b. Cities are hereby authorized to adopt zoning regulations affecting all
19 or any designated portion of the land located outside the city but within
20 three miles thereof under the following conditions. Except for flood plain
21 regulations in areas designated as a flood plain, nothing in this act shall be
22 construed as authorizing any city to adopt regulations applying to or
23 affecting any land in excess of three acres under one ownership ~~which that~~
24 is used only for agricultural purposes:

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

32 (b) The land outside the city ~~which that~~ is subject to the zoning
33 regulations of the city has been included within a comprehensive plan
34 recommended by either of such planning commissions and has been
35 approved by the city governing body or the board of county
36 commissioners.

1 (c) The county has specifically excluded the land from county zoning
2 regulations or the county does not have in effect zoning regulations for
3 such area adopted in conformity with the statutes prescribing procedure for
4 the adoption of county zoning regulations.

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

8 (e) *The governing body of any city that proposes to establish*
9 *extraterritorial zoning shall hold a public hearing on such proposal.*
10 *Notice of the public hearing shall be published at least once in the official*
11 *county newspaper, fix the time and place for such hearing and describe the*
12 *proposal. Written notice of the proposed extension of zoning regulations*
13 *shall be mailed at least 20 days prior to the hearing to all owners of*
14 *record in the area where the proposed extraterritorial zoning will be*
15 *applied.*

16 Sec. 3. K.S.A. 12-749 is hereby amended to read as follows: 12-749.

17 (a) Following adoption of a comprehensive plan, a city planning
18 commission may adopt and amend regulations governing the subdivision
19 of land. A city planning commission shall apply subdivision regulations to
20 all land located within the city and may apply such regulations to land
21 outside of but within three miles of the nearest point of the city limits
22 provided such land is within the same county in which the city is located
23 and does not extend more than $\frac{1}{2}$ the distance between such city and
24 another city which has adopted regulations under this section. A county
25 planning commission may establish subdivision regulations for all or for
26 parts of the unincorporated areas of the county.

27 (b) Subdivision regulations may include, but not be limited to,
28 provisions for: (1) Efficient and orderly location of streets; (2) reduction of
29 vehicular congestion; (3) reservation or dedication of land for open spaces;
30 (4) off-site and on-site public improvements; (5) recreational facilities
31 which may include, but are not limited to, the dedication of land area for
32 park purposes; (6) flood protection; (7) building lines; (8) compatibility of
33 design; (9) stormwater runoff, including consideration of historic and
34 anticipated 100-year rain and snowfall precipitation records and patterns;
35 and (10) any other services, facilities and improvements deemed
36 appropriate.

37 (c) Subdivision regulations may provide for administrative changes to
38 land elevations designated on a plat. Such regulations may provide for plat
39 approval conditional upon conformance with the comprehensive plan.
40 Such regulations may provide for the payment of a fee in lieu of dedication
41 of land. Such regulations may provide that in lieu of the completion of any
42 work or improvements prior to the final approval of the plat, the governing
43 body may accept a corporate surety bond, cashier's check, escrow account,

1 letter of credit or other like security in an amount to be fixed by the
2 governing body and conditioned upon the actual completion of such work
3 or improvements within a specified period, in accordance with such
4 regulations, and the governing body may enforce such bond by all
5 equitable remedies.

6 (d) (1) Before adopting or amending any subdivision regulations, the
7 planning commission shall call and hold a hearing on such regulations or
8 amendments thereto. Notice of such hearing shall be published at least
9 once in the official city newspaper in the case of a city or in the official
10 county newspaper in the case of a county. Such notice shall be published at
11 least 20 days prior to the hearing. Such notice shall fix the time and place
12 for such hearing and shall describe such proposal in general terms. In the
13 case of a joint committee on subdivision regulations, such notice shall be
14 published in the official city and official county newspapers.

