ENGROSSED SENATE
BILL NO. 635

By: Taylor of the Senate

and

Steidley of the House

An Act relating to counties; amending 19 O.S. 1991, Sections 865.51, 865.52, 865.53, 865.54, 865.55, 865.56, 865.57, 865.58, 865.59, 865.60, 865.61, 865.62, 865.63, 865.64, 865.65, 865.66, 865.67, 865.68 and 865.69, which relate to zoning and planning; clarifying and modifying language; deleting obsolete language; clarifying method of filling certain vacancies; clarifying authority to repeal certain plans; authorizing zoning powers under certain circumstances; requiring uniformity of zoning regulations within a district; requiring certain notices; changing number of votes required for certain actions; providing for certain variances and providing procedures; authorizing adoption of certain rules and regulations; clarifying exemption of certain farm property, the planting of agricultural crops and grazing of livestock from certain rules and regulations; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 1991, Section 865.51, is amended to read as follows:

Section 865.51 For the purpose of ~~cooperating with the State of Oklahoma in~~ conserving the natural resources of the state, and in promoting the health, safety, peace and general welfare of the people of the state, there ~~may be provided in any county of the State of Oklahoma county planning in the manner herein provided, and for that purpose there~~ is hereby authorized to be created in each ~~of such counties a~~ county a planning commission and a county board of adjustment with the respective powers and duties as set out in Sections 865.51 through 865.69 of this ~~act~~ title. In no county shall there be at the same time a county planning commission established pursuant to this section and a metropolitan area planning commission established pursuant to Section 866.1 of Title 19 and Section 863.2 of Title 19 of the Oklahoma Statutes. ~~Provided that county~~ County commissioners may, by proper resolution, confer authority to any metropolitan area planning commission located in ~~such~~ the county for the purposes of planning for unincorporated areas ~~existing in~~ of the county. ~~Provided further that any county planning commission created under the provisions of this act shall have no jurisdiction over the area covered by any Lake Area Planning and Zoning Commission in any county created pursuant to Section 866.36 of Title 19 of the Oklahoma Statutes.~~

SECTION 2. AMENDATORY 19 O.S. 1991, Section 865.52, is amended to read as follows:

Section 865.52 ~~Each county of the state which is hereby authorized to avail itself of the provisions of this act is hereby authorized to set up a~~ A. A county may create a planning commission by resolution of the board ~~and by a vote of the~~ of county commissioners with the approval of a majority of the people voting at an election called for such purpose in ~~said~~ the county ~~and to~~. The board of county commissioners may appropriate funds in the

amounts necessary ~~to carry out the purpose of this act~~ to defray the expenses of the planning commission.

B. The commission, upon approval of the board, is hereby authorized to contract for, receive and utilize any grants or other financial assistance from the federal or state government or from any other source, public or private, in furtherance of its functions and may incur necessary expenses in obtaining ~~said~~ grants ~~and/~~or financial assistance within the limits of its appropriations.

SECTION 3. AMENDATORY 19 O.S. 1991, Section 865.53, is amended to read as follows:

Section 865.53 The ~~territorial~~ jurisdiction of the county~~, as respects administering and enforcing of rules and regulations as in this act provided,~~ planning commission shall ~~be~~ extend only to the unincorporated portions of such county.

SECTION 4. AMENDATORY 19 O.S. 1991, Section 865.54, is amended to read as follows:

Section 865.54 For the purpose of ~~this act, certain terms are defined as provided in this section. Whenever appropriate, the singular includes the plural and the plural includes the singular.~~ Sections 865.51 through 865.69 of this title:

1. "Municipality" or "municipal" shall mean or relate only to incorporated cities and towns~~.~~;

2. "Board" shall mean the board of county commissioners~~.~~;

3. "Commission" shall mean the county planning commission~~.~~; and

4. "Area" shall mean all territory included within the jurisdiction of the commission.

