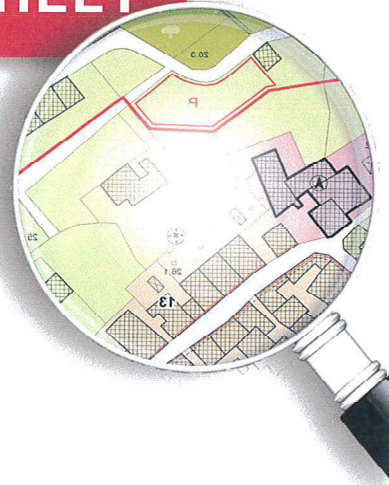


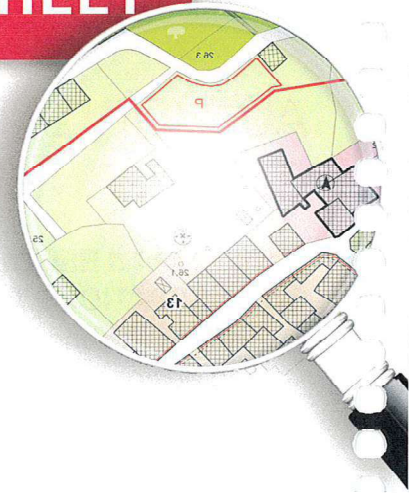
AUTHORIZATION FOR CITY PLANNING AND ZONING

[CITIES] 414.3 REGULATIONS AND COMPREHENSIVE PLAN— CONSIDERATIONS AND OBJECTIVES—NOTICE, ADOPTION, DISTRIBUTION.

1. The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, 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 promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy do not void any zoning regulation existing on July 1, 1981, or require zoning in a city that did not have zoning prior to July 1, 1981.
2. The regulations shall be made with reasonable consideration, among other things, as to the character of the area of the district and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.
3. The regulations and comprehensive plan shall be made with consideration of the smart planning principles under section 18B.1 and may include the information specified in section 18B.2, subsection 2.
4.
 - a. A comprehensive plan recommended for adoption by the zoning commission established under section 414.6, may be adopted by the council. The council may amend the proposed comprehensive plan prior to adoption. The council shall publish notice of the meeting at which the comprehensive plan will be considered for adoption. The notice shall be published as provided in section 362.3.
 - b. Following its adoption, copies of the comprehensive plan shall be sent or made available to the county in which the city is located, neighboring counties and cities, the council of governments or regional planning commission where the city is located, and public libraries within the city.
 - c. Following its adoption, a comprehensive plan may be amended by the council at any time.



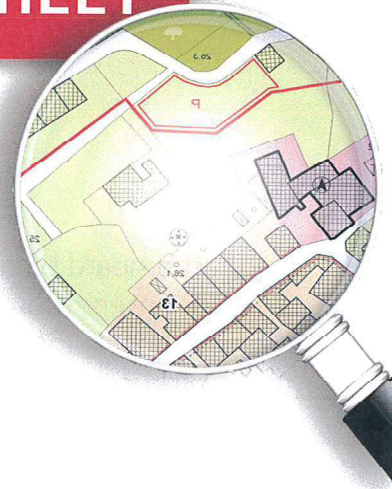
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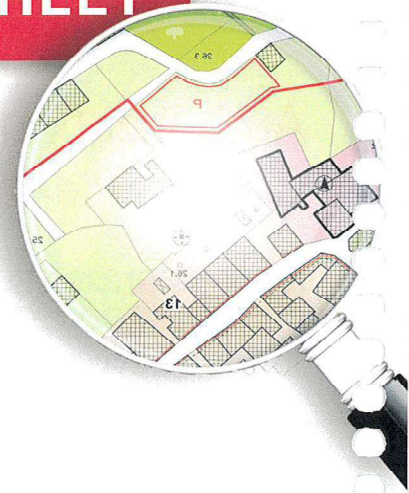


Authorization for County Planning and Zoning

[COUNTIES] 335.5 REGULATIONS AND COMPREHENSIVE PLAN— CONSIDERATIONS AND OBJECTIVES—NOTICE, ADOPTION, DISTRIBUTION.

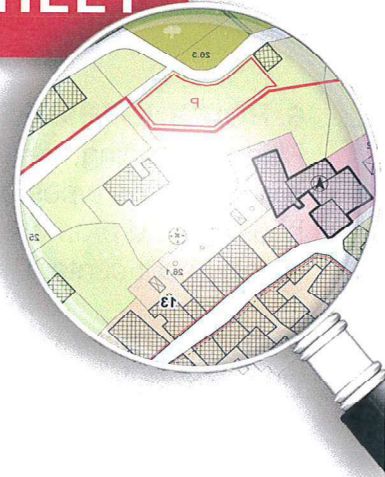
1. The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street or highway; to secure safety from fire, flood, panic, and other dangers; to protect health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy shall not be construed as voiding any zoning regulation existing on July 1, 1981, or to require zoning in a county that did not have zoning prior to July 1, 1981.
2. The regulations shall be made with reasonable consideration, among other things, as to the character of the area of the district and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such county.
3. The regulations and comprehensive plan shall be made with consideration of the smart planning principles under section 18B.1 and may include the information specified in section 18B.2, subsection 2.
4.
 - a. A comprehensive plan recommended for adoption or amendment by the zoning commission established under section 335.8 may be adopted by the board of supervisors. The board of supervisors shall not hold a public hearing or take action on the recommendation until it has received the zoning commission's final report containing the recommendation.
 - b. Before taking action on the recommendation, the board of supervisors shall hold a public hearing at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of the hearing shall be published as provided in section 331.305.





- c. The board of supervisors may amend a proposed comprehensive plan or amendment prior to adoption. The board of supervisors shall publish notice of the meeting at which the comprehensive plan or amendment will be considered for adoption. The notice shall be published as provided in section 331.305. d. Following its adoption, copies of the comprehensive plan or amended plan shall be sent or made available to neighboring counties, cities within the county, the council of governments or regional planning commission where the county is located, and public libraries within the county.

IOWA SMART PLANNING PRINCIPLES — IOWA CODE 18B.1



State agencies, local governments, and other public entities shall consider and may apply the following principles during deliberation of all appropriate planning, zoning, development and resource management decisions, except that nothing in this section shall be construed to expand the eminent domain authority of a state agency, local government, or other public entity beyond that which is authorized under chapter 6A or 6B [of the Iowa Code]:

1. COLLABORATION.

Governmental, community, and individual stakeholders, including those outside the jurisdiction of the entity, are encouraged to be involved and provide comment during deliberation of planning, zoning, development, and resource management decisions and during implementation of such decisions. The state agency, local government, or other public entity is encouraged to develop and implement a strategy to facilitate such participation.

