

**12-765. Same; setback lines on streets and highways; modifications or variances, when; notice and hearing.** (a) Whenever any city or county has as a part of a comprehensive plan adopted a plan for its major street or highway system, after consultation with the secretary of transportation and the county engineer and any planning commission of the county or counties within which such system lies, the governing body is hereby authorized and empowered, to establish by the appropriate ordinance or resolution building or setback lines on such existing and proposed major streets or highways and to prohibit any new building being located within such building or setback lines on property within the plat approval jurisdiction of the city. Such ordinance or resolution may incorporate by reference an official map, which may include supplementary documents, setting forth such plan which shall show with reasonable survey accuracy the location and width of existing or proposed major streets or highways and any building or setback lines. The governing body shall provide for the method by which this section shall be enforced. Such official map shall not be enforced until after a certified copy of such map and adopting ordinance or resolution has been filed with the register of deeds of the county or counties in which such system lies. The board of zoning appeals shall have the power to modify or vary the building restrictions herein authorized in specific cases, in order that unwarranted hardship, which constitutes a complete deprivation of use as distinguished from merely granting a privilege, may be avoided, yet the intended purpose of the regulations shall be strictly observed and the public welfare and public safety protected. The setback ordinance, resolution or official map shall not be adopted, changed or amended by the governing body until a public hearing has been held thereon by the governing body. A notice of the time and place of such hearing shall be published in the official city newspaper in the case of a city or the official county newspaper in the case of a county. Such notice shall be published at least 20 days prior to the date of the hearing. The powers of this section shall not be exercised so as to deprive the owner of any existing property or of its use or maintenance for the purpose to which such property is then lawfully devoted.

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

**History:** L. 1991, ch. 56, § 22; July 1.