

## HOUSE BILL No. 2791

By Representative Sloan

2-7

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9 AN ACT concerning planning and zoning; relating to military represen-  
10 tation on planning commissions; amending K.S.A. 12-742, 12-743, 12-  
11 744, 12-747, 12-749, 12-756, 12-757 and 19-2957 and K.S.A. 2007  
12 Supp. 19-2958 and repealing the existing sections.  
13

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

15 Section 1. K.S.A. 12-742 is hereby amended to read as follows: 12-  
16 742. ~~(a)~~ When used in this act:

17 ~~(1)~~ (a) “Base flood” means a flood having a 1% chance of being  
18 equaled or exceeded in any one year;

19 ~~(2)~~ (b) “floodway fringe” means those portions of a flood plain outside  
20 of the boundaries of a regulatory floodway and within stream reaches  
21 where such a floodway has been established;

22 ~~(3)~~ (c) “flood plain” means land adjacent to a watercourse subject to  
23 inundation from a flood having a chance occurrence in any one year of  
24 1%;

25 ~~(4)~~ (d) “governing body” means the governing body of a city in the  
26 case of cities and the board of county commissioners in the case of  
27 counties;

28 ~~(5)~~ (e) “manufactured home” means a structure which is subject to  
29 the federal manufactured home construction and safety standards estab-  
30 lished pursuant to 42 U.S.C. § 5403;

31 (f) “military installation” means a United States military base or in-  
32 stallation with at least 200 assigned military personnel or which contains  
33 at least 2,000 acres within its borders;

34 ~~(6)~~ (g) “planning commission” means a city, county, regional or met-  
35 ropolitan planning commission;

36 ~~(7)~~ (h) “residential-design manufactured home” means a manufac-  
37 tured home on permanent foundation which has (A) minimum dimen-  
38 sions of 22 body feet in width, (B) a pitched roof and (C) siding and  
39 roofing materials which are customarily used on site-built homes;

40 ~~(8)~~ (i) “subdivision” means the division of a lot, tract or parcel of land  
41 into two or more parts for the purpose, whether immediate or future, of  
42 sale or building development, including resubdivision;

43 ~~(9)~~ (j) “subdivision regulations” mean the lawfully adopted subdivi-

1 sion ordinances of a city and the lawfully adopted subdivision resolutions  
 2 of a county;

3 ~~(10)~~ (k) “zoning” means the regulation or restriction of the location  
 4 and uses of buildings and uses of land;

5 ~~(11)~~ (l) “zoning regulations” mean the lawfully adopted zoning ordi-  
 6 nances of a city and the lawfully adopted zoning resolutions of a county.

7 ~~(b) The provisions of this section shall become effective on and after~~  
 8 ~~January 1, 1992.~~

9 Sec. 2. K.S.A. 12-743 is hereby amended to read as follows: 12-743.

10 (a) Before any city adopts a comprehensive plan or part thereof, subdivi-  
 11 sion regulations, zoning regulations or building or setback lines affecting  
 12 property located outside the corporate limits of such city, written notice  
 13 of such proposed action shall be given to the board of county commis-  
 14 sioners of the county in which such property is located. Such notice also  
 15 shall be given to the township board of the township in which such prop-  
 16 erty is located if the township is located in a county not operating under  
 17 the county unit road system. *Such notice also shall be given to the com-*  
 18 *manding officer, or such officer’s designee, of any military installation*  
 19 *located, in whole or in part, within the county.* Such notice shall be given  
 20 at least 20 days prior to the proposed action.

21 (b) Before any county adopts a comprehensive plan or part thereof,  
 22 subdivision regulations, zoning regulations or building or setback lines  
 23 affecting property located within three miles of the corporate limits of a  
 24 city, written notice of such proposed action shall be given to the governing  
 25 body of such city. *Such notice also shall be given to the commanding*  
 26 *officer, or such officer’s designee, of any military installation located, in*  
 27 *whole or in part, within the county.* In any county not operating under  
 28 the county unit road system, before any county adopts a comprehensive  
 29 plan or part thereof, subdivision regulations or building or setback lines,  
 30 written notice of such proposed action shall be given to the township  
 31 board of such township in which the affected property is located. The  
 32 notice required by this subsection shall be given at least 20 days prior to  
 33 the proposed action.

34 ~~(c) The provisions of this section shall become effective on and after~~  
 35 ~~January 1, 1992.~~

36 Sec. 3. K.S.A. 12-744 is hereby amended to read as follows: 12-744.

37 (a) The governing body of any city, by adoption of an ordinance, may  
 38 create a planning commission for such city and the board of county com-  
 39 missioners of any county, by adoption of a resolution, may create a plan-  
 40 ning commission for the county. Any such planning commission shall be  
 41 composed of not less than five members. The number of members of a  
 42 planning commission may be determined by ordinance or resolution. If  
 43 a city planning commission plans, zones or administers subdivision reg-

1     ulations outside the city limits, at least two members of such commission  
2     shall reside outside of but within three miles of the corporate limits of  
3     the city. A majority of the members of a county planning commission  
4     shall reside outside the corporate limits of any incorporated city in the  
5     county. A county, metropolitan or regional planning commission may  
6     serve as the planning commission for a city.

7     (b) The governing body shall provide by ordinance or resolution for  
8     the term of the members of the planning commission and for the filling  
9     of vacancies. Members of the commission shall serve without compen-  
10    sation. The governing body may adopt rules and regulations providing for  
11    removal of members of the planning commission.