2. EFFICIENCY, TRANSPARENCY, AND CONSISTENCY.

Planning, zoning, development, and resource management should be undertaken to provide efficient, transparent, and consistent outcomes. Individuals, communities, regions, and governmental entities should share in the responsibility to promote the equitable distribution of development benefits and costs.

3. CLEAN, RENEWABLE, AND EFFICIENT ENERGY.

Planning, zoning, development, and resource management should be undertaken to promote clean and renewable energy use and increased energy efficiency.

4. OCCUPATIONAL DIVERSITY.

Planning, zoning, development, and resource management should promote increased diversity of employment and business opportunities, promote access to education and training, expand entrepreneurial opportunities, and promote the establishment of businesses in locations near existing housing, infrastructure, and transportation.

5. REVITALIZATION.

Planning, zoning, development, and resource management should facilitate the revitalization of established town centers and neighborhoods by promoting development that conserves land, protects historic resources, promotes pedestrian accessibility, and integrates different uses of property. Remediation and reuse of existing sites, structures, and infrastructure is preferred over new construction in undeveloped areas.

6. HOUSING DIVERSITY.

Planning, zoning, development, and resource management should encourage diversity in the types of available housing, support the rehabilitation of existing housing, and promote the location of housing near public transportation and employment centers.

7. COMMUNITY CHARACTER.

Planning, zoning, development, and resource management should promote activities and development that are consistent with the character and architectural style of the community and should respond to local values regarding the physical character of the community.

8. NATURAL RESOURCES AND AGRICULTURAL PROTECTION.

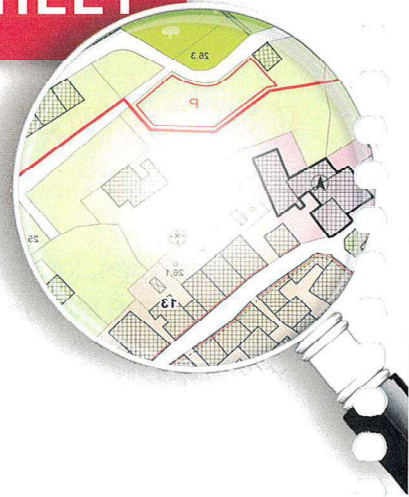
Planning, zoning, development, and resource management should emphasize protection, preservation, and restoration of natural resources, agricultural land, and cultural and historic landscapes, and should increase the availability of open spaces and recreational facilities.

9. SUSTAINABLE DESIGN.

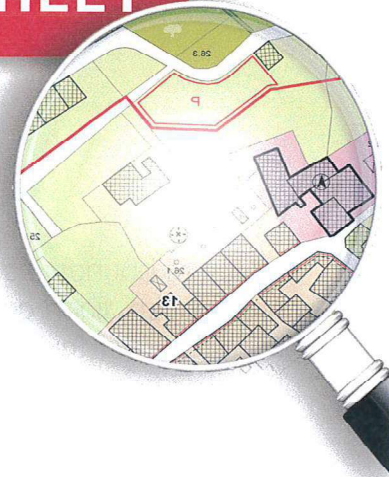
Planning, zoning, development, and resource management should promote developments, buildings, and infrastructure that utilize sustainable design and construction standards and conserve natural resources by reducing waste and pollution through efficient use of land, energy, water, air, and materials.

10. TRANSPORTATION DIVERSITY.

Planning, zoning, development, and resource management should promote expanded transportation options for residents of the community. Consideration should be given to transportation options that maximize mobility, reduce congestion, conserve fuel, and improve air quality.



THIRTEEN ELEMENTS OF A COMPREHENSIVE PLAN FROM THE IOWA SMART PLANNING LAW — IOWA CODE 18B.2



Subsection 2: A municipality [meaning a city or county] shall consider the smart planning principles under section 18B.1 and may include the following information, if applicable, when developing or amending a comprehensive plan under chapter 335 or chapter 414 or when developing or amending other local land development regulations:

A. PUBLIC PARTICIPATION ELEMENT.

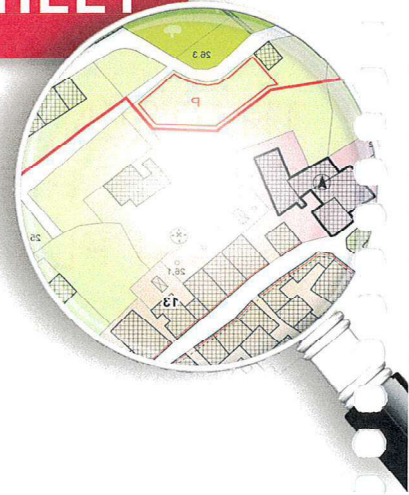
Information relating to public participation during the creation of the comprehensive plan or land development regulations, including documentation of the public participation process, a compilation of objectives, policies, and goals identified in the public comment received, and identification of the groups or individuals comprising any work groups or committees that were created to assist the planning and zoning commission or other appropriate decision-making body of the municipality.

B. ISSUES AND OPPORTUNITIES ELEMENT.

Information relating to the primary characteristics of the municipality and a description of how each of those characteristics impacts future development of the municipality. Such information may include historical information about the municipality, the municipality's geography, natural resources, natural hazards, population, demographics, types of employers and industry, labor force, political and community institutions, housing, transportation, educational resources, and cultural and recreational resources. The comprehensive plan or land development regulations may also identify characteristics and community aesthetics that are important to future development of the municipality.

C. LAND USE ELEMENT.

Objectives, information, and programs that identify current land uses within the municipality and that guide the future development and redevelopment of property, consistent with the municipality's characteristics identified under the Issues and Opportunities Element. The comprehensive plan or land development regulations may include information on the amount, type, intensity, and density of existing land use, trends in the market price of land used for specific purposes, and plans for future land use throughout the municipality. The comprehensive plan or land development regulations may identify and include information on property that has the possibility for redevelopment, a map of existing and potential land use and land use conflicts, information and maps relating to the current and future provision of utilities within the municipality, information and maps that identify the current



and future boundaries for areas reserved for soil conservation, water supply conservation, flood control, and surface water drainage and removal. Information provided under this paragraph may also include an analysis of the current and potential impacts on local watersheds and air quality.

D. HOUSING ELEMENT.

Objectives, policies, and programs to further the vitality and character of established residential neighborhoods and new residential neighborhoods and plans to ensure an adequate housing supply that meets both the existing and forecasted housing demand. The comprehensive plan or land development regulations may include an inventory and analysis of the local housing stock and may include specific information such as age, condition, type, market value, occupancy, and historical characteristics of all the housing within the municipality. The comprehensive plan or land development regulations may identify specific policies and programs that promote the development of new housing and maintenance or rehabilitation of existing housing and that provide a range of housing choices that meet the needs of the residents of the municipality.

