MISSOURI MUNICIPAL LEAGUE

2009 ANNUAL CONFERENCE

PLANNING AND ZONING FUNDAMENTALS

PREPARED AND PRESENTED BY:

Thomas A. Cunningham, Esq.
CUNNINGHAM, VOGEL & ROST, P.C.
legal counselors to local government
75 W. Lockwood, Suite One
St. Louis, MO 63119
314.446.0800
tom@municipalfirm.com
www.municipalfirm.com

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LEGAL ASPECTS OF PLANNING AND ZONING

PREPARED AND PRESENTED BY:
THOMAS A. CUNNINGHAM
CUNNINGHAM, VOGEL & ROST, P.C.
legal counselors to local government

Legal aspects of planning and zoning involve both substantive and procedural requirements applicable to adoption and use of land use controls and planning techniques such as the comprehensive plan. This outline will deal with requirements attending adoption and use of zoning and planning tools, the scope of and limitations on regulatory authority, and the procedures involved in zoning reviews and appeals.

I. BASIC VOCABULARY.

A. FOUNDATIONS OF LAND USE LAW.

"Land use law" is a term generically applied to regulatory activities governing physical planning and land development. Although traditionally and primarily a function of municipal government, land use law encompasses enactments by the federal government, such as the Clean Water Act, as well as by state government, regional commissions, and counties. The term embraces zoning, as well as subcategories or related regulations such as sign control, architectural review and historic preservation regulations, subdivision controls and environmental regulations. The relationship of these mechanisms to zoning controls is discussed below.

B. LAND USE CONTROLS AND THE SCOPE OF REGULATION.

1. Zoning. "Zoning" describes an exercise of local governmental police power regulating the use of land. Invariably, the power is exercised pursuant to state enabling legislation. *See e.g.*, Mo. Rev. Stat. Ch. 64 (counties); Ch. 89 (cities, towns, and villages). Generally, the practice of zoning divides a jurisdiction into a series of land use districts or "zones" and establishes use, bulk and density limitations, and standards for land use and development occurring within each zone. The zoning regulations or zoning ordinance is comprised of both a text and a map. The text establishes the zones and details the regulations and standards applicable to each zoning district. The zoning map depicts the location and boundaries of each zone.

a. The Zoning Ordinance and Components. Although certain jurisdictions may provide for elaborate zoning performance standards, most often zoning regulations state maximum or minimum standards. In addition to establishing zoning districts and associated regulations, zoning ordinances typically provide definitions and rules of interpretation and construction.

b. The Zoning Map. The text of a zoning ordinance may additionally provide rules for interpreting the zoning map. At the time of adoption or amendment of the zoning map, the jurisdiction may incorporate in the adopting or amending ordinance a legal description of the areas zoned. The zoning ordinance and map may not establish a

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single zoning district. *City of Moline Acres v. Heidbreder,* 367 S.W.2d 568 (Mo. 1963), *but cf., McDermott v. Calverton Park*, 454 S.W.2d 577 (Mo. 1970) (upheld zoning ordinance that established four zoning districts, but only one use, single-family dwellings). Missouri courts have upheld zoning ordinances and maps establishing only residential districts and excluding all non-residential uses. *State ex rel. Chiavola v. Village of Oakwood*, 886 S.W. 2d 74 (Mo. Ct. App. 1994), *cert. denied* 115 S. Ct. 1724; *Bosch v. Renner*, 494 S.W.2d 339 (Mo. 1973).

2. Other Regulatory Activities. Although the local "Building Official" is often empowered to enforce zoning regulations, zoning does not regulate building construction standards. Similarly, related issues such as grading, excavation, sediment control, septic and well systems, demolition of structures, and occupancy of existing structures are addressed by other local regulations such as subdivision, building and housing codes, and environmental and health regulations.

a. Subdivision. Subdivision describes local government regulation of the partitioning of land. Mo. Rev. Stat. §89.300(3) (defining the term "subdivision" as the "division of a parcel of land into two or more lots, or other divisions of land.") Primary regulatory objectives include obtaining assurances that development is served by adequate infrastructure, *i.e*., streets, sewers, water, and establishing minimum standards for the conveyance of real property. Although separate from zoning, many subdivision regulations expressly require compliance with zoning requirements. *See* ***Furlong Companies, Inc. v. City of Kansas City,*** 189 S.W.3d 157 (Mo. 2006) (Section 1983 action for "truly irrational" denial of preliminary plat).

b. Sign Controls. Sign controls represent a species of zoning. *See University City v. Diveley Auto Body Co.,* 417 S.W.2d 107 (Mo. 1967) (en banc). Regulations governing the permissible location, type, size, height, illumination, and other attributes of signs and outdoor advertising may be included in the zoning ordinance or may be provided as "stand alone" regulations. In either case, it has been held that local regulation of "outdoor advertising" must conform to the strictures of Missouri's "Billboard Act." *See* Mo. Rev. Stat. §§226.500-.600. *See also, Outcom, Inc. v. City of Lake St. Louis,* 960 S.W.2d 1 (Mo. Ct. App. 1996). However, the limitations of the Billboard Act on local authority has been significantly narrowed in a recent holding that Mo. Rev. Stat. §71.288 allows local regulations to be more restrictive than the specific height, size, lighting, and spacing limitations found in the Billboard Act and even allows cities and counties to pass a total ban on outdoor billboards. *State ex rel. Ad Trend, Inc. v. City of Platte City*, 272 S.W.3d 201 (Mo. Ct. App. 2008).

c. Architectural Review. Architectural design review represents another species of zoning regulation that addresses aesthetics and exterior design of buildings and structures and may additionally regulate site design and landscaping. Although initially reluctant to recognize aesthetics as a basis for regulation, Missouri has since accepted architectural review and regulation to preserve property values. *State ex rel. Stoyanoff v. Berkeley*, 458 S.W.2d 305 (Mo. 1970). *See also, Gannett Outdoor Co. v. City of Lee's Summit*, 957 S.W.2d 416 (Mo. Ct. App. 1997) (recognizing the importance of aesthetic considerations in billboard regulation). Generally, a separate review board oversees

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design control regulation. Often, local establishing ordinances require that review boards include architects or other similar professionals demonstrating expertise in this area.

d. Historic Preservation. Historic preservation codes involve building regulation as well as planning and zoning. For example, historic preservation regulations may be used to limit or prohibit exterior building or landscape changes that are determined to be inconsistent or incompatible with the architectural character of a structure or an area exhibiting local historic value. Missouri's Local Historic Preservation Act authorizes creation by ordinance of local historic preservation commissions that may recommend to the local governing body the designation of local historic districts, provide technical assistance to owners of historic properties, and prepare an historic preservation plan for the community. *See* Mo. Rev. Stat. §253.415. The Local Historic Preservation Act specifically authorizes the integration of the historic preservation plan with local zoning ordinances and building codes. The governing body may similarly provide for review by the historic preservation commission of plans for new construction, building alteration, and demolition within a designated local historic district.

e. Building and Housing Codes. Building codes, which include national standardized codes published by the Building Officials and Code Administrators International Inc. (BOCA) and the International Conference of Building Officials (ICBO), govern construction standards for new buildings and structures. Missouri law expressly authorizes municipal adoption of such standardized codes by reference, obviating the need to expressly adopt such extensive code provisions. *See* Mo. Rev. Stat. §67.280 (requiring filing of technical codes with city clerk for ninety days prior to adoption by incorporation).

C. PLANNING AND THE "COMPREHENSIVE PLAN."

1. Relationship to Zoning and Land Use Regulations. Variously referred to as a "city plan," "master plan," or "comprehensive plan," such plans constitute general guides to future development within the jurisdiction. *See* Mo. Rev. Stat. §§89.040, 89.360, etc. Unlike zoning regulations, adoption of a master or comprehensive plan imposes no restrictions on the use of land. Although enabling statutes require zoning regulations to be "in accordance with a comprehensive plan," neither preparation nor adoption of such a plan is *necessarily* a prerequisite to the exercise of zoning authority. *Chiavola v. Oakwood,* 886 S.W.2d 78 (Mo. Ct. App. 1994). Absent a comprehensive plan, Missouri courts have recognized the zoning regulations themselves as meeting the "comprehensive plan" requirement. *See Strandberg v. Kansas City*, 415 S.W.2d 737 (Mo. 1967); *State ex rel. Westside Development Co. v. Weatherby Lake,* 935 S.W.2d 634 (Mo. Ct. App. 1996). Where a separate comprehensive plan document exists, however, adherence of the local government to the plan constitutes a factor in determining the reasonableness of a zoning regulation. *J.R. Green Properties, Inc. v. City of Bridgeton,* 825 S.W.2d 684 (Mo. Ct. App. 1992).

