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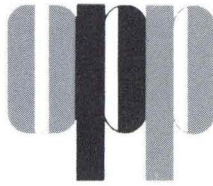
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PLANNING AND ZONING HANDBOOK

A Guide for Local Officials in Iowa

State of Iowa
Office for Planning and Programming
Division of Municipal Affairs

August, 1978



STATE OF IOWA

Office for Planning and Programming

523 East 12th Street, Des Moines, Iowa 50319 Telephone 515/281-3711

ROBERT D. RAY
Governor

ROBERT F. TYSON
Director

August 16, 1978

Dear Public Official:

I am pleased to transmit to you a copy of our new report entitled Planning and Zoning Handbook.

This document provides a handy reference regarding both necessary and desirable practices for local planning and zoning officials. It has been prepared in response to requests by local officials for a non-technical primer on the art and science of planning and zoning. It is intended to be useful both as an orientation guide for new planning officials, as well as review material for veteran members.

The report provides a capsule of information on nearly all aspects of local planning and zoning. It does not, however, substitute for professional planning or legal advice. Your local attorney and/or planner should be consulted when various technical issues arise.

The handbook has been developed according to suggestions submitted by a large number of state and local officials. I would like to offer a special note of appreciation to the various local planning officials who helped us in the preparation and editing of the report. I believe that the usefulness of this document was greatly enhanced by these efforts.

I sincerely hope that you will find the handbook useful. I would like to encourage you to think of others who might benefit from this publication and ask that you pass it along for their consideration.

Sincerely,

David A. Discher, Director
Division of Municipal Affairs

DAD/jl/wb

Enclosure

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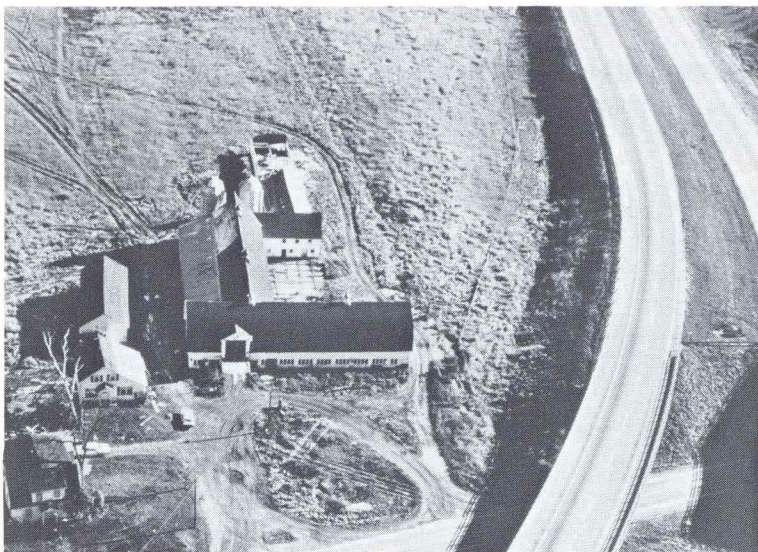
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I. INTRODUCTION

Whether you just took office or held the position for years, you've probably been too busy to remember *why* you agreed to serve. Whatever the reason, you knew you wanted to have a part in deciding how your community develops. You may have figured that someone with roots in the community and good common sense had better be around to listen to your neighbors and help direct the community towards a desirable future.

Now you have served awhile and the job may not be all you expected it to be. You may never have been given any type of planning and zoning training, nor informed of how things work at your local government. In some cases, you may now realize that your planning commission does very little planning, but only reacts to preliminary plats and rezoning requests. This handbook is designed to give you that necessary background training which hopefully will lead to better planning and zoning decisions for your community.

How long have communities been planning?

Local planning in the U.S. goes back all the way to the New England town meetings of colonial times. Community leaders gathered to help lay out towns and segregate those uses of land which were considered to be a nuisance from the rest of the community. The 1800's brought a change in attitude which removed nearly all governmental interference in the manner in which private land was used. If a person didn't like his neighbors, he could always buy cheap land down the road. It wasn't until the civic-minded citizens exposed the large city slumlords in the late 1800's that the general public again became convinced that it had to assume responsibility for the condition of housing and sanitation in American cities.

The Twentieth Century brought several new types of land use regulations — housing codes, building and sanitary codes — which were adopted by city councils and subsequently declared constitutional in numerous court cases. It was during these early years that the first zoning regulations (New York - 1910) and planning commissions (Hartford, Connecticut - 1907) appeared. The political machines which characterized many U. S. cities during the first twenty years of this century were almost all swept away by the reform movement and many were replaced by nonpartisan forms of government. "Politicians" were viewed with distrust and, therefore, planning and zoning commissioners were appointed from among the people as quasi-independent bodies to keep politics out of long-range planning. Boards of adjustment were added to give individuals relief when city-wide controls caused unusual hardships on property owners.

At first the commissions concerned themselves with stabilizing and protecting property values. Later, as cities grew, the concerns were expanded to include engineering functions such as the width and alignment of streets and the location and adequacy of public facilities. These new interests soon gave way to concerns on financing the capital improvements through the budgeting process. After Section 701 of the Housing Act of 1954 became law, federal funds acted as the great impetus for all jurisdictions to do studies and surveys and prepare comprehensive plans. Many cities and counties in Iowa took advantage of

these funds and hired planning staff or consulting firms to develop, what was for most jurisdictions, their first comprehensive plan. The 1960s and early 1970s placed new burdens on the planning commissions. State and federal agencies required or strongly suggested that localities complete environmental impact studies, urban renewal plans, housing assistance plans (HAPs), historic and cultural inventories, site plan review standards, air and water quality studies and (most recently) growth management controls.

Today local planning and zoning officials, whether their communities are growing in population or not, should be vitally concerned with planning and land management. Jurisdictions experiencing growth are concerned with adequately reviewing subdivision plats and requests for rezoning and examining where future development should go. Other cities and counties experiencing population leveling or decline are vitally concerned with housing rehabilitation, under-utilized public facilities, or keeping downtown areas from becoming row upon row of vacant storefronts. Major priorities in these localities include redeveloping and promoting downtowns, developing attractive land for new industries, and trying to maintain the older neighborhoods.

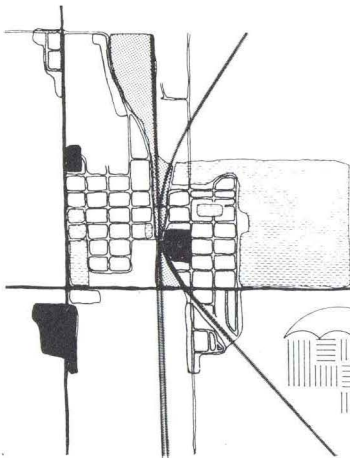


What is community planning?

For most planning and zoning officials, the regular monthly meeting is the place to go and deal with whatever turns up on the agenda. They react instead of initiating the action. Initiating the action, however, requires you to have a general plan to strive towards — a community plan for your city or county.

Community planning is the process by which a city or county decides what kind of future it wants and then establishes the policies and management tools (i.e. zoning and subdivision regulations) to help reach that goal. Using background research, the community applies intelligent forethought to guide private and public decision-making.

We all have goals and plans. For example, businessmen, farmers, and even families decide where they want to be in a week, at the end of the season, and down the road toward retirement. They must if they want to be successful. A community also should have goals and plans, only the task is far more complicated. Numerous social, economic, and physical factors impact the community: private investment decisions; the local, national, and international economy; federal and state policies and investments; and certainly the public decisions made by the local government.



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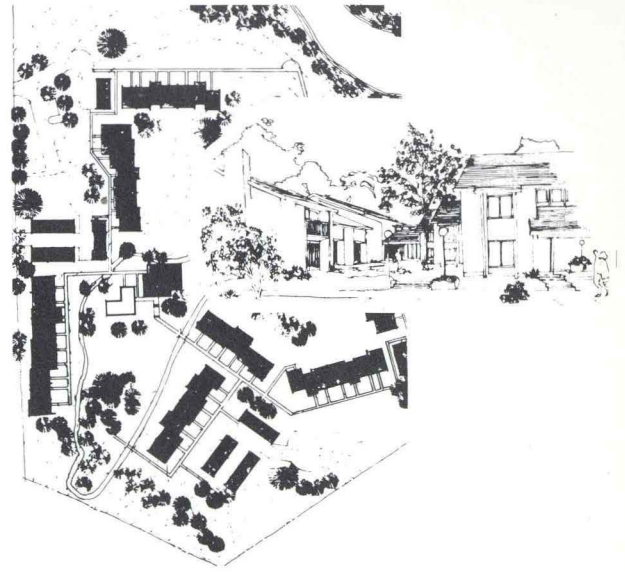
PREPARED BY:
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Why is planning necessary?

Growth and change — there's no question that these will occur in every city and county in Iowa. Some localities are growing in population, others are trying to hold their own, while others are fighting to stay alive. This fact leads to a pertinent question: "How are we going to grow?" Until recently, the answer might have been: "The way it always has." But today many are questioning our non-policy and its unanticipated, costly results. Growth and change, as you well know, can result in unsightly commercial development along highways, urban sprawl into our rich farmland, deteriorating downtowns, and abandoned vacant lots. Or growth and change can mean new vitality to a community, reinforcement of community goals, thriving businesses, and better uses of the land.

Planning is needed simply because there is limited land to accommodate growth. The farmer, developer, industrialist, and the businessman all compete for the land — the farmer to grow more crops, the developer to build more homes, the industrialist to provide more jobs, and the businessman seeking the most favorable location to sell merchandise and services. The problem we must face is that our land is a finite resource. Land is the basic resource on which all human activities depend. So it makes sense to plan for its wise use by guiding growth and change to achieve economic benefits while protecting environmental quality.

The impact of good planning may take years to become apparent. An orderly growth pattern takes time to develop, but the results can be felt sooner. It's a sales tool because business and industry seek out communities which can provide adequate community services, facilities, and are attractive places to live. Also, public construction projects may be relocated, delayed, or eliminated because planning shows a lack of need for a facility in a proposed location. These savings and benefits are passed on to the resident.



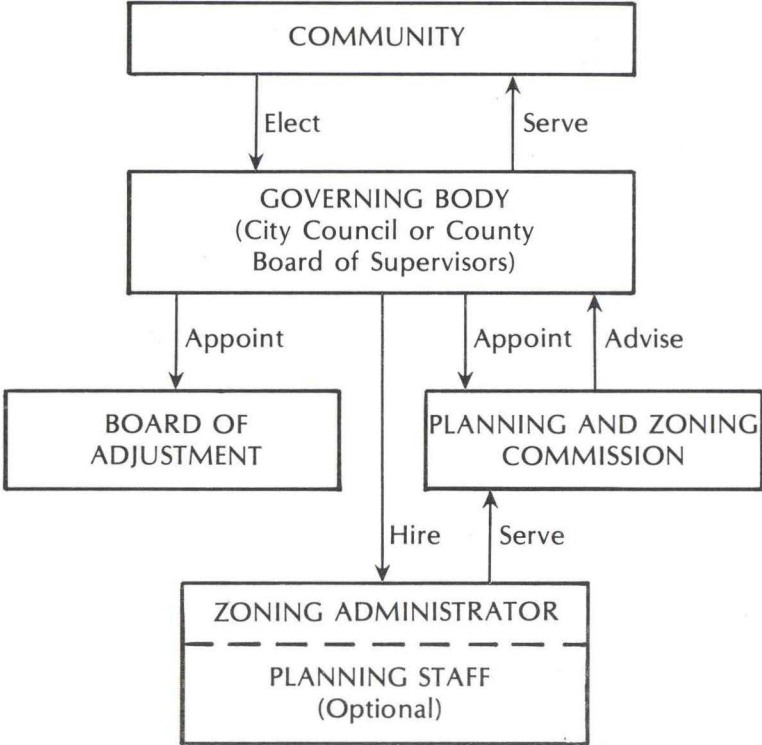
What are the fundamentals of planning?

As a new planning and zoning official, you will be asked to decide on important issues which require good common sense supplemented by knowledge. Here are some areas everyone involved in the planning and zoning process should study and understand:

- **The state enabling legislation.** Cities are granted the authority to plan and zone in Chapter 364, **Iowa Code**, (the home rule legislation) and Chapter 414 (municipal zoning power). Counties are granted similar authority in Chapter 358A (county zoning power). Local zoning is “permissive” in the state of Iowa. However, once the city or county begins to adopt a zoning ordinance, the jurisdiction must follow the legal procedures described in the enabling legislation. Planning and zoning includes several different public bodies and officials. Chart 1 provides a typical organizational chart.
- **Other state and local regulations.** Subdivision regulations, building codes, housing codes, etc., are not part of the zoning ordinance, but are highly related land use controls. Most are “permissive” and authorized by the **Iowa Code**: subdivision regulations — Chapter 409; building codes — Chapter 103A; and housing codes — Chapter 413. (Note: Cities over 15,000 population must have a housing code.)
- **The legal foundations of planning and zoning.** The power to regulate the use of land is delegated from the state to the local governing body in many ways which can be summarized as “police power.” Counties and cities are granted this fairly broad power to promote the health, safety, morals, or the general welfare of the community. The police power of the governing body is the basis for enforcing zoning ordinances, subdivision regulations, and similar land management tools.

Cities and counties are also authorized to use the power of "eminent domain", which makes it legally permissible to acquire property by condemnation procedures, provided the owner is paid a "fair price," and provided the property is taken for a "public purpose." The power of eminent domain is sometimes used to acquire the land needed for public facilities.

**Chart 1
PLANNING AND ZONING ORGANIZATION**



II. JUST WHAT IS A COMPREHENSIVE PLAN?

The **Code of Iowa** states that a zoning ordinance *shall* be made in accordance with a comprehensive plan (secs. 358A.5 and 414.3). While the law does not clearly explain what a comprehensive plan is, it does say that the plan should be the basis for the zoning ordinance. To do this, the comprehensive plan must consider all of the geographic area within the city or county to be zoned. The plan should cover the following areas: provide adequate public facilities such as transportation, drinking water, sewers and sewage treatment, schools, parks, and other public services; avoid undue concentrations of population; protect residents from fire and flood dangers; promote the health and general welfare; and identify the most appropriate uses of land throughout the jurisdiction.

To address all these areas, the community usually prepares a series of documents setting forth the policies for the future of the community. It is normally the result of considerable study and analysis of existing physical, economic, and social conditions, and a projection of future needs. When adopted, the plan serves as a guide for many public decisions, especially proposed amendments to the zoning ordinance and the preparation of a capital improvements program.

"Long-range planning does not deal with future decisions, but with the future of present decisions."