E. PUBLIC INFRASTRUCTURE AND UTILITIES ELEMENT.

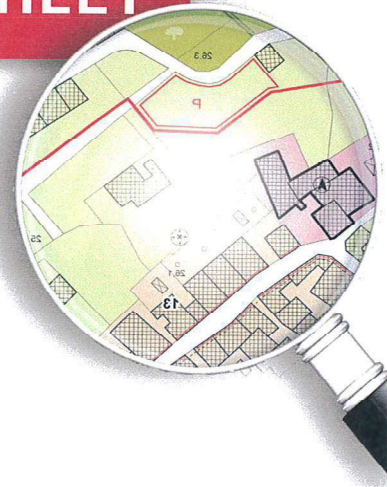
Objectives, policies, and programs to guide future development of sanitary sewer service, storm water management, water supply, solid waste disposal, wastewater treatment technologies, recycling facilities, and telecommunications facilities. The comprehensive plan or land development regulations may include estimates regarding future demand for such utility services.

F. TRANSPORTATION ELEMENT.

Objectives, policies, and programs to guide the future development of a safe, convenient, efficient, and economical transportation system. Plans for such a transportation system may be coordinated with state and regional transportation plans and take into consideration the need for diverse modes of transportation, accessibility, improved air quality, and interconnectivity of the various modes of transportation.

G. ECONOMIC DEVELOPMENT ELEMENT.

Objectives, policies, and programs to promote the stabilization, retention, or expansion of economic development and employment opportunities. The comprehensive plan or land development regulations may include an analysis of current industries and economic activity and identify economic growth goals for the municipality. The comprehensive plan or land development regulations may also identify locations for future brownfield or grayfield development.



H. AGRICULTURAL AND NATURAL RESOURCES ELEMENT.

Objectives, policies, and programs addressing preservation and protection of agricultural and natural resources.

I. COMMUNITY FACILITIES ELEMENT.

Objectives, policies, and programs to assist future development of educational facilities, cemeteries, health care facilities, child care facilities, law enforcement and fire protection facilities, libraries, and other governmental facilities that are necessary or desirable to meet the projected needs of the municipality.

J. COMMUNITY CHARACTER ELEMENT.

Objectives, policies, and programs to identify characteristics and qualities that make the municipality unique and that are important to the municipality's heritage and quality of life.

K. HAZARDS ELEMENT.

Objectives, policies, and programs that identify the natural and other hazards that have the greatest likelihood of impacting the municipality or that pose a risk of catastrophic damage as such hazards relate to land use and development decisions, as well as the steps necessary to mitigate risk after considering the local hazard mitigation plan approved by the Federal Emergency Management Agency.

L. INTERGOVERNMENTAL COLLABORATION ELEMENT.

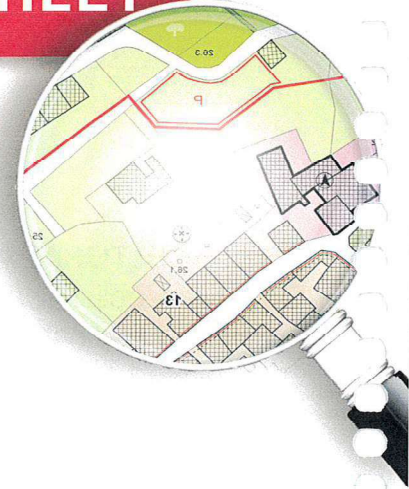
Objectives, policies, and programs for joint planning and joint decision-making with other municipalities or governmental entities, including school districts and drainage districts, for siting and constructing public facilities and sharing public services. The comprehensive plan or land development regulations may identify existing or potential conflicts between the municipality and other local governments related to future development of the municipality and may include recommendations for resolving such conflicts. The comprehensive plan or land development regulations may also identify opportunities to collaborate and partner with neighboring jurisdictions and other entities in the region for projects of mutual interest.

M. IMPLEMENTATION ELEMENT.

A compilation of programs and specific actions necessary to implement any provision of the comprehensive plan, including changes to any applicable land development regulations, official maps, or subdivision ordinances.

A municipality's comprehensive plan developed using the guidelines under this section shall address prevention and mitigation of, response to, and recovery from a catastrophic flood.

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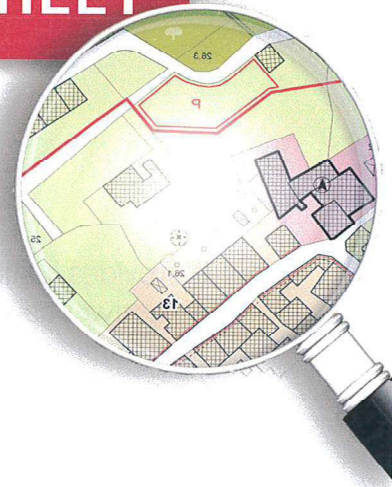


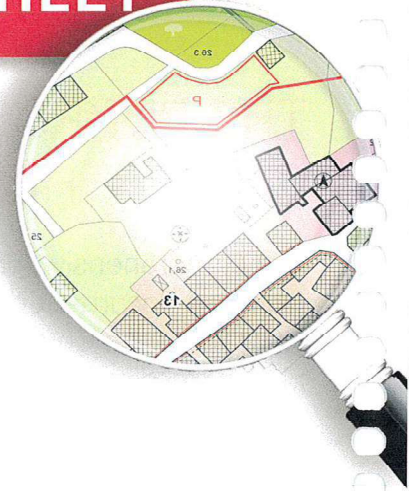
THE PURPOSE OF THE COMPREHENSIVE PLAN

The comprehensive plan, also known as a general plan, master plan or land use plan, is a document designed to guide the future actions of a city or county. The Iowa Supreme Court has stated that the legal purpose of the comprehensive plan is to “direct use and development of property by dividing it into districts according to present and potential uses.” The comprehensive plan also presents a vision for the future with long-range goals and objectives for all activities that affect the local government. This includes guidance on how to make decisions on public and private land development proposals, the expenditure of public funds, and issues of pressing concern (such as farmland preservation for counties, or the rehabilitation of older neighborhoods in cities). Most plans are written to provide direction for ten to twenty years after their adoption. Plans should receive a considered review and possible update every five years.

