

35 5. In cities under the commission form of government having
 36 a population of more than sixty thousand and less than one hundred
 37 twenty-five thousand the board of supervisors shall fix the compensa-
 38 tion of the assessor at forty-eight hundred dollars per annum and
 39 the compensation of the two head deputy assessors at thirty-two
 40 hundred dollars per annum and the compensation of one additional
 41 full time deputy at twenty-four hundred dollars per annum.

1 SEC. 12. The provisions of this Act shall be in full force and
 2 effect beginning July 1, 1947.

Approved April 18, 1947.

CHAPTER 184

COUNTY ZONING COMMISSION

S. F. 106

AN ACT granting to the board of supervisors of any county, with a population of not less than 60,000 inhabitants, with respect to lands located within the county but lying outside the corporate limits of any city or town, the power to appoint a zoning commission and to prescribe its duties; to divide the county into districts with respect to the development and uses of the property therein; to adopt uniform rules for such property which may affect the general welfare; to appoint an administrative officer authorized to enforce such uniform rules and to provide for the payment of such officer; to provide for the appointment of a board of adjustment and to prescribe its duties; to institute appropriate action or proceedings in case of violation of this act or of any ordinance or regulation made under authority conferred thereby; to provide for appeals from the action of the board of adjustment and from the board of supervisors or its administrative officer, and prescribing notice and hearing of such appeal; to impose sanitation requirements in dwellings now or hereafter erected; and to provide penalties for violations.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. The provisions of this act shall apply only to counties
 2 which now have, or may hereafter have, a population of not less than
 3 60,000 inhabitants as determined by the last preceding official federal
 4 census, and then only at the option of the board of supervisors of
 5 any such county.

1 SEC. 2. No regulation or ordinance adopted under the provisions
 2 of this act shall be construed to apply to land, farm houses, farm barns,
 3 farm outbuildings or other buildings, structures, or erections which
 4 are adapted, by reason of nature and area, for use for agricultural
 5 purposes as a primary means of livelihood, while so used.

1 SEC. 3. Subject to the provisions of sections one (1) and two
 2 (2) hereof, the board of supervisors of any county is hereby empowered
 3 to regulate and restrict the height, number of structures, and size
 4 of buildings and other structures, the percentage of lot that may be
 5 occupied, the size of yards, courts and other open spaces, the density
 6 of population, and the location and use of buildings, structures, and
 7 land for trade, industry, residence or other purposes, and to regulate,
 8 restrict and prohibit the use for residential purposes of tents, trailers
 9 and portable or potentially portable structures; provided that such
 10 powers shall be exercised only with reference to land and structures

11 located within the county but lying outside of the corporate limits
12 of any city or town, provided further that no restriction of industrial
13 or commercial enterprise, buildings or structures in unincorporated
14 areas shall become effective until approved by a majority, in number
15 and amount of assessment, of the resident real property taxpayers
16 owning real property in the area or district in which such restriction
17 is to be imposed, either (1) at an election held for that purpose, or
18 (2) by their signing an appropriate document indicating their approval.

1 SEC. 4. For any and all of said purposes the board of supervisors
2 may divide the county, or any area or areas within the county, into
3 districts of such number, shape, and area as may be deemed best
4 suited to carry out the purposes of this act; and within such districts
5 it may regulate and restrict the erection, construction, reconstruction,
6 alteration, repair, or use of buildings, structures or land. All such
7 regulations and restrictions shall be uniform for each class or kind of
8 buildings throughout each district, but the regulations in one district
9 may differ from those in other districts.

1 SEC. 5. Such regulations shall be made in accordance with a compre-
2 hensive plan and designed to lessen congestion in the street or highway;
3 to secure safety from fire, panic, and other dangers; to protect health
4 and the general welfare; to provide adequate light and air; to prevent
5 the overcrowding of land; to avoid undue concentration of population;
6 to facilitate the adequate provision of transportation, water, sewerage,
7 schools, parks and other public requirements.

8 Such regulations shall be made with reasonable consideration, among
9 other things, as to the character of the area of the district and the
10 peculiar suitability of such area for particular uses, and with a view
11 to conserving the value of buildings and encouraging the most appro-
12 priate use of land throughout such county.

1 SEC. 6. The board of supervisors shall provide for the manner in
2 which such regulations and restrictions and the boundaries of such
3 districts shall be determined, established, and enforced, and from time
4 to time amended, supplemented or changed. However, no such regula-
5 tion, restriction, or boundary shall become effective until after a public
6 hearing in relation thereto, at which parties in interest and citizens
7 shall have an opportunity to be heard. At least 15 days' notice of the
8 time and place of such hearing shall be published in a paper of general
9 circulation in such county.