—PETER DRUCKER



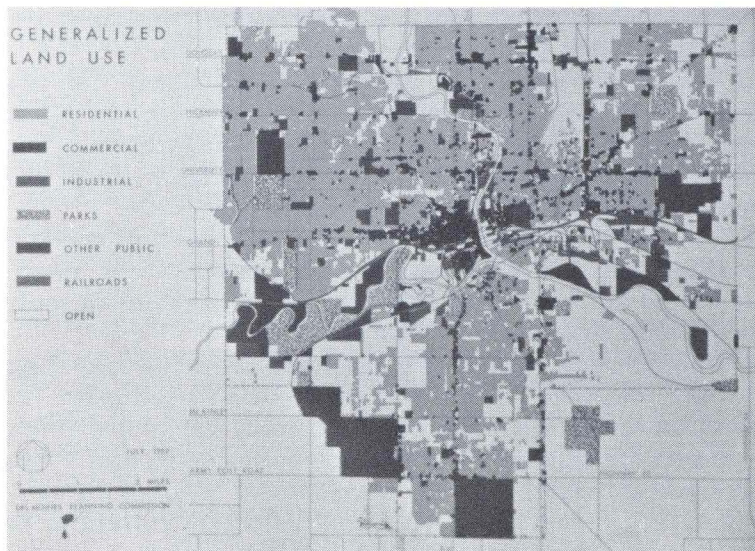
There are many parts of the comprehensive plan, often called "elements," which together constitute the overall plan. While plans differ from place to place, most contain the elements described below:

- **Goals and objectives.** This element, while probably the shortest, is the most important because it explains the *direction* and *ideals* which the comprehensive plan is intended to satisfy. Here is where the planning and zoning commission can have a real impact on the planning process. Instead of vague "motherhood and flag" goals and objectives, the commission should develop a sharply defined set of goals and objectives which can be translated into action.
- **Land use element.** This is the basic element of the comprehensive plan because it consists of extensive background research leading to a determination of the best future physical development of the community. Various inventories and analyses are conducted in the following areas: population characteristics and projections; economic activity (retail, services, and industry); employment characteristics and needs; natural environment — soils, climate, vegetation, and topography; survey of existing land use; and a history and culture of the residents. Based on these findings (especially population projections), the physical development needs are converted into a future land use plan to guide official decisions in regard to the best utilization of private and public development.
- **Transportation element.** The total transportation network which serves the jurisdiction is inventoried, mapped, and evaluated. In addition to the local streets and highways, the plan includes air traffic (passenger and freight handling), railroad service, other public transportation (bus and taxi-type modes mostly), and water transportation (where appropriate).
- **Housing element.** The housing element considers the present condition of housing and future demand. Houses in need of substantial rehabilitation and maintenance are identified, and financial and service assistance are addressed as they relate to improving the housing stock.
- **Facilities and utilities element.** The purpose of this element is to analyze the current and future need for various public services. The plan recommends the general type, location, and character of parks, police and fire stations, community

buildings, schools, water and sewage treatment plants, and public maintenance facilities. Public and private utilities (electric, gas, telephone, and water) are sometimes a critical part of this plan. Providing water and sewage waste treatment for new and existing developments, while not over extending the jurisdiction's ability to finance such services, is a delicate balancing act for most cities and counties.

- **Special needs element.** Many communities have special problems which require specific consideration. It may be the lack of economic development within the area, the existence of a large water reservoir nearby, annexation potentials, a declining downtown or an old neighborhood worthy of consideration as a historic district. These concerns and investigations can be studied and reported in the same manner as the other elements of the comprehensive plan.

The comprehensive plan for your locality should be unique. Don't be tempted to "borrow" a plan from a nearby city or county. If the background research and proposed policies aren't hammered out in your community, the resulting plan will never be useful. Each of the elements may be quite simple — or elaborate — depending on your locality. The main objective is for the plan to fit your needs and thereby be used on a continuous basis.



What are the basic stages of a comprehensive plan?

A planning program has seven basic stages: developing preliminary goals and objectives, gathering background information, clarifying the goals and objectives, preparing the plans, adopting plans, implementing plans, and evaluating the results. (Refer to Chart 2.)

The first stage, preliminary goals and objectives, allows the community and the planning agency to focus on the community's problems, opportunities, needs and values, as they affect its future development and preservation. The planning work program is also developed during this stage.

A plan is only as useful as the basic information on which it has been formulated. Stage two involves collection and evaluation of pertinent information about the city or county and its surrounding area to be used for identifying alternative ways to reach the objectives.

Final formulation of community-wide goals and objectives is the third stage in the planning process. These objectives will act as a guide for choosing among the alternative plan proposals.

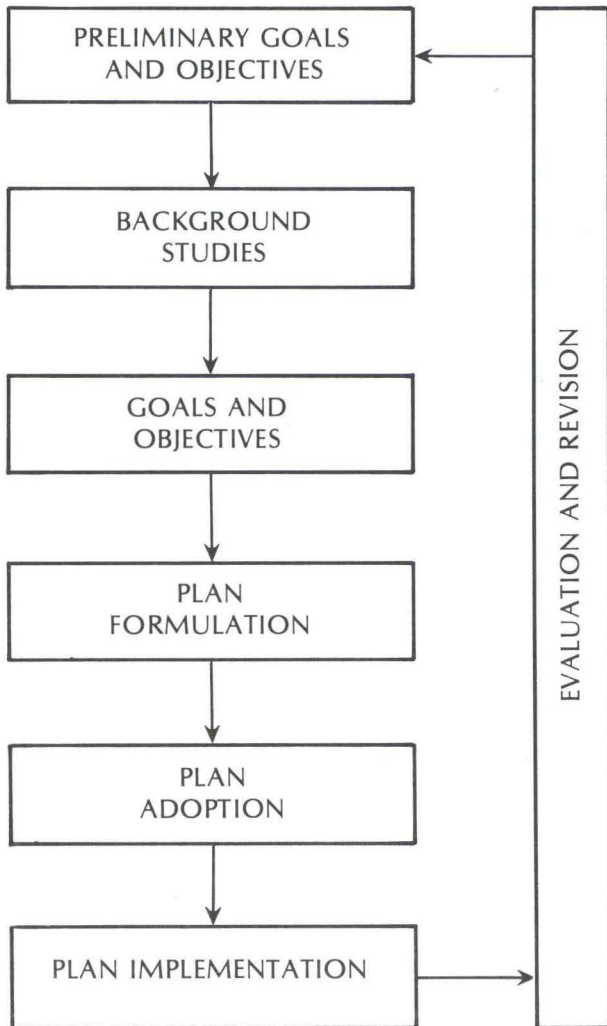
The fourth stage involves the formulation of plan elements (land use, housing, transportation, etc.) based upon background information and stated goals and objectives. The plans should indicate how private and public action can achieve the community-wide goals in the next 10 to 20 years.

Plan recommendations cannot be valid unless they are sanctioned by the governing body. The fifth stage, therefore, involves the official adoption of the plans by the city council or the board of supervisors, after public hearings are held and needed amendments, if any, to the plans are made.

The key to the success of the plan is how effectively it is implemented. The sixth stage includes development, enactment, and administration of the various implementing tools, such as zoning and subdivision controls.

The last stage, evaluation and revision, is a continuous stage in which the entire process from stage one is started again. The plan is never finished, because periodically the implementing tools and the plan elements must be evaluated to insure they keep abreast with the current development needs of the community. Data must be updated and plans kept current to be useful on a day-by-day basis.

Chart 2
PLANNING AND ZONING PROCESS



How is the comprehensive planning process started?

How you accomplish the planning depends on the financial and manpower resources of your community, how quickly the plan must be completed, and how complex your problems are. Some communities have major land development problems; some need a plan immediately to qualify for federal funds; while others realize the need to update old comprehensive plans.

Generally, the city council or the board of supervisors gets the ball rolling by deciding to develop a comprehensive plan. They delegate this responsibility to the planning and zoning commission which oversees the entire planning process. You definitely should have the support of the governing body before beginning the planning process or you may not receive their support as the plan is completed and recommendations are made.

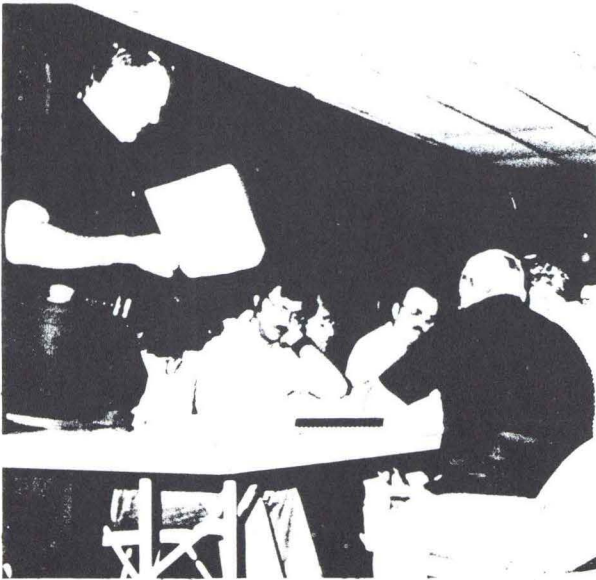
One of the commission's biggest tasks will be to get qualified people to do the technical work. Some cities in Iowa are large enough to hire a full-time professional staff to draft the various elements of the plan. The advantage of hiring permanent staff is that your jurisdiction will get on-going planning support from a staff who will be around to carry out and update the plan and its implementing tools.

Other planning and zoning commissions hire a planning consulting firm to do what needs to be done. There are numerous well-qualified consulting firms based throughout Iowa and in the Midwest who have years of planning experience. Their names can be found in the yellow pages or by receiving recommendations from other cities or counties which have used consultants. We recommend you contact at least three consulting firms, so you'll have an adequate means of comparison.

Many cities and counties go to their council of governments (areawide planning organizations) to obtain planning assistance. A map showing the 16 regions and a directory showing how to reach your regional organization can be found in Appendix A. These regional organizations are created to give technical assistance to member constituents. All of the 16 regions in Iowa have already completed a land use survey and numerous other region-wide studies, so they are familiar with your city or county and the surrounding area.

"We must ask where we are and whither we are tending."
—ABE LINCOLN





Citizen involvement throughout the planning process is important, especially during the initial stages. Citizens can be extremely useful in identifying their needs and desires for the community. They should be extensively involved during the early stages in the development of your goals, objectives, and policies. By citizen involvement, we mean public information and education as well as public comments. Involvement of citizens can best be obtained through the following procedures:

- Planning and zoning commission meetings well publicized and open to the public (as required by Iowa law).
- Public information meetings conducted by planning and zoning officials to assist those doing the planning elements, private developers, and knowledgeable citizens vitally concerned with obtaining a useful comprehensive plan.
- Surveys of citizens, conducted door-to-door, over the phone, or printed in the newspaper, to learn citizen desires and levels of understanding of the planning process.
- The publication and distribution of information on the planning process, preliminary results and recommendations through newspapers, flyers in the mail, and radio and television broadcasts.

How is the plan implemented?

Once the studies, public hearings, and commission meetings are completed, the plan, including policies and recommendations are forwarded to the governing body for review and adoption. This is another critical step in the planning process, because the plan will have no useful impact on the community unless it is translated into developmental controls and administrative procedures. These put teeth into the plan.

Iowa law authorizes cities and counties to enact certain regulatory controls to handle growth and changes in land use. The developmental controls — including zoning ordinances, subdivision regulations, housing and building codes, and annexation procedures — should *follow* the preparation and adoption of the comprehensive plan; they should not come before. Many jurisdictions have, for instance, zoned before they have planned. This is developmental programming in reverse. In fact, courts in some other states have ruled that a zoning ordinance must be based on a written comprehensive plan for it to be valid.

In any case, the planning and zoning officials should insure that the proposed zoning ordinance and other control mechanisms reflect the goals and policies of the plan. If these implementing tools have already been adopted, review each one carefully and make changes and additions adequately to better reflect your plan. Your city or county attorney will be most useful at this point to insure that proposed regulations are properly written so as to be enforceable in case a conflict arises.

One of the ways the plan can be implemented is through the capital improvement program (CIP). Many comprehensive plans, after completing the public facilities and utilities planning element, establish the priority, timing, and financing of specific public improvement proposals. The CIP, therefore, becomes a part of the local budgetary process. Refer to "A Practical Guide for Capital Improvement Programming", an Office for Planning and Programming publication, which outlines the preparation of a CIP.

Your responsibility as members of the planning and zoning commission and the board of adjustment is to implement the plan by incorporating the goals, objectives, and policies into your decision-making process. Henceforth, requests for rezoning, zoning ordinance changes, and appeals should be based on the comprehensive plan. The plan is of no value if placed on the shelf to collect dust.

"The pace of events is moving so fast that unless we can find some way to keep our sights on tomorrow, we cannot expect to be in touch with today."

—DEAN RUSK

How can the plan be made more worthwhile?

If you are afraid that all of your time, effort, and money will go to waste on the comprehensive plan, we have a few suggestions to help make it more useful to the public decision makers, the developers, and local residents.

- Make sure your plan serves your current and near-future needs as well as your long-term community goals. Will the adopted policies address the problems you must deal with daily? If not, do something about it.
- Don't develop a plan just to satisfy the planning requirements for federal funds. Federal funds come and go, but your city or county's needs will always be your concern.
- Set up study periods to go over the plan immediately after adoption and then periodically. Don't be afraid to ask the planning agency to explain any part of the plan you don't understand or agree with.
- Promote your plan — make an attractive and inexpensive summary which can be distributed to citizens, developers, and the news media. Try to stimulate private investment to support the developmental goals of your community.
- Make sure those local officials that will have to interpret and carry out the plan, such as the zoning administrator and board of adjustment, are adequately trained and competent.
- If a consulting firm developed your comprehensive plan, consider retaining the firm on some kind of continuing basis to provide professional assistance as the need arises.
- Use the plan as a reference point when a new political hot potato surfaces. Don't throw away all your careful planning just because something unexpected comes up.
- Ensure that the plan becomes a part of the budgetary process.
- Generate and maintain a close working relationship with the city council or board of supervisors and remind them to use the plan.

"Our task now is not to fix the blame for the past, but to fix the course for the future."

—JOHN F. KENNEDY

How is the plan amended?

Provisions should be made in the plan or your administrative rules for amending it, but this authority should be used with discretion, since much of the value of a plan can easily be lost through frequent or capricious changes. Amendments can be proposed by the planning commission, the governing body, or by citizens, but any proposal must always be referred to the commission for its consideration.