12    (c) *In addition to the members who are appointed to a planning com-*  
13    *mission pursuant to this section, any planning commission created pur-*  
14    *suant to this section shall also include, as a nonvoting member, a repre-*  
15    *sentative of any military installation located, in whole or in part, within*  
16    *the county if the commanding officer of such military installation appoints*  
17    *such a representative.*

18    ~~(c)~~ (d) Any two or more cities or counties of this state may cooperate,  
19    pursuant to written agreement, in the exercise and performance of plan-  
20    ning powers, duties and functions. Any city or county of this state may  
21    cooperate, pursuant to written agreement, with any city or county of any  
22    other state having adjoining planning jurisdiction in the exercise and per-  
23    formance of any planning powers, duties and functions provided by state  
24    law for cities and counties of this state and to the extent that the laws of  
25    such other state permit such joint cooperation. Any agreement entered  
26    pursuant to this subsection shall be subject to the provisions of K.S.A.  
27    12-2901 et seq., and amendments thereto. If such agreement provides  
28    for the adoption of a comprehensive plan, the agreement shall include a  
29    provision concerning the approval of the comprehensive plan which is  
30    consistent with the provisions of K.S.A. 12-747, *and amendments thereto.*

31    When two or more of such cities or counties, by ordinance of each city  
32    and by resolutions of the boards of county commissioners enter into  
33    agreements providing for such joint planning cooperation, there may be  
34    established a joint planning commission for the metropolitan area or re-  
35    gion comprising that portion of the areas of planning jurisdiction of the  
36    cities or counties cooperating jointly as shall be designated by the joint  
37    ordinances and resolutions. Such a joint planning commission for the  
38    metropolitan area or region may be empowered to carry into effect such  
39    provisions of state law relating to planning which are authorized for such  
40    joining cities or counties and which each may under existing laws sepa-  
41    rately exercise and perform.

42    Any city or county, whenever the governing body of the city or the  
43    board of commissioners of the county deems necessary, may join and

1 cooperate in two or more metropolitan area or regional planning com-  
2 missions. Any regional or metropolitan planning commission in existence  
3 on the effective date of this act shall continue in existence, but shall be  
4 governed by the provisions of this act.

5 ~~(d) The provisions of this section shall become effective on and after~~  
6 ~~January 1, 1992.~~

7 Sec. 4. K.S.A. 12-747 is hereby amended to read as follows: 12-747.

8 (a) A city planning commission is hereby authorized to make or cause to  
9 be made a comprehensive plan for the development of such city and any  
10 unincorporated territory lying outside of the city but within the same  
11 county in which such city is located, which in the opinion of the planning  
12 commission, forms the total community of which the city is a part. The  
13 city shall notify the board of county commissioners in writing of its intent  
14 to extend the planning area into the county. A county planning commis-  
15 sion is authorized to make or cause to be made a comprehensive plan for  
16 the coordinated development of the county, including references to plan-  
17 ning for cities as deemed appropriate. The provisions of this subsection  
18 may be varied through interlocal agreements.

19 (b) The planning commission may adopt and amend a comprehensive  
20 plan as a whole by a single resolution, or by successive resolutions, the  
21 planning commission may adopt or amend parts of the plan. Such reso-  
22 lution shall identify specifically any written presentations, maps, plats,  
23 charts or other materials made a part of such plan. In the preparation of  
24 such plan, the planning commission shall make or cause to be made com-  
25 prehensive surveys and studies of past and present conditions and trends  
26 relating to land use, population and building intensity, public facilities,  
27 transportation and transportation facilities, economic conditions, natural  
28 resources and may include any other element deemed necessary to the  
29 comprehensive plan. Such proposed plan shall show the commission's  
30 recommendations for the development or redevelopment of the territory  
31 including: (a) The general location, extent and relationship of the use of  
32 land for agriculture, residence, business, industry, recreation, education,  
33 public buildings and other community facilities, major utility facilities  
34 both public and private and any other use deemed necessary; (b) popu-  
35 lation and building intensity standards and restrictions and the application  
36 of the same; (c) public facilities including transportation facilities of all  
37 types whether publicly or privately owned which relate to the transpor-  
38 tation of persons or goods; (d) public improvement programming based  
39 upon a determination of relative urgency; (e) the major sources and ex-  
40 penditure of public revenue including long range financial plans for the  
41 financing of public facilities and capital improvements, based upon a pro-  
42 jection of the economic and fiscal activity of the community, both public  
43 and private; (f) utilization and conservation of natural resources; (g) *the*

1 *impact of such plan on the long-term mission sustainability of any military*  
2 *installation located, in whole or in part, within the county; and ~~(g)~~ (h)*  
3 *any other element deemed necessary to the proper development or re-*  
4 *development of the area. Before adopting or amending any such plan or*  
5 *part thereof, the planning commission shall hold a public hearing thereon,*  
6 *notice of which shall be published at least once in the official city news-*  
7 *paper in the case of a city or in the official county newspaper in the case*  
8 *of a county. Such notice shall be published at least 20 days prior to the*  
9 *date of the hearing. Such notice shall also be sent at least 20 days prior*  
10 *to the date of the hearing to the commanding officer, or such officer's*  
11 *designee, of any military installation located, in whole or in part, within*  
12 *the county. Upon the adoption or amendment of any such plan or part*  
13 *thereof by adoption of the appropriate resolution by a majority vote of all*  
14 *members of the planning commission, a certified copy of the plan or part*  
15 *thereof, together with a written summary of the hearing thereon, shall*  
16 *be submitted to the governing body. No comprehensive plan shall be*  
17 *effective unless approved by the governing body as provided by this sec-*  
18 *tion. The governing body either may: (1) Approve such recommendations*  
19 *by ordinance in a city or resolution in a county; (2) override the planning*  
20 *commission's recommendations by a  $\frac{2}{3}$  majority vote; or (3) may return*  
21 *the same to the planning commission for further consideration, together*  
22 *with a statement specifying the basis for the governing body's failure to*  
23 *approve or disapprove. If the governing body returns the planning com-*  
24 *mission's recommendations, the planning commission, after considering*  
25 *the same, may resubmit its original recommendations giving the reasons*  
26 *therefor or submit new and amended recommendations. Upon the re-*  
27 *ceipt of such recommendations, the governing body, by a simple majority*  
28 *thereof, may adopt or may revise or amend and adopt such recommen-*  
29 *dations by the respective ordinance or resolution, or it need take no fur-*  
30 *ther action thereon. If the planning commission fails to deliver its rec-*  
31 *ommendations to the governing body following the planning*  
32 *commission's next regular meeting after receipt of the governing body's*  
33 *report, the governing body shall consider such course of inaction on the*  
34 *part of the planning commission as a resubmission of the original rec-*  
35 *ommendations and proceed accordingly. The comprehensive plan and*  
36 *any amendments thereto shall become effective upon publication of the*  
37 *respective adopting ordinance or resolution.*