2. As an Instrument of Land Use and Development Policy. Although in theory the comprehensive plan represents the written and graphic embodiment of municipal land use and development policy, its significance is typically revealed in litigation over the application of zoning and other implementation tools. In this, Missouri courts have recognized the

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comprehensive plan as merely a "general guide" to development and that flexibility in its application is required to meet changing circumstances. *See Treme v. St. Louis County*, 609 S.W.2d 706 (Mo. Ct. App. 1980). Accordingly, zoning amendments need to be in general conformance with the plan, but need not strictly follow it. *See generally,* R. ANDERSON, AMERICAN LAW OF ZONING §5.06 (3rd ed. 1986).

II. BASIC AUTHORITY FOR ADOPTION AND ENFORCEMENT OF ZONING AND LAND USE CONTROLS.

A. STATE LAW LIMITATIONS ON LOCAL AUTHORITY.

1. Dillon's Rule.

In Missouri, "Dillon's Rule" governs basic questions of local governmental authority. Named for the judge who developed the rule at the turn of the century, Dillon's Rule limits local authority to "(1) those [powers] granted in express words; (2) those necessarily or fairly implied in or incident to the powers expressly granted; (3) those essential to the accomplishment of the declared objectives and purposes of the corporation–not simply convenient, but indispensable." *State ex rel. Blue Springs v. McWilliams*, 335 Mo. 816 (Mo. 1934), citing 1 DILLON ON MUNICIPAL CORPORATIONS §89 (3d ed.); *see State ex rel. Birk v. City of Jackson*, 907 S.W.2d 181 (Mo. Ct. App. 1995) (City had express statutory authority to see to the disposal of municipal waste and implied power to purchase land outside of its municipal boundaries for the purpose of operating a municipal landfill). Thus, local adoption of land use controls other than those provided for in enabling statutes must await express authorization. In Missouri, such enabling authority is provided to counties at Chapter 64 of the Revised Statutes of Missouri and to cities, towns, and villages at sections 89.010 through 89.191 of the Revised Statutes of Missouri. In particular instances, extra-territorial zoning is authorized. *See* Mo. Rev. Stat. §89.144 (third class cities over 25,000 population) and §89.145 (certain home rule charter cities).

2. Conformance with Enabling Statutes. Adoption and enforcement of local zoning regulations must conform to the strictures of state enabling legislation. *State ex rel. Klawuhn v. Bd. of Adjustment of the City of St. Joseph,* 952 S.W.2d 725 (Mo. Ct. App. 1997); *McCarty v. City of Kansas City*, 671 S.W.2d 790 (Mo. Ct. App. 1984). This requirement applies to home rule as well as non-home rule communities. *City of Springfield v. Goff,* 918 S.W.2d 786 (Mo. 1996) (en banc). Attempts to expand authority beyond that specified risk invalidation. *See e.g. Allen v. Coffel,* 488 S.W.2d 671 (Mo. Ct. App. 1972). Failure to comply with specific requirements of zoning enabling statutes is fatal. *Springfield v. Goff,* 918 S.W.2d 786*; State ex rel. Casey's General Stores, Inc. v. City of Louisiana,* 734 S.W.2d 890 (Mo. Ct. App. 1987). *See also State ex rel. Stewart* v. *King,* 562 S.W.2d 704 (Mo. Ct. App. 1978) (vote required for zoning amendment does not include abstention).

B. OTHER LIMITATIONS ON ZONING AUTHORITY.

1. Constitutional Limitations.

a. Takings. Widespread confusion regarding aspects of "takings" law under the Fifth Amendment to the U.S. Constitution was resolved in *Chevron U.S.A. v. Lingle*,

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544 U.S. 528 (2005). In *Lingle*, the Supreme Court rejected long standing use of the "substantially advance a legitimate state interest" standard of *Agins v. City of Tiburon*, 447 U.S. 255 (1980), in federal constitutional takings analyses. Instead, the *Lingle* Court held that all federal takings were one of four types: (1) physical invasions, (2) total regulatory takings, (3) partial regulatory takings, and (4) exactions, with the following results:

> **(1) Physical Invasions.** Under the Fifth Amendment, permanent physical invasions of private property are takings that require just compensation. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982) (statute requiring landowners to allow cable facilities on private property was physical taking).
>
> **(2) Total Regulatory Takings.** Imposition of land use regulations that prohibit all development constitute *per se* takings of private property for public use and require payment of just compensation. *Lucas v. South Carolina Coastal Council,* 505 U.S. 1003 (1992); *see Palazzolo v. Rhode Island*, 533 U.S. 606 (2001) (rejecting *per se* taking claim when landowner was able to build a single residence on an 18-acre parcel; land retained significant development value and was not "economically idle"); *but cf., City of Monterey v. Del Monte Dunes*, 526 U.S. 687 (1999) (affirming Ninth Circuit's finding that there was substantial evidence to support a jury verdict that city's regulation deprived landowner of all economically viable uses, even when landowner was able to sell property for $800,000 profit.)
>
> **(3) Partial Regulatory Takings.** Partial regulatory takings require case-specific application of balancing factors. Such situations involve governmental regulation of land that deprives a landowner of some, but not all, of the available uses of property. For example, in *Penn Central Transp. Co. v. New York City*, 438 U.S. 104 (1978), the city's landmark law would not allow a developer to alter a historical train terminal. The court utilized a series of factors to determine whether the city's regulation was a taking that required just compensation and was thereafter dubbed, the *Penn Central* test. The factors are "(1) the economic impact of the regulation; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the government action." Notably, a total denial of use for a limited period of time is not a taking of all economic value subject to a "*per se*" taking, but may require compensation under *Penn Central* (see Temporary Takings below). *See Reagan v. St. Louis County*, 211 S.W.3d 104 (Mo. Ct. App. 2006) (analysis and rejection of takings claim when down zoning by County caused 30% diminution in value).
>
> **(4) Exactions, Dedication Requirements, and Impact Fees.** Development exactions or conditions which lack an "essential nexus" to a stated permissible governmental objective may also result in compensable takings. *Nollan v. California Coastal Comm'n,* 483 U.S. 825 (1987). Even assuming that an essential nexus exists between a legitimate governmental interest and a permit condition, a "rough proportionality" between the condition imposed and the impact of the development must be shown. Absent such a showing, the condition constitutes a compensable taking under the Fifth Amendment. *Dolan v. City of*

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Tigard, 512 U.S. 374 (1994). Prior cases from several jurisdictions suggest that *Dolan* "rough proportionality" may be circumvented where the exaction is a condition of a development agreement between the local government and the applicant. *See Leroy Land Development v. Tahoe Regional Planning Agency,* 939 F.2d 696 (9th Cir. 1991) (determining that a contractual promise to restrict land use cannot result in a 'taking' where the promise is voluntary and is supported by consideration). No definitive judicial determination of this question has arisen since *Dolan,* however. *But see Bd. of Supervisors v. United States,* 48 F.3d 520 (Fed. Cir. 1995) (distinguishing voluntary developer conditions in conveyance of property to county from *Dolan* "rough proportionality" *but noting that county imposed no dedication requirement and that the conditions did not constitute a property interest).*

b. **Temporary Takings; Moratoria**. The Supreme Court first recognized temporary land use regulatory takings in *First English Evangelical Lutheran Church v. Los Angeles County*, 482 U.S. 304 (1987). The Court expressly precluded expansion of the recognized temporary taking action beyond the facts in *First English* which did not deal with the "quite different question that would arise in the case of normal delays in obtaining building permits, changes in zoning ordinances, variances, and the like which are not before us." The Court revisited temporary takings in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302 (2002) in which it considered the facial constitutionality of a 32-month moratorium on development pending completion of a land use plan. The court rejected a per se rule that delays of more than one year require compensation. "Normal delays" even of more than a year are not unlawful unless they fail the balancing test set forth in *Penn Central*.

c. **Takings Under State Law.**

(1) **Regulatory Takings**. Missouri courts consider the same factors the as the Supreme Court in making a determination of whether a taking has occurred under the Missouri Constitution. *Schnuck Markets, Inc. v. City of Bridgeton*, 895 S.W.2d 163, (Mo. Ct. App. 1995) (*citing Penn Central*, 438 U.S. at 124). Missouri has also adopted the Supreme Court's standard that a compensable taking occurs when the regulation does not "substantially advance a legitimate state interest." *Harris v. Dept. of Conservation*, 755 S.W.2d 726 (Mo. Ct. App. 1988) (*citing Nollan, supra*). However, as stated above, the Supreme Court, in the *Lingle* case, has rejected use of the "substantially advance a legitimate state interest" standard. How Missouri courts will respond to this change in federal takings jurisprudence remains to be seen. Nevertheless, in Missouri, these standards have been applied in cases where a partial regulatory taking was permanent, *see, e.g., Longview of St. Joseph v. St. Joseph*, 918 S.W.2d 364 (Mo. Ct. App. 1996) and in cases in which the permanency of the partial regulatory taking was not addressed, *see, e.g., Harris*, 755 S.W.2d at 731. Missouri has also long recognized a cause of action for a temporary taking. *See City of Cape Girardeau v. Hunze*, 284 S.W. 471 (Mo. 1926); *Byrom v. Little Blue Valley Sewer Dist.*, 16 S.W.3d 573 (Mo. 2000). However, Missouri has not squarely addressed whether a cause of action for a temporary partial regulatory taking exists and if so, what standards apply. *Clay County v. Harley & Susie Bogue, Inc.,* 988