The planning commission should discuss the proposed change, may refer the proposal to the planning staff or a study committee for their recommendations, and hold a public hearing to solicit reactions from the residents. While evaluating the proposed change, the commission should insure that the change fits the overall goals and policies of the plan, that special interest groups are not given preferential treatment, and that secondary impacts of the change are adequately considered. If the suggested change is approved, the proposal is then sent to the governing body for its review and adoption.

If officially adopted, make sure the change is published and incorporated into the revised comprehensive plan.

How often should the comprehensive plan be reviewed and revised?

We recommend that the entire comprehensive plan be carefully reviewed every three to five years to insure that the study data and land use map are brought up to current status. Possibly, your policies will have to be updated also. The review may be fairly simple in communities which haven't grown much in recent years or it might be quite elaborate in communities that have witnessed rapid growth or change. The following questions should be asked during the review process.

"Our plans miscarry because they have no aim. When a man does not know what harbor he is making for, no wind is the right wind."

—SENECA (4 B.C.-A.D. 65)



- Can we improve our goals, objectives, and policies?
- Have our population characteristics changed in the last three to five years? How will those changes affect our jurisdiction in the years to come?
- Has the economy changed within our community for the better or worse? What long-term effect will these changes have on our jurisdiction?
- Has our natural environment been degraded or improved? Were our controls useful or should they be changed to meet our present needs?
- Where and what kind of development has been occurring? Is this the kind of development we want or do changes in this trend need to be made?
- How successful have we been in meeting our capital improvement program? What changes should be made to better meet our needs?
- How successful have we been in obtaining citizen participation? How may we better communicate with our fellow citizens?
- What impact have federal and state regulations and funding had on our community? How can we improve our working relationship with other levels of government to our benefit?
- Are we satisfactorily meeting the needs of our residents for transportation, recreation, and other public services?

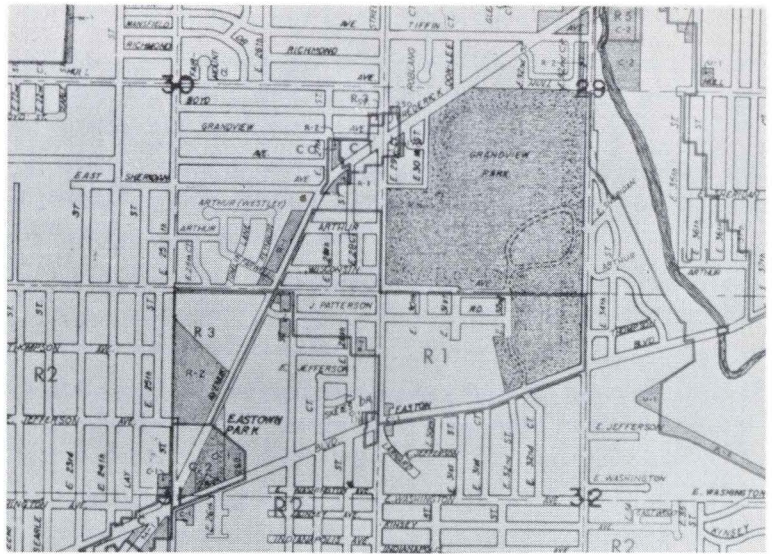
The results of your review and revision may very well mean changes in your zoning ordinance, subdivision regulations, or other developmental controls. A study committee can easily make that determination and recommendations can be formulated. The next section will take a look at the most common type of land management tool, zoning, and see how it relates with the comprehensive plan.

"My interest is in the future because I am going to spend the rest of my life there."

—CHARLES F. KETTERING

III. WHAT ARE THE BASICS OF ZONING?

When land use controls are mentioned, many people automatically think of zoning. Cities are authorized to zone by Chapter 414, **Iowa Code**, while the applicable reference for counties is given in Chapter 358A. A zoning ordinance is a law adopted by the local governing body to regulate the use of land, the height and size of buildings, the size of lots, yards and other open spaces, and other related matters. Zoning is designed to promote a sound, safe, healthy, and otherwise desirable community. It consists of a *text* and a *district map*. The map divides the territory of the community into districts for different types of development — residential, agricultural, conservation, commercial, industrial, and others — while the text specifies the regulations to apply in each district and the general provisions for administration.



The zoning map is an essential part of the zoning ordinance and must contain certain information:

- **District boundary lines** — the exact location of the boundaries between zones must be clearly drawn. As changes are made in the zoning ordinance which change the zone boundary lines, the zoning map must be brought up to date. County zoning, which has zoning jurisdiction only in unincorporated areas, should clearly show on the map those areas where county zoning is in effect. Cities with zoning must zone all the land within the city boundaries.
- **Zone district identification** — every zoning district must have identifying zone titles, which can be any designation your community chooses. Some examples include: "A-1" for agriculture; "U-1" for floodplain and conservation; "R-1" for residential; "C-1" for commercial; and "I-1" for industrial. You may have degrees of development intensity within a category, such as R-1 (low density residential) and R-2 (medium density residential).
- **Title** — the map should have a title, which includes the name of the jurisdiction and the date adopted and dates of subsequent amendments.
- **North arrow, scale, and legend** — the map should be drawn to scale and where any question arises over distances, the exact figure should be printed, i.e. "100 ft". The

legend should show the distinction between lines used to demonstrate the municipal boundary line, street rights-of-way, and zoning boundary lines.

The zoning text provides in written form the description of the zoning districts and organizes into sections the procedures for controlling the use of land. As an implementing tool for the comprehensive plan, zoning ordinances are a mixture of policy statements, instructions, standards and criteria, definitions, and procedures properly organized to guide users of the ordinance. The organization of the ordinance may vary from community to community.

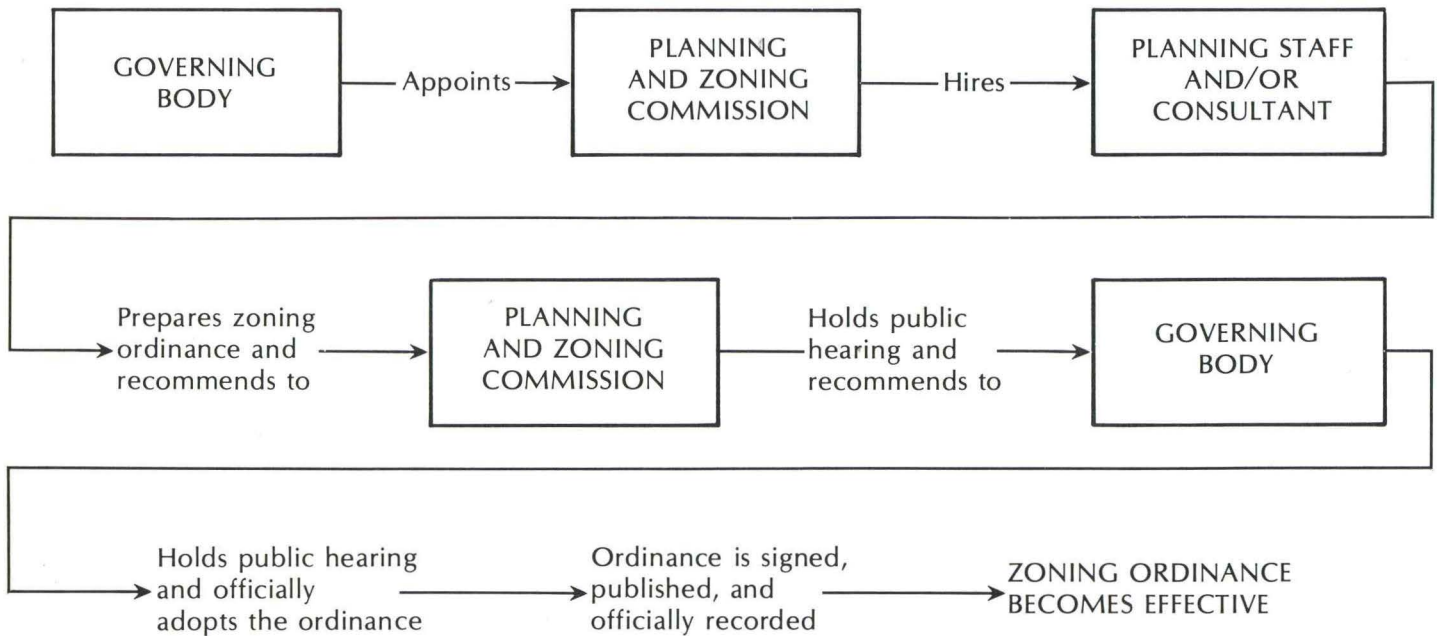
How is a zoning ordinance developed and adopted?

Developing a zoning ordinance is not an easy task. There are difficult decisions to make, which affect many people. How can the ordinance be strong enough to do the job, yet not unduly obstruct private property rights? Will it be so weak that it merely legalizes the conflicts among current uses of the land? Will it encourage good development and support the conscientious developer? Will it protect the cherished values of the community, yet take into consideration the future generations? Will it be fair? Will it be understandable? These are among the many questions the formulators of the ordinance must answer.

Developing and writing a zoning ordinance is not the job for a non-professional. You can't just copy the zoning ordinance from another community. Each jurisdiction has its own developmental characteristics and must have an ordinance that suits its particular needs. You will need competent professional planning and legal help in the preparation of a zoning ordinance.

The procedure for adopting a zoning ordinance is briefly described below. Chart 3 will help you to see how these necessary actions fit together.

**Chart 3
DEVELOPING A ZONING ORDINANCE**



As was true with developing a comprehensive plan, the city council or county board of supervisors initiates the process for developing a zoning ordinance. According to Iowa law, the governing body will appoint a "zoning commission" to do the background work and recommend a proposed zoning ordinance. Whether your community has a zoning commission or a planning and zoning commission, its responsibility with regard to the ordinance is the same. If a "planning commission" already exists, we recommend that it be appointed the "planning and zoning commission."

It is the responsibility of the commission to prepare the draft zoning ordinance, including the text and district map. Whether it is accomplished by your own planning staff, consulting firm, or another technical assistance source, several considerations must be given:

- The language of the text should be simple, clear, and concise, so that the ordinance is interpreted correctly. Short sections or subsections are the general rule.
- Based upon the comprehensive plan, the zoning map should include enough usable land for each of the respective zoning districts. Map out the most appropriate locations for each zoning district provided in the ordinance.
- Zoning regulations and standards may vary from district to district; however, within each district the ordinance must be uniformly applied.
- As a "police power," zoning can regulate the use of all land as long as the regulation reflects the public interest. Basic property rights of the landowner should be recognized and restrictions on the use of land should be imposed only where it is necessary to protect other landowners and the general welfare of the community. If zoning makes it impossible to use or develop certain land for reasonable use, the regulation is confiscatory and therefore not a lawful exercise of the "police power."
- Zoning cannot abridge the constitutional rights of people to choose where they want to live, work, and raise their families. Care must be taken not to intentionally keep certain types of legitimate developments out of a community, such as mobile home parks.
- Zoning can affect land uses only from its effective date; it cannot be retroactive. Based upon the land use survey, identify the existing uses which will become nonconforming when the zoning ordinance goes into effect. Nonconforming uses can legally continue as long as no substantial rehabilitation or expansion occurs.
- Specific consideration should be made to avoid damaging or illegal practices such as spot or strip zoning or playing favoritism to special individuals or groups.
- Iowa law provides for "safety valves" (variances, special exceptions, and an amendment process) which should be clearly spelled out in your zoning ordinance.

Once the proposed zoning ordinance is prepared, the commission must hold at least one public hearing to allow interested parties and citizens an opportunity to voice their opinions for and against it (secs. 358A.6 or 414.6). As is the case with the comprehensive plan and other developmental controls, public support is necessary for effective zoning. The public hearing can be a method to help the public understand the proposed ordinance and make responses.

As a commission, you should be prepared to make changes in the draft zoning ordinance during these initial public hearings. There are two reasons for this: 1) it's easier to make changes early in the adoption process than later when things become very formalized; and 2) the commission should show their earnest concern for public opinion by being responsive to constructive criticism or you will likely lose public support.

After the public hearing and subsequent changes, if any, are made to the proposed ordinance, the commission forwards the zoning ordinance to its governing body for official adoption. Again, the city council or board of supervisors must hold at least one public hearing after giving proper legal notice.

The governing body has the final say on the proposed zoning ordinance. It may see changes that are desirable or necessary or the public hearing may cause additional corrections to be made. All major changes should be reviewed by the planning and zoning commission for its recommendation before proceeding with the adoption of the zoning ordinance.

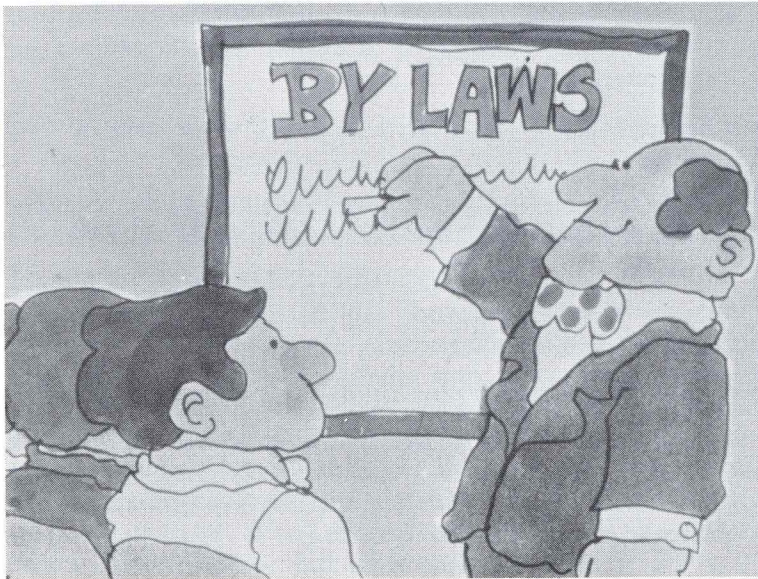
After the zoning ordinance is written in final form, the city council must consider the proposed ordinance on three different occasions prior to voting in favor of adoption. The county board of supervisors need only read the proposed ordinance once before voting.

Upon adoption of the zoning ordinance by a majority of the governing body, the ordinance goes to the chief elected official (Mayor or Chairman, Board of Supervisors) for his/her signature. To become effective, the ordinance must be published or posted according to Iowa law (section 380.8 for cities and section 349.16 for counties) and properly recorded with the county recorder.

What steps will implement the zoning ordinance?

Iowa law has something to say about steps to be taken after passing a zoning ordinance, but additional steps may be necessary to insure that the ordinance is useful. The law says that the city or county governing body must appoint a zoning administrator and a zoning board of adjustment to administer and interpret the zoning ordinance. Those appointed should understand and support the zoning process and should have adequate time to fulfill their duties.