A city or county comprehensive plan serves the following functions:

- The plan provides continuity. The plan provides continuity across time, and gives successive public bodies a common framework for addressing land use issues.
- It is the means by which a community can balance competing private interests. John Public may want to store oil drums on his property. Jane Citizen, his neighbor, would like to open a restaurant on her property. Planning seeks to strike a balance among the many competing demands on land by creating development patterns that are orderly and rational, and provide the greatest benefits for individuals and the community as a whole.
- It is the means by which a community can protect public investments. Planning is the means by which a community avoids digging up last year’s new road to lay this year’s new sewer pipe. It is also less expensive for a community to provide public services to well planned, orderly and phased development patterns than to low-density, scattered development.
- It allows communities to plan development in a way that protects its valued resources. Planning can identify environmental features like wetlands, agricultural lands, woods and steep slopes, and suggest strategies for preserving those resources from destruction or degradation by development.
- It provides guidance for shaping the appearance of the community. A plan can set forth policies that foster a distinctive sense of place.
- It promotes economic development. The plan contains valuable information that aids firms in determining where to locate.





- It provides justification for decisions. Plans provide a factual and objective basis to support zoning decisions, and they can be used by communities to defend their decisions if challenged in court.
- Through public dialogue, citizens express a collective vision for the future. Last, but certainly not least, the planning process provides citizens an opportunity to brainstorm, debate and discuss the future of their community. A plan developed through a robust public input process will enjoy strong community support. Subsequent decisions that are consistent with the plan's policies are less likely to become embroiled in public controversy.



PROCESS FOR ADOPTING A COMPREHENSIVE PLAN ADDED TO IOWA CODE BY SF 2389, 2010

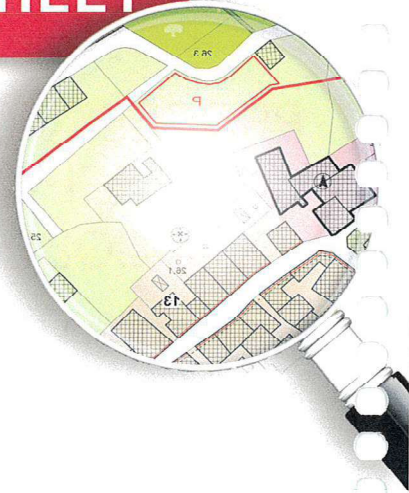
Iowa Code 335.5 is amended to include:

3. The regulations and comprehensive plan shall be made with consideration of the smart planning principles under section 18B.1 and may include the information specified in section 18B.2, subsection 2.
4.
 - a. A comprehensive plan recommended for adoption by the zoning commission established under section 335.8, may be adopted by the board of supervisors. The board of supervisors may amend a proposed comprehensive plan prior to adoption. The board of supervisors shall publish notice of the meeting at which the comprehensive plan will be considered for adoption. The notice shall be published as provided in section 331.305.
 - b. Following its adoption, copies of the comprehensive plan shall be sent or made available to neighboring counties, cities within the county, the council of governments or regional planning commission where the county is located, and public libraries within the county.
 - c. Following its adoption, a comprehensive plan may be amended by the board of supervisors at any time.

Iowa Code 414.3 is amended to include:

3. The regulations and comprehensive plan shall be made with consideration of the smart planning principles under section 18B.1 and may include the information specified in section 18B.2, subsection 2.
4.
 - a. A comprehensive plan recommended for adoption by the zoning commission established under section 414.6, may be adopted by the council. The council may amend the proposed comprehensive plan prior to adoption. The council shall publish notice of the meeting at which the comprehensive plan will be considered for adoption. The notice shall be published as provided in section 362.3.
 - b. Following its adoption, copies of the comprehensive plan shall be sent or made available to the county in which the city is located, neighboring counties and cities, the council of governments or regional planning commission where the city is located, and public libraries within the city.
 - c. Following its adoption, a comprehensive plan may be amended by the council at any time.

FACT SHEET



THE ZONING ORDINANCE

The zoning ordinance is the primary mechanism for implementing the policies of the comprehensive plan. The zoning ordinance assigns compatible land uses to defined districts throughout the community. In addition to regulating uses, zoning controls the placement, height, bulk and coverage of buildings and other structures.

The zoning ordinance is comprised of a map and text. It is common for people to talk about the “zoning ordinance” when simply referring to the text, but because the same process must be followed for adopting and amending both the text and the map, both documents together technically constitute the ordinance. One cannot operate without the other, and both must be kept current at all times. The zoning map needs to be changed every time a rezoning request on a parcel of property is granted. Likewise, every time the elected body decides to change the regulations the text must be updated. Few things will bring a community more trouble than out-of-date zoning documents.

ZONING MAP

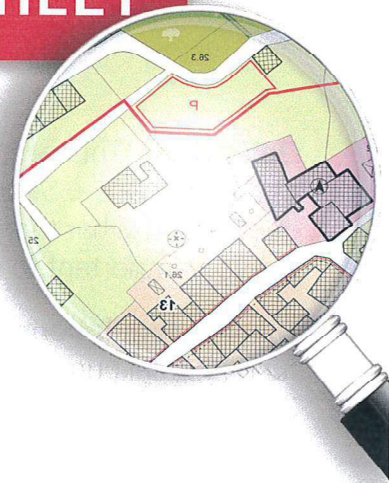
The zoning map shows the boundaries and labels of the zones into which the community has been divided. Every parcel of land is identified as being in one zoning district. Local government staff and officials, landowners, residents, and developers can all refer to the map to determine how a particular parcel of land is zoned. If the zoning ordinance utilizes overlay districts (special supplemental regulations that apply across more than one district, such as floodplain or wellhead protection areas), some properties may lie in two or more districts. To maintain an accurate map despite frequent changes, many communities now use geographic information systems (GIS) or other computer technology to prepare the map in a form that can be cheaply and easily updated.

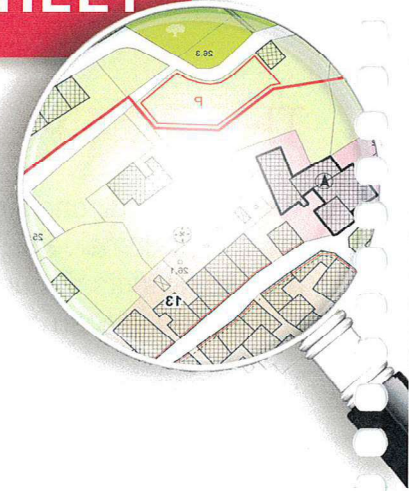
ZONING TEXT

The zoning text is the local law containing the regulations of the jurisdiction. The text may be organized in a variety of different ways; however, the same basic provisions appear somewhere in the body of every zoning text.

Statement of Purpose. The statement of purpose sets forth the public interest in zoning. It may establish, for example, that zoning is adopted “to promote the health, safety and general welfare of the citizens of X.” It may also contain statements that mirror the goals identified in the comprehensive plan, such as the desire “to preserve prime agricultural land from development and protect agricultural operations from encroaching incompatible uses.”

General Provisions. General provisions are the overriding rules that apply to all land uses and all parcels throughout the community, regardless of zoning district classification. Usually the general provisions include guidance as to the interpretation of the ordinance and its relationship to other laws.