38 (c) An attested copy of the comprehensive plan and any amendments  
39 thereto shall be sent to all other taxing subdivisions in the planning area  
40 which request a copy of such plan. *Such plan and any amendments thereto*  
41 *shall also be sent to the commanding officer, or such officer's designee, of*  
42 *any military installation located, in whole or in part, within the county.*  
43 Such plan or part thereof shall constitute the basis or guide for public

1 action to insure a coordinated and harmonious development or redevelop-  
2 opment which will best promote the health, safety, morals, order, con-  
3 venience, prosperity and general welfare as well as wise and efficient  
4 expenditure of public funds.

5 (d) At least once each year, the planning commission shall review or  
6 reconsider the plan or any part thereof and may propose amendments,  
7 extensions or additions to the same. The procedure for the adoption of  
8 any such amendment, extension or addition to any plan or part thereof  
9 shall be the same as that required for the adoption of the original plan or  
10 part thereof.

11 Sec. 5. K.S.A. 12-749 is hereby amended to read as follows: 12-749.

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

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

32 (c) Subdivision regulations may provide for administrative changes to  
33 land elevations designated on a plat. Such regulations may provide for  
34 plat approval conditional upon conformance with the comprehensive  
35 plan. Such regulations may provide for the payment of a fee in lieu of  
36 dedication of land. Such regulations may provide that in lieu of the com-  
37 pletion of any work or improvements prior to the final approval of the  
38 plat, the governing body may accept a corporate surety bond, cashier's  
39 check, escrow account, letter of credit or other like security in an amount  
40 to be fixed by the governing body and conditioned upon the actual com-  
41 pletion of such work or improvements within a specified period, in ac-  
42 cordance with such regulations, and the governing body may enforce such  
43 bond by all equitable remedies.

1 (d) Before adopting or amending any subdivision regulations, the  
2 planning commission shall call and hold a hearing on such regulations or  
3 amendments thereto. Notice of such hearing shall be published at least  
4 once in the official city newspaper in the case of a city or in the official  
5 county newspaper in the case of a county. Such notice shall be published  
6 at least 20 days prior to the hearing. Such notice shall fix the time and  
7 place for such hearing and shall describe such proposal in general terms.  
8 In the case of a joint committee on subdivision regulations, such notice  
9 shall be published in the official city and official county newspapers. *In*  
10 *any event notice shall also be sent at least 20 days prior to the date of the*  
11 *hearing to the commanding officer, or such officer's designee, of any mil-*  
12 *itary installation located, in whole or in part, within the county.* The  
13 hearing may be adjourned from time to time and at the conclusion of the  
14 same, the planning commission shall prepare its recommendations and  
15 by an affirmative vote of a majority of the entire membership of the  
16 commission adopt the same in the form of proposed subdivision regula-  
17 tions and shall submit the same, together with the written summary of  
18 the hearing thereon, to the governing body. The governing body either  
19 may: (1) Approve such recommendations by ordinance in a city or reso-  
20 lution in a county; (2) override the planning commission's recommen-  
21 dations by a  $\frac{2}{3}$  majority vote; or (3) may return the same to the planning  
22 commission for further consideration, together with a statement speci-  
23 fying the basis for the governing body's failure to approve or disapprove.  
24 If the governing body returns the planning commission's recommenda-  
25 tions, the planning commission, after considering the same, may resubmit  
26 its original recommendations giving the reasons therefor or submit new  
27 and amended recommendations. Upon the receipt of such recommen-  
28 dations, the governing body, by a simple majority thereof, may adopt or  
29 may revise or amend and adopt such recommendations by the respective  
30 ordinance or resolution, or it need take no further action thereon. If the  
31 planning commission fails to deliver its recommendations to the govern-  
32 ing body following the planning commission's next regular meeting after  
33 receipt of the governing body's report, the governing body shall consider  
34 such course of inaction on the part of the planning commission as a re-  
35 submission of the original recommendations and proceed accordingly.  
36 The proposed subdivision regulations and any amendments thereto shall  
37 become effective upon publication of the respective adopting ordinance  
38 or resolution.

39 Sec. 6. K.S.A. 12-756 is hereby amended to read as follows: 12-756.

40 (a) Before any city or county establishes any zone or district or regulates  
41 or restricts the use of buildings or land therein, the governing body shall  
42 require the planning commission to recommend the nature and number  
43 of zones or districts which it deems necessary and the boundaries of the

1 same and appropriate regulations or restrictions to be enforced therein.  
2 Except as provided in the zoning regulations, all such regulations shall be  
3 uniform for each class or kind of building or land uses throughout each  
4 district, but the regulations in one district may differ from those in other  
5 districts and special uses may be designated within each district with  
6 conditions attached.