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S.W.2d 102 (Mo. Ct. App. 1999). Recent Missouri case law has stated that to have standing to sue for inverse condemnation, one must own the property at the time the alleged property damage occurs. *State ex rel. City of Blue Springs v. Nixon*, 250 S.W.3d 365 (Mo. 2008) (en banc). However this should compared to the U.S. Supreme Court's opinion in *Palazollo*, supra, that acquisition of property subsequent to the enactment of a regulation that is alleged to effect a taking does not automatically bar a takings claim by the subsequent property owners, even though they may have been on notice of the regulation when they purchased the property. 533 U.S. at 626-30. Note, at least one Missouri case has allowed a cause of action for pre-condemnation damages in the form of inverse condemnation where property had been declared to be blighted, but there was a several year delay in condemning the property. *Clay County Realty Co. v. City of Gladstone*, 254 S.W.3d 859 (Mo. 2008) (en banc).

(2) Exactions, Dedication Requirements, and Impact Fees. Missouri recognizes the conditioning of zoning approvals on dedications of property or payment of levies by the applicant. Such exactions must be reasonably attributable, however, to the impact of the proposed development. *Home Builders Ass'n of Greater Kansas City v. City of Kansas City,* 555 S.W.2d 832 (Mo. 1977) (en banc); *State ex rel. Noland v. St. Louis County,* 478 S.W.2d 363 (Mo. 1972). Further, exactions must be imposed on all similarly situated applicants. *State ex rel. Rhodes v. City of Springfield,* 672 S.W.2d 349 (Mo. Ct. App. 1984).

d. Free Speech; Free Expression. Political speech continues to enjoy the highest level of constitutional protection. As applied to zoning, communities may not ban political signage on private property in a residential district on the basis of aesthetics or safety. *City of Ladue v. Gilleo*, 512 U.S. 43 (1994). Although cities may regulate the size, number and duration of temporary election signs on private property and may require removal following conclusion of the election, prohibition on such signs thirty days prior to the election and required removal within seven days of the election fails constitutional scrutiny. Further, to the extent a municipality permits illumination of commercial signage, the municipality must permit illumination of permanent political signage. *Whitton v. City of Gladstone*, 832 F.Supp. 1329 (W.D. Mo. 1993), *aff'd* 54 F.3d 1400 (8th Cir. 1995). Certain types of speech or expression enjoy a lesser degree of protection. For example, municipalities have a right to regulate the time, place and manner of offerings of adult entertainment. *See e.g., U.S. Partners Financial Corp v. Kansas City*, 707 F. Supp. 1090 (W.D. Mo. 1989). *See also, Thames Enterprises v. City of St. Louis*, 851 F.2d 199 (8th Cir. 1988) (upholding restriction of adult entertainment and massage parlors to minimum 500 feet from residential district); *see also, Blue Moon Entertainment, LLC v. City of Bates City,* 441 F.3d 561 (8th Cir. 2006) (conditional use permit constituted prior restraint).

e. Free Exercise. In Missouri, enabling authority for zoning controls does not extend to the regulation of churches and houses of worship. *Congregation Temple Israel v. City of Creve Coeur*, 320 S.W.2d 451 (Mo. 1959); *St. John's Evangelical Lutheran Church v. City of Ellisville*, 122 S.W.3d 635 (Mo. Ct. App. 2003) (municipalities may use their regulatory powers over churches solely for the purposes of promoting health, safety, morals, or the general welfare of the community). This

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limitation on the application of land use regulations to church activities apparently extends to accessory uses operated by churches. *See City of Richmond Heights v. Richmond Heights Presbyterian Church*, 764 S.W.2d 647 (Mo. 1989) (en banc). *But see, Ass'n for Educational Development v. Hayward*, 533 S.W.2d 579 (Mo. 1973) (city not required to issue occupancy permit for rectory for lay members of religious society); *Chaminade College Preparatory, Inc. v. City of Creve Coeur*, 956 S.W.2d 440 (Mo. Ct. App. 1997) (upholding denial of permit to religiously-affiliated school as supported by competent testimony).

f. Search and Seizure. The Fourth Amendment to the U.S. Constitution generally prohibits the search or seizure of private property unless a warrant has been issued. In the context of building, zoning and land use code enforcement, the U.S. Supreme Court has determined that if an occupant–not necessarily the owner–of property does not consent to inspection, a warrant must be obtained. Further, a non-consenting occupant may not be prosecuted for the failure to consent. *Camara v. Municipal Court of the City & County of San Francisco*, 387 U.S. 523 (1967). Exceptions to these principles exist where the premises or violation is observable from a place where a member of the public may remain or where emergency situations are presented. Notwithstanding expansive language contained in some national standard codes, such codes can not authorize an unconstitutional search.

2. Decisional and Other Limitations.

a. "Contract" Zoning. Communities may grant zoning amendments in exchange for concessions from applicants provided that the concessions are reasonably related to the requested rezoning. If no such reasonable relationship exists, contract rezoning is an unconstitutional contracting away of the police power. *State ex rel. Missouri Highway and Transportation Comm'n v. Sturmfels Farm Limited Partnership,* 795 S.W.2d 581 (Mo. Ct. App. 1990).

b. "Spot" Zoning. Zoning decisions reached for reasons other than public welfare constitute illegal spot zoning. *See Treme v. St. Louis County,* 609 S.W.2d 706 (Mo. Ct. App. 1980). For example, zoning classifications limited to a single parcel raise immediate concerns. *See Strandberg v. Kansas City,* 415 S.W.2d 737 (term "spot zoning" connotes a zoning amendment classifying land for a use out of harmony with surrounding areas and without regard to public welfare). Where such a decision is reached for reasons other than the general welfare, the decision is invalid. *See e.g., Numer v. Kansas City,* 365 S.W.2d 753 (Mo. 1963).

c. Vested Rights; Nonconforming Uses. Although a grant of permit confers no substantive rights, lawful use of property under such a permit vests rights to the extent of the use. *See Ford Leasing Development Co. v. City of Ellisville*, 718 S.W.2d 228 (Mo. Ct. App. 1986). The right vests as a result of use. Accordingly, substantial expenditures without actual prior use of the property do not give rise to a vested right. *McDowell v. Lafayette County Comm'n,* 802 S.W.2d 162 (Mo. Ct. App. 1990) (without actual prior use, expenditure of approximately $200,000 for acquisition, planning and engineering and obtaining of permit did not establish vested right immune from changes in zoning regulation). A use of land prior to the enactment of a zoning regulation which

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is maintained after the effective date of the regulation is termed a "legal nonconforming use" and is similarly a vested right. *Schwartz v. Bd. of Adjustment of City of St. Louis,* 906 S.W.2d 413 (Mo. Ct. App. 1995). In Missouri, all zoning ordinances must provide for the exemption of legal nonconforming uses. *Mullen v. Kansas City*, 557 S.W.2d 652 (Mo. Ct. App. 1977). Again, legality of the use is vested by use and not by ownership or tenancy. *State ex rel. Kugler v. City of Maryland Heights,* 817 S.W.2d 931 (Mo. Ct. App. 1991). Thus a legal nonconforming use can be said to "run with the land." *Browning Ferris v. City of Maryland Heights,* 747 F. Supp. 1340 (E.D. Mo. 1990). Expansion or change in the use may, however, destroy the right to continued use. *Acton v. Jackson County,* 854 S.W.2d 447 (Mo. Ct. App. 1993). *But see, State ex rel. Dierberg v. Bd. of Zoning Adjustment of St. Charles County,* 869 S.W.2d 865 (Mo. Ct. App. 1994) (determining that enlargement of nonconforming hunt club did not destroy vested right absent express contrary provision in ordinance; use was enlarged but not changed). While no right to a continued zoning classification exists, zoning changes designed to prohibit or restrict a single applicant or land use are arbitrary and invalid. *May Dept. Stores Co. v St. Louis County,* 607 S.W.2d 857 (Mo. Ct. App. 1980).

d. **Amortization**. While "amortizing" or requiring the cessation of a use over a designated time period is generally prohibited as a violation of a vested right in Missouri, some exceptions have been upheld, such as in limited sign regulation circumstances. *University City v. Diveley Auto Body Co*., 417 S.W.2d 107 (Mo. 1967) (en banc).

e. **Statutory Scope**. The scope of zoning authority under Chapter 89 has also been limited or modified based on the entity being regulated, including the following:

(1) **Schools** (Zoning not applicable or is limited).