Definitions. This section defines the regulatory terms used throughout the rest of the ordinance. Since zoning is a regulatory device, it is important that citizens understand what those regulations mean and how they apply. Precise definitions are very important to understanding the application of zoning regulations.

District Regulations. The district regulations are the heart of the zoning text. The fundamental purpose of the zoning ordinance is to establish districts where similar land uses are grouped together and governed by a common set of standards, such as lot sizes, setbacks, height requirements and design standards. Each district lists the uses that are permitted “by right” (without special conditions) and those that are allowed as special exceptions so long as the board of adjustment finds that certain criteria are met. There is an underlying belief that the uses “by right” are similar in type and range of impact, and that the special exceptions would be welcome additions to the district if additional standards could prevent them from undermining neighboring property values or the purpose and intent of the district. The common district classifications are agricultural, residential, commercial and industrial; however, most communities subdivide these classifications (e.g. single-family residential and multi-family residential) to further group similar types of land uses together while at the same time continuing to keep them separate from other incompatible uses.

Regulations Applying to All Districts. Many ordinances include a separate section or sections setting out a variety of “impact” regulations or standards. This section of the ordinance contains the types of provisions that apply to land uses in all districts, but may vary by district. For example, signs are regulated in all districts, but they are regulated differently depending on the district. The size, location and type of sign appropriate for a commercial district will often be inappropriate for a residential neighborhood. Parking standards, landscaping requirements, urban design criteria, historic preservation standards and various environmental protection controls are examples of regulations that may be found in this section.

Nonconforming Uses. When a new zoning ordinance is adopted there will be lots, structures and uses that do not meet the new ordinance standards. This section of the text generally describes how the land use decision makers will treat these nonconforming uses under the new code.

Administration. This section sets forth the processes of zoning by (1) describing the roles of each of the bodies involved in land use decision making; (2) outlining the exact procedural steps that must be taken to process the various types of requests and applications related to zoning; and (3) setting forth the criteria that the decision makers must use in deciding on these requests and applications.

Enforcement. This section explains the processes to use, and the penalties to assess, when a landowner is found to be in violation of the ordinance.

ROLES AND RESPONSIBILITIES – ELECTED OFFICIALS

The elected body (city council or county board of supervisors) is the primary policy-making entity responsible for setting the direction of the community's government. The policy dimension of planning and zoning is substantial: It addresses how land in the community is to be used in the future. Councils and boards of supervisors are the key drivers of land use policy. Several activities of the elected body have an impact on community land use. Perhaps the three most important are: (1) adopting and amending plans and ordinances; (2) approving some types of development proposals; and (3) making appointments to boards, commissions and (in some communities) staff positions.

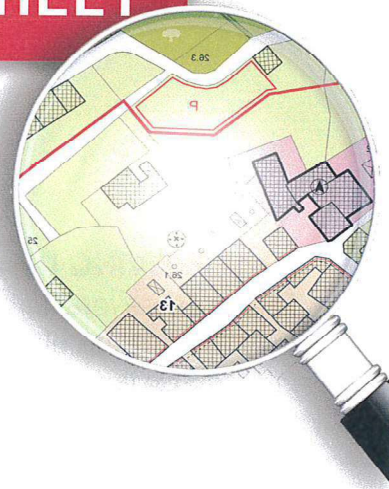
(1) ADOPTING PLANS AND ORDINANCES

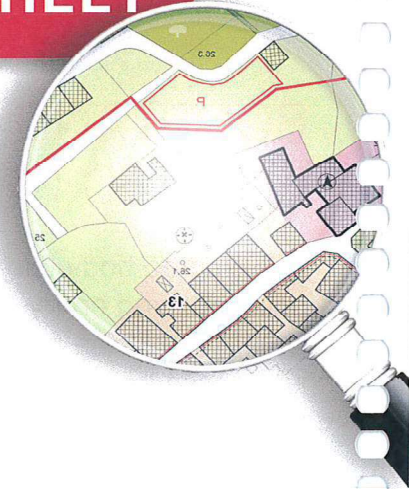
The primary tools for guiding land use and development are the comprehensive plan, the zoning ordinance and the subdivision ordinance. The elected body plays a critical role in the development and application of all three.

The comprehensive plan establishes long-range goals and objectives for all activities that affect growth and development in the community, including public and private land development proposals, expenditure of funds for infrastructure and public facilities, and methods to address issues of pressing concern. The plan provides the underpinnings for the zoning ordinance and other development regulations. The comprehensive plan is adopted by resolution of the elected body after the planning commission holds its own public hearings and forwards its recommendations to the elected body.

The zoning ordinance is the primary mechanism for implementing the policies of the comprehensive plan. The zoning ordinance assigns compatible land uses to defined districts throughout the community, and it controls the placement, height, bulk and coverage of buildings and other structures. The elected body adopts the zoning ordinance after the planning commission develops the ordinance and holds public hearings.

The subdivision ordinance regulates the division of land into two or more parcels, lots or sites for building. It is one of the essential tools used by cities to influence the layout of lots and streets, coordinate the construction of public infrastructure to support homes and businesses, and, generally, assure that land divisions are consistent with community goals. Counties use subdivision regulations to control congestion on county roads, protect highly productive farmland from development and reduce the need to provide urban levels of public services to rural areas. The subdivision ordinance is adopted by the elected body, generally after the planning commission develops the ordinance and holds public hearings.





(2) APPROVING DEVELOPMENT PROPOSALS

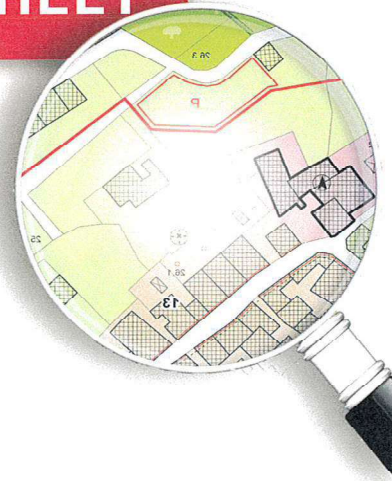
There are several circumstances under which state law or local ordinances may require the elected body to approve specific development proposals initiated by landowners. In doing so the elected body is implementing pre-established policy by applying the standards set forth in the plan and ordinance. In these cases the elected body is wearing a different hat; acting more like a judge and jury than a policy-making body.

Rezoning. A rezoning is a request by a landowner to change the district classification of his or her parcel. It is also known as a map amendment, because the request is, in effect, to change the designation of the parcel on the zoning map.

Site plans. The Iowa Code gives the elected body the authority to approve site development plans via a separate ordinance. Many communities require elected body approval of major site plans, while minor plans are handled by zoning staff.