7 (b) Upon the development of proposed zoning regulations, the plan-  
8 ning commission shall hold a public hearing thereon. Notice of such pub-  
9 lic hearing shall be published at least once in the official city newspaper  
10 in the case of a city or in the official county newspaper in the case of a  
11 county at least 20 days prior to the date of the hearing. In the case of a  
12 joint zoning board, notice of such hearing shall be published in the official  
13 city and official county newspapers. Such notice shall fix the time and  
14 place for such hearing and shall describe such proposal in general terms.  
15 *In any event notice shall also be sent at least 20 days prior to the date of*  
16 *the hearing to the commanding officer, or such officer's designee, of any*  
17 *military installation located, in whole or in part, within the county.* The  
18 hearing may be adjourned from time to time and at the conclusion of the  
19 same, the planning commission shall prepare its recommendations and  
20 by an affirmative vote of a majority of the entire membership of the  
21 commission adopt the same in the form of proposed zoning regulations  
22 and shall submit the same, together with the written summary of the  
23 hearing thereon, to the governing body. The governing body either may:  
24 (1) Approve such recommendations by the adoption of the same by or-  
25 dinance in a city or resolution in a county; (2) override the planning  
26 commission's recommendations by a  $\frac{2}{3}$  majority vote of the membership  
27 of the governing body; or (3) may return the same to the planning com-  
28 mission for further consideration, together with a statement specifying  
29 the basis for the governing body's failure to approve or disapprove. If the  
30 governing body returns the planning commission's recommendations, the  
31 planning commission, after considering the same, may resubmit its orig-  
32 inal recommendations giving the reasons therefor or submit new and  
33 amended recommendations. Upon the receipt of such recommendations,  
34 the governing body, by a simple majority thereof, may adopt or may revise  
35 or amend and adopt such recommendations by the respective ordinance  
36 or resolution, or the governing body need take no further action thereon.  
37 If the planning commission fails to deliver its recommendations to the  
38 governing body following the planning commission's next regular meeting  
39 after receipt of the governing body's report, the governing body shall  
40 consider such course of inaction on the part of the planning commission  
41 as a resubmission of the original recommendations and proceed accord-  
42 ingly. The proposed zoning regulations and any amendments thereto shall  
43 become effective upon publication of the respective adopting ordinance

1 or resolution.

2 ~~(c) The provisions of this section shall become effective on and after~~  
3 ~~January 1, 1992.~~

4 Sec. 7. K.S.A. 12-757 is hereby amended to read as follows: 12-757.

5 (a) The governing body, from time to time, may supplement, change or  
6 generally revise the boundaries or regulations contained in zoning regu-  
7 lations by amendment. A proposal for such amendment may be initiated  
8 by the governing body or the planning commission. If such proposed  
9 amendment is not a general revision of the existing regulations and affects  
10 specific property, the amendment may be initiated by application of the  
11 owner of property affected. Any such amendment, if in accordance with  
12 the land use plan or the land use element of a comprehensive plan, shall  
13 be presumed to be reasonable. The governing body shall establish in its  
14 zoning regulations the matters to be considered when approving or dis-  
15 approving a rezoning request. The governing body may establish reason-  
16 able fees to be paid in advance by the owner of any property at the time  
17 of making application for a zoning amendment.

18 (b) All such proposed amendments first shall be submitted to the  
19 planning commission for recommendation. The planning commission  
20 shall hold a public hearing thereon, shall cause an accurate written sum-  
21 mary to be made of the proceedings, and shall give notice in like manner  
22 as that required for recommendations on the original proposed zoning  
23 regulations provided in K.S.A. 12-756, and amendments thereto. Such  
24 notice shall fix the time and place for such hearing and contain a state-  
25 ment regarding the proposed changes in regulations or restrictions or in  
26 the boundary or classification of any zone or district. If such proposed  
27 amendment is not a general revision of the existing regulations and affects  
28 specific property, the property shall be designated by legal description or  
29 a general description sufficient to identify the property under consider-  
30 ation. In addition to such publication notice, written notice of such pro-  
31 posed amendment shall be mailed at least 20 days before the hearing to  
32 all owners of record of real property within the area to be altered and to  
33 all owners of record of real property located within at least 200 feet of  
34 the area proposed to be altered for regulations of a city and to all owners  
35 of record of real property located within at least 1,000 feet of the area  
36 proposed to be altered for regulations of a county. If a city proposes a  
37 zoning amendment to property located adjacent to or outside the city's  
38 limits, the area of notification of the city's action shall be extended to at  
39 least 1,000 feet in the unincorporated area. Notice of a county's action  
40 shall extend 200 feet in those areas where the notification area extends  
41 within the corporate limits of a city. *Notice shall also be sent at least 20*  
42 *days prior to the date of the hearing to the commanding officer, or such*  
43 *officer's designee, of any military installation located, in whole or in part,*

1 *within the county.* All notices shall include a statement that a complete  
2 legal description is available for public inspection and shall indicate where  
3 such information is available. When the notice has been properly ad-  
4 dressed and deposited in the mail, failure of a party to receive such notice  
5 shall not invalidate any subsequent action taken by the planning com-  
6 mission or the governing body. Such notice is sufficient to permit the  
7 planning commission to recommend amendments to zoning regulations  
8 which affect only a portion of the land described in the notice or which  
9 give all or any part of the land described a zoning classification of lesser  
10 change than that set forth in the notice. A recommendation of a zoning  
11 classification of lesser change than that set forth in the notice shall not  
12 be valid without republication and, where necessary, remailing, unless  
13 the planning commission has previously established a table or publication  
14 available to the public which designates what zoning classifications are  
15 lesser changes authorized within the published zoning classifications. At  
16 any public hearing held to consider a proposed rezoning, an opportunity  
17 shall be granted to interested parties to be heard.