SECTION 5. AMENDATORY 19 O.S. 1991, Section 865.55, is amended to read as follows:

Section 865.55 A. The commission shall consist of three (3) members appointed by the board of county commissioners and the chairman of the board of county commissioners or a member of the board of county commissioners appointed by the chairman and one

member to be appointed by the mayor of each incorporated city or town having a population of one thousand or more according to the last federal decennial census.

B. Members appointed by the board shall serve a term of four (4) years, except that the respective terms of the first three appointed shall be for terms of four (4) years.

C. All members of the commission shall serve as such without compensation.

D. Each appointed member shall be a resident of the area included within the jurisdiction of the commission for a period of three (3) years or more immediately preceding appointment and shall hold no other municipal or county office.

E. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term in the same manner as the original appointment.

F. A member of such commission, once qualified, can thereafter be removed during his term of office only for cause and after a hearing held before the governing body by which he was appointed.

SECTION 6. AMENDATORY 19 O.S. 1991, Section 865.56, is amended to read as follows:

Section 865.56 A. In the pursuance of its duties, the planning commission may seek the advice, cooperation and collaboration of appropriate federal, state, municipal and other local governmental offices, departments, agencies, and instrumentalities, educational institutions and research organizations, whether public or private, and of civic groups and private persons and organizations.

B. The planning commission also shall cooperate and confer with, and upon request supply information to federal, state, municipal and other local governmental agencies and, so far as possible, cooperate with planning agencies of adjoining areas on matters of mutual interest relevant to its activities. Whenever such cooperation or assistance includes the rendering of technical

services, such services may be rendered free or in accordance with an agreement for reimbursement.

SECTION 7. AMENDATORY 19 O.S. 1991, Section 865.57, is amended to read as follows:

Section 865.57 A. The commission may prepare, adopt, and from time to time revise, amend, extend, or ~~add to~~ repeal a plan or plans for the development of the area for the purpose of bringing about an orderly, coordinated physical development in accordance with ~~the~~ present and future needs.

B. The plan or plans authorized by this section may include provisions for dividing the territory within the jurisdiction of the county planning commission into districts of such number, shape, and area as it deems suitable in carrying out its powers as to buildings, land, and structures. Within the districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

SECTION 8. AMENDATORY 19 O.S. 1991, Section 865.58, is amended to read as follows:

Section 865.58 A. The commission ~~may adopt the plan or plans, in whole or part, and subsequently amend or extend the adoption plan or portions thereof. Before the adoption, amendment, or extension of the plan or portions thereof, the commission~~ shall hold at least one public hearing ~~thereon. Such hearing may be adjourned from time to time. Prior to said hearing or hearings, the commission~~ on the adoption, amendment, extension, or repeal of the plan and shall give ~~reasonable~~ notice ~~in all papers of general circulation in the county, stating time, place and purpose of the hearing, and stating where copies of the proposed plan or plans may be acquired~~ as

required by the Oklahoma Open Meeting Act and Section 865.66 of this title.

B. The adoption of the plan, or any amendments, extensions, repeals, or portions thereof shall be by resolution ~~carried~~ adopted by ~~not less than four (4)~~ a majority of the members of the commission, including the ex officio member ~~thereof~~. ~~Before such~~ The plan ~~or plans or parts thereof shall have the status of an official plan, it~~, or any amendments, extensions, or repeals shall be submitted ~~to and shall have the~~ for approval of the board of county commissioners. The board may approve the plan in whole or in part, or return the plan or any portion thereof to the commission for further consideration. Any part so approved shall immediately ~~become in~~ have full force and effect and as to the area covered by the approved portion of such plan. Should the board fail to act upon such plan within forty-five (45) days from the date of its submission by the commission, such plan shall be deemed to be approved ~~by said board and shall have the status of an official plan or plans for the area~~. After the adoption of the plan or plans, or part thereof, an attested copy shall be certified by the commission and by the board and shall be certified to the county clerk of such county for safekeeping and as a public record.