Site plans are scale drawings that depict the general layout of a subdivision or development project, the proposed access, roads, building footprints, sewer and water infrastructure, lighting, and other features. Site plans are used to insure zoning ordinance compliance and to study both the on-site and off-site impacts of a proposed development. These impacts include traffic flow, ingress and egress, storm water drainage, grading, landscaping, lighting and parking. A site plan can vary in detail depending on the size and complexity of the project, and the administrative needs and capacity of the local government. Some site plans are highly detailed, while others are simply sketches drawn on a zoning permit form.

Subdivision plats. If a local government has adopted subdivision regulations, Iowa Code § 354.8 requires the elected body to review and approve subdivision plats prior to recording. A "plat" is simply a graphical representation of the subdivision of land. The elected body should consider "the possible burden on public improvements" and balance the "interests between the proprietor, future purchasers, and the public interest. The elected body must apply "reasonable standards and conditions" when reviewing subdivisions and must require compliance with all applicable state laws. The elected body approves the subdivision plat via a resolution that is certified and recorded, along with the plat, with the county recorder, auditor and assessor. Most communities require that the planning commission review subdivision plats before they are taken up by the elected body.



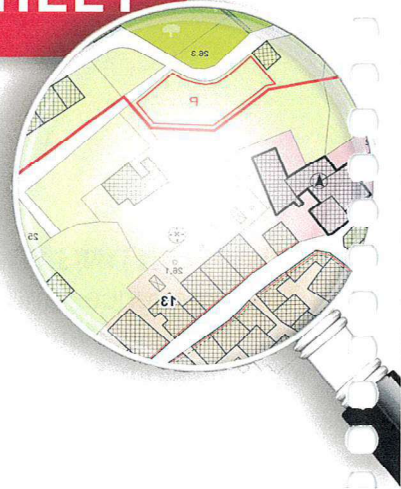
(3) APPOINTING LAND USE DECISION MAKERS

The experiences and beliefs of the individuals appointed to these positions affect the way land use policies are developed and implemented. For planning commissions this means that policy recommendations coming from the commission to the elected body are reflective of the members' opinions about growth and development, property rights, and the future. The board of adjustment interprets the ordinance and applies strict criteria in deciding appeals, special exceptions and variances. Therefore its members must recognize the limited scope of the board's authority.

Appointing planning commissioners. The Iowa Code mandates the appointment of a planning commission if the local government chooses to undertake zoning. The Iowa Code gives city and county elected officials wide latitude on the appointment of planning commissioners, with two exceptions. For counties, the Iowa Code requires the county board of supervisors to make appointments such that "a majority of [county planning commission] members shall reside within the county but outside the corporate limits of any city." For cities exercising extraterritorial zoning controls, the city planning commission must include two representatives appointed by the county board of supervisors. In all cases the size of the planning commission is left to the discretion of the elected body.

Appointing board of adjustment members. The Iowa Code requires a county's board of adjustment to be five members, a majority of whom must live in the county but outside the corporate limits of any city. A city board of adjustment may be five, seven or nine members, but a majority of the board must not be involved in the business of purchasing or selling real estate. In both cases the Iowa Code specifies how the terms are to be staggered, and requires a majority of the board's membership to be present to conduct official business.

FACT SHEET



NONCONFORMING USES

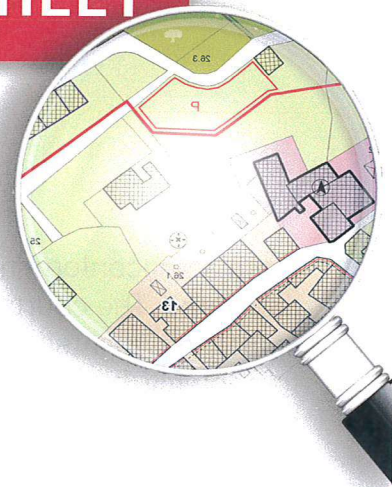
A nonconforming use is generally defined as “a land use or structure that was legal when established, but does not conform to the restrictions of the current zoning ordinance.” The term “nonconforming use” actually covers several situations, including nonconforming uses, nonconforming lots and nonconforming structures.

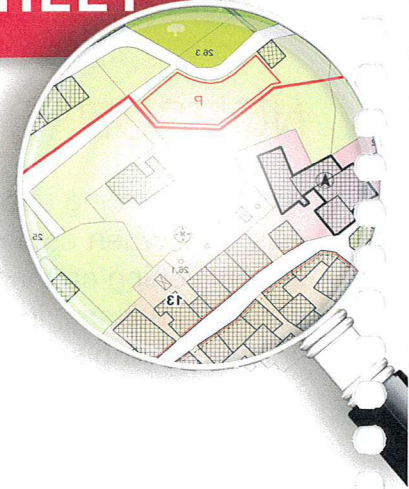
The pattern that is created as new areas develop and older areas redevelop means that some long-established uses simply do not meet newly adopted regulations such as setback requirements, use requirements or minimum lot sizes. Rather than require the immediate elimination of these long-established uses (which could open up the community to liability) the zoning ordinance will outline a set of conditions for the continued existence of nonconforming uses.

Landowners are given some latitude with nonconforming uses to change the original use “if the changes are not substantial and do not impact adversely on the neighborhood.” However, expansion, enlargement or intensification of nonconforming uses is strictly prohibited. Another way to think about it is that any change that increases the negative impact on surrounding properties should be prohibited. To decide if the aggravation is increased, courts examine the nature and extent of the changes to the nonconforming use and their effects on the surrounding area. The Iowa Supreme Court stated this principle quite eloquently when it said “the prohibition against expanding or enlarging a non-conforming use defends against the growth of a pre-existing aggravation. That pre-existing aggravation, the nonconforming use, survives as a matter of grace. The public is not required to expand upon that grace to its increasing aggravation.”

To prevent nonconforming uses from becoming blights, communities should allow for routine maintenance and repair.

Resumption of a use or structure after it has been “destroyed” is likewise prohibited. Zoning ordinances traditionally have set a specific threshold (often 50% of assessed value) for defining this destruction, and courts generally defer to the stated threshold. Recently some communities have been redrafting their ordinances to relax this requirement—permitting reconstruction if the structure was destroyed by an act of God and the new structure will be of the same size, area, use, etc.





Once a nonconforming use has been “abandoned,” its resumption can also be prohibited. The courts seem to make a distinction between “abandonment” (indicating no intent to resume the use) and “discontinuance” (use stopped temporarily, but with every intention of resuming), but the courts have also had considerable difficulty over the years defining the distinction. They seem to give landowners the benefit of the doubt when they eventually try to re-establish nonconforming uses after periods of nonuse. Local governments also have difficulty establishing abandonment, both in terms of timing and whether a property is being used. Most ordinances state a time period (usually six months to a year) that creates a presumption of abandonment if the property is not used for that period.

