

SHORT TITLE: Counties and county officers; relating to planning and zoning in unincorporated areas; modifying procedures; providing terms, conditions and procedures; providing for millage; modifying population restrictions. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1278

By: Easley

AS INTRODUCED

An Act relating to counties and county officers;  
amending 19 O.S. 1991, Sections 868.2, 868.4, as  
amended by Section 1, Chapter 103, O.S.L. 1995,  
868.10, 868.14, 868.17, 868.18, 868.20 and 868.22  
(19 O.S. Supp. 1997, Section 868.4), which relate  
to planning and zoning in the unincorporated areas  
of a county; modifying procedures for filling  
vacancies for county planning commissioners;  
providing for members, terms, representations,  
removal, vacancies, and procedures; adding certain  
persons or designee; providing for millage and  
appropriating revenues; construing section of law;  
providing for certain interlocal agreements;  
deleting population restrictions applicable to  
counties; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 1991, Section 868.2, is  
amended to read as follows:

Section 868.2 A. The county planning commission shall be  
composed of seven (7) members to be appointed by the board of county  
commissioners. One member shall be a member of the board of county  
commissioners, and the remaining six members shall be residents of  
the unincorporated areas of the county. The term of the county

commissioner member shall be coextensive with ~~his~~ the members term of official office, and all other members shall be appointed for terms of six (6) years, except that such terms shall be made overlapping and the respective terms of those first appointed may be less than six (6) years. All members shall serve as such without compensation. Members may be removed by the board of county commissioners for cause after a public hearing held for that purpose and vacancies shall be filled by additional appointments.

B. Any county planning commission formed after the effective date of this act shall be composed of seven (7) members to be appointed by the board of county commissioners. One member shall be a member of the board of county commissioners, three members shall be residents of the unincorporated areas of the county, and three members shall represent agriculture, farming and ranching interests and must reside on no less than one hundred sixty (160) acres. The term of the county commissioner member shall be coextensive with the members term of official office, and all other members shall be appointed for terms of six (6) years, except that such terms shall be made overlapping and the respective terms of those first appointed may be less than six (6) years. All members shall serve as such without compensation. Members may be removed by the board of county commissioners for cause after a public hearing held for that purpose and vacancies shall be filled by additional appointments.

C. When any county adopts the provisions of this act, the board of county commissioners shall, within six (6) months, dissolve any other form of planning and zoning authorized by this title. All documents, plans, research or other materials relating to planning and zoning in the unincorporated areas of the county shall be transferred to the planning and zoning board authorized by this act.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 868.4, as amended by Section 1, Chapter 103, O.S.L. 1995 (19 O.S. Supp. 1997, Section 868.4), is amended to read as follows:

Section 868.4 The county planning commission may appoint such employees as it may deem necessary for its work and may contract with planners and other consultants for such services as it may require, and may incur other necessary expenses; provided that the expenditures of the county funds by the planning commission shall not be in excess of the amounts appropriated for that purpose by the board of county commissioners. It shall be lawful for the board of county commissioners to appropriate funds for the administration of this act and to contract with the governing body of the county seat city to contribute jointly to pay expenses and salaries of a combined staff to serve the county planning commission, county board of adjustment, city planning commission and city board of adjustment, and to provide offices for such combined staff either in the county courthouse or the municipal building.

For building permits issued pursuant to this section, the county engineer or circuit district engineer or a qualified designee of the circuit engineering district shall collect a fee set by the county planning commission, which shall be approved every two (2) years by the board of county commissioners. For each petition for amendments to zoning regulations, the county planning commission shall, upon approval and authorization by the board of county commissioners, collect a fee sufficient to cover the cost of mailing notices and conducting investigations into the applicant's petition. In the event the petition is withdrawn by the applicant before consideration by the county planning commission but after notice and mailing of such public hearing on applicant's amendments to zoning regulations or in the event the applicant's petition is denied by the county planning commission and an appeal is not pursued to the county board of adjustment, the applicant shall not be permitted to

file another petition for amendment to zoning regulations covering the matter withdrawn or denied until ninety (90) days from such withdrawal or denial and upon payment of a nonrefundable fee as set by the county planning commission, which shall be approved by the board of county commissioners. For each appeal to the county board of adjustment, the county planning commission shall collect a fee of Fifteen Dollars (\$15.00). All fees collected by the county planning commission and the county engineer or circuit district engineer or a qualified designee of the circuit engineering district shall be deposited with the county treasurer daily, as is now provided by law, to the credit of the county planning commission and such fees shall be placed in a separate fund to the credit of the said county planning commission, to be designated as the "County Planning Commission Special Fund," and shall be expended by the county planning commission, as follows: for salaries of the staff or any member thereof, for mailing cost to potentially affected members of the public concerning notice of petitions for amendment to zoning regulations, for books, records, supplies, fixtures and other necessary expenses incurred in the operation of said Planning Commission, provided that any of the fee so expended shall be upon verified claims duly filed, and approved by the board of county commissioners of the county as provided by law. Provided, however, that in the event the fees shall be in excess of the necessary operating expenses of the planning commission, said excess shall revert to the general fund of any such county at the end of the fiscal year. Provided further, that in the event said fees shall not be sufficient to operate the planning commission, the difference may be supplied by appropriation as provided by law. On the first day of each month the county engineer or circuit district engineer or a qualified designee of the circuit engineering district and the county planning commission shall each submit to the board of county commissioners a verified report of all fees charged and collected