18 (c) (1) Whenever five or more property owners of record owning 10  
19 or more contiguous or noncontiguous lots, tracts or parcels of the same  
20 zoning classification initiate a rezoning of their property from a less re-  
21 strictive to a more restrictive zoning classification, such amendment shall  
22 require notice by publication and hearing in like manner as required in  
23 subsection (b) of this section. Such zoning amendment shall not require  
24 written notice and shall not be subject to the protest petition provision  
25 of subsection (f) of this section.

26 (2) Whenever a city or county initiates a rezoning from a less restric-  
27 tive to a more restrictive zoning classification of 10 or more contiguous  
28 or noncontiguous lots, tracts or parcels of the same zoning classification  
29 having five or more owners of record, such amendment shall require  
30 notice by publication and hearing in like manner as that required by  
31 subsection (b) of this section. In addition, written notice shall be required  
32 to be mailed to only owners of record of the properties to be rezoned  
33 and only such owners shall be eligible to initiate a protest petition under  
34 subsection (f) of this section.

35 (d) Unless otherwise provided by this act, the procedure for the con-  
36 sideration and adoption of any such proposed amendment shall be in the  
37 same manner as that required for the consideration and adoption of the  
38 original zoning regulations. A majority of the members of the planning  
39 commission present and voting at the hearing shall be required to rec-  
40 commend approval or denial of the amendment to the governing body. If  
41 the planning commission fails to make a recommendation on a rezoning  
42 request, the planning commission shall be deemed to have made a rec-  
43 ommendation of disapproval. When the planning commission submits a

1 recommendation of approval or disapproval of such amendment and the  
2 reasons therefor, the governing body may: (1) Adopt such recommen-  
3 dation by ordinance in a city or by resolution in a county; (2) override the  
4 planning commission's recommendation by a  $\frac{2}{3}$  majority vote of the  
5 membership of the governing body; or (3) return such recommendation  
6 to the planning commission with a statement specifying the basis for the  
7 governing body's failure to approve or disapprove. If the governing body  
8 returns the planning commission's recommendation, the planning com-  
9 mission, after considering the same, may resubmit its original recom-  
10 mendation giving the reasons therefor or submit new and amended rec-  
11 ommendation. Upon the receipt of such recommendation, the governing  
12 body, by a simple majority thereof, may adopt or may revise or amend  
13 and adopt such recommendation by the respective ordinance or resolu-  
14 tion, or it need take no further action thereon. If the planning commission  
15 fails to deliver its recommendation to the governing body following the  
16 planning commission's next regular meeting after receipt of the governing  
17 body's report, the governing body shall consider such course of inaction  
18 on the part of the planning commission as a resubmission of the original  
19 recommendation and proceed accordingly. The proposed rezoning shall  
20 become effective upon publication of the respective adopting ordinance  
21 or resolution.

22 (e) If such amendment affects the boundaries of any zone or district,  
23 the respective ordinance or resolution shall describe the boundaries as  
24 amended, or if provision is made for the fixing of the same upon an official  
25 map which has been incorporated by reference, the amending ordinance  
26 or resolution shall define the change or the boundary as amended, shall  
27 order the official map to be changed to reflect such amendment, shall  
28 amend the section of the ordinance or resolution incorporating the same  
29 and shall reincorporate such map as amended.

30 (f) (1) Whether or not the planning commission approves or disap-  
31 proves a zoning amendment, if a protest petition against such amendment  
32 is filed in the office of the city clerk or the county clerk within 14 days  
33 after the date of the conclusion of the public hearing pursuant to the  
34 publication notice, signed by the owners of record of 20% or more of any  
35 real property proposed to be rezoned or by the owners of record of 20%  
36 or more of the total real property within the area required to be notified  
37 by this act of the proposed rezoning of a specific property, excluding  
38 streets and public ways and property excluded pursuant to paragraph (2)  
39 of this subsection, the ordinance or resolution adopting such amendment  
40 shall not be passed except by at least a  $\frac{3}{4}$  vote of all of the members of  
41 the governing body.

42 (2) For the purpose of determining the sufficiency of a protest peti-  
43 tion, if the proposed rezoning was requested by the owner of the specific

1 property subject to the rezoning or the owner of the specific property  
2 subject to the rezoning does not oppose in writing such rezoning, such  
3 property also shall be excluded when calculating the “total real property  
4 within the area required to be notified” as that phrase is used in paragraph  
5 (1) of this subsection.

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

9 New Sec. 8. (a) Notwithstanding any other provision of K.S.A. 12-  
10 741 et seq., and amendments thereto, any planning commission created  
11 pursuant to K.S.A. 12-744, and amendments thereto, or in the event no  
12 planning commission has been created then the city or county governing  
13 body, shall prior to adopting a comprehensive plan for such city or county  
14 consider the impact of such comprehensive plan on the long-term mission  
15 sustainability of any military installation located, in whole or in part, within  
16 the county.

17 (b) A planning commission, or if none exists then the city or county,  
18 may annually request that the commanding officer, or such officer’s des-  
19 ignee, of any military installation located, in whole or in part, within the  
20 county provide the planning commission, city or county with information  
21 regarding the types of developments and plans that could pose a risk to  
22 the long-term mission sustainability of such military installation.