Normandy School Dist. v. City of Pasadena Hills, 70 S.W.3d 488 (Mo. Ct. App. 2002).

Board of Education of the School District of Springfield, R-12 v. City of Springfield, 174 S.W.3d 653 (Mo. Ct. App. 2005) (school district subject to Mo. Rev. Stat. §89.380 planning requirements of City, but County was not).

(2) **Religious entities** (Zoning not applicable or limited).

St. John's Evangelical Lutheran Church v. City of Ellisville, 122 S.W.3d 635 (Mo. Ct. App. 2004).

Village Lutheran Church v. City of Ladue, 997 S.W.2d 506 (Mo. Ct. App. 1999) (Village II).

Congregation Temple Israel v. City of Creve Coeur, 320 S.W.2d 451 (Mo. 1959).

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See The Religious Land Use and Institutionalized Persons Act of 2000, Pub. L. No. 106—274, 114 Stat. 803 (codified at 42 U.S.C. §2000cc) (Supp. 2000) (RLUIPA).

(3) **<u>Other governmental entities</u>** ("Power of Eminent Domain" test or "Balancing of Interests" test).

City of Bridgeton v. City of St. Louis, 18 S.W.3d 107 (Mo. Ct. App. 2000) (When determining whether City could impose zoning regulations on another City's airport, factors included: "the nature and scope of the instrumentality seeking immunity, the kind of function or land use involved, the extent of the public interest to be served thereby, the effect local land use regulation would have upon the enterprise concerned, and the impact upon legitimate local interest.").

City of Washington v. Warren County, 899 S.W.2d 863 (Mo. 1995) ("Under the 'power of eminent domain' test, if a power has its source in the constitution, although delegated by statute, then it prevails over and cannot be limited by another government entity's power, such as zoning, that is delegated solely by statute and without any specific constitutional authority. Only where the zoning authority is likewise authorized by the constitution or authorized by a statute that implements clear constitutional authority will this court apply a 'balancing of interests' test.").

(4) **<u>Public utilities</u>** (Public utilities are not necessarily exempt from zoning regulations).

Compare StopAquila.org v. Aquila, Inc., 180 S.W.3d 24 (Mo. Ct. App. 2005) (utility was subject to County zoning authority, rejecting interpretation of *Crestwood II* as exempting utilities from zoning regulations) *with Union Electric Co. v. City of Crestwood (Crestwood II)*, 562 S.W.2d 344 (Mo. 1978) (zoning did not provide authority for city to require under-grounding of intrastate transmission lines).

f. <u>Telecommunications Act of 1996</u>. The federal Telecommunications Act of 1996 (the "TCA") provides limitations on the ability of local government to regulate placement, construction, and modification of "personal wireless service facilities," i.e.: cell towers. 47 U.S.C. § 332(c)(7). The TCA provides that decisions on the placement, construction, and modification of personal wireless service facilities must be in writing, based on substantial evidence, and done within a reasonable period time. The TCA also provides that local government regulation of personal wireless service facilities cannot "unreasonably discriminate among providers of functionally equivalent services, … prohibit or have the effect of prohibiting the provision of personal wireless services," or regulate "on the basis of the environmental effects of radio frequency emissions." The TCA provides for expedited review in federal district court for alleged violations. It is highly recommended that local government officials consult counsel to assist in reviewing applications to place cell towers within their boundaries, as the provisions of the TCA are highly technical and many courts have held the appropriate remedy for violations is an injunction to allow the a wireless provider to construct its tower in the

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manner it applied for. *See, Sprint Spectrum v. County of St. Charles*, No. 4:04CV1144 RWS, Memorandum and Order, 2005 WL 1661496 (E.D.Mo. July 6, 2005).

III. LAND USE CONTROLS AND THE REVIEW PROCESS.

A. PLANNING AND ZONING PROCEDURAL REQUIREMENTS.

1. Adoption of a "Comprehensive Plan"/"City Plan"/Zoning Plan." Mo. Rev. Stat. §89.360 - Adoption of plan, procedure.

a. Adoption by the Planning Commission (not the legislative body). Plan may be adopted in whole or in parts, but "before adoption, amendment."

b. Must hold public hearing with fifteen days' newspaper notice.

c. Resolution of adoption must be approved by majority vote of full membership of Commission.

d. Action taken must be recorded on the adopted plan.

e. Copy of plan shall be certified to the council and the municipal clerk, and **a copy must be filed with the office of the county recorder of deeds** and be available at the municipal clerk's office.

2. Zoning Regulations – Mo. Rev. Stat. §§89.050-060.

a. Public hearing before the "legislative body" – *see Murrell v. Wolff*, 408 S.W.2d 842 (Mo. 1966); *but see, Moore v. City of Parkville*, 156 S.W.3d 384 (Mo. App. 2005) (hearing before Planning and Zoning Commission satisfied hearing requirements).

b. Fifteen days' newspaper notice. *See Williams v. Dept. of Building Development Services*, 192 S.W.3d 545 (Mo. App. 2006) (land owners are not entitled to *actual* notice of zoning changes).

c. Majority vote of "legislative body" required unless protested by 30% of land within 185 feet, then 2/3 of "all the members" required.

3. Subdivision Regulations - Mo. Rev. Stat. §89.410.7. Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing thereon shall be held by the council. No hearing is required by state law for subdivision plat approval, but:

a. **§445.030** - Requires council ordinance and payment of taxes prior to recording.

b. **§89.400 -** Planning Commission review and recommendation required for all plats when major street plan has been adopted.

4. Streets/Public Improvements – Process if major street plan exists. Mo. Rev. Stat. §§89.380, 89.460. If City Plan includes a major street plan and subdivision regulations, the municipality:

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a. cannot construct, authorize or accept new streets or utilities within streets except for preexisting public streets or streets that correspond to the Plan; and

b. all other streets must **first be submitted to the Commission for its approval and approved by the Commission** (otherwise, 2/3 vote of council required).

See Board of Education of the School District of Springfield, R-12 v. City of Springfield, 174 S.W.3d 653 (Mo. Ct. App. 2005) (school district subject to this provision, but county was not).

5. All Other City Plan Elements – Mo. Rev. Stat. §89.380. Planning commission to approve streets, "other public facilities," "public utility, whether publicly or privately owned" to the extent such is covered in the Plan.

B. APPLICABLE REVIEW STANDARDS; RULES OF PROCEDURE AND SUBSTANTIVE LAW.

1. Legislative vs. Administrative Actions and Judicial Review. As an initial matter, the applicant must identify the objective and the applicable review procedure, whether legislative, administrative or quasi-judicial. In cases where multiple reviews are sought, the applicant should consult early with city Staff to determine the most expeditious approval sequence and should be sensitive to initial procedures which are prerequisites to subsequent reviews. Before making formal application, the applicant and the development team should determine and familiarize themselves with the applicable substantive law. Additionally, the applicant should critically evaluate the proposal to identify major issues, strengths and weaknesses of the application, likely reactions of staff and political leaders, past actions on similar proposals, and the political orientation of both the reviewing agency and the community as a whole. In Missouri, in judicial review of legislative acts, courts will uphold decisions that are reasonable or where the issue is "fairly debatable." *J.R. Green v. City of Bridgeton,* 825 S.W.2d 684 (Mo. Ct. App. 1992).

2. Administrative Review. Zoning decisions may be legislative or administrative in nature. For example, adoption of a zoning code is a legislative act entitled to presumptive validity. *See e.g., State ex rel. Helujon Ltd. v. Jefferson County,* 964 S.W.2d 531 (Mo. Ct. App. 1998); *Wells & Highway 21 Corp. v. Yates*, 897 S.W.2d 56 (Mo. Ct. App. 1995). *Implementation* of the zoning ordinance such as the issuance of a special use permit, however, constitutes an administrative act. *Campbell v. City of Columbia,* 824 S.W.2d 47 (Mo. Ct. App. 1991). Standards governing such administrative decisions must be sufficiently clear and definite. *Erigan Co., Inc. v. Grantwood Village*, 632 S.W.2d 495 (Mo. Ct. App. 1982). Failure to specify standards for administrative review is fatal. *Porporis v. City of Warson Woods,* 352 S.W.2d 605 (Mo. 1962). Administrative acts that deprive an applicant of protected property interests and rise to the level of being "truly irrational" may warrant damages under 42 U.S.C. §1983. *Furlong Cos. v. City of Kansas City*, 189 S.W.3d 157 (Mo. 2006) (City Council ignored advice of staff and city attorney, gave applicant no reasons for denial or opportunity to correct, and subjected applicant to numerous, uncommon delays).