during the preceding month. The board of county commissioners may levy five (5) mills and appropriate the revenue derived thereof for the administration of this act.

SECTION 3. AMENDATORY 19 O.S. 1991, Section 868.10, is amended to read as follows:

Section 868.10 After the board of county commissioners shall have established building or set-back lines on such major highways, no new building or structure shall be erected within such building or set-back lines outside the corporate limits of any city or town, and no permit for such building shall be issued by the county engineer or circuit district engineer or a qualified designee of the circuit engineering district who is hereby designated as the officer to administer and enforce such building or set-back line regulations. The county board of adjustment, hereinbefore created, shall hear appeals of any property owner aggrieved by such building line regulations. Said board of adjustment shall have the power to modify or vary the building or set-back line regulations in specific cases, in order that unwarranted hardship, which constitutes an unreasonable deprivation of uses as distinguished from a mere grant of privilege, may be avoided, the intended purpose of the regulations strictly observed, and the public welfare and public safety protected.

SECTION 4. AMENDATORY 19 O.S. 1991, Section 868.14, is amended to read as follows:

Section 868.14 A legally existing use, building or structure, existing at the time of the adoption and recording of any regulations authorized hereunder, but not in conformity therewith, may be continued but shall not be extended or structurally altered unless the same be changed to conform to such regulations or changed to a higher or more restrictive use. This shall include operations subject to provisions of Sections 951 through 956 of Title 18 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 19 O.S. 1991, Section 868.17, is amended to read as follows:

Section 868.17 After the adoption of such zoning regulations or building line regulations by the board of county commissioners, no building or other structure within the area authorized by this act to be zoned shall be erected, constructed, enlarged or altered in such manner as to prolong the life of the buildings, nor shall the use of any land within such area be changed without a permit issued by the county engineer or circuit district engineer or a qualified designee of the circuit engineering district. The county engineer or circuit district engineer or a qualified designee of the circuit engineering district shall have the duty of administering the rules and regulations under this act and shall make such inspections and investigations as may be necessary to the proper enforcement of such rules and regulations.

SECTION 6. AMENDATORY 19 O.S. 1991, Section 868.18, is amended to read as follows:

Section 868.18 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 engineer or circuit district engineer or a qualified designee of the circuit engineering district in administering the county zoning 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 stating the grounds therefor. An appeal 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 that by reason of facts stated in the certificate a stay would, in ~~his~~ the officer's opinion, cause imminent peril to life or property. The county board of adjustment shall have the following powers and it shall be its duty:

1. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the county engineer or circuit district engineer or a qualified designee of the circuit engineering district in the enforcement of the county zoning regulations;

2. To hear and decide requests for map interpretations or for decisions on other special questions upon which it is authorized to pass by the regulations adopted by the board of county commissioners; and

3. Where, by reason of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this act would result in peculiar and exceptional difficulties to, or exceptional and demonstrable undue hardship upon, the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such demonstrable difficulties or hardships, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan as embodied in the zoning regulations and map. For every variance granted, the county board of adjustment shall state in detail as a matter of record the exceptional and demonstrable undue hardship upon the owner of such property.

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

SECTION 7. AMENDATORY 19 O.S. 1991, Section 868.20, is amended to read as follows:

Section 868.20 A. The jurisdiction of the county planning commission and the county board of adjustment is exclusively limited to the unincorporated areas of the county and any conflict between the acts of the county planning commission or the county board of adjustment and any city or town shall be resolved in favor of said city or town.

B. To carry out provisions of this act, counties may, pursuant to the Interlocal Cooperation Act, enter into agreements to work together to provide planning and zoning which would conform throughout a region of the state.

SECTION 8. AMENDATORY 19 O.S. 1991, Section 868.22, is amended to read as follows:

Section 868.22 The provisions of this act ~~shall apply only to counties having a population in excess of five hundred thousand (500,000) according to the latest Federal Decennial Census~~ may be adopted by resolution of the board of county commissioners of any county in this state.

SECTION 9. This act shall become effective November 1, 1998.

46-2-2150 JT