23 Sec. 9. K.S.A. 19-2957 is hereby amended to read as follows: 19-  
24 2957. (a) The board of county commissioners, by resolution, may establish  
25 a zoning board for each township within the county. The board shall  
26 consist of (1) four members who shall be appointed by the board of county  
27 commissioners and who shall be residents of the unincorporated area of  
28 the county and (2) the township trustee of each township in the county  
29 if the trustee gives written consent to serve on the zoning board. If the  
30 trustee fails to give consent to serve on the zoning board, the board of  
31 county commissioners shall appoint a resident of such township to serve  
32 in the trustee’s place. Any person appointed to serve in a trustee’s place  
33 shall hold the position on the zoning board as long as such trustee serves  
34 on the township board.

35 The board of county commissioners, by resolution, may establish a  
36 planning commission for the county and shall fix the number of members  
37 on the commission. The commission shall consist of not less than nine  
38 nor more than 12 *voting* members who shall be appointed by the board  
39 of county commissioners. Nine of such members shall be residents of the  
40 unincorporated area of the county. The planning commission shall consist  
41 of one member of each zoning board in the county, as appointed by the  
42 board of county commissioners. *In addition to the members who are ap-  
43 pointed to the planning commission, any planning commission created*

1 *pursuant to this subsection (a) shall also include, as a nonvoting member,*  
2 *a representative of any military installation, as defined in section 11, and*  
3 *amendments thereto, located, in whole or in part, within the county if the*  
4 *commanding officer of such military installation appoints such a repre-*  
5 *sentative.*

6 The *voting* members first appointed by the board of county commis-  
7 sioners to either a zoning board or the planning commission shall be  
8 appointed for terms of one, two and three years. The terms shall be  
9 divided equally or as nearly equally as possible among the *voting* mem-  
10 bers. Thereafter *voting* members shall be appointed for terms of three  
11 years each. All *voting* members shall serve until their successors are ap-  
12 pointed and qualified. Vacancies shall be filled by appointment by the  
13 board of county commissioners for the unexpired term. *Voting* members  
14 shall serve without compensation for their services but may receive such  
15 traveling expenses as the board of county commissioners authorizes which  
16 shall be paid from any funds available for such purpose.

17 (b) Each zoning board and the planning commission shall meet at  
18 such time and place as they may fix by resolution, with the approval of  
19 the board of county commissioners. They shall select one of their number  
20 as chairperson and one as vice-chairperson who shall serve one year terms  
21 and until their successor has been selected. The board of county com-  
22 missioners shall employ a secretary for the planning commission and each  
23 zoning board. The secretary shall keep a proper record of the proceedings  
24 of any such board or commission. Special meetings may be called at any  
25 time by the chairperson or in the chairperson's absence by the vice-chair-  
26 person. A majority of any such board or commission shall constitute a  
27 quorum for the transaction of business. Each zoning board and the plan-  
28 ning commission shall cause a proper record to be kept of its proceedings.

29 Each zoning board and the planning commission shall make and adopt,  
30 with the approval of the board of county commissioners, rules for the  
31 transaction of its business.

32 The board of county commissioners may employ any employees it  
33 deems necessary for the work of any zoning board or the planning com-  
34 mission and may contract with planners and other consultants for such  
35 services as it requires and may incur other necessary expenses. The ex-  
36 penditures of county funds for the payment of costs and expenses of the  
37 zoning boards and the planning commission shall at no time be in excess  
38 of the amounts budgeted and appropriated for that purpose by the board  
39 of county commissioners.

40 Each zoning board and the planning commission shall perform any  
41 additional duties that the board of county commissioners prescribes and,  
42 in all cases, shall be subject to the jurisdiction and under the control and  
43 approval of the board of county commissioners.

1 (c) The board of county commissioners, by resolution, may appoint  
2 one or more consolidated zoning boards for two or more townships, or  
3 portions thereof, within the county. Such resolution shall give notice of  
4 the date and time of a public hearing to be held on the proposed con-  
5 solidation and shall be published once each week for two consecutive  
6 weeks in the official county newspaper. The second publication shall be  
7 no sooner than 10 days prior to the public hearing. Any consolidated  
8 boards shall consist of not less than five nor more than nine members  
9 who shall be residents of the townships, or portions thereof, included in  
10 the territory which is subject to the consolidated boards' jurisdiction.  
11 Membership in the board shall be determined by the board of county  
12 commissioners. The members first appointed by the board of county com-  
13 missioners shall be appointed for terms of one, two and three years. The  
14 terms shall be divided equally or as nearly equally as possible among the  
15 members. Thereafter members shall be appointed for terms of three  
16 years each. All members shall serve until their successors are appointed  
17 and qualified. Vacancies shall be filled by appointment by the board of  
18 county commissioners for the unexpired term. Members shall serve with-  
19 out compensation for their services, but may receive such traveling ex-  
20 penses as the board of county commissioners authorizes which shall be  
21 paid from any funds available for such purpose.

22 Upon the appointment of any consolidated zoning boards, any separate  
23 board which was established for the purpose of recommending rezonings  
24 or conditional use permits for any territory included within the territory  
25 subject to the jurisdiction of such consolidated boards, shall be dissolved  
26 by order of the board of county commissioners. Zoning boards for town-  
27 ships not affected by a resolution creating a consolidated zoning board,  
28 or affected only in part by such a resolution, may continue operating as  
29 originally established, as determined by the board of county  
30 commissioners.

31 The consolidated zoning boards shall meet, select officers and keep  
32 records in the same manner as provided for township zoning boards cre-  
33 ated under subsection (a) of this section. Such boards shall have the same  
34 powers and duties as prescribed for township zoning boards insofar as  
35 the same may be made applicable and shall perform any additional duties  
36 which the board of county commissioners prescribes and, in all cases,  
37 shall be subject to the jurisdiction and under the control and approval of  
38 the board of county commissioners.