3. "De novo" vs. Record Hearings. In Missouri, the hearing may be formal or informal, a record or a non-record hearing depending on the type of approval sought and local regulations and procedures.

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4. **Notice; Due Process Considerations.** Various application procedures require advance submittals to gain access to a review agency agenda. An applicant should also become familiar with requirements for support documentation and similar information and exhibits to assure that the application will be deemed complete and be accepted for timely review. In some cases, the applicant retains responsibility for notice to surrounding owners and residents. For example, where a decision requires a public hearing, an applicant should at minimum inquire as to notice and timing requirements and responsibilities.

5. **Evidentiary Matters.** Well in advance of the hearing, an applicant should obtain any applicable written rules of procedure. An applicant may also consult with staff and other prior applicants to obtain familiarity with local procedures. To facilitate the hearing, an applicant may wish to identify exhibits in advance of the presentation. Because strict rules of evidence do not typically apply to local land use hearings, authentication of documents is not required and hearsay (if not objected to) may be permissible. *See State ex rel. Henze v. Wetzel,* 754 S.W.2d 888 (Mo. Ct. App. 1988) (boards of adjustment are not bound by rules of technical pleading). Counsel for an applicant should ensure, however, that the record demonstrates that exhibits are introduced and admitted by the presiding officer. Where the record will be summarized by the reviewing agency, an applicant may consider obtaining the services of a stenographic reporter. *See Drury Displays, Inc. v. Board of Adjustment of City of St. Louis,* 832 S.W.2d 330 (Mo. Ct. App. 1992) (appellants failure to provide transcript of board of adjustment proceeding presented inadequate record for appellate review).

6. **Lobbying; *Ex Parte* Contacts.** Prior to or during the pendency of an application, applicants may wish to make formal or informal contacts with officials and staff involved in the review. An applicant's counsel should be particularly aware, however, of strictures on *ex parte* communications with officials directly involved in the review and decision making. Limitations typically apply to proceedings before quasi-judicial bodies such as boards of adjustment.

7. **Forms of Decisions.** An applicant should be familiar with timing, notification, and other procedural requirements for the decision. Similarly, an applicant should know whether formal, written findings and conclusions must accompany the decision. *See generally, State ex rel. Steak n Shake, Inc. v. City of Richmond Heights,* 560 S.W.2d 373 (Mo. Ct. App. 1977) (where hearing was required, duty to cause a record to be made fell on the parties desiring that their interests be reviewed); *Complete Auto Body & Repair, Inc. v. St. Louis County*, 232 S.W.3d 722 (Mo. Ct. App. 2007) (Under Mo. Rev. Stat. §536.090, in any contested case (cases in which a hearing is required) decided on the merits, the administrative body is required to accompany its decision with findings of fact and conclusions of law). Any review of the findings supporting an administrative decision should consider whether findings are fairly and adequately stated; whether findings are based on evidence in the record; whether findings are consistent with applicable law; and whether the findings comport with the applicable administrative standards.

8. **After the Decision (Rehearing or Reconsideration-Limitations on Timing; Repetitive Petitions).** In the event of an unfavorable result, applicant may consider a request for reconsideration prior to resorting to litigation. Although administrative bodies are reluctant to grant reconsideration, availability may depend on common law and on the procedural rules governing the agency. *See e.g.,* MCQUILLIN ON MUNICIPAL CORPORATIONS §25.274 at 412, n.10 (*citing Rosedale-Skinker Imp. Ass'n v. Bd. of Adjustment,* 425 S.W.2d 929 (Mo. 1968) (en banc)

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(rehearing before a board of adjustment may be available where there is a material change in the condition of the property or in the plans of the applicant). *But see, State ex rel. Laidlaw v. Kansas City,* 858 S.W.2d 753 (Mo. Ct. App. 1993) (limiting the *Rosedale-Skinker* decision to zoning variance appeals and further determining in the case of a conditional use permit that zoning boards enjoy no inherent power to rehear cases). Even where local procedures bar repetitive petitions, a new hearing may be obtained where substantial changes are made. Absent some change in underlying facts, however, a favorable decision which obtains a rehearing may in turn be challenged as arbitrary.

9. Exhaustion. Some decisions must be challenged first in an administrative proceeding before relief can be sought from the courts. Mo. Rev. Stat. §89.110 (judicial review of decisions of Board of Adjustment); *N.G. Heimos Greenhouse, Inc., v. City of Sunset Hills*, 597 S.W.2d 261 (Mo. Ct. App. 1980) (failure to exhaust administrative remedies set forth in Chapter 89 and the City Code was jurisdictional defect requiring dismissal.) Even where statute does not provide for administrative review of a city's decision, exhaustion may still be required if a system for administrative review is provided for by the municipality. *State ex rel. Maynes Construction Co. v. City of Wildwood*, 965 S.W.2d 949 (Mo. Ct. App. 1998) (developer was required to take advantage of Administrative Review Procedure in the City code before seeking judicial relief on challenge of conditions placed on site development plan by City's P&Z Commission.)

C. TOOLS AND TECHNIQUES. Prior to seeking zoning approvals, the applicants/practitioners should familiarize themselves with the proposed development or improvement and its location and surrounding uses as well as all applicable zoning regulations. Typically, local governments update and amend zoning regulations on a piecemeal basis. Thus, the practitioner should assure that the regulations under review represent the most current iteration. Thorough review of the substance of the regulations is critical. Additionally, development of a procedural time line may assist in determining the scope of review and the approach and in estimating the likely duration of the review process.

1. Permitted Uses; Compliance with Use, Bulk, Density and Other Special Requirements. Within each zoning district, applicants may engage in any of the listed permitted uses as of right, subject only to compliance with applicable bulk, height, density and similar requirements. *See e.g., Wolfner v. Bd. of Adjustment of City of Frontenac,* 672 S.W.2d 147 (Mo. Ct. App. 1984). Issuance of permits or approval for permitted uses may be compelled by action in mandamus. *Furlong Cos. v. City of Kansas City*, 189 S.W.3d 157 (Mo. 2006). Structures and uses customarily incidental and subordinate to expressly permitted principal uses may be similarly allowed. Whether a particular "accessory use" is permissible, however, often turns on the definition of that term contained in the ordinance. *St. Louis County v. Taggert,* 866 S.W.2d 181 (Mo. Ct. App. 1993). Where district regulations list permitted uses without identifying prohibited uses, uses not expressly permitted may be deemed prohibited. *Frison v. City of Pagedale,* 897 S.W.2d 129 (Mo. Ct. App. 1995); *State ex rel. Barnett v. Sappington,* 266 S.W.2d 774 (Mo. Ct. App. 1954).

2. Special Use/Conditional Use Permits. A special or conditional use is one permitted in a zoning district following a specific review and approval and subject to certain conditions which may be imposed. *See e.g., Deffenbaugh Industries v. Potts,* 802 S.W.2d 520 (Mo. Ct. App. 1990). Allowable special uses are identified within the regulations of the zoning

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district to which they apply. Special use permits are personal to the holder and not transferable unless the granting ordinance so expressly provides. *Citizens for Safe Waste Mgt. v. St. Louis County,* 810 S.W.2d 635 (Mo. Ct. App. 1991). As noted earlier, in reviewing applications for a special use permit, the reviewing body acts in an administrative capacity. *Ford Leasing Development Co. v. City of Ellisville,* 718 S.W.2d 228 (Mo. Ct. App. 1986). Accordingly, limitations on administrative discretion apply. Appeals of a denial of special use permits are, however, to Circuit Court under the certiorari provisions of the Zoning Enabling Act rather than by petition for review under the Administrative Procedures Act. *Platt Woods United Methodist Church v. City of Platt Woods,* 935 S.W.2d 735 (Mo. Ct. App. 1996).

3. **Site Plan Review/Planned Districts.** Site plan review reflects another administrative approval which allows imposition of conditions on a site-by-site basis. In contrast, planned districts provide for imposition of similar development-specific conditions within the context of a rezoning decision. In both cases, the conditions imposed must reasonably relate to the impact of the development on the surrounding area. *See e.g., Treme v. St. Louis County,* 609 S.W.2d 706 (Mo. Ct. App. 1980).

4. **Rezoning.** As noted above, rezoning decisions are legislative in nature. *Hoffman v. City of Town and Country,* 831 S.W.2d 223 (Mo. Ct. App. 1992). Accordingly, presumptions favoring the determination attach. Reviewing courts will defer to any decision which is reasonable or where the issue is "fairly debatable." *J.R. Green v. City of Bridgeton,* 825 S.W.2d 684 (Mo. Ct. App. 1992). Rezoning requires a noticed public hearing prior to enactment and may additionally require a recommendation of the planning commission. Mo. Rev. Stat. §89.050. *See also, Murrell v. Wolff,* 408 S.W.2d 842 (Mo. 1966). In the event the planning commission recommends against the rezoning proposal, local regulations may require approval by a "super-majority" of the governing body. In the event of a written protest by record owners of 30% of the land included in the proposal or within an area 185 feet distant and parallel to the area of the proposed rezoning, approval requires a favorable vote of at least two-thirds of the governing body. Mo. Rev. Stat. §89.060.