For you on the planning and zoning commission, your job now will be to promote the complete ordinance to those people in your community who will be directly affected by it. Don't just sit back and expect the developer, the Chamber of Commerce, and the industrialist to come to you. Make copies available to them and explain which regulations will affect any future plans for growth they may contemplate. Keeping people informed will reduce the potential conflicts you are likely to encounter in the future.



What zoning can and cannot do

Since the time of its inception, zoning has been acclaimed and criticized, with the critics usually making more noise than the supporters. Most of the arguments go like this. Many critics are afraid that zoning is an all-encompassing power which permits a small group to dictate how everyone will use their land. Others say just the opposite; this group claims that zoning is meaningless because it is amended so often by developers and landowners who seek special benefits and financial gain. Still others expect zoning to make immediate visible results when zoning is implemented.

You as a planning and zoning official will probably be one of the few to defend zoning in your jurisdiction. The arguments listed above are all potentially possible and ones you must face and take steps to answer. The best way to promote zoning is by making proper zoning decisions and providing community-wide education.

Let's face it. Most people don't understand the basics of zoning — what zoning can and cannot do for a community. The following list summarizes some of the important points which you may want to use to persuade others:

Zoning **cannot**:

- Prohibit certain economic and racial groups from locating within certain districts of a community (known as exclusionary zoning).
- Be arbitrary or capricious, favoring some people over others.
- Force existing land uses to be either eliminated or changed after the effective date of the ordinance without due process.
- Guide how a subdivision will be developed or regulate how a building will be built.
- Solve all your local development problems overnight.
- Regulate land used for agricultural purposes if it is located in the unincorporated areas (Exceptions: commercial feedlots, land located in a floodplain, and agricultural land located within cities with zoning).

"Nothing is more terrible than activity without insight."
—THOMAS CARLYLE (1795-1881)

- Be enforced by anyone outside the given locality, including the state and federal government, except where the courts are involved in individual cases.
- Be used to exclude undesirable but necessary uses of land from a community.

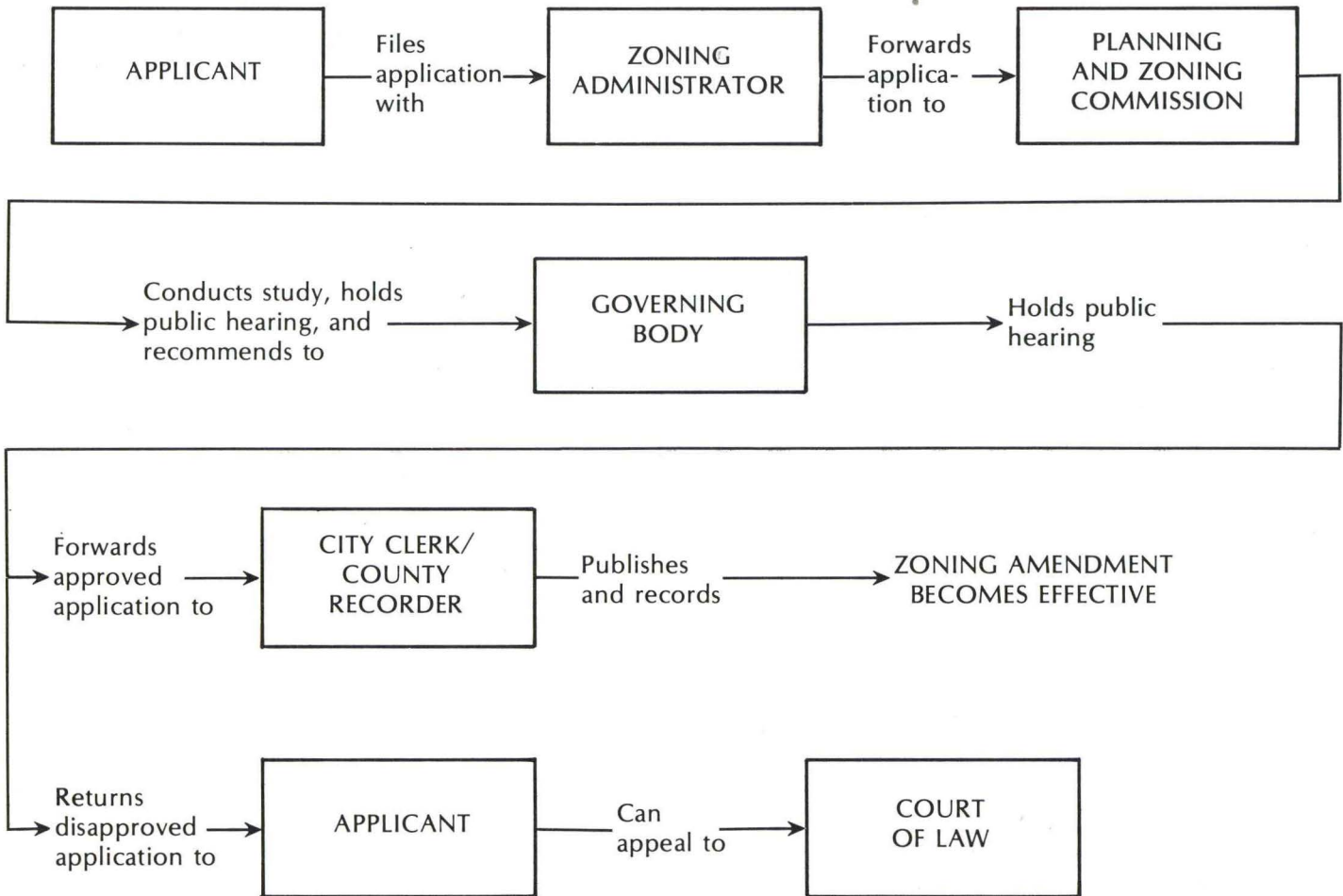
Zoning can:

- Help guide community growth by encouraging the most appropriate use of land throughout the community.
- Protect critical areas, such as prime agriculture land, floodplains, marshes, and heavily wooded areas, from being destroyed through unplanned development.
- Specify permitted land uses within districts which reflect the comprehensive plan for the community.
- Regulate the density of population and intensity of land use.
- Provide regulations designed to reduce traffic congestion.
- Work with what exists today, avoid the repetition of past mistakes, and correct abuses to provide for future improvement.
- Contribute to the solution of problems which are regional or state-wide in scope.
- Give people a voice in land use decision-making.

What is the procedure for amending the zoning ordinance?

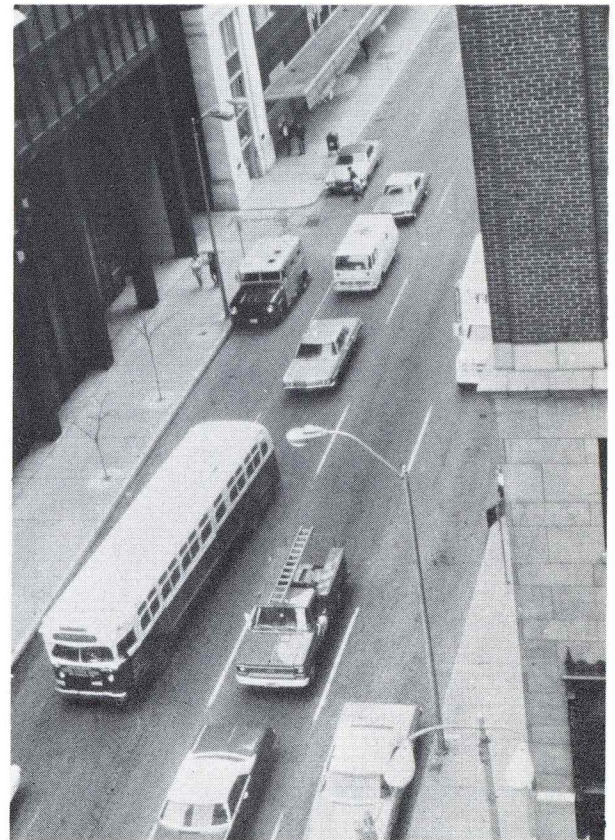
Every zoning ordinance has specific steps to change the ordinance and the official zoning map, called the amendment process (refer to Chart 4.). There are two types of amendments: 1) changing the regulations and restrictions within the zoning ordinance itself; and 2) changing the boundary line location and/or zoning district designation (commonly called the rezoning process). In either case, it is necessary to re-enact the entire zoning process, but on a smaller scale.

**Chart 4
ZONING AMENDMENT PROCESS**



The action is begun when a private group or individual (usually a developer) petitions the planning and zoning commission. Sometimes the governing body or the planning and zoning commission itself initiates a change in the zoning ordinance. As was true with the zoning adoption process, the proposed change is referred to the planning and zoning commission for its study and recommendations. A public hearing may be held after giving proper public notice. Planning and zoning commissions should make it a policy of holding a public hearing when the proposed change could potentially have significant impact on a neighborhood or the entire community. Many cities and counties require that all landowners and residents located within a certain distance of the affected area (for example, 200 feet) be officially notified by mail. It's always a good idea to inform those people affected directly by a proposed change. It promotes the public participation and can save many headaches later on.

The planning and zoning commission reviews the amendment or rezoning request at the public hearing and listens to the applicant's proposal and comments from the planning staff. Of course, public comments, especially from those residents directly affected, are essential for making a fair decision. A standard checklist for rezoning applications is found in Appendix B. The commission then forwards its recommendation to the city council or county board of supervisors. The governing body makes the final decision after another public hearing (this one is mandatory). The decision, however, may be appealed to a court of law by the applicant or other persons directly affected. If the proposed change is adopted by the governing body, the zoning ordinance (and map when necessary) must be properly published, recorded, and the ordinance itself should be periodically updated to reflect the change.



IV. THE ROLE OF PUBLIC BODIES AND OFFICIALS

When it comes to planning, zoning, and other land use regulations, it is quite common to find that the various local boards and commissions do not know what the duties and responsibilities of the other boards and commissions are. You will be a more effective public official if you know who does what throughout the planning and zoning process. And you will be able to help other citizens who come for help on such matters.

"Government is too big and important to be left to the politicians."

—CHESTER BOWLES

"The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all in their separate and individual capacities."

—ABRAHAM LINCOLN (1809-1865)

The governing body

As the elected representatives for the community, the governing body (city council or county board of supervisors) is responsible for the preparation, adoption, and enforcement of the comprehensive plan, zoning ordinance, and other land use controls. In the process, such body relies upon citizens of the community for assistance. Two groups appointed by the governing body share in this work: the planning and zoning commission and the board of adjustment. In addition, council or supervisors must also appoint a zoning administrator to carry out the day-to-day administration of the ordinance.

One word of caution when considering appointments: make every effort to avoid conflicts-of-interest and incompatibility of offices. Avoid appointing persons who are already involved in building or selling homes and businesses, such as real estate salesmen, developers, and money lenders. While knowledgeable in the field of community development, their private interests make impartial public decisions very difficult. Do not appoint someone to a commission or board if he or she is already a member of another local public body. While there is no specific law forbidding holding both offices (such as city council member and board of adjustment), the common law says to avoid all potential conflicts which might cause the public to question the objectivity of a public servant.



Generally, the problem with many governing bodies is that they are slow to delegate authority to the commission or the zoning administrator. The legislative body should not get bogged down with zoning applications, variances (they would be acting illegally), site plan review, and minor development plan revisions. That is the job of planning staff, the planning and zoning commission, the zoning administrator, or board of adjustment, as appropriate. Follow the amending and rezoning process according to the law and trust the appointed officials to adequately carry out their responsibilities and duties.

What is the role of the planning and zoning commission?

The responsibility to plan and zone on behalf of the community rests with a commission that the Iowa law calls a “zoning commission”, or for purposes of this handbook, “planning and zoning commission.” Under the state zoning enabling legislation, the governing body appoints the commission to act as an *advisory body* on matters concerning planning and zoning. The planning and zoning commission also *works* with other governmental departments (public works, recreation, police, etc.), and with many other public and private agencies, including the school boards. Because Iowa law is not specific, the size of the commission is left to the discretion of the governing body. Typically, the commission ranges in size from 5 to 15 members, with 7 members being the most common.



As an advisory body, commissions have many important responsibilities, including the following:

- To prepare, recommend to the governing body, and maintain a comprehensive plan for the physical development of the community.
- To prepare a zoning ordinance to be submitted for adoption by the governing body. Once adopted, the commission reviews and makes recommendations on all amendments or changes to be made in the official zoning map or the specific regulations of the ordinance. Depending on the zoning ordinance, the planning and zoning commission may have the responsibility to review and make recommendations on special types of development permitted under the zoning ordinance, such as site plan review, planned unit developments, planned shopping centers, industrial parks, and others.
- To prepare subdivision regulations for adoption by the governing body. The commission participates in the review and makes recommendations on all preliminary and final subdivision plat proposals, street layouts, and other developments which involve expansion of the city or county's developed area.
- To review and make recommendations to the governing body on certain issues related to the physical development of the jurisdiction. Many times the legislative body will ask

for recommendations on how the community should pursue federal and state directives dealing with highways, parks, conservation areas, airports, schools, public buildings and structures, solid waste disposal, air and water quality, sewage treatment plants, public water, housing rehabilitation, community development, and other activities involving public facilities or services.

- To participate in the preparation of a capital improvement plan (CIP) for the local city or county, based upon the comprehensive plan.
- To accomplish other special studies as requested by the city council or board of supervisors.
- To hold public hearings as necessary to receive comments from the public concerning proposed changes to the comprehensive plan, zoning ordinance, or other land use regulations.
- To work closely with the planning staff or planning consultants to insure that the local planning work program is acceptable and that technical assistance is being accomplished in a timely fashion.
- To inform and educate the public about the purposes of planning and how specific local problems are being resolved.

Not all of these duties and responsibilities are exercised by every planning and zoning commission. Some are mandatory, while others are a matter of discretion between the commission and the governing body. The aforementioned list does show, however, that a planning and zoning commission can be an integral part of city or county government.

How can the commission be improved?

Perhaps the most important task the planning and zoning commission can undertake is to develop goals, objectives, and policies for your locality that are clearly defined and useful. Review your comprehensive plan and other reports that developed goals and objectives to insure that they say what you really mean and are not just vague abstractions. If your city or county does not have a set of policy statements to guide the commissions and other local public bodies in their deliberations, take the time to write them down. Many policies are already well known and should be easy to gather. Other policies, concerning such things as the future growth of the city, have never been formalized. Hold public hearings on these proposed policies and formally adopt them after any changes have been made. Once your commission has clear cut goals, policies, and objectives, your decision-making process will be improved markedly.