39 Sec. 10. K.S.A. 2007 Supp. 19-2958 is hereby amended to read as  
40 follows: 19-2958. (a) The planning commission, with the approval of the  
41 board of county commissioners, may make or cause to be made a com-  
42 prehensive plan for coordinated development of the county in the man-  
43 ner, and for the purposes, provided by this act. In the preparation of such

1 plan, the planning commission shall make or cause to be made compre-  
2 hensive surveys and studies of past and present conditions and trends  
3 relating to land use, population and building intensity, public facilities,  
4 transportation and transportation facilities, economic conditions, natural  
5 resources, and may include any other element deemed necessary to the  
6 comprehensive plan. Such proposed plan, which in addition to a written  
7 presentation, may include maps, plats, charts and other descriptive mat-  
8 ter, shall show the commission's recommendations for the development  
9 or redevelopment of the county and may include: (1) The general loca-  
10 tion, extent and relationship of the use of land for agriculture, residence,  
11 business, industry, recreation, education, public buildings and other com-  
12 munity facilities, major utility facilities both public and private and any  
13 other use deemed necessary; (2) population and building intensity stan-  
14 dards and restrictions and the application of the same; (3) public facilities  
15 including transportation facilities of all types, whether publicly or pri-  
16 vately owned, which relate to the transportation of persons or goods; (4)  
17 public improvement programming based upon a determination of relative  
18 urgency; (5) the major sources and expenditure of public revenue includ-  
19 ing long range financial plans for the financing of public facilities and  
20 capital improvements, based upon a projection of the economic and fiscal  
21 activity of the county, both public and private; (6) utilization and conser-  
22 vation of natural resources; (7) *the impact of such plan on the long-term*  
23 *mission sustainability of any military installation, as defined in section*  
24 *11, and amendments thereto, located, in whole or in part, within the*  
25 *county; and ~~(7)~~ (8) any other element deemed necessary for the proper*  
26 *development or redevelopment of the area.*

27 (b) The planning commission, by an affirmative vote of a majority of  
28 all its *voting* members, may approve for recommendation the compre-  
29 hensive plan as a whole by a single resolution, or may by successive res-  
30 olutions approve parts of the plan, such parts corresponding with the  
31 major geographical sections of the county or with functional subdivisions  
32 of the plan. Such resolution shall specifically identify any maps, plats,  
33 charts or other materials made a part of such plan. Before the approval  
34 for recommendation of any such plan or part thereof, the planning com-  
35 mission shall hold a public hearing thereon, notice of which shall be pub-  
36 lished once in the official county newspaper at least 20 days prior to the  
37 date fixed for hearing. *Such notice shall also be sent at least 20 days prior*  
38 *to the date of the hearing to the commanding officer, or such officer's*  
39 *designee, of any military installation, as defined in section 11, and amend-*  
40 *ments thereto, located, in whole or in part, within the county.* Such hear-  
41 ing may be adjourned from time to time. Upon the approval for recom-  
42 mendation of any such plan or part thereof, a certified copy of the same  
43 shall be submitted to the board of county commissioners for its consid-

1 eration and final approval. Upon request, copies of the proposed plan or  
2 part thereof, together with notice of the time and place when the board  
3 of county commissioners will consider adoption of the plan or part  
4 thereof, shall be provided to other interested legislative or administrative  
5 agencies for review and comment. Failure to receive such copies or other  
6 notice shall not invalidate any subsequent action taken on the plan or part  
7 thereof.

8 (c) The board of county commissioners shall consider such proposed  
9 comprehensive plan or part thereof as recommended by the planning  
10 commission. If the board of county commissioners approves such rec-  
11 ommendation, it may adopt, by resolution, such proposed plan or part  
12 thereof. If the board of county commissioners disapproves, in whole or  
13 in part, the planning commission's recommendation, the board of county  
14 commissioners shall return such recommendation or part thereof to the  
15 planning commission for further consideration along with a written state-  
16 ment of reasons for disapproving the same or with suggested modifica-  
17 tions. If the board of county commissioners returns the plan or part  
18 thereof as originally recommended to the planning commission for fur-  
19 ther consideration as disapproved or with suggested modifications, the  
20 planning commission shall reconsider such plan or part thereof as re-  
21 turned and, within 30 days of receipt thereof or such lesser or greater  
22 time period as determined by the board of county commissioners, either  
23 submit a new recommendation to the board of county commissioners or  
24 resubmit its original recommendation to the board of county commis-  
25 sioners. No additional public hearing shall be required unless the board  
26 of county commissioners directs that one be held. If the planning com-  
27 mission fails to deliver its recommendation to the board of county com-  
28 missioners within such time period, the board of county commissioners  
29 shall consider such course of inaction on the part of the planning com-  
30 mission as a resubmission of its original recommendation. The board of  
31 county commissioners, after receipt of the new or original recommen-  
32 dation of the planning commission on the returned plan or part thereof,  
33 shall reconsider such matter and thereafter, by resolution, may adopt, in  
34 whole or in part, or may revise or amend and adopt such proposed plan  
35 or part thereof as the official plan of the county, or may take no further  
36 action thereon, as it deems appropriate.

37 (d) All reports and documents forming the comprehensive plan or  
38 parts thereof as adopted shall bear the signature, or facsimile thereof, of  
39 the chairperson of the board of county commissioners and an attested  
40 copy of the same shall be filed in such public office as may be designated  
41 by the board of county commissioners and shall be a public record. In  
42 addition, copies shall be provided to legislative and administrative agen-  
43 cies affected by the plan, *and to the commanding officer, or such officer's*

1 *designee, of any military installation, as defined in section 11, and amend-*  
2 *ments thereto, located, in whole or in part, within the county.* Failure to  
3 receive such copy shall not invalidate any subsequent action taken. Such  
4 plan or part thereof shall constitute the basis or guide for public action  
5 to insure a coordinated and harmonious development or redevelopment  
6 which will best promote the health, safety, morals, order, convenience,  
7 prosperity and general welfare, as well as a wise and efficient expenditure  
8 of public funds.