5. **Variances.** Variances describe a form of quasi-judicial relief which may be granted by a board of adjustment from strict application to a particular property of zoning regulations where "practical difficulty" or "unnecessary hardship" would otherwise result. *See* Mo. Rev. Stat. §89.090(3) (proving that a board of adjustment shall have power "in passing upon appeals, where there are *practical difficulties* or *unnecessary hardship* in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.") (emphasis added).

The difficulty or hardship must be different from that suffered throughout the zone or location. *Ogawa v. City of Des Peres,* 745 S.W.2d 238 (Mo. Ct. App. 1987). A public hearing must precede the decision. Although economic hardship may be considered, the standards for grant of variance generally refer to some unique physical attribute of the property. *See Behrens v. Ebenrech*, 784 S.W.2d 827 (Mo. Ct. App. 1990); *Conner v. Herd,* 452 S.W.2d 272 (Mo. Ct. App. 1970) (noting that even economic hardships must reflect the nature of the property, not the situation of the owner or applicant). Further, a variance should not issue where the applicant caused the difficulty or hardship or where the difficulty predates applicant's purchase of the

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property. *J.R. Green v. City of Bridgeton,* 825 S.W.2d at 686 (noting that "one who purchases realty with the intention of applying for a variance generally cannot contend that restrictions caused him such peculiar hardship that he is entitled to special privileges."). Missouri recognizes both "use" variances and "non-use" or area variances. *Matthew v. Smith,* 707 S.W.2d 411 (Mo. 1986) (en banc). A "use" variance permits uses other than those permitted by the zoning ordinance while a "non-use" variance permits deviations from restrictions that relate to a permitted use, such as height and size of buildings, lot size, and yard requirements. *Housing Auth. of City of St. Charles v. Bd. of Adjustment of the City of St. Charles,* 941 S.W.2d 725 (Mo. Ct. App. 1997). A greater showing of hardship is required for a use variance. *Matthew v. Smith,* 707 S.W.2d at 416 (noting that a non-use variance requires a "slightly less rigorous" standard). Indeed, in the context of a use variance, courts have interpreted the standard to require "circumstances where the refusal to grant the variance would amount to denial of any permitted use under the ordinances." *McMorrow v. Bd. of Adjustment of the City of Town and Country,* 765 S.W.2d 700 (Mo. Ct. App. 1989). Unlike some special use permits, all variances run with the land. *Ford Leasing Development Co. v. City of Ellisville,* 718 S.W.2d 228 (Mo. Ct. App. 1986).

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Selected Missouri Planning and Zoning Statutes

Powers of municipal legislative body.

§89.020.1. For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of all cities, towns, and villages is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the preservation of features of historical significance, and the location and use of buildings, structures and land for trade, industry, residence or other purposes

Zoning districts.

§89.030. For any or all of said purposes ***the local legislative body may divide the municipality into districts of such number, shape, and area*** as may be deemed best suited to carry out the purposes of sections 89.010 to 89.140; ***and within such districts may regulate and restrict the erection, construction, reconstruction, alteration 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***.

Purpose of regulations.

§89.040. ***Such regulations shall be made in accordance with a comprehensive plan*** and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to preserve features of historical significance; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout such municipality.

Powers and limitations of legislative body in city--hearings, notice.

§89.050. ***The legislative body of such municipality shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed***. However, ***no such regulation, restriction, or boundary shall become effective until after a public hearing*** in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. ***At least fifteen days' notice*** of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such municipality.

Change in regulations, restrictions and boundaries--procedure.

§89.060. Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change duly signed and acknowledged by the owners of thirty percent or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and one hundred and eighty-five feet distant from the boundaries of the district proposed to be changed, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the legislative body of such municipality. The provisions of section 89.050 relative to public hearing and official notice shall apply equally to all changes or amendments.

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Zoning commission--appointment--duties.

§89.070. In order to avail itself of the powers conferred by sections 89.010 to 89.140, ***such legislative body shall appoint a commission, to be known as "The Zoning Commission," to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein***. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report and such legislative body shall not hold its public hearings or take action until it has received the final report of such commission. ***Where a city plan commission already exists, it may be appointed as the zoning commission***.

Board of adjustment--appointment--term--vacancies--organization.

§89.080. Such local legislative body shall provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections 89.010 to 89.140 may provide that the board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The board of adjustment shall consist of five members, who shall be residents of the municipality except as provided in section 305.410, RSMo. The membership of the first board appointed shall serve respectively, one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter members shall be appointed for terms of five years each. Three alternate members may be appointed to serve in the absence of or the disqualification of the regular members. All members and alternates shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The board shall elect its own chairman who shall serve for one year. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 89.010 to 89.140. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. All testimony, objections thereto and rulings thereon, shall be taken down by a reporter employed by the board for that purpose.

Board of adjustment--powers.

§89.090.1. The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 89.010 to 89.140 or of any ordinance adopted pursuant to such sections;

(2) To hear and decide all matters referred to it or upon which it is required to pass under such ordinance;

(3) In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done, provided that, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, the board of adjustment shall not have the power to vary or modify any ordinance relating to the use of land.

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2. In exercising the above-mentioned powers such board may, in conformity with the provisions of sections 89.010 to 89.140, 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 ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance except as provided in section 305.410, RSMo.

Board of adjustment--appeals, procedure.

§89.100. Appeals to the board of adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in section 32.105, RSMo, representing such person, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Board of adjustment--decisions subject to review--procedure.

§89.110. Any person or persons jointly or severally aggrieved by any decision of the board of adjustment, any neighborhood organization as defined in section 32.105, RSMo, representing such person or persons or any officer, department, board or bureau of the municipality, may present to the circuit court of the county or city in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. Upon the presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with

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malice in making the decision appealed from. All issues in any proceedings under sections 89.080 to 89.110 shall have preference over all other civil actions and proceedings.

Municipality may adopt city plan and appoint commission.

§89.310. ***Any municipality in this state may make, adopt, amend, and carry out a city plan and appoint a planning commission*** with the powers and duties herein set forth.

Planning commission--membership--terms--vacancy--removal.

§89.320. The planning commission of any municipality shall consist of not more than fifteen nor less than seven members, including:

(1) The mayor, if the mayor chooses to be a member;

(2) A member of the Board selected by the Board, if the Board chooses to have a member serve on the commission; and

(3) Not more than fifteen nor less than five citizens appointed by the mayor and approved by the Board. All citizen members of the commission shall serve without compensation. The term of each of the citizen members shall be for four years, except that the terms of the citizen members first appointed shall be for varying periods so that succeeding terms will be staggered. Any vacancy in a membership shall be filled for the unexpired term by appointment as aforesaid. The Board may remove any citizen member for cause stated in writing and after public hearing.

Commission officers, rules, records, employees, expenditures--zoning commission to constitute planning commission.

§89.330.1. The commission shall elect its chairman and secretary from among the citizen members. The term of chairman and secretary shall be for one year with eligibility for reelection. ***The commission shall hold regular meetings and special meetings as they provided by rule, and shall adopt rules for the transaction of business and keep a record of its proceedings. These records shall be public records***. The commission shall appoint the employees and staff necessary for its work, and may contract with city planners and other professional persons for the services that it requires. The expenditures of the commission, exclusive of grants and gifts, shall be within the amounts appropriated for the purpose by Board.

2. Where a zoning or planning commission exists on October 13, 1963, it shall constitute the city planning commission for the purposes of sections 89.300 to 89.480 in lieu of the commission provided for herein with the same officers, membership procedures, powers and terms of office as theretofore existing, unless the council otherwise provides; except in a charter city where the provisions of the charter shall govern.

City plan, contents--zoning plan.

§89.340. ***The commission shall make and adopt a city plan for the physical development of the municipality. The city plan, with the accompanying maps, plats, charts and descriptive and explanatory matter***, ***shall show the commission's recommendat***ions for the physical development and uses of land, and may include, among other things, the general location, character and extent of streets and other public ways, grounds, places and spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned, the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment or change of use of any of the foregoing; the general character, extent and layout of the replanning of blighted districts and slum areas. ***The commission may also prepare a zoning plan*** for the regulation of the height, area, bulk, location, and use of private, nonprofit and public

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structures and premises, and of population density, but ***the adoption, enforcement and administration of the zoning plan shall conform to the provisions of sections 89.010 to 89.250***.

Plan, prepared how--purposes.