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

19 (3) The hearing may be adjourned from time to time and at the
20 conclusion of the same, the planning commission shall prepare its
21 recommendations and by an affirmative vote of a majority of the entire
22 membership of the commission adopt the same in the form of proposed
23 subdivision regulations and shall submit the same, together with the
24 written summary of the hearing thereon, to the governing body. The
25 governing body either may: (1) Approve such recommendations by
26 ordinance in a city or resolution in a county; (2) override the planning
27 commission's recommendations by a $2/3$ majority vote; or (3) may return
28 the same to the planning commission for further consideration, together
29 with a statement specifying the basis for the governing body's failure to
30 approve or disapprove. If the governing body returns the planning
31 commission's recommendations, the planning commission, after
32 considering the same, may resubmit its original recommendations giving
33 the reasons therefor or submit new and amended recommendations. Upon
34 the receipt of such recommendations, the governing body, by a simple
35 majority thereof, may adopt or may revise or amend and adopt such
36 recommendations by the respective ordinance or resolution, or it need take
37 no further action thereon. If the planning commission fails to deliver its
38 recommendations to the governing body following the planning
39 commission's next regular meeting after receipt of the governing body's
40 report, the governing body shall consider such course of inaction on the
41 part of the planning commission as a resubmission of the original
42 recommendations and proceed accordingly. The proposed subdivision
43 regulations and any amendments thereto shall become effective upon

1 publication of the respective adopting ordinance or resolution.

2 Sec. 4. K.S.A. 12-750 is hereby amended to read as follows: 12-750.

3 (a) If the governing body of a city proposes to adopt subdivision
4 regulations affecting property lying outside of the city and governed by
5 subdivision regulations of the county, a copy of the city's proposal shall be
6 certified to the board of county commissioners or if at any time subsequent
7 to the adoption of regulations governing the subdivision of land by the city
8 planning commission, the board of county commissioners shall designate
9 an area for such purposes which shall include lands lying within the area
10 governed by subdivision regulations of the city, the board of county
11 commissioners shall certify a copy of such resolution to the governing
12 body of the city and regulations governing the subdivision of land within
13 the area designated by the city shall be adopted and administered in the
14 manner hereinafter provided. Within 60 days after the date of the
15 certification of the resolution by the board of county commissioners or the
16 governing body of the city, there shall be established by joint resolution of
17 the board of commissioners and governing body, a joint committee for
18 subdivision regulation which shall be composed of three members of the
19 county planning commission to be appointed by the chairperson of the
20 county planning commission and three members of the city planning
21 commission to be appointed by the chairperson of the city planning
22 commission and one member to be selected by the other six members.
23 Such joint committee shall have such authority as provided by law for
24 county planning and city planning commissions relating to the adoption
25 and administration of regulations governing the subdivision of land within
26 the area of joint regulation. Regulations adopted by the county or city and
27 in effect at the time of the certification of such resolution by the board of
28 county commissioners or the governing body of the city shall remain in
29 effect until new regulations shall have been adopted by the joint committee
30 or for a period not exceeding six months from and after the date of the
31 certification of such resolution. The provisions of this section shall not
32 apply to any city and county jointly cooperating in the exercise of planning
33 and zoning under the provisions of this act.

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

43 Sec. 5. K.S.A. 12-754 is hereby amended to read as follows: 12-754.

1 (a) The zoning regulations for a county shall define the area of zoning
2 jurisdiction as all or any portion of the unincorporated area. The zoning
3 regulations for a city shall define the zoning jurisdiction as including the
4 area within the city limits and may also include land located outside the
5 city which is not currently subject to county zoning regulations and is
6 within three miles of the city limits, but in no case shall it include land
7 which is located more than $\frac{1}{2}$ the distance to another city. The governing
8 body of the city shall notify the board of county commissioners in writing
9 of the city's intention at least 60 days before adopting zoning regulations
10 affecting such an area outside the city limits.

11 Any flood plain zone or district shall include the flood plain area within
12 the incorporated area of the city and may include any extraterritorial
13 jurisdiction lying outside, but within three miles, of the nearest point on
14 the contiguous city limits when such jurisdiction has not otherwise been
15 designated a flood plain zone or district by any other governmental unit or
16 subdivision.

17 ~~(b) The provisions of this section shall become effective on and after~~
18 ~~January 1, 1992~~ *The governing body of any city that proposes to establish*
19 *extraterritorial zoning shall hold a public hearing on such proposal.*
20 *Notice of the public hearing shall be published at least once in the official*
21 *county newspaper, fix the time and place for such hearing and describe the*
22 *proposal in general terms. Written notice of the proposed extraterritorial*
23 *zoning shall be mailed at least 20 days prior to the hearing to all owners*
24 *of record in the area where the proposed extraterritorial zoning will be*
25 *applied.*

26 Sec. 6. K.S.A. 12-715b, 12-749, 12-750 and 12-754 are hereby
27 repealed.

28 Sec. 7. This act shall take effect and be in force from and after its
29 publication in the statute book.