SECTION 9. AMENDATORY 19 O.S. 1991, Section 865.59, is amended to read as follows:

Section 865.59 A. From and after the adoption of the plan or plans or portion thereof ~~and their proper certification, then and henceforth~~, no improvement of a type embraced within the ~~recommendations of the~~ plan or plans shall be constructed or authorized without first submitting the proposed plans thereof to the commission and receiving the written recommendations of ~~said~~ the commission; provided, however, that this requirement shall be deemed to be waived if the commission fails to make its report and

recommendations within forty-five (45) days after the receipt of the proposed plans.

B. If the county is exercising zoning powers as conferred by subsection B of Section 865.57 of this title, application may be made to the county board of adjustment for a variance. An application for a variance shall be accompanied by the recommendations of the county planning commission, if any, developed pursuant to subsection A of this section.

SECTION 10. AMENDATORY 19 O.S. 1991, Section 865.60, is amended to read as follows:

Section 865.60 The county planning commission ~~is~~, county board of adjustment, and board of county commissioners are hereby empowered to ~~promulgate and~~ adopt rules and regulations for the implementation and enforcement of any plan ~~or plans~~ adopted in accordance with ~~this act~~ Sections 865.51 through 865.69 of this title.

SECTION 11. AMENDATORY 19 O.S. 1991, Section 865.61, is amended to read as follows:

Section 865.61 The rules and regulations of ~~this~~ the county planning commission, county board of adjustment, and board of county commissioners shall not apply to the erection of farm homes or the erection or use of the usual farm buildings for agricultural purposes or the planting of agricultural crops or grazing of livestock.

SECTION 12. AMENDATORY 19 O.S. 1991, Section 865.62, is amended to read as follows:

Section 865.62 A. The board of county commissioners ~~of any such county~~ shall appoint a county board of adjustment composed of five (5) members, residents of ~~such area~~ the county, for terms of three (3) years, except that when the first appointment is made hereunder, the terms of office of two ~~of said~~ members shall be two

(2) years, and the term of office of one ~~of said members~~ member shall be three (3) years.

B. A member of ~~such~~ the county board of adjustment, once qualified, can thereafter be removed during his term of office only for cause and after a hearing held before the board of county commissioners.

C. In the event of the death, resignation or removal of any such member before the expiration of his term, a successor shall be appointed by the board of county commissioners to serve his unexpired term.

D. All members of the county board of adjustment shall serve ~~as such~~ without compensation.

E. The county board of adjustment shall elect its own chairman ~~and shall adopt rules or procedures consistent with the provisions of this act~~. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

F. Four (4) members of the county board of adjustment shall constitute a quorum.

G. All meetings of the county board of adjustment shall be open to the public and a public record shall be kept of all proceedings.

H. The county board of adjustment may, with the approval of the board of county commissioners, appoint such employees as may be necessary and may incur necessary expenses, within the limits of the appropriations authorized by the board of county commissioners.

I. For each petition and for each request for a public hearing, the county board of adjustment shall collect a fee ~~the amount thereof~~ to be fixed by the respective boards of county commissioners and which ~~such fees~~ shall be deposited with the county treasurer as required by law, and credited to the general fund of the county, and a report thereof shall be made to the board of county commissioners each month.

J. Publication notices and transcripts on appeal shall be paid for by parties requiring or requesting the same.

SECTION 13. AMENDATORY 19 O.S. 1991, Section 865.63, is amended to read as follows:

Section 865.63 A. Appeals to the county board of adjustment may be taken by any person aggrieved or by a public officer, department, board, or bureau affected by any decision of the county inspecting officer in administering the commission's rules and regulations. Such appeals shall be taken within a period of not more than ten (10) days, by filing written notice with the county board of adjustment and the county inspecting officer, stating the grounds thereof. An appeal from the county board of adjustment shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken shall certify to the board of adjustment that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. The county board of adjustment shall have the following powers and it shall be its duty~~: To~~ to hear and decide appeals where it is alleged that there is error of law in any order, requirement, decision, or determination made by the county inspecting officer in the enforcement of the commission's rules and regulations.