CONFLICTS OF INTEREST

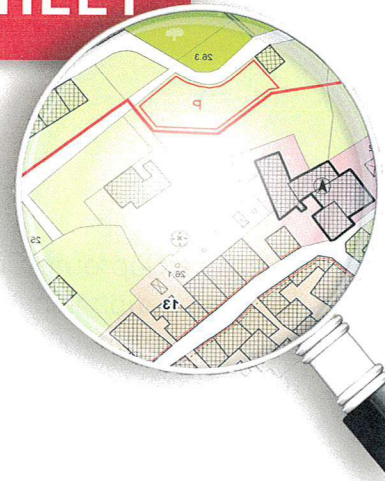
Acting as a public servant on an elected or appointed body requires loyalty to the public. Conflicts of interest arise when a public servant is in the position of deciding between public duty and private interests. The two most common conflict of interest situations are (1) when a member is in a position to gain financially from a decision being rendered, and (2) when the member is a relative of an interested party.

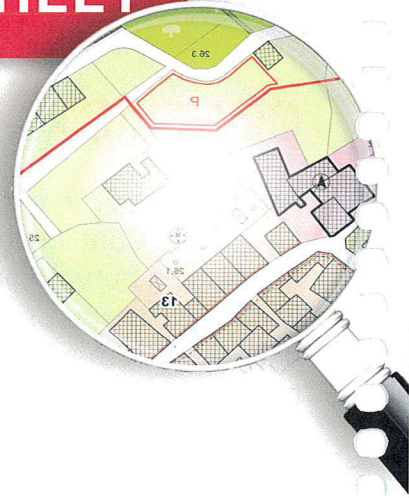
The most obvious example of a financial conflict is when a board member has an ownership interest in a property that is the subject of a requested action. But a review of court cases from around the country quickly reveals the range of possible conflict situations:

- The member is in a business relationship with the applicant.
- The member's business partner is in a business relationship with the applicant.
- The member is employed by a company that stands to gain from approval of the development proposal.
- The member owns a business that would directly compete with the applicant's business.

The tangle of familial relationships that can potentially give rise to conflict of interest questions is equally broad:

- The member's spouse is the realtor working with the applicant holding an option to purchase contingent upon rezoning.
- The member's elderly mother lives near the property proposed for a shopping mall.
- The member's elderly mother owns a small interest in the strip mall for which a special exception has been requested.
- The member's nephew is an attorney with the firm representing the applicant.



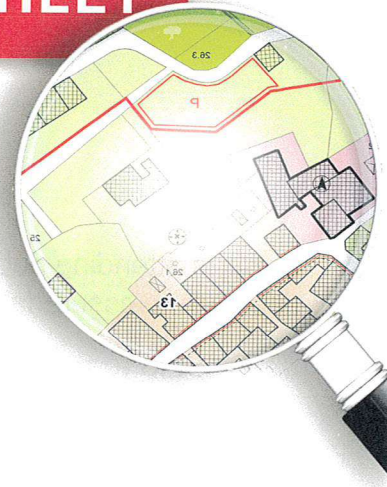


The Iowa Supreme Court has determined that business dealings and familial relationships—standing alone—are not disqualifying interests. Local governments would be seriously handicapped if any conceivable interest, no matter how remote and speculative, would require the disqualification of a zoning official. The court has stated that for a conflict of interest to exist:

- The board or commission member's interest in the matter must be different from that which he or she holds in common with members of the public.
- The interest must be "direct, definite, capable of demonstration, not remote, uncertain, contingent, unsubstantial or merely speculative."

If a conflict of interest does not exist, it is the board or commission member's duty to participate and vote, even if the situation might be uncomfortable because it involves a friend or associate.

RULES OF DECORUM FOR AUDIENCE AT BOARD OF ADJUSTMENT HEARINGS



Although the public hearing process is governed by certain rules, the Board of Adjustment strives to conduct hearings in a relaxed and informal manner. The procedure used by the Board during the public hearing is as follows:

1. The planner/zoning administrator presents a staff report including any recommendations.
2. The applicant/proponent of the proposal is given an opportunity to speak.
3. Audience members may enter testimony.
4. At the Board's discretion, the applicant/proponent, zoning administrator, and/or audience members are given an opportunity to enter rebuttal testimony.
5. The Board may then close the public hearing, or continue the public hearing to another date.

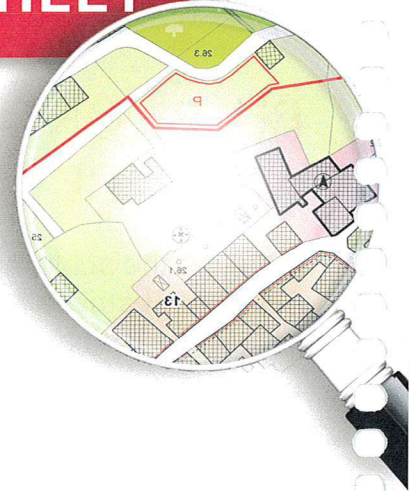
The Board may request clarification of the issues presented or may ask questions at any time during the hearing. Cross examination of persons entering testimony, applicants, staff or the Board by any other party is not permitted.

Please follow these simple rules if you will be testifying during the public hearing:

1. Come to the speaker's podium/microphone and state your name and address.
2. Keep your comments as brief as possible.
3. Keep your comments relevant to the proposal and the issues.
4. Try not to duplicate information that has already been presented.

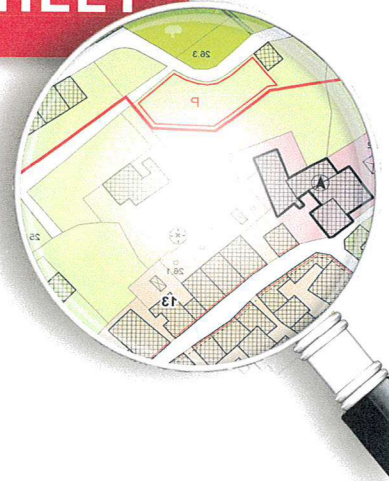
The Board of Adjustment also encourages the submission of written testimony and information. These materials are reviewed prior to a decision. All written and graphic material presented at the hearing must be retained as a part of the permanent record. Copies of items such as photographs, reports, etc., should be made prior to submission to the Board of Adjustment, as they may not be returned.

The public hearing is recorded on tape. Please state your name each time you address the Board of Adjustment or are requested to respond to a question from the Board of Adjustment. The audio recording does not recognize head nods or shoulder shrugs. When referencing written material please refer to it by exhibit number. When referencing locations on a map please describe the location with as much detail as possible, rather than pointing to it or saying "over here."