§89.350. ***In the preparation of the city plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the municipality***. The ***plan shall be made with the general purpose of guiding and accomplishing a coordinated development of the municipality*** which will, in accordance with existing and future needs, best promote the general welfare, as well as efficiency and economy in the process of development.

Adoption of plan, procedure.

§89.360. ***The commission may adopt the plan as a whole by a single resolution, or, as the work of making the whole city plan progresses, may from time to time adopt a part or parts thereof***, any part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. ***Before the adoption, amendment or extension of the plan or portion thereof the commission shall hold at least one public hearing thereon. Fifteen days' notice of the time and place of such hearing shall be published in at least one newspaper having general circulation within the municipality***. The hearing may be adjourned from time to time. ***The adoption of the plan requires a majority vote of the full membership of the planning commission***. The ***resolution shall refer expressly to the maps, descriptive matter and other matters intended by the commission to form the whole or part of the plan and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the secretary of the commission and filed in the office of the commission***, identified properly by file number, and ***a copy of the plan or part thereof shall be certified to the Board and the municipal clerk,*** <u>***and a copy shall be available in the office of the county recorder of deeds***</u> ***and shall be available at the municipal clerk's office for public inspection during normal office hours***.

Powers of commission--recommendations.

§89.370. ***The commission may make reports and recommendations relating to the plan and development of the municipality*** to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. It may recommend to the executive or legislative officials of the municipality programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the commission, within a reasonable time, all available information it requires for its work. The commission, its members and employees, in the performance of its functions, may enter upon any land to make examinations and surveys. ***In general, the commission shall have the power necessary to enable it to perform its functions and promote municipal planning***.

Planning commission to approve improvements--commission disapproval, overruled, how.

§89.380. Whenever the commission adopts the plan of the municipality or any part thereof, no street or other public facilities, or no public utility, whether publicly or privately owned, and, the location, extent and character thereof having been included in the recommendations and proposals of the plan or portions thereof, shall be constructed or authorized in the municipality until the location, extent and character thereof has been submitted to and approved by the planning commission. In case of disapproval the commission shall communicate its reasons to the Board, and the Board, by vote of not less than two-thirds of its entire membership, may overrule the disapproval and, upon the overruling, the Board or the appropriate board or officer may proceed, except that if the public facility or utility is one the authorization or financing of which does not fall within the province of the Board, then the submission to the planning commission shall be by the board having jurisdiction, and the planning commission's disapproval may be overruled by that board by a vote of not less than two-thirds of its entire membership. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of

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use, acquisition of land for, sale or lease of any street or other public facility is subject to similar submission and approval, and the failure to approve may be similarly overruled. ***The failure of the commission to act within sixty days after the date of official submission to it shall be deemed approval***.

Functions of commission.

§89.390. ***The commission shall have and perform all of the functions of the zoning commission provided for in sections 89.010 to 89.250***.

Commission to make recommendations to Board on plats, when.

§89.400.1 ***When the planning commission*** of any municipality ***adopts a city plan which includes at least a major street plan or progresses in its city planning to the making and adoption of a major street plan***, ***and files a certified copy of the major street plan in the office of the county recorder of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the commission to the Board of Aldermen and the Board has approved the plat as provided by law***.

Regulations governing subdivision of land, limitations, contents --public hearing--escrow funds, when released.

§89.410.1 The planning commission shall recommend and the council may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. ***The regulations, in addition to the requirements provided by law for the approval of plats, may provide requirements for the coordinated development of the city, town or village; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the city plan or official map of the city, town or village; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic;*** provided that, the city, town or village may only impose requirements for the posting of bonds, letters of credit or escrows for subdivision-related improvements as provided for in subsections 2 to 5 of this section.

2. The regulation may include ***requirements as to the extent and the manner in which the streets of the subdivision or any designated portions thereto shall be graded and improved as well as including requirements as to the extent and manner of the installation of all utility facilities. Compliance with all of these requirements is a condition precedent to the approval of the plat.*** The regulations or practice of the council may provide for the tentative approval of the plat previous to the improvements and utility installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the council shall accept, at the option of the developer, an escrow secured with cash or an irrevocable letter of credit deposited with the city, town, or village. The city, town, or village may accept a surety bond, and such bond shall be in an amount and with surety and other reasonable conditions, providing for and securing the actual construction and installation of the improvements and utilities within a period specified by the council and expressed in the bond. The release of any such escrow, letter of credit, or bond by the city, town or village shall be as specified in this section. The council may enforce the escrow or bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of the work and installations previous to the final approval of a plat, for an assessment or other method whereby the council is put in an assured position to do the work and make the installations at the cost of the owners of the property within the subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open spaces necessary for public uses indicated on the city plan and for appropriate means of providing for the compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a manner as is in the public interest.

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3. The regulations shall provide that in the event a developer who has posted an escrow, or letter of credit, or bond with a city, town, or village in accordance with subsection 2 of this section transfers title of the subdivision property prior to full release of the escrow, letter of credit, or bond, the municipality shall accept a replacement escrow or letter of credit from the successor developer in the form allowed in subsection 2 of this section and in the amount of the escrow or letter of credit held by the city, town, or village at the time of the property transfer, and upon receipt of the replacement escrow or letter of credit, the city, town, or village shall release the original escrow or letter of credit in full and release the prior developer from all further obligations with respect to the subdivision improvements if the successor developer assumes all of the outstanding obligations of the previous developer. The city, town, or village may accept a surety bond from the successor developer in the form allowed in subsection 2 of this section and in the amount of the bond held by the city, town, or village at the time of the property transfer, and upon receipt of the replacement bond, the city, town, or village shall release the original bond in full, and release the prior developer from all further obligations with respect to the subdivision improvements.

4. The regulations shall provide that any escrow or bond amount held by the city, town or village to secure actual construction and installation on each component of the improvements or utilities shall be released within thirty days of completion of each category of improvement or utility work to be installed, minus a maximum retention of five percent which shall be released upon completion of all improvements and utility work. The city, town, or village shall inspect each category of improvement or utility work within twenty business days after a request for such inspection. Any such category of improvement or utility work shall be deemed to be completed upon certification by the city, town or village that the project is complete in accordance with the ordinance of the city, town or village including the filing of all documentation and certifications required by the city, town or village, in complete and acceptable form. The release shall be deemed effective when the escrow funds or bond amount are duly posted with the United States Postal Service or other agreed-upon delivery service or when the escrow funds or bond amount are hand delivered to an authorized person or place as specified by the owner or developer.

5. If the city, town or village has not released the escrow funds or bond amount within thirty days as provided in this section or provided a timely inspection of the improvements or utility work after request for such inspection, the city, town or village shall pay the owner or developer in addition to the escrow funds due the owner or developer, interest at the rate of one and one-half percent per month calculated from the expiration of the thirty-day period until the escrow funds or bond amount have been released. Any owner or developer aggrieved by the city's, town's or village's failure to observe the requirements of this section may bring a civil action to enforce the provisions of this section. In any civil action or part of a civil action brought pursuant to this section, the court may award the prevailing party or the city, town or village the amount of all costs attributable to the action, including reasonable attorneys' fees.

6. Nothing in this section shall apply to performance, maintenance and payment bonds required by cities, towns or villages.

7. ***Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing thereon shall be held by the council.***

8. The provisions of subsection 2 of this section requiring the acceptance of an escrow secured by cash or an irrevocable letter of credit, rather than a surety bond, at the option of the developer, all of the provisions of subsection 3 of this section, and the provisions of subsections 4 and 5 of this section regarding an inspection of improvements or utility work within twenty business days shall not apply to any home rule city with more than four hundred thousand inhabitants and located in more than one county.

9. Notwithstanding the provisions of section 290.210, RSMo, to the contrary, improvements secured by escrow, letter of credit, or bond as provided in this section shall not be subject to the terms of sections 290.210 to 290.340, RSMo, unless they are paid for wholly or in part out of public funds.

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Commission to approve plats, when.

§89.420. ***Within sixty days after the submission of a plat to the commission, the commission shall approve or disapprove the plat***; otherwise the plat is deemed approved by the commission, except that the commission, with the consent of the applicant for the approval, may extend the sixty-day period. ***The grounds for disapproval of any plat by the commission shall be made a matter of record***.

Commission approval of plats--effects.

§89.430. The approval of a plat by the commission does not constitute or effect an acceptance by the municipality or public of the dedication to public use of any street or other ground shown upon the plat.

Approval of plats required for recording.

§89.440. No county recorder shall receive for filing or recording any subdivision plat required to be approved by the Board of Aldermen or municipal planning commission unless ***the plat has endorsed upon it the approval of the Board of Aldermen under the hand of the clerk and the seal of the city, or by the secretary of the planning commission***.

Use of unapproved plat in sale of land--penalty--vacation or injunction of transfer.