B. ~~In exercising the above powers, such~~ The board of adjustment may, in conformity with the provisions of this act, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

C. In ~~acting upon any~~ deciding an appeal, ~~such~~ the board of adjustment shall, in its consideration ~~of~~ and decision ~~thereon~~, apply the principles, standards, and objectives set forth ~~and contained~~ in ~~all~~ any applicable regulations and plans ~~as adopted~~.

SECTION 14. AMENDATORY 19 O.S. 1991, Section 865.64, is amended to read as follows:

Section 865.64 A. An appeal to the district court from any decision, ruling, judgment, or order of ~~said~~ a county board of adjustment may be taken by any person ~~or persons~~, firm, or corporation~~, jointly or severally,~~ aggrieved thereby, or any department, board, or official of government by filing with the clerk of ~~said~~ the board within ten (10) days a notice of ~~such~~ appeal. No bond shall be required for such appeal, but costs may be required in the district court as in other cases. Upon filing of such notice, the clerk of ~~said~~ the board shall forthwith transmit to the clerk of the district court the originals or certified copies of all papers constituting the record in such case, together with the order, judgment, or decisions of ~~said~~ the board. ~~Said~~ The cause shall be tried de novo in the district court ~~and said court~~ which shall have the same power and authority as the county board of adjustment, together with all other powers of the district court in law or in equity.

B. An appeal to the Supreme Court from the decision of the district court shall be allowed as in other cases.

SECTION 15. AMENDATORY 19 O.S. 1991, Section 865.65, is amended to read as follows:

Section 865.65 The board may establish a schedule of fees for inspections and investigations~~,~~ which ~~said fees~~ shall be reasonable and proportionate to the services rendered and benefits involved, and shall be paid into the general fund of the county.

SECTION 16. AMENDATORY 19 O.S. 1991, Section 865.66, is amended to read as follows:

Section 865.66 Notice of all public hearings ~~herein provided for~~ on a plan of the county planning commission, on a matter to be decided by the county board of adjustment, or on a matter relating to zoning or planning by the board of county commissioners shall be

given by one publication in a newspaper of general circulation in the ~~municipality and the~~ county at least fifteen (15) days prior to the date of such hearing.

SECTION 17. AMENDATORY 19 O.S. 1991, Section 865.67, is amended to read as follows:

Section 865.67 A violation of a provision of Sections 865.51 through 865.69 of this ~~act~~ title or of any order or regulation adopted under authority of ~~this act~~ Sections 865.51 through 865.69 of this title shall be ~~deemed~~ a misdemeanor and shall be punishable by fine or by imprisonment or both~~, as now provided by law for misdemeanors~~.

SECTION 18. AMENDATORY 19 O.S. 1991, Section 865.68, is amended to read as follows:

Section 865.68 From and after the ~~time such~~ creation of a county planning commission ~~is constituted by the cooperating governmental units~~, it shall have exclusive control ~~for the purposes herein provided~~ over the territory within ~~the~~ its jurisdiction ~~of the county~~ to the exclusion of any other planning agency~~,~~; provided, however, this section does not prevent ~~commissioners from contracting with agencies formed in accordance with Chapter 31,~~ agreements made pursuant to the Interlocal Cooperation Act, Section 1001 et seq. of Title 74~~,~~ of the Oklahoma Statutes, for planning services and regulation enforcement assistance.

SECTION 19. AMENDATORY 19 O.S. 1991, Section 865.69, is amended to read as follows:

Section 865.69 For the purpose of ~~cooperating with the State of Oklahoma in~~ conserving the material resources of the state, any incorporated city or town within a county having in existence a county planning commission~~, as authorized in this act,~~ is hereby authorized to contract with or retain such commission to function as an advisory, consultative, and coordinating agency for such city or town in its urban planning activities.

SECTION 20. This act shall become effective September 1, 1994.

Passed the Senate the 15th day of March, 1994.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1994.

Speaker of the House of Representatives