

A zoning ordinance can restrict any of the following:

- Height, number, and size of buildings or structures allowed in an area
- Percentage of a lot that can be occupied
- Size of yards, courts or other open spaces
- Population density
- Location and use of buildings, structures, and land for trade, industry, residence and other purposes
- Use of tents, trailers or other portable structures for residential purposes

The county board of supervisors has the authority to pass ordinances that regulate land use on land that is located within the county but outside of the city limits. A zoning ordinance divides the county into districts for different types of land uses, such as agricultural, commercial and industrial. Supervisors can set regulations in one district that differ from regulations in another, but restrictions must be uniformly applied for each type of building within a district.

When adopting a county zoning ordinance, county supervisors must ensure that the regulations are consistent with a comprehensive plan that is designed to fulfill the following **objectives**:

- preserve the availability of agricultural land
- protect soil from wind and water erosion
- encourage efficient development
- lessen roadway congestion
- secure safety from fire, flood, panic, and other dangers
- protect the health and general welfare of county citizens
- provide adequate light and air
- prevent overcrowding
- avoid undue population concentration
- promote conservation of energy resources
- promote resource access to solar energy
- facilitate adequate transportation, water, sewage, schools, parks and other public requirements

Zoning should be utilized to carefully plan non-agricultural use of property in order to avoid conflicts with agricultural uses. Land, buildings, or structures primarily used for agricultural purposes, including farm houses, are exempt from county zoning ordinances as well as any city zoning ordinances that have been extended outside of the city limits. (Iowa law allows cities to extend the enforcement of their zoning ordinances up to 2-miles beyond the city limit lines.) This exemption does not apply in areas of ag land preservation, in addition to structures or buildings located on the floodplain of any river or stream.

ORDINANCE ADOPTION

Iowa law sets out a process for adopting a county zoning ordinance:

- 1) The county zoning commission drafts the ordinance, holds at least one public hearing, and makes recommendations in a final report format to the board of supervisors.
- 2) The board of supervisors holds at least one public hearing, reviews the public comments, and votes on the ordinance.

If a county zoning ordinance relates to any structure, building, dam, obstruction, deposit, or excavation in or on the floodplains of any river or stream, prior approval of the Department of Natural Resources is required to establish, amend, supplement, change, or modify the regulation or to grant any variation or exception from the regulation.

ZONING COMMISSION

The board of supervisors must appoint a county zoning commission, with a majority of its members residing within the county but outside the city limits. The county supervisors decide how many people serve on the commission.

With permission of the board of supervisors, the zoning commission may contract with professional consultants, regional planning commissions, the Iowa Department of Economic Development, or the federal government to help draft the ordinance.

The **board of supervisors is ultimately responsible** for determining the district boundaries, the zoning regulations that apply in those districts, and the adoption of the zoning ordinance. It cannot act to adopt or make changes to the ordinance without receiving a final report from the commission.

Once the report is received, the board of supervisors must hold at least one public hearing, with adequate public notice, to take comment on the proposed ordinances or changes to the ordinance before voting on it. Following adoption of an ordinance, copies of the plan should be sent or made available to neighboring counties, cities within the county, the regional planning commission, as well as public libraries within the county.

ORDINANCE AMENDMENTS

After the ordinance is adopted, the zoning commission is responsible for making recommendations for amendments or changes to the board of supervisors as needed. Amendments follow the same process as the initial ordinance adoption. The commission drafts changes, holds public hearings on those changes, and submits their final recommendations in a final report form to the board of supervisors. The supervisors must hold a public hearing and vote on the amendments before they can take effect.

Landowners may protest the amendment of a county ordinance with a petition signed by the owners of 20% or more either of the area included in the proposed change or the area adjacent to, and within 500 feet of, the proposed change. If there is a protest, the ordinance will not be effective until at least 60% of all supervisors, not just those present at the meeting, vote in favor of the change.

CONFLICTING REGULATIONS

If a county zoning ordinance requires a greater width or size of yards, courts or other open spaces, or requires a lower height of building or less number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required in any other statute or local ordinance or regulation, the county ordinance governs. If any other statute or local ordinance or regulation requires a greater width or size of yards, courts or other open spaces, or requires a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required by the county zoning ordinance, the other statute or local ordinance or regulation governs.

ZONING ADMINISTRATOR

A zoning administrator, whom is appointed by the board of supervisors, is responsible for enforcement of the adopted zoning ordinances. In most counties, those duties include interpreting the ordinance, granting building permits, and staffing the county zoning commission and board of adjustment. The administrator may also hold other public offices within the county or city governments.

BOARD OF ADJUSTMENT

The board of supervisors appoints a board of adjustment, which consists of five members, each appointed to five year staggered terms. At least three of the board members must reside within the county but outside the corporate limits of any city. The board of adjustment has the following powers:

- Hear and decide appeals of the zoning administrator's decisions
- Hear and decide on special exemptions and variances to the zoning ordinance

The board of adjustment cannot change the ordinance, but can grant variances to its requirements so long as it still fulfills the general purpose and intent of the ordinance.

APPEAL PROCESS

Any aggrieved person affected by the administrator's decision for enforcing the zoning ordinances may appeal the decision to the board of adjustment. Appellants should file a notice of appeal with the administrator's office and the board of adjustment within a reasonable amount of time from the enforcement decision. In order to reverse a decision of the administrative officer, a majority of the board of adjustment members must vote in favor of such a reversal. If the board of adjustment grants a variance, the supervisors have the authority to review and remand the board of adjustment's decision for further study. However, if the claim is remanded, the effective date of the variance will be delayed for 35 days from the date of remand.

Once the board of adjustment reaches a decision, the parties have 30 days in which they may appeal to the district court. It is important at this point to involve your attorney if you haven't already done so.

Disclaimer: This document is intended for general informational purposes only and is not meant to provide legal advice for your specific situation or to infer an attorney-client relationship. Please contact your legal representative with any questions regarding your rights and available options. This document was last updated September 25, 2012 and may not reflect the most recent changes in the law. For additional information, contact your county Farm Bureau office.