Another area where many planning and zoning commissions could improve is by establishing and using a good set of administrative rules or by-laws. If you already have administrative rules check them over to insure they cover all the potential trouble areas. If you are considering adopting administrative rules, a sample set is given in Appendix C. A word of caution: if you adopt administrative rules and then don't follow them, you are opening yourself to serious problems if someone appeals your decisions.

The planning and zoning commission must have a good working relationship with the elected officials and other city and county departments. The commission exists to help the council or supervisors do a better job of acting on planning matters. It's very easy to become frustrated after preparing a plan and recommending it, then to realize that the final decision will be made by the city council or board of supervisors. The value of your recommendations is that they are based on background research and a concern for the future which should add an extra dimension to the legislative deliberation.

Good coordination with other agencies, such as public works, parks and recreation, or the school board, will add more weight to the recommendations you forward to the council or supervisors. For example, obtain the opinion of those depart-

"Too bad that all the people who know how to run the country are busy driving taxicabs and cutting hair."

—GEORGE BURNS

ments affected by a proposed development, such as the engineering department, to insure a comprehensive review. Lining up the support on a matter, or at least clearly defining the implications of a recommendation before forwarding it, is the best way for a commission to earn the elected officials' respect and attention.

If there is a chance that the recommendation will be challenged by the legislative body, send along the pertinent facts and good solid reasons for doing what the commission recommends. The reasons should be written down and attached to the recommendations. Also, it is advisable for the designated representative to be present during the legislative deliberations to answer any unexpected questions the elected officials may raise.

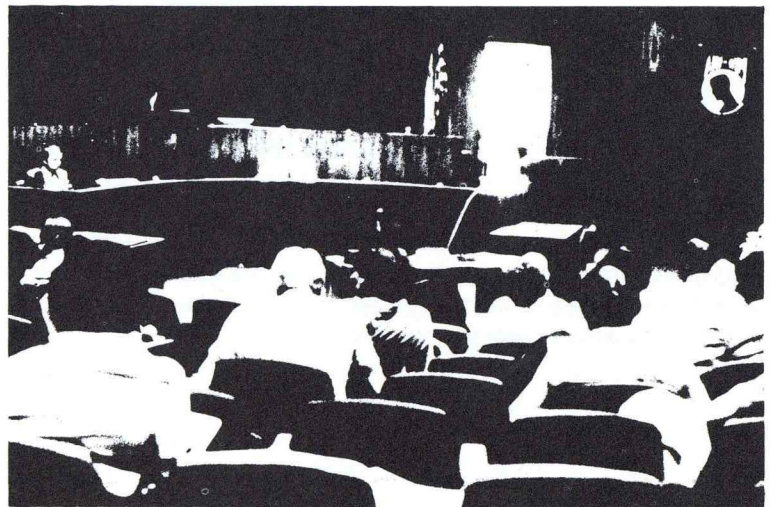
Another suggestion to make your commission more effective: be prepared for the business to be discussed at the meeting. Never vote on a rezoning request or a preliminary plat unless you are satisfied that you understand the proposal and its likely impact on the community. Take adequate time several days before the meeting to review the proposal in light of the comprehensive plan and the applicable land use regulation (zoning, subdivision, etc.). Talk to the developer, the city engineer or whomever to resolve any major obstacles you perceive in the plan or proposal. Your commission may wish to appoint a technical review committee, consisting of the zoning administrator, city/county engineer, city attorney, public works director, and interested commissioner to make a presentation the day the business comes before the commission.

Finally, be prepared to act at the commission meetings. This is important for two reasons. First, if the individual commissioners are unprepared or get bogged down in petty details, they either will not make a recommendation or they may rush through a poorly conceived recommendation at the end of the meeting. Don't dawdle so long on technicalities and procedural distractions that you miss the big issues. Second, delay by inaction costs the developer big money and no one wants to increase the cost of development. For example, the *National Association of Home Builders* states that financing and carrying charges for home building amounts to \$10 to \$18 a day per lot. Thus, a six-month delay can cost a minimum of \$1,825 in additional costs for each new home.

How does the board of adjustment fit into the planning and zoning process?

The Board of Adjustment, as the name implies, is a group of citizens appointed by the local legislative body to provide a "safety valve" by which property owners can seek relief resulting from the strict application of the zoning ordinance. The ordinance was drawn up to apply to the great majority of situations in the community, but zoning also includes procedures to handle unusual or unexpected situations which may call for individual treatment. Without the board of adjustment, the only solution to development problems would be through amending the ordinance. Such small amendments to meet these individual situations would be time consuming and, taken cumulatively, would result in weakening the whole purpose of the ordinance.

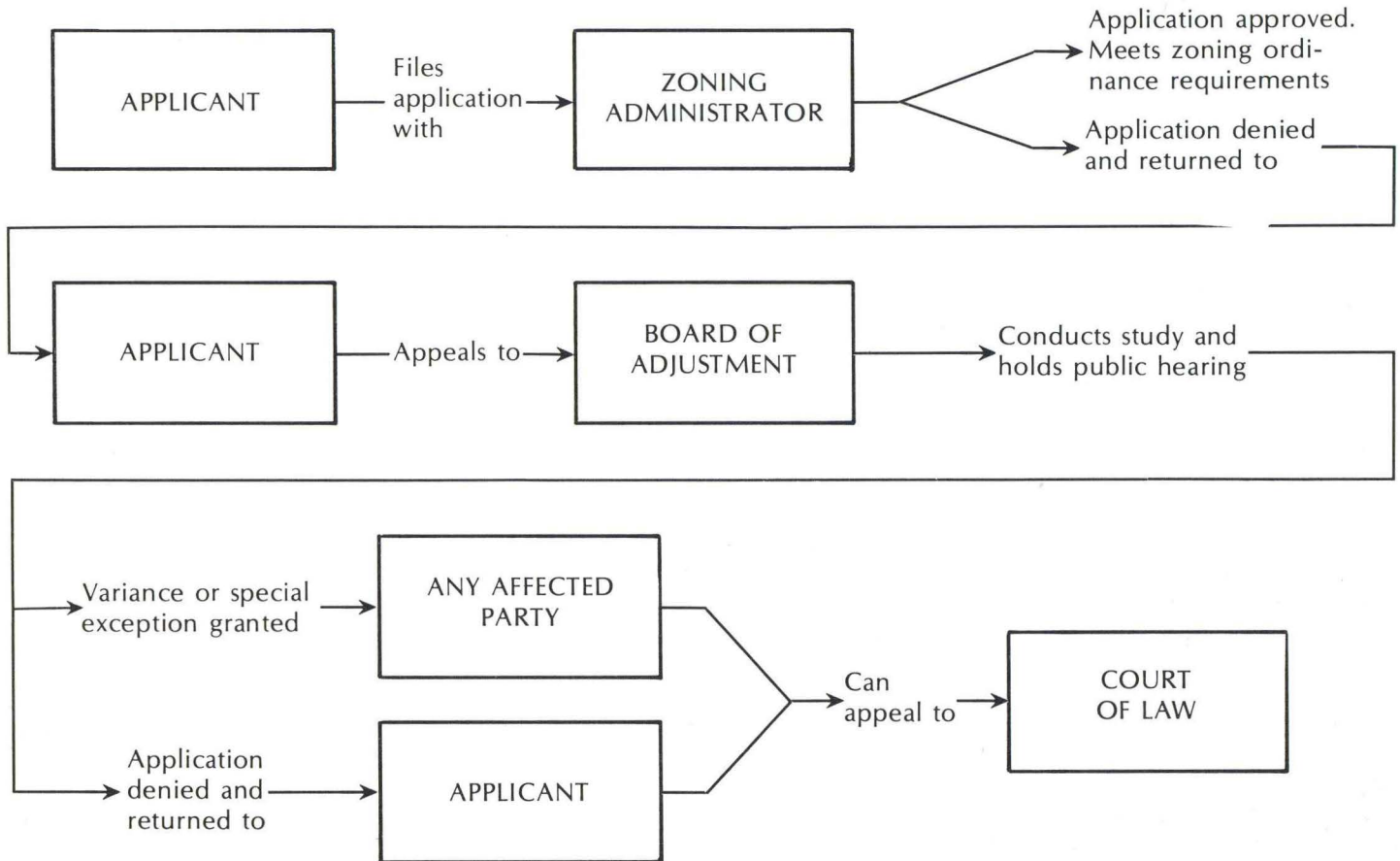
The goal of the board of adjustment is to give greater assurance that zoning is fair and equitable, that it is properly interpreted, and that it does not cause excessive hardship. While the board has certain discretionary powers in making its decisions, these powers have definite limits. The board must always abide by and comply with the powers granted to it by the local zoning ordinance and Iowa law.



The board must be especially careful to do only what it is authorized to do and in the prescribed manner. It also must keep proper records, such as minutes of the meeting and findings, to support its decisions if taken to court.

One last point — the board may hear appeals only as they apply to the zoning ordinance or any ordinance adopted pursuant to the zoning ordinance. Appeals from subdivision regulation or housing code decisions, for instance, are not authorized.

Chart 5 PROCEDURE FOR VARIANCES AND SPECIAL EXCEPTIONS



How can the board of adjustment do its job better?

As a new appointee or a long time member of the board of adjustment, there are several steps you may take to help prepare yourself to administer the appeal procedures better. Much was covered earlier under the section entitled "What are the fundamentals of planning?" Carefully read and understand the state zoning enabling legislation; study the local zoning ordinance and the comprehensive plan; and talk with other local planning and zoning officials to understand their points of view.

The board of adjustment should establish a good working relationship with the planning and zoning commission. It is advisable that certain cases of community-wide importance coming before the board be referred to the planning commission for its advice. Your locality could hold several joint meetings of the two public bodies to exchange ideas and to gain a better understanding. Some jurisdictions have a policy of interchanging upcoming agendas and minutes of meetings.

While it is an option with the planning and zoning commission to adopt rules, the board of adjustment *must* establish a definite set of administrative procedures. As a quasi-judicial board, your actions may be subject to court review. The goal of such procedures is to assure more uniform, proper treatment of all appeals. The rules should be based on the procedures outlined in the state enabling legislation and the local ordinance. The administrative procedures might include the following suggested areas: the date and time of the board's regular meetings, what constitutes a quorum, how the public hearings will be conducted, procedures for notification of public hearings, the order of business, the duties of the chairman, and the general operating rules by which the applicant and the zoning board must abide. Refer to Appendix E for a sample set of administrative rules.

If the board of adjustment does not properly consider all the facts or if procedural errors are made, action taken by the board may result in considerable injustice to the applicant or other affected persons. For example, courts in some other states have ruled that if a board of adjustment improperly granted a special exception to build a house which was later found to be in violation of the zoning ordinance, the building may have to be torn down at the owner's expense.

"It is not best that we should all think alike; it is difference of opinion which makes horse races."

—MARK TWAIN

What does the zoning administrator do?

The zoning ordinance is administered and enforced by the zoning administrator, who has been so designated by the governing body. To administer the ordinance fairly and skillfully, we recommend that the zoning administrator have technical training in planning and zoning and be available during normal working hours to field questions from the public.

Iowa law says very little about who may be a zoning administrator. In smaller cities and rural counties, the zoning administrator is typically employed for more than one job, such as city clerk, building code inspector, or engineer. In larger cities and counties the administrator holds the job full time and is attached to the planning department.

The following is a generally accepted list of duties for a zoning administrator:

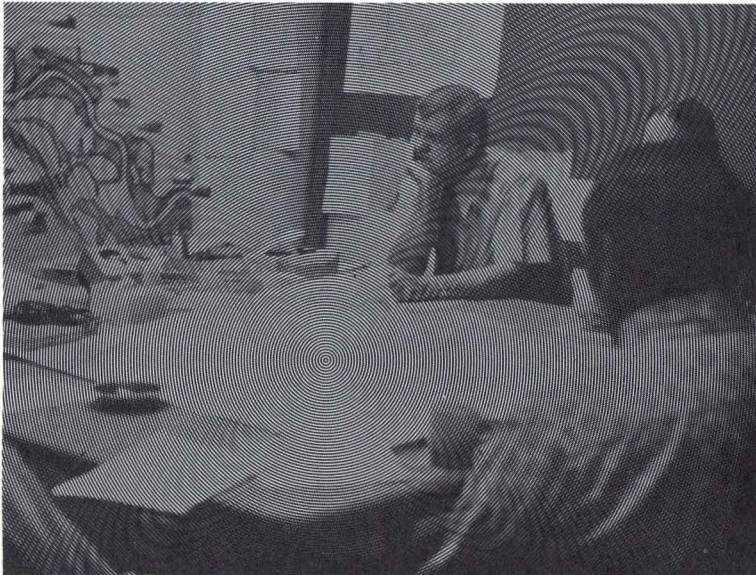
- When an owner or developer presents his/her development proposal to the city or county, it is the zoning administrator's job to review the plan for conformance with the zoning ordinance. The administrator checks to see if the proposed use is permitted in the zoning district in which the property is located. Also checked are the special district requirements, such as the setback requirements between the proposed structures and the adjoining properties. Usually the zoning administrator develops a checklist to aid this process.
- If the developer's proposal conforms to the zoning ordinance, the zoning administrator issues a zoning permit and collects a fee. If the permit is denied, the administrator must show how the proposal failed to meet the zoning requirements.
- The administrator generally processes all applications for variances, special exceptions, and rezoning for referral to the planning commission or the board of adjustment.
- The zoning administrator also must be available during normal business hours to receive and respond to complaints of alleged violations to the zoning ordinance, or to respond to other inquiries.

"Quite as important as legislation is vigilant oversight of administration."

—WOODROW WILSON

- The zoning administrator must have proper forms available to the public for the zoning process, such as the zoning permit, the certificate of occupancy, and petition forms for a variance, special exception, and rezoning.
- The zoning administrator carries out the administrative duties for both the planning and zoning commission and the zoning board of adjustment. He or she should be available at their meetings to explain his/her activities, advise the commission or board as to the appropriate action they might take, and insure that commission and board decisions are properly recorded. Frequently, the administrator acts as the secretary to the commission and the board.
- Another task usually accomplished by the zoning administrator is to insure that public notices of hearings are properly advertised in the local newspapers. Some local ordinances require that residents living near a proposed rezoning area be officially notified (this is not required by Iowa law). The zoning administrator is generally assigned this duty.

(Note that the administrator has no discretionary power. He/she merely sees that all provisions of the ordinances are carried out properly.)