Persons attending public hearings are also expected to conduct themselves with decorum to assure fairness and equity in the proceedings. Participants must:

- Step to the podium/microphone each time you wish to be recognized by the Board of Adjustment to offer a comment, or to ask or answer a question, and state your name for the record.
- Address all testimony, comments and questions to the Board and not the other participants, the applicant or the staff. The Board will determine the appropriateness of all questions, and when and where to direct them.
- Allow others in attendance an opportunity to present their testimony. Do not interrupt the proceedings with applause, heckling, outbursts or other disruptive behavior.
- Address the issues and application that are before the Board. These proceedings are not the forum to discuss the appropriateness of particular land use policies or regulations, or alternatives.
- Turn off all audible communications devices such as pagers and cellular telephones.



A PRE-HEARING ETHICS CHECKLIST

Elected officials, planning commissioners and board of adjustment members should review the following list in advance of hearing every application brought by a landowner to judge whether a situation might be present that would prevent them from taking part in the case.

Do you own the property that is the subject of this case?

Do you own property, the value of which may be affected by the decision in this case?

Could your business potentially benefit from, or be harmed by, the decision in this case? Could you be involved in the project as...

architect

engineer

attorney

land surveyor

builder

mortgage broker/agent

developer

realtor

subcontractor

Do you have stock or any other type of ownership interest (including a silent limited partnership interest) in any company or organization that could potentially benefit from, or be harmed by, the decision in this case?

Are you on the board of, or a member of any not-for-profit organization that could potentially benefit from, or be harmed by, the decision in this case?

Could a member of your immediate family benefit from, or be harmed by, the decision in this case (consider property interests and the other potential situations posed by the previous questions)?

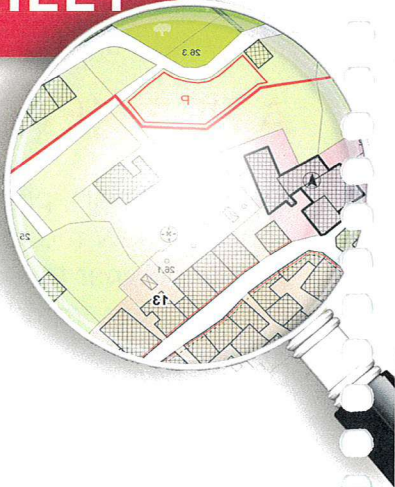
Has a party to the case spoken to you about the particulars outside the normal development review process?

Have you already made up your mind about this case?

Do you, or a member of your immediate family serve in another public office? If so, have you or that family member been involved in this case in that public capacity?

If you answered **yes** to any of these questions you should consult your city or county attorney to further investigate whether you should recuse yourself from the proceedings.

FACT SHEET



Introduction to Planning and Zoning Workshops

Course Evaluation

NOTES

Part I

Thank you for participating in this workshop. We would like your feedback on this program. Please take a few minutes to answer the following questions. Your comments are very important to us.

Please indicate the location (city) of this training: _____

Date: _____

Please indicate your position, and the number of years you have served: Years served: _____

- | | |
|--|---|
| <input type="checkbox"/> Planning & Zoning Commission Member | <input type="checkbox"/> City Administrator |
| <input type="checkbox"/> Board of Adjustment member | <input type="checkbox"/> Zoning Administrator |
| <input type="checkbox"/> City Council Member | <input type="checkbox"/> City Clerk |
| <input type="checkbox"/> County Supervisor | <input type="checkbox"/> Economic Development Officer |
| <input type="checkbox"/> Other: _____ | |

How did you learn about this program?

- | | |
|---|--|
| <input type="checkbox"/> Midwest Planning BLUZ (ISU blog) | <input type="checkbox"/> Iowa State Association of Counties |
| <input type="checkbox"/> County Extension office | <input type="checkbox"/> Newspaper article |
| <input type="checkbox"/> Council of Government/Regional Planning Commission | <input type="checkbox"/> Mailed brochure |
| <input type="checkbox"/> Iowa League of Cities | <input type="checkbox"/> Staff planner/zoning administrator |
| <input type="checkbox"/> E-mail listserv (please identify): | <input type="checkbox"/> <i>Community Matters Now</i> (Extension CED newsletter) |
| <input type="checkbox"/> Other: _____ | |

Regarding this program, how would you rate each of the following?

1 = poor 2 = fair 3 = average 4 = very good 5 = excellent

- | | | | | | |
|---------------------------|---|---|---|---|---|
| a. Content of program | 1 | 2 | 3 | 4 | 5 |
| b. Quality of instruction | 1 | 2 | 3 | 4 | 5 |
| c. Usefulness of handouts | 1 | 2 | 3 | 4 | 5 |
| d. Overall program rating | 1 | 2 | 3 | 4 | 5 |

As a result of this program do you feel more knowledgeable and confident to carry out your responsibilities regarding planning and zoning issues?

- Yes
 No

Part II

Please rate what you believe to be your level of understanding of the following terms and concepts before the workshop and after the workshop (circle response):

1= No Understanding

5 = Thorough Understanding

	Before workshop	After workshop
The purposes of zoning	1 2 3 4 5	1 2 3 4 5
Roles/responsibilities of city council/county supervisors	1 2 3 4 5	1 2 3 4 5
Roles/responsibilities of planning commission	1 2 3 4 5	1 2 3 4 5
Roles/responsibilities of zoning board of adjustment	1 2 3 4 5	1 2 3 4 5
Roles/responsibilities of zoning administrator	1 2 3 4 5	1 2 3 4 5
Relationship of planning to zoning	1 2 3 4 5	1 2 3 4 5
Spot zoning	1 2 3 4 5	1 2 3 4 5
Zoning amendments (rezonings)	1 2 3 4 5	1 2 3 4 5
Nonconforming uses	1 2 3 4 5	1 2 3 4 5
Conditional rezoning agreements	1 2 3 4 5	1 2 3 4 5
Conditional/special uses	1 2 3 4 5	1 2 3 4 5
Variances	1 2 3 4 5	1 2 3 4 5
ZBA/planning commission proceedings	1 2 3 4 5	1 2 3 4 5
When a conflict of interest exists	1 2 3 4 5	1 2 3 4 5

Part III

How many times have you attended an ISU Extension and Outreach Introduction to Planning and Zoning Workshop for Local Officials?

- This is my first time (Stop here. Thank you for completing this evaluation.)
- This is my second time
- I have attended more than twice

As a result of attending an ISU Extension and Outreach Introduction to Planning and Zoning Workshop for Local Officials in the past, have you personally, or your community (which means any council, board, or commission), made any changes to planning and zoning practices and policies?

- Yes
- No

Please provide any additional comments on your evaluation of the program:

Contact Information:

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Community and Economic Development
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