§89.450. No owner, or agent of the owner, of any land located within the platting jurisdiction of any municipality, knowingly or with intent to defraud, may transfer, sell, agree to sell, or negotiate to sell that land by reference to or by other use of a plat of any purported subdivision of the land before the plat has been approved by the council or planning commission and recorded in the office of the appropriate county recorder unless the owner or agent shall disclose in writing that such plat has not been approved by such council or planning commission and the sale is contingent upon the approval of such plat by such council or planning commission. Any person violating the provisions of this section shall forfeit and pay to the municipality a penalty not to exceed three hundred dollars for each lot transferred or sold or agreed or negotiated to be sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from this penalty. A municipality may enjoin or vacate the transfer or sale or agreement by legal action, and may recover the penalty in such action.

Public improvements, how approved after adoption of major street plan.

§89.460. Upon adoption of a major street plan and subdivision regulations, the municipality shall not accept, lay out, open, improve, grade, pave or light any street, lay or authorize the laying of water mains, sewers, connections or other utilities in any street within the municipality unless the street has received the legal status of a public street prior to the adoption of a city plan; or unless the street corresponds in its location and lines with a street shown on a subdivision plat approved by the Board of Aldermen or planning commission or on a street plan made by and adopted by the commission. The Board may locate and construct or may accept any other street if the ordinance or other measure for the location and construction or for the acceptance is first submitted to the commission for its approval and approved by the commission or, if disapproved by the commission, is passed by the affirmative vote of not less than two-thirds of the entire membership of the Board.

Establishment of building lines--board of adjustment.

§89.480. Whenever a plan for major streets has been adopted, the council, upon recommendation of the planning commission, is authorized and empowered to establish, regulate and limit and amend, by ordinance, building or setback lines on major streets, and to prohibit any new building being located

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within building or setback lines. When a plan for proposed major streets or other public improvements has been adopted, the council is authorized to prohibit any new building being located within the proposed site or right-of-way when the center line of the proposed street or the limits of the proposed sites have been carefully determined and are accurately delineated on maps approved by the planning commission and adopted by the council. The council shall provide for the method by which this section shall be administered and enforced and may provide for a board of adjustment with powers to modify or vary the regulations, in specific cases, in order that unwarranted hardship, which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, may be avoided. If there is a board of zoning adjustment on October 13, 1963, that board shall be appointed to serve as the board of adjustment for the building line regulations. If there is no board of zoning adjustment, the personnel, length of terms, method of appointment and organization of the board of adjustment for the building line regulations shall be the same as now provided for municipal boards of zoning adjustment. The regulations of this section shall not be adopted, changed or amended until a public hearing has been held thereon as provided in section 89.360.

Restrictions on outdoor advertising--inspection fees, limitation

71.288.1. Any city or county shall have the authority to **adopt regulations** with respect to **outdoor advertising** that are **more restrictive than the height, size, lighting and spacing provisions of sections 226.500 to 226.600, RSMo.**

2. No city or county shall have the authority to impose a fee of more than five hundred dollars for the initial inspection of an outdoor advertising structure, nor may the city or county impose a business tax on an outdoor advertising structure of more than two percent of the gross annual revenue produced by the outdoor advertising structure within that city or county.

Signs not to be visible from main highway--removal, compensation--no removal, when--local law applicable, when, extent.

§226.527.4. In addition to any applicable regulations set forth in sections 226.500 through 226.600, signs within an area subject to control by a local zoning authority and wherever located within such area **shall be subject to reasonable regulations of that local zoning authority relative to size, lighting, spacing, and location**; provided, however, that no local zoning authority shall have authority to require any sign within its jurisdiction which was lawfully erected and which is maintained in good repair to be removed without the payment of just compensation.

5. When a legally erected billboard exists on a parcel of property, a local zoning authority shall not adopt or enforce any ordinance, order, rule, regulation or practice that eliminates the ability of a property owner to build or develop property or erect an on-premise sign solely because a legally erected billboard exists on the property.

Local historic preservation citation--historic preservation commission may be established by ordinance--powers—qualifications.

§253.415.1. This section shall be known and may be cited as the "Local Historic Preservation Act."

2. Each city, town, village and each county regardless of classification may create by ordinance or order a historic preservation commission, and grant to such commission any or all of the following powers and authority:

(1) To conduct ongoing survey and research to identify and document buildings, structures, objects, sites and districts that are of historic, archaeological, architectural, engineering, cultural

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or scenic significance to the locality, the state or the nation;

(2) To recommend to the governing body designation of significant historic properties as historic landmarks and historic districts, to prepare documentation supporting such nomination, and to maintain a register of designated landmarks and districts, and of significant historical, architectural and archaeological properties;

(3) To recommend to the governing body the establishment of regulations, guidelines and policies to preserve the integrity and ambience of designated landmarks and districts. The commission shall have the authority to review ordinary maintenance as deemed appropriate, new construction, alterations, removals, and demolitions proposed within the boundaries of a landmark or district, including review of plans for vacant lots and non-historic buildings and structures;

(4) To provide technical assistance to owners of older and historic, architectural, archaeological, cultural and scenic properties concerning the preservation and maintenance of the property;

(5) To recommend to the governing body programs and policies and economic incentives to encourage the preservation of significant historic landmarks and districts;

(6) **To prepare a comprehensive historic preservation plan, or a preservation element to a master plan, to integrate the preservation program into the local government for planning and zoning for land use, building and fire codes, special-use permits, community revitalization, and heritage tourism**;

(7) **To participate in the conduct of land use, urban renewal and other city activities affecting landmarks and districts**; and

(8) To acquire by purchase, gift, or bequest, fee title or lesser interest, including preservation restriction or easements, in designated properties and adjacent or associated lands which are important for the preservation and use of the designated properties.

3. Commission members should, to the extent available, be persons with demonstrated interest or expertise in historic preservation. Representatives of historical societies and residents of historic districts are encouraged as members.

Plat to be acknowledged and recorded--acceptance by city.

§445.030. Such map or plat shall be acknowledged by the proprietor before some official authorized by law to take acknowledgments of conveyances of real estate, and recorded in the office of the recorder of deeds of the county in which the land platted is situated; provided, however, that **if such map or plat be of land situated within the corporate limits of any incorporated city, town or village, it shall not be placed of record until it shall have been submitted to and approved by the common council of such city, town or village, by ordinance, duly passed and approved by the mayor, and such approval endorsed upon such map or plat under the hand of the clerk and the seal of such city, town, or village**; nor until all taxes against the same shall have been paid; and **before approving such plat, the common council may, in its discretion, require such changes or alterations thereon as may be found necessary to make such map or plat conform to any zoning or street development plan which may have been adopted or appear desirable, and to the requirements of the duly enacted ordinances of such city, town or village, appertaining to the laying out and platting of subdivisions of land within their corporate limits.**

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American Planning Ass'n	www.planning.org
American Planning Ass'n - Missouri Chapter	http://www.mo-apa.org/
Missouri Municipal League	www.mocities.com
St. Louis County Municipal League	www.stlmuni.org
East-West Gateway Council of Gov'ts	http://www.ewgateway.org/
National Ass'n of Counties	www.naco.org
Missouri County Links	http://www.mo.gov/mo/county.htm
Land Use Law – Prof. Daniel R. Mandelker, Wash U Law School	www.law.wustl.edu/landuselaw/
Missouri Statutes	www.moga.mo.gov/STATUTES/STATUTES.HTM
Mid-Missouri Regional Planning Comm'n	http://www.mmrpc.org/
Planners Web	www.plannersweb.com
Sustainable Communities Network	http://www.sustainable.org
Planetizen - Planning & Development Network	http://www.planetizen.com/
GIS Planning – Online Economic Development	http://www.gisplanning.com
Nat'l Center for Bicycling & Walking	http://www.bikewalk.org/
Congress for the New Urbanism	http://www.cnu.org
National Trust Main Street Center	http://www.mainstreet.org/
Project for Public Spaces	http://www.pps.org/
Affordable Housing Design Advisor	http://www.designadvisor.org/
Rails-to-Trails Conservancy	http://www.railtrails.org/index.html
Center for Transit-Oriented Development	http://www.reconnectingamerica.org/
Institute of Brownfield Professionals	http://www.brownfieldpros.org/
National Charrette Institute	http://www.charretteinstitute.org/
U.S. Green Building Council (LEED)	http://www.usgbc.org/
Smart Growth Network	http://www.smartgrowth.org
Urban Land Institute	http://www.uli.org
Nat'l Ass'n of Development Organizations	http://www.nado.org/

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Thomas A. Cunningham, Esq.
CUNNINGHAM, VOGEL & ROST, P.C.
legal counselors to local government
75 W. Lockwood, Suite One
St. Louis, MO 63119
314.446.0800
tom@municipalfirm.com
www.municipalfirm.com

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