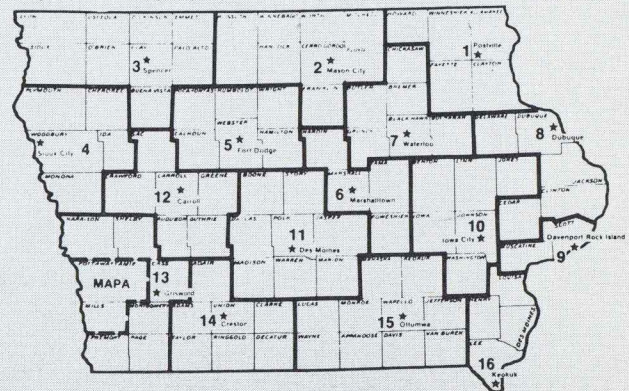
APPENDIX A

Directory of Areawide Planning Organizations

There are sixteen Areawide Planning Organizations, designated by the Office for Planning and Programming, which serve local communities by multi-county regions (see accompanying map). In addition, there is one other regional agency in Iowa which is also included in the following list.

1. Upper Explorerland
Regional Planning
Commission
134 W. Greene Street
Postville, IA 52162
(319) 864-7551
2. North Iowa Area Council
of Governments
(NIACOG)
13½ S. Federal
Mason City, IA 50428
(515) 423-0491
3. Northwest Iowa Regional
Council of Governments
401½ Grand Avenue, Box 406
Spencer, IA 51301
(712) 262-7225
4. Siouxland Interstate
Metropolitan Planning
Council (SIMPCO)
P.O. Box 447
Sioux City, IA 51102
(712) 279-6286

SIXTEEN AREAWIDE PLANNING ORGANIZATIONS
As designated by Iowa Office for Planning and Programming



5. Mid-Iowa Development Association Council of Governments
Wahkonsa Manor
12 South 10th Street
Fort Dodge, IA 50501
(515) 576-7183
6. Region Six Planning Commission
Suite 10,
Woodbury Building
Eight North First Avenue
Marshalltown, IA 50158
(515) 752-0717
7. Iowa Northlands Regional Council of Governments (INRCOG)
Suite N,
Russell Lamson Bldg.
Waterloo, IA 50701
(319) 235-0311
8. East Central Intergovernmental Association
Suite 22B,
Fischer Building
P. O. Box 1140
Dubuque, IA 52201
(319) 556-4166
9. Bi-State Metropolitan Planning Commission
1504 Third Avenue
Rock Island, Ill 61201
(309) 788-6338
10. East Central Iowa Council of Governments
332 E. Washington
Iowa City, IA 52240
(319) 354-2328
11. Central Iowa Regional Association of Local Governments (CIRALG)
104½ East Locust Street
Des Moines, IA 50309
(515) 244-3257
12. Region XII Council of Governments
527½ North Adams
Carroll, IA 51401
(712) 792-3511
13. Southwest Iowa Planning Council
P.O. Box 1
Griswold, IA 51535
(712) 778-2269
14. Southern Iowa Council of Governments
215 N. Elm Street
Creston, IA 50801
(515) 782-8491
15. Area XV Regional Planning Commission
Building 46, Ottumwa Industrial Airport
Ottumwa, IA 52501
(515) 682-8014
16. Southeast Iowa Regional Planning Commission
P.O. Box 397
508 N. Main
Burlington, IA 52601
(319) 753-5109
17. Metropolitan Area Planning Agency (MAPA)
Suite 200
700 West Center Road
Omaha, NE 68106
(402) 444-6866

APPENDIX B

Checklist for rezoning application

Should a request for a particular rezoning be granted, or not? This is a question which plagues both planning and zoning commissions and governing bodies as they carry out their responsibilities. Given below is a suggested checklist that can assist you.

	YES	NO
1. Will the rezoning fulfill a public need for that type of land use?	_____	_____
2. If "yes" to #1 above, should the rezoning be done in the area requested, or would the public interest be better served by rezoning another area of the community?	_____	_____
3. Does the rezoning conform to the future land use map in the comprehensive plan?	_____	_____
4. Will the new land use complement the present and future traffic flows or would the rezoning cause an adverse impact?	_____	_____
5. Can adequate off-street parking be provided if the rezoning request is granted?	_____	_____
6. Have the adjacent landowners been fully informed of the rezoning request, and are they in favor of the change?	_____	_____
7. Are the potential hardships and nuisances (such as noise, neon lights, odors, etc.) of the rezoning request on adjacent landowners adequately considered?	_____	_____
8. Are there adequate public utilities and services available to the land if rezoned? If not, who will have to pay for installing them?	_____	_____
9. Can you assure yourself that this is not spot zoning, a violation of precedents, or arbitrary and capricious?	_____	_____
10. Is it <i>really needed</i> , or is it merely for the convenience of the applicant?	_____	_____

5. Mid-Iowa Development Association Council of Governments
Wahkonsa Manor
12 South 10th Street
Fort Dodge, IA 50501
(515) 576-7183
6. Region Six Planning Commission
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527½ North Adams
Carroll, IA 51401
(712) 792-3511
13. Southwest Iowa Planning Council
P.O. Box 1
Griswold, IA 51535
(712) 778-2269
14. Southern Iowa Council of Governments
215 N. Elm Street
Creston, IA 50801
(515) 782-8491
15. Area XV Regional Planning Commission
Building 46, Ottumwa
Industrial Airport
Ottumwa, IA 52501
(515) 682-8014
16. Southeast Iowa Regional Planning Commission
P.O. Box 397
508 N. Main
Burlington, IA 52601
(319) 753-5109
17. Metropolitan Area Planning Agency (MAPA)
Suite 200
700 West Center Road
Omaha, NE 68106
(402) 444-6866

APPENDIX B

Checklist for rezoning application

Should a request for a particular rezoning be granted, or not? This is a question which plagues both planning and zoning commissions and governing bodies as they carry out their responsibilities. Given below is a suggested checklist that can assist you.

	YES	NO
1. Will the rezoning fulfill a public need for that type of land use?	_____	_____
2. If "yes" to #1 above, should the rezoning be done in the area requested, or would the public interest be better served by rezoning another area of the community?	_____	_____
3. Does the rezoning conform to the future land use map in the comprehensive plan?	_____	_____
4. Will the new land use complement the present and future traffic flows or would the rezoning cause an adverse impact?	_____	_____
5. Can adequate off-street parking be provided if the rezoning request is granted?	_____	_____
6. Have the adjacent landowners been fully informed of the rezoning request, and are they in favor of the change?	_____	_____
7. Are the potential hardships and nuisances (such as noise, neon lights, odors, etc.) of the rezoning request on adjacent landowners adequately considered?	_____	_____
8. Are there adequate public utilities and services available to the land if rezoned? If not, who will have to pay for installing them?	_____	_____
9. Can you assure yourself that this is not spot zoning, a violation of precedents, or arbitrary and capricious?	_____	_____
10. Is it <i>really needed</i> , or is it merely for the convenience of the applicant?	_____	_____

APPENDIX C

Example of administrative rules for planning and zoning commission and staff

(Note: Once you pass a set of rules, you will have to follow them.)

The following rules of procedure are hereby adopted by the (*name of jurisdiction*) Planning and Zoning Commission.

Section 1.0 **Officers.** The commission shall select from its membership a Chairman and Vice Chairman, who will perform the usual duties pertaining to such offices.

1.1 **Selection.** At the first regular meeting in (*January/July*) of each year, the commission will pick its officers from its membership. All officers are eligible for re-election.

1.2 **Tenure.** The Chairman and Vice Chairman shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

1.3 **Duties.** The Chairman will preside at all meetings, appoint committees, and perform such other duties as may be ordered by the commission. The Vice Chairman shall act in the capacity of the Chairman in his/her absence and in the event the office of the chairman becomes vacant, the Vice Chairman shall succeed to this office for the unexpired term and the commission shall select a successor to the office of Vice Chairman for the unexpired term. The (*Zoning Administrator/City Clerk/County Auditor*) will perform the duties of Secretary of the commission. The Secretary will record and maintain minutes of the meetings, insure that the minutes and adopted recommendations are properly published and recorded, and perform such other duties as the commission may determine.

Section 2.0 **Meetings.** The regular meeting of the commission shall be held on the (*first Monday*) of every month beginning promptly at (*7:00 P.M.*) in the (*community hall*). When the regular meeting day falls on a legal holiday, the commission shall select a suitable alternative day in the same month.

2.1 **Special Meetings.** Special meetings will be called at the request of the Chairman, or of any (*three*) members of the commission. Notice of the special meeting shall be given by the Secretary to the members of the commission at least (*48-hours*) prior to such meeting and shall state the purpose and time of the meeting.

2.2 **Public.** All regular and special meetings, subcommittee meetings, hearings, records and accounts shall be open to the public.

2.3 **Quorum.** A majority of the total number of members will constitute a quorum (*4 in the case of a 7-member commission*). Without a quorum, no business will be transacted and no official action on any matter will take place. An affirmative vote of the majority of the total number of members will be required for the exercise of the powers or functions conferred or imposed upon this commission.

- 2.4 **Order of Business: Agenda.** The Secretary will prepare an agenda for each meeting and send it to each commissioner (7) days before the meeting. The order of business shall be as follows:
- a) Roll Call
 - b) Approval of minutes
 - c) Time open for citizens wishing to address the commission on matters not on the established agenda.
 - d) Advertised Public Hearing(s). The Chairman will declare such a public hearing open and state its purpose. The petitioner (or his representative) will be heard first.
 - e) Unfinished business of commission
 - f) Consideration of matters heard under (d) above
 - g) Reports from zoning administrator, planning agency, etc.
 - h) New business
 - i) Adjournment.
- 2.5 **Motions.** Motions may be made by anyone on the commission except the Chairman. The chairman will restate the motion before a vote is taken.
- 2.6 **Voting.** Voting will be by roll call and will be recorded by yeas and nays. Every member of the commission, including the Chairman, is required to cast a vote upon each motion. However, a member may abstain if the member believes there is a conflict of interest, particularly if the conflict is of a financial nature. A member who elects to abstain from voting shall state the reason for the abstention at the time of voting. During the discussion of the matter under consideration, a member who plans to abstain from voting should so inform the commission, so that other commission members can properly weigh the opinions given by a member who believes a conflict of interest exists.
- 2.7 **Commission Action.** Action by the commission on any matter on which a hearing is held will not be taken until the hearing has been conducted.
- 2.8 **Parliamentary Procedure.** Roberts Rules of Order, Revised, will govern the commission meetings in all cases where these rules do not provide the procedures to be followed.

Section 3.0 Hearings

- 3.1 **Comprehensive Plan and Zoning Hearings.** Before the adoption or amendment of any part of the Comprehensive Plan, or recommending approval of an amendment to the Zoning Ordinance to the *(Governing Body)*, the commission will hold a public hearing on the matter. Notice of the time and place of the hearing will be given, not less than 15 days prior to such hearing, by one publication in a newspaper of general circulation. (Note: Be sure to follow Iowa law in this regard. The zoning legislation (Chapters 414 and 358A, city legislation (Chapters 362 and 380), and for county legislation (Chapters 349 and 366) should be followed explicitly).

Special notice of a proposed rezoning will be given by *(mail)* to all interested parties including the owners and residents of property within *(300 feet)* of the boundaries of the premises under consideration. (Note: this is a courtesy and not required by Iowa law.)

Section 4.0 **Expenses.** Commission members may receive payment for actual expenses and mileage incurred only upon approval of the commission. Mileage shall be paid at the rate allowed by State law.

- 4.1 **Annual Appropriations.** The commission may request of the *(City Council/ Board of Supervisors)* an appropriate sum of money from the General Fund for payment of the expenses of the commission. The commission has full and exclusive authority to expend, on behalf of the *(City/County)*, all the money so appropriated. The *(Chairman, Secretary, Planning Director)* shall have authority to expend up to *\$(200)* for items covered by the commission's budget. All expenditures above that amount shall first be authorized by vote of a majority of the commission.
- 4.2 **Gifts.** Gifts, donations, and payments of every kind received by the *(City/County)* for planning purposes shall be appropriated solely for use by the commission for the benefit of *(City/County)* planning. Commission members may not receive any type of gift for their own personal use or enjoyment.

Section 5.0 **Meeting Attendance.** Commission members are expected to attend all regular and special meetings of the commission. If a member has a valid excuse for nonattendance, the member shall notify the commission

chairman prior to the meeting. A commission member will be asked to resign if at any time, the member has three consecutive unexcused absences from a regular, special, or subcommittee meeting, or if total absences (whether excused or not) exceed (*forty*) percent of the total meetings in a calendar year. A review of attendance will be made at the end of each year.

Section 6.0 Matters to be considered by the Planning and Zoning Commission

6.1 The following matters will be presented for consideration at a meeting of the commission: (Note: refer to "What is the Role of the Planning and Zoning Commission?" in Chapter IV for listing.)

Section 7.0 Committees. The commission may create by resolution standing and special committees for certain purposes as determined by the commission.

7.1 **Appointment and tenure of committees.** The Chairman will appoint three or more members to each committee. The committee will decide when and where to meet and announce these intentions to the commission. Members of the committee will serve for one year and until their successors are appointed or in the case of special committees until their work is completed. Vacancies will be filled by the Commission Chairman.

7.2 **Spokesman position created.** Every committee will choose a spokesman who will assume the following duties: present the findings and recommendations of the committee to the whole commission; insure that the committee meeting is open to the public and the public has been notified of each meeting; guide the committee meeting and insure that proper minutes have been kept.

Section 8.0 Planning Staff.

8.1 **Authorization for Planning Staff**

8.2 **Relationship of Planning Staff to Commission**

8.3 **Matters to be acted upon by Staff on behalf of the Commission**

8.4 **Planning Director's Duties**

- a) Administration of Planning Office
- b) Policy formulation of Planning Office
- c) Effectuation of Plans and Land Use Controls
- d) Public Relations of Planning Office

(Note: In cities and counties large enough to support a planning staff, the Governing Body will authorize and make final approval of the hiring of a Planning Director. The Planning and Zoning Commission should seek to be involved in reviewing applications for the Planning Director and recommend the most desirable candidate to the Governing Body. This section of the administrative rules should be developed individually by each community and may cover the areas listed above.)

Section 9.0 Amendments. These rules may be amended at any regular or special meeting by a two-thirds vote of the members present.

APPENDIX D

Powers of the board of adjustment

The first of three powers granted boards of adjustment as a "safety valve" is *interpretation* of the zoning ordinance. This is where the careful wording of intent and purpose of the ordinance and each zoning district is especially crucial. For example, an ordinance may permit "home occupations" within residential districts, but may not list all of the specific uses that can be included in this category. An applicant may apply for a building permit to remodel a portion of a residence for use as a bicycle shop. If the permit is refused, an appeal may be made to the board because the applicant believes this is as much of a home occupation as engaging in ironing or dress making.