9 (e) After adoption of a comprehensive plan or part thereof by the  
10 board of county commissioners, the planning commission annually shall  
11 review the plan for the purpose of determining if any portion of the plan  
12 has become obsolete and shall make a report to the board of county  
13 commissioners regarding the same on or before June 1 of each year. In  
14 addition, the planning commission or the board of county commissioners,  
15 at any time after the adoption of the plan or part thereof, may review or  
16 reconsider such plan or part thereof so adopted and may propose, by  
17 resolution, any amendments, extensions or additions to the same.

18 (f) When an amendment, extension or addition to the plan or part  
19 thereof has been proposed, whether as a result of the annual review or  
20 by resolution of the board of county commissioners or the planning com-  
21 mission, such proposed amendment, extension or addition shall first be  
22 submitted to the planning commission for recommendation. A public  
23 hearing shall be held thereon and an accurate written summary made of  
24 the proceedings. Notice of such public hearing shall be published in like  
25 manner as that required for the original recommendation on the plan,  
26 shall fix the time and place for such hearing and shall contain a statement  
27 describing, in general terms, the proposed amendment, extension or ad-  
28 dition to the plan.

29 (g) A quorum of the planning commission is more than  $\frac{1}{2}$  of all its  
30 members. For action on amendments, a vote either for or against an  
31 amendment by a majority of the members of the commission present  
32 constitutes a recommendation of approval or disapproval of the commis-  
33 sion, whereas a vote either for or against an amendment by less than a  
34 majority of the members of the commission present constitutes a "failure  
35 to recommend."

36 (h) The board of county commissioners shall consider such amend-  
37 ment, extension or addition as recommended by the planning commission  
38 and, regardless of whether the recommendation is for approval or dis-  
39 approval, if the board of county commissioners approves such recom-  
40 mendation, it may adopt such recommendation, in whole or in part, by  
41 resolution, or may take no further action thereon, as it deems appropriate.  
42 In the event the planning commission submits a "failure to recommend"  
43 to the board of county commissioners, the board of county commissioners

1 may take such action it deems appropriate. Upon a recommendation of  
2 the planning commission which the board of county commissioners, in  
3 whole or in part, disapproves, the board of county commissioners shall  
4 return such recommendation or part thereof to the planning commission  
5 for further consideration along with a written statement of reasons for  
6 disapproving the same or with suggested modifications. If the board of  
7 county commissioners returns the proposed amendment, extension or  
8 addition or part thereof to the planning commission for further consid-  
9 eration as disapproved or with suggested modifications, the planning com-  
10 mission shall reconsider such amendment, extension or addition or part  
11 thereof as returned and, within 30 days of receipt thereof or such lesser  
12 or greater time period as determined by the board of county commis-  
13 sioners, either submit a new recommendation to the board of county  
14 commissioners or resubmit its original recommendation to the board of  
15 county commissioners. No additional public hearing shall be required  
16 unless the board of county commissioners directs that one be held. If the  
17 planning commission fails to deliver its recommendation to the board of  
18 county commissioners within such time period the board of county com-  
19 missioners shall consider such course of inaction on the part of the plan-  
20 ning commission as a resubmission of its original recommendation. The  
21 board of county commissioners, after receipt of the new or original rec-  
22 ommendation of the planning commission on the returned amendment,  
23 extension or addition or part thereof, shall reconsider such matter and  
24 thereafter, by resolution, may adopt, in whole or in part, or may revise or  
25 amend and adopt such amendment, extension or addition, or may take  
26 no further action thereon, as it deems appropriate. If the board of county  
27 commissioners initiated such proposed amendment, extension or addi-  
28 tion, the board of county commissioners need not return the same to the  
29 planning commission if it disapproves of the planning commission's rec-  
30 ommendation but may take such action as it deems appropriate after  
31 receiving the planning commission's recommendation on the amend-  
32 ment, extension or addition.

33 New Sec. 11. (a) Notwithstanding any other provision of K.S.A. 19-  
34 2956 et seq., and amendments thereto, any planning commission created  
35 pursuant to K.S.A. 19-2957, and amendments thereto, or in the event no  
36 planning commission has been created then the board of county com-  
37 missioners, shall prior to adopting a comprehensive plan for such county  
38 consider the impact of such comprehensive plan on the long-term mission  
39 sustainability of any military installation located, in whole or in part, within  
40 the county.

41 (b) A planning commission, or if none exists then the board of county  
42 commissioners, may annually request that the commanding officer, or  
43 such officer's designee, of any military installation located, in whole or in

1 part, within the county provide the planning commission or board of  
2 county commissioners with information regarding the types of develop-  
3 ments and plans that could pose a risk to the long-term mission sustain-  
4 ability of such military installation.

5 (c) For the purposes of K.S.A. 19-2956 et seq., the term “military  
6 installation” means a United States military base or installation with at  
7 least 200 assigned military personnel or which contains at least 2,000 acres  
8 within its borders.

9 Sec. 12. K.S.A. 12-742, 12-743, 12-744, 12-747, 12-749, 12-756, 12-  
10 757 and 19-2957 and K.S.A. 2007 Supp. 19-2958 are hereby repealed.

11 Sec. 13. This act shall take effect and be in force from and after its  
12 publication in the statute book.