Another case upon which the board takes action may arise over the interpretation of the zoning map. If the boundary lines between districts are unclear and the applicant believes his land is located within the commercial district and he applies for a zoning permit, the zoning administrator may deny the permit if he interprets the map differently. The only recourse is to appeal the decision to the board of adjustment, asking them to determine the exact location of the boundary line.

The second safety valve permitted in zoning is the power to grant *special exceptions*. Certain special uses occur infrequently within a city or county and rarely, if ever, do they exist in groups. As such, these special uses may be listed in the ordinance either as a permitted use within certain zoning districts or a permitted use throughout the jurisdiction subject to a hearing before the board. The applicant petitions the board of adjustment directly to authorize a special use. At this time the legislative bodies are not involved; however, most boards of adjustment refer the special use request to the planning and zoning commission for their review and recommendation. Generally, as a part of granting the special use, the board attaches conditions to the approval to insure that the purpose of the zoning ordinance is carried out.

One example of special exceptions would be an ordinance that has the following list of special uses within a residential (R-1) district: 1) golf courses, but not miniature courses; 2) broadcasting towers, but not the broadcasting station; 3) community recreation centers; and 4) fairgrounds. The list of special uses may be entirely different under commercial or agriculture districts.

Another type of special exception is where there is one, and only one, list of special uses for the entire jurisdiction. The special use may be allowed in any district as long as the use meets the conditions of the board of adjustment. Usually the list is quite long.

One important point — if an applicant comes before the board to request a special exception use which is on the permitted list within the ordinance, the board cannot deny the request if it complies with the conditions established by the ordinance. Thus, if the use does not conflict with the purpose and intent of the ordinance, the board must approve the application for the special exception.

The final power of the board of adjustment is the authority to grant *variances*. This power is the least understood and most abused and, in many

cases, is the principal reason why a zoning ordinance loses much of its effectiveness. A variance is exactly that — the board of adjustment authorizes a landowner or developer to vary from the express regulations of the zoning ordinance because enforcing the provisions of the ordinance would cause extraordinary hardship on that person.

For the board to grant a variance several general rules prevail:

- The board may not make any decision which is contrary to the purpose and intent of the zoning ordinance.
- An adjustment may be made in the application of the zoning provisions on a particular parcel of land.
- If a situation exists which affects a general land area of the city or county, it may not be considered for adjustment (see example below).
- The board may not grant a variance unless the zoning ordinance prevents a reasonable use of the property.

A good example of permitting a variance is the case where several properties in a row, all of the same general size and shape, are zoned residential and require a common backyard set back of 25 feet. On one property, however, there is an unusual topographic situation. A small creek cuts the property in half, leaving a buildable area only in the back half. This is a unique situation — one where the owner simply cannot comply with all the setback requirements and still build a home on the lot. In this case the board of adjustment may review the facts relating to the particular lot and conceivably could permit the backyard requirement to be reduced from 25 feet to say 10 feet without destroying the intent of the ordinance.

The board of adjustment may not grant a variance in the case above if the situation were different. For example, if the creek split twenty lots in one area, such matters should be handled through an amendment to the zoning ordinance and not by the wholesale application of the discretionary power of the board of adjustment. In another case, if the applicant requests to use this lot to store machinery, the board has no power to grant the variance. To permit business or industrial uses in a residential district is not an adjustment; it requires a zoning amendment. And amendments are made only by the city council or county board of supervisors.

Numerous court cases have established some precedents which the board of adjustment should keep in mind while considering each application for an adjustment. The following are good questions to ask to test the legality of an application:

1. **Has unnecessary hardship been proven by the applicant?** While “unnecessary hardship” has no hard and fast definition, the legal precedent has established several conditions of hardship.
 - a. Mere inconvenience to the applicant is not sufficient grounds for “unnecessary hardship.”
 - b. Inability to put the property to its most profitable use does not constitute “unnecessary hardship.”
 - c. The hardship must be a compelling force; that is, the problem must be a very real hardship and not just a perceived one.
 - d. A strict application of the provisions of the zoning ordinance will preclude its use for any purpose to which the land is reasonably adapted.
 - e. The premises cannot be used in a manner permitted by the zoning ordinance unless the adjustment is granted.
 - f. Value alone is not the proper criterion in determining “unnecessary hardship.”

The burden of proof of “unnecessary hardship” rests upon the applicant, and without such proof, an adjustment must be denied. Also, the hardship must be created by the ordinance, not by the applicant. If the applicant has made improvements to the property in violation of the zoning ordinance, either willfully or innocently, the hardship was created by the applicant and an adjustment may not be granted.

2. **Has the public interest been served?** Again, there is not explicit definition of a “public interest,” but the board of adjustment may not grant a variance if the action will injure or endanger other property or persons.

“I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome direction, the remedy is not to take it from them but to inform their discretion by education.”

—THOMAS JEFFERSON (1743-1826)

Will the variance devalue nearby property? In the example of the property cut in half by a creek, will the adjustment cause more flooding potential? The public good should be promoted by granting a variance, not undermined.

3. **Is the spirit and intent of the ordinance and comprehensive plan upheld?** The board of adjustment must assure that granting the adjustment will not be contrary to the general land use plan or other elements of the comprehensive plan. The board's actions should never knowingly destroy the provisions of the ordinance, but take steps to assure itself that its action is in harmony with the ordinance.
4. **Has substantial justice been done?** In its decision on an appeal for a variance, it is the duty of the board of adjustment to see that "substantial justice" is done to all parties concerned: the applicant, the people directly affected, and the general public.

APPENDIX E

Example of administrative rules for boards of adjustment

In compliance with (*Section 414.9 for Cities; Section 358A.12 for Counties*) and the (*name of jurisdiction*) Zoning Ordinance, which says that the Board of Adjustment will adopt rules to carry out the provisions of the zoning ordinance, the following rules of procedure are hereby adopted by the (*name of jurisdiction*) Board of Adjustment.

Section 1.0 Officers. The Board of Adjustment shall select from its membership a Chairman and Vice Chairman, who shall perform the usual duties pertaining to such offices.

- 1.1 **Selection.** At the first regular meeting in (*January/July*) of each year, the Board will pick its officers from its membership. All officers are eligible for re-election.
- 1.2 **Tenure.** The Chairman and Vice Chairman shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.
- 1.3 **Duties.** The Chairman shall preside at all meetings and hearings of the Board, shall decide all points of order or procedure, and shall appoint any committees that may be found necessary. The Vice Chairman shall assume the duties of the Chairman in the absence of the Chairman.
- 1.4 **Secretary.** The Secretary will be appointed by the (*City Council/Board of Supervisors*) and may be a member of the Board, an employee of the Board, or a regular employee of the (*City/County*). The Secretary shall conduct all official correspondence subject to these rules at the direction of the Board, shall send out all notices required by these rules of procedure, keep the minutes of the Board's proceedings, and keep a file on each case which comes before the Board. For all appeals and applications, the Secretary shall issue the proper forms; see that information, maps, and plats are compiled and ready for Board's review; notify any property owner and other interested parties by mail of the time and place of the hearing; and any other duties as determined by the Board.

Section 2.0 Meetings. The annual meeting of the Board will take place at the first regular meeting in (*January/July*) of each year. Regular meetings of the Board of Adjustment shall be held at (*7:00 p.m.*) on the (*second Tuesday*) of each month, unless no cases are pending, in which case no meeting shall be held. The Secretary shall give each member of the board (*72 hours*) notice of such meeting by mail.

- 2.1 **Special meetings.** Special meetings may be called by the Chairman, or at the request of three members of the Board of Adjustment. Notice of the special meeting shall be given by the Secretary to the members of the Board at least (*48 hours*) prior to such meeting and shall state the purpose and time of the meeting.

- 2.2 **Quorum.** A quorum of the Board shall consist of *(three)* members.
- 2.3 **Public.** All regular, special, and subcommittee meetings, public hearings, records and accounts shall be open to the public.
- 2.4 **Order of Business.** The Secretary shall prepare an agenda for each meeting and send it to each Board member as a part of the notification process *(72 hours prior)*. The order of business shall be as follows:
 - a) Roll Call
 - b) Reading the minutes of previous meeting
 - c) Communications
 - d) Report of committees
 - e) Unfinished Business
 - f) New Business
 - g) Adjournment
- 2.5 **Voting.** The concurring vote of three members of the Board is required to reach a decision (no matter how many Board members are present). Voting will be by roll call and will be recorded by yeas and nays. All members of the Board, including the Chairman, are required to cast a vote for each motion. Minutes will show members absent for each vote. A member may abstain if he/she feels there is a conflict of interest, particularly if the conflict is of a financial nature. If a member elects to abstain from voting, he/she is required to state the reason for his/her abstention at the time of voting.
- 2.6 **Unfinished Business.** Where all appeals or applications cannot be disposed of on the day set (due to length of meeting or extenuating circumstances), the Board may adjourn from day-to-day or until the next regular meeting, as the Board may decide.
- 2.7 **Board Action.** The Board may not vote on an appeal or application until all required information has been set forth on the forms and until the hearing has been conducted.
- 2.8 **Parliamentary Procedure.** Roberts Rules of Order, Revised will govern the Board meetings.

Section 3.0 **Cases to be Decided by the Board.** The following cases shall be made before the Board of Adjustment on forms provided by the Board Secretary:

- a) Appeals where it is alleged there is error in any order, requirement, decision or determination made by the *(Zoning Administrators)* in the enforcement of the zoning ordinance.
- b) Special exceptions to the terms of the zoning ordinance upon which the Board is required to act under the ordinance.
- c) Variances to a zoning district requirement where there are unusual conditions or circumstances which cause a hardship when the provisions of zoning are strictly applied.

Section 4.0 **Procedure for Hearing Cases.** The following rules will apply to all appeals or applications before the Board.

- 4.1 Appeals to the Board may be taken by any person, group, or by any officer or department of the *(City/County)* affected by any decision of the *(Zoning Administrator)* and by applicants for a special exception or variance.
- 4.2 The *(Zoning Administrator)* shall tell the applicant or interested party why the *(zoning or building)* permit was denied or why the application is necessary. He/she shall inform the applicant or interested party of the right to apply or appeal to the Board and that it be made within *(10)* days. Such appeal shall be filed with the *(Zoning Administrator)* on the forms provided by the Board of Adjustment. The *(Zoning Administrator)* will transmit the completed appeal form along with all papers constituting the record upon which the Board shall act.
- 4.3 The applicant shall complete the required forms, providing all information requested by the form and any additional information as requested by the *(Zoning Administrator)*.
- 4.4 The Secretary of the Board shall reject any such application or appeal which is not filed within *(10)* days of the *(Zoning Administrator's)* decision. Also, the Secretary shall reject any such application or appeal unless same are made on prescribed forms properly filled out, with all required data attached.
- 4.5 An application or appeal filed according to the above procedure shall be given a case number within *(5 working)* days from the date filed. Applications or appeals will be assigned in the order in which they are received. Cases assigned to the Board less than *(10)* days prior to the regular meeting

- will automatically be set for hearing on the subsequent regular meeting day.
- 4.6 The Secretary of the Board shall notify the parties of interest (*property owners of record within 200 feet of the applicant's lot lines*) by mail of the time, place, and purpose of the public hearing and give (*4 but not more than 20 days*) public notice in a newspaper of general circulation.
 - 4.7 Hearings shall be held by the Board of Adjustment at the (*Community Hall*) and open to the public.
 - 4.8 At the time of the public hearing the applicant may appear in his/her own behalf or be represented by agent or counsel. In the absence of any personal appearance on behalf of the applicant, the Board will proceed to dispose of the matter on the forms and information provided before.
 - 4.9 The order of the hearing shall be as follows:
 - a) The applicant's or appellant's side of the case
 - b) (*Zoning Administrator's*) side of the case
 - c) Interested property owners' opinions
 - d) Applicant's rebuttal
 - 4.10 After the hearing the Board shall deliberate the case. The Board may ask the Board's attorney for comments.
 - 4.11 The applicant or appellant may withdraw his/her application or appeal at any time prior to the decision by the Board of Adjustment.
 - 4.12 Final decision of any application or appeal shall be made in the form of a resolution by anyone on the Board of Adjustment. The resolution may affirm, modify, or reverse the refusal of a permit by the decision of the (*Zoning Administrator*). In the case of an application for variance or special exception, the resolution shall set forth that the application is granted or denied and said resolution shall specifically set forth what variances or special uses are permitted and what conditions, if any, shall be complied with.
 - 4.13 Within (*15*) days after the hearing the Board shall notify the parties of interest and the (*Zoning Administrator*) of its decision.
 - 4.14 A rehearing of any decision of the Board of Adjustment may be made if the following occur: the motion to reconsider is made by a member of the Board and carried by not less than (*4*) affirmative votes; new evidence is submitted which could not reasonably have been presented at the original meeting; at least 90 days have elapsed since the resolution was defeated; and the case is put on the agenda for a rehearing.

Section 5.0 Records. The Secretary shall keep books showing the status of all cases and minutes as part of the records of the Board of Adjustment. In addition, the Secretary shall keep a file of all cases including forms and additional information as a part of the legal records.

- 5.1 All records of the Board shall be a public record.
- 5.2 The Secretary shall publish the minutes of all meetings in a newspaper of general circulation within (*15*) days of the meeting.

Section 6.0 Amendments. A majority vote of all the members of the Board shall be necessary to amend these procedural rules. Such proposed amendments shall be presented in writing at any regular meeting of the Board of Adjustment.

Section 7.0 Informal Advice. The Board will not consider a request (informal or not) for advice on theoretical or actual situations which potentially may later come before the Board as an appeal or application.

GLOSSARY OF TERMS

The planning and zoning language is indeed foreign to most new public officials. This glossary has been included to help you better understand those words and phrases and, at the same time, editorialize about good and bad practices as they relate to planning. Many of these terms have been used in this handbook; others have been included because the terms are relatively new or frequently misused. We have not attempted to include all planning and zoning terms because most can be found in the definition section of the local zoning ordinance.

Accessory building or use: An activity or structure which is secondary or subordinate to the principal use or principal building on the same lot. Today most zoning ordinances spell out in detail what types of accessory uses are permitted in each zoning district and establish standards. Examples of accessory uses are private garages, storage sheds, play houses, and swimming pools.

Aesthetic zoning: The regulation of building and site design to achieve a pleasing and desirable appearance in harmony with its surroundings. Recently several courts have granted cities and counties a greater control over developmental appearance.

Airport zoning: A particular set of controls designed to reduce the safety and noise hazards associated with aircraft flying within the airport control zone. Primarily the controls restrict the height of buildings and trees near the landing corridors and the location of residences, schools, hospitals, and other such uses needing protection from potential aircraft hazards. Chapter 329, **Code of Iowa**.

Amenity: Characteristics of the development that increase its attractiveness to the community or its marketability to the public. Generally, amenities are such things as landscaping, underground utilities, park systems, swimming pools, tennis courts, security systems, natural areas, and scenic views.

Architectural control: Regulations and procedures requiring new developments to be in harmony with the appearance, architectural style, or historic character of their surrounding area. Such controls frequently have been attacked as legislating "taste" and requiring "new antiques" in historic areas; however, where enforced fairly, these controls have usually been successful in eliminating unsightly and flashy storefronts and signs that clutter some of our cities. Design criteria, described generally in the zoning ordinance, usually are administered by an architectural review board. The board's composition typically includes persons with design background — architects, landscape architects, or urban designers.

Buffer zone (buffer strip): A strip of land established to protect one type of land use from another incompatible use. The strip may be only 10 to 25 feet wide and includes fences, screen plantings, or earthen mounds to insulate the adjoining properties from noise, traffic, or visual nuisances. Many ordinances require commercial and industrial districts to install a buffer zone wherever the

property line abuts a residential district. The term also may be used more broadly to describe any zone that separates two unlike zones, such as the transitional area between the central business district and the single-family houses.

Buildable area: The space remaining on a lot after the development standards have been met. For example, the buildable area on a residential lot is reduced by the front yard, side yard, and back yard setbacks, and the maximum amount of land that may be covered by the building.

Building line: An imaginary line, usually parallel to the front and side lot lines, beyond which a building cannot lawfully extend.

Bulk regulations: Regulations governing the height, mass, and location of buildings typically used to control the size of large office, apartment, and industrial buildings. Bulk regulations are concerned with preserving light, air, and open space, and with avoiding visually oppressive building masses.

Capital improvement program (CIP): A community's present and near-future financial plan which matches future capital improvement costs (such as sewers, hospitals, and roads) to anticipated revenues. The planning and zoning commission should be given authority to develop and review the CIP proposal, thereby linking planning to the annual budgetary process. CIPs are usually prepared for five or six years and updated annually.

Certificate of occupancy: Official notification that a premise conforms to provisions of the zoning ordinance or the building and housing codes, and may be used or occupied. Such a certification is granted for new construction or for alteration or additions to existing structures.

Cluster development: A development technique which permits homes to be grouped closely, leaving much more usable open space. Often a part of the planned unit development (PUD) provisions, cluster development results in fewer streets, shorter utility lines, the environmentally sensitive areas being protected, and a wider variety of development patterns.

Dedication: Required under some subdivision regulations to transfer part of the developer's private land for public use. As a condition for the approval of a development by a planning and zoning commission, the developer is typically required to build streets and utility lines to specifications and then to "dedicate" them, including the land, to the public. Many subdivision regulations now have been extended to include land dedication for open space, schools and other community facilities. The dedication may be a transfer of ownership or a transfer of a portion of the development rights through an "easement." The purpose is an attempt to assess developers for some of the costs incurred by the community because of a new development.

Deed restriction (covenant): A private legal restriction on the use of land, attached in the deed to the property. A deed restriction is most commonly used in the establishment of a subdivision to restrict the use of all individual lots in the development to a certain type of use, e.g. single-family dwellings. Usually the community has no control over deed restrictions.

Density: The average number of families, persons, or housing units per unit of land; usually density is expressed "per acre." Density is controlled through zoning ordinances.

Easement: A right given by the owner of a tract of land to another party for a specific *limited* use of that land. For example, a property owner may give or sell an easement on his property to allow a utility company to run power lines across his property. Easements can also be used to preserve scenic areas, floodplains, and historic buildings. The property owner assigns or sells to the government his right to develop the land and thereby keeps the land in the use desired by the public.

Eminent domain (condemnation): The legal right of government to acquire or "take" private property when it can be demonstrated that the property is being taken for public use or a public purpose and that the owner is receiving just compensation. This usually requires going to court to prove the public need and to establish a fair market value to pay the landowner.

Exclusionary zoning: Zoning practices, whether intentional or unintentional, which result in the exclusion of certain groups of people, usually minorities or the poor, from locating in certain parts or all of a community. Many techniques are used for this purpose, such as large lot and big floor area requirements or fancy amenities which increase the housing costs to a level affordable to only the upper middle-income families. A growing number of state court decisions have invalidated exclusionary practices.

Extraterritorial land controls (zoning and subdivision regulations): Authority granted to certain cities to exercise zoning and subdivision powers for two miles outside its boundaries. It is intended to protect the uses of land on the edge of communities from being encroached on by incompatible activities which might degrade adjoining property or cause a nuisance. These powers and specific requirements are found in Sections 409.14 and 414.23 of Iowa law.

Final subdivision plat (or map): A map which has gone through the planning and zoning preliminary review process, been approved, and eventually filed in the county recorder's office. It usually shows surveyed lot lines, street right-of-ways, easements, monuments, and distances, angles, and bearings, pertaining to the exact dimensions of all parcels, street lines, and other physical features.

Floor area ratio (FAR): A standard used to control the amount of floor area that can be built on a given lot. For example, a FAR of 3.0 on a 10,000 square foot lot would allow a building whose total floor area is 30,000 square feet. This permits a three-story building with 10,000 square feet on each floor or a six-story building with 5,000 square feet or any combination of stories and floor area which do not exceed 30,000 square feet.

Housing assistance plan (HAPs): A plan that surveys the condition and needs of the housing stock and assesses the housing assistance needs of lower income, disabled, and elderly persons residing (or expected to reside) in the community. It specifies a realistic annual goal for the number of units or persons to be assisted, including a mix of new, existing, and rehabilitated units and the size and type of projects and assistance. HAPs are required for application for federal community development block grants under the Housing and Community Development Act of 1974.

Impact zoning: The technique of protecting the community's fiscal capacity and natural environment from being negatively impacted by a proposed development. The process (still being tested in a few cities) involves a detailed analysis of existing conditions of the area to be developed and estimates what impacts the development will have on community facilities and environment. The goal is for the developer to show that the proposed development will not cost the community more than it will produce in taxes and incomes.

Improved land: Land (usually raw land, but also land that has formerly been occupied but now is vacant) that has been improved with basic facilities such as roads, sewers, water lines, and other public utilities to meet development standards. Normally, if the land also contains buildings, it is called "developed land".

Incentive (or bonus) zoning: A negotiation process whereby a developer is awarded "bonuses" in exchange for adding "amenities" which the community feels it needs. While a typical zoning ordinance is usually restrictive, incentive zoning permits the restrictions to be exceeded (i.e., higher densities, greater "floor area ratios," or parking requirements). In return, the developer agrees to build pedestrian plazas or low- and moderate-income housing, to protect a fragile natural area, or to support some other critical need of the community.

Interim zoning: This is a stop gap technique used to temporarily freeze or severely restrict development in an area until a permanent classification for the land can be decided upon (also referred to as a moratorium). It permits the planning and zoning commission and governing body to develop a comprehensive plan and management tools free from heavy development pressures. Courts in other states have widely accepted the reasonableness of interim controls, as long as reasonable progress is being made toward permanent controls. Because Iowa courts have not looked too favorably on interim zoning, some cities have used the "restricted residence district" provision (sec. 414.24, **Code of Iowa**) as an interim control while developing the full scale zoning ordinance.

Leapfrog development: The development of land well beyond the existing limits of urban development by jumping over land (usually more expensive) located adjacent to existing development. This bypassing of the next-in-line land may cause serious problems for both the new residents and the public. Most public services are not available to sprawl developments and may cost much more to provide.

Metes and bounds: A system of describing and identifying a tract of land by distances (metes) and direction (bounds) from an identifiable point of reference such as the monument of quarter section of land.

Nonconforming use: A structure or use of the land that is not permitted by its present district's zoning regulation, i.e., a gas station located within a residential zone. If it was established after the enactment of the ordinance, it is illegal and should be handled accordingly; but if it existed before the regulation, it is a legal nonconforming use and may continue, although a new or different nonconforming use may not replace it. Most ordinances provide that the building or use may not be expanded, but normal upkeep is approved. Once the use is abandoned, however, the only permissible future use of the land is that for the zone in which it is located. Some ordinances provide that all nonconforming uses cease at the end of an amortization period equivalent to the life of the structure, such as ten or twenty-five years.

Performance standards: Zoning regulations based on the premise that the use of the land is not as important as *how* the use performs. Performance standards may give minimum and maximum allowable limits of effects on land use. The ordinance might describe the limits with respect to smoke, odor, noise, heat, vibration, traffic generation, and soil erosion. It is a more precise way of defining compatibility between land uses and at the same time gives the developer more options while planning the development. It is up to the developer to prove that his proposed industry, business, or housing tract will perform within the limits in the standards.

Planned unit development (PUD): A development which is preplanned in its entirety and permits variations in the rigid zoning and subdivision regulations. Typically, the residential development includes a variety of housing types (single family, duplexes, townhouses, and garden apartments) which are designed to fit together and complement one another. Infrequently, the PUD also includes a mixture of land uses (such as shopping centers, industrial and office parks) which may be in any combination, depending on the local ordinance. A unique feature of the PUD involves the planning and zoning commission, which has considerable involvement in determining the nature of the development. Through negotiations, variations may be permitted in lot size, front and side yard setbacks, street right-of-way, sidewalk location, and height restrictions.

Plat: A map, generally of a subdivision, showing the location, boundaries, and ownership of individual properties. To plat means to subdivide land with the intent of improving or building on the tract of land.

Police power: The right of government to regulate personal conduct and the use of land in order to protect the public health, safety, and welfare. The use of police power by a unit of government must follow "due process" and be "reasonable," but the government does not have to pay compensation for related losses. In this last respect, it differs from the government's use of the power of eminent domain (where just compensation is mandatory).

Preliminary subdivision plat (map): The first formal submission of a subdivider to the planning and zoning commission is usually in the form of a map with accompanying documents providing the information about the proposed subdivision required by the local subdivision regulation. The commission reviews the proposed map to insure that the subdivision will fit in with present roads, sewers, water, etc., and with the desired future growth of the city or county.

Restricted residence districts: A provision of the zoning enabling legislation which permits cities to adopt a simplified version of zoning whereby the residential and nonresidential areas are separated into two districts within the city (sec. 414.24, **Code of Iowa**). The city council may regulate all development within the residential district, yet not be required to appoint a zoning commis-

sion or board of adjustment. One drawback is that the nonresidential district may not be regulated in any manner.

Right-of-way: The land on which the public has the right to pass. It usually refers to the land required for the traffic plus shoulders on both sides for highways, railroads, bikeways, and hiking trails.

Reversion clause: A requirement that may accompany a "special exception" permit approval or a "rezoning" that returns the property to its prior zoning classification if a specified action, such as beginning construction, does not begin in a specified time period, say, six months. This is one way to protect a community from using permits or rezoning for speculative purposes.

Rezoning: A change in the designation or boundaries of the zoning ordinance. Rezoning is legislative acts and can only be legal if enacted by the governing body.

Setback regulations: The requirements of zoning ordinances that a building be set back a certain distance from the street or lot lines. The more preferred term used is "yard requirements." They were established to increase the availability of light and air, and reduce the noise level near the business place or home.

Site plan: A plan (to scale) showing *uses* and *structures* proposed for a parcel of land as required by the regulations involved. Its purpose is to show how the intended use relates to the major landscape features, the sun and weather, and the surrounding area.

Special exception (special use or permit): One of the quasi-judicial powers granted to the zoning board of adjustment. The applicant may be granted a permit for a special use within a zoning district or group of districts which has been specifically listed as an eligible activity. The board of adjustment usually attaches specified conditions to its approval to insure that surrounding property is protected. (Refer to Appendix D for more information.)

Spot zoning: Zoning a relatively small area differently from the surrounding area zoning, usually for a use which is detrimental or incompatible with the uses of the surrounding area. Typically, spot zoning favors the owner of a particular piece of property over the surrounding owners. Numerous courts have held that such zoning is illegal on the grounds that it is unreasonable, capricious, or violates the comprehensive plan.

Strip development: A ribbon of land uses fronting on one or both sides of a major arterial located a considerable distance from the center of the city. Usually it is a mixture of auto-oriented businesses (gas stations, motels, and food stands), truck-dependent wholesaling, and light industrial enterprises, along with the once-rural homes and farms overtaken by the haphazard leapfrogging of unplanned sprawl. Critics say strip development reduces the traffic-carrying capacity of the highways, increases the traffic hazards, causes a highly inefficient use of the land, and looks unappealing. Some cities and counties have recognized that their strip development will not go away, so they have zoned it "strip commercial" to control its more irksome characteristics.

Subdivision: The legal process (and the result) of dividing a parcel of raw land into smaller buildable sites, blocks, and streets. Iowa law states that anyone who subdivides a parcel of land, located within a city or within two miles of its boundaries, into *three or more* parts shall be required to file a plat and meet the requirement of the city and/or county. Also, for areas outside those limits mentioned above, anyone who subdivides a tract of land 40 acres or less, or of more than 40 acres if divided into parcels any of which are less than forty acres, must file a plat and meet the requirements of those counties with subdivision regulations.

Transfer of development rights (TDR): An experimental development control which separates development rights from the land itself. If a community or state wishes to limit development in specified areas which need to remain essentially unchanged, the development rights are "sold" and transferred to an area desirable for high-density development. While new to Iowa, it has been used in other states to protect historic areas and preserve prime agricultural land.

Urban fringe: Land at the edge of an urban area usually made up of mixed agricultural and urban land uses. This is probably the most critical area within an urban area and requires adequate controls wisely administered by a coordinated effort of city and county officials.

Variance: A device which grants a property owner relief from certain provisions of a zoning ordinance when, because of unusual topography or other extenuating circumstances, compliance would result in a particular hardship upon the owner. Authority to grant or deny variances is vested in the board of adjustment. (Refer to Appendix C for more information.)

Yard: The unbuild-upon space on a building lot situated between the front, rear, or side wall of a building and the nearest lot line. Yard requirements in a zoning ordinance traditionally have been included to satisfy aesthetic desires, to provide for landscaping, to prevent overcrowding and the spread of fire, to afford better privacy and increase light access to windows, to buffer noise, and to accommodate outdoor requirements like driveways, storage sheds, and recreational areas.

Zero lot line: A development technique which either permits or requires the building to be sited on one or more lot lines. The intent is to allow more open area on the lots, and, where several buildings are built close together, to lower the installation expenses of utilities. Normally, this is permitted only through variances allowed by the ordinance or planned unit development regulations.

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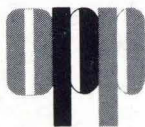
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