1 SEC. 7. Such regulations, restrictions, and boundaries may, from
2 time to time, be amended, supplemented, changed, modified, or repealed.
3 In case, however, of a protest against such change signed by the owners
4 of twenty percent or more either of the area included in such proposed
5 change, or of the area immediately adjacent thereto and within 500
6 feet of the boundaries thereof, such amendment shall not become
7 effective except by the favorable vote of at least sixty percent of all
8 of the members of the board of supervisors. The provisions of Section 6
9 relative to public hearings and official notice shall apply equally to all
10 changes or amendments.

1 SEC. 8. In order to avail itself of the powers conferred by this act,
2 the board of supervisors shall appoint a commission, to be known as

3 the county zoning commission, to recommend the boundaries of the
4 various original districts, and appropriate regulations and restrictions
5 to be enforced therein. Such commission shall, with due diligence,
6 prepare a preliminary report and hold public hearings thereon before
7 submitting its final report; and the board of supervisors shall not hold
8 its public hearings or take action until it has received the final report
9 of such commission. After the adoption of such regulations, restric-
10 tions, and boundaries of districts, the zoning commission may, from
11 time to time, recommend to the board of supervisors amendments,
12 supplements, changes or modifications.

1 SEC. 9. The board of supervisors shall appoint an administrative
2 officer authorized to enforce the resolutions or ordinances so adopted
3 by the board of supervisors. Such administrative officer may be a
4 person holding other public office in the county, or in a city or other
5 governmental subdivision within the county, and the board of super-
6 visors is authorized to pay to such officer out of the general fund such
7 compensation as it shall deem fit.

1 SEC. 10. The board of supervisors shall provide for the appointment
2 of a board of adjustment, and in the regulations and restrictions
3 adopted pursuant to the authority of this act shall provide that the said
4 board of adjustment may, in appropriate cases, and subject to appro-
5 priate conditions and safeguards, make special exceptions to the terms
6 of the ordinances or regulations in harmony with its general purpose
7 and intent and in accordance with the general or specific rules therein
8 contained, and provide that any property owner aggrieved by the action
9 of the board of supervisors in the adoption of such regulations and
10 restrictions may petition the said board of adjustment direct to modify
11 regulations and restrictions as applied to such property owners.

1 SEC. 11. The board of adjustment shall consist of five members each
2 to be appointed for a term of five years, excepting that when the board
3 shall first be created one member shall be appointed for a term of five
4 years, one for a term of four years, one for a term of three years,
5 one for a term of two years, and one for a term of one year. Members
6 shall be removable for cause by the appointing authority upon written
7 charges and after public hearing. Vacancies shall be filled for the
8 unexpired term of any member whose term becomes vacant.

1 SEC. 12. The board shall adopt rules in accordance with the provi-
2 sions of any regulation or ordinance adopted pursuant to this chapter.
3 Meetings of the board shall be held at the call of the chairman and
4 at such other times as the board may determine. Such chairman, or
5 in his absence, the acting chairman, may administer oaths and compel
6 the attendance of witnesses. All meetings of the board shall be open
7 to the public. The board shall keep minutes of its proceedings, showing
8 the vote of each member upon each question, or if absent or failing
9 to vote, indicating such fact, and shall keep records of its examinations
10 and other official actions, all of which shall be immediately filed in the
11 office of the board and shall be a public record.

1 SEC. 13. Appeals to the board of adjustment may be taken by any
2 person aggrieved or by any officer, department, board or bureau of the
3 county affected by any decision of the administrative officer. Such

4 appeal shall be taken within a reasonable time, as provided by the
5 rules of the board of adjustment, by filing with the officer from whom
6 the appeal is taken and with the board of adjustment a notice of appeal
7 specifying the grounds thereof. The officer from whom the appeal is
8 taken shall forthwith transmit to the board of adjustment all the
9 papers constituting the record upon which the action appealed from
10 was taken.

1 SEC. 14. An appeal stays all proceedings in furtherance of the action
2 appealed from, unless the officer from whom the appeal is taken
3 certifies to the board of adjustment after the notice of appeal shall
4 have been filed with him that by reason of facts stated in the certificate
5 a stay would, in his opinion, cause imminent peril to life or property.
6 In such case proceedings shall not be stayed otherwise than by a
7 restraining order which may be granted by the board of adjustment
8 or by a court of record on application on notice to the officer from
9 whom the appeal is taken and on due cause shown.

1 SEC. 15. The board of adjustment shall have the following powers:
2 1. To hear and decide appeals where it is alleged there is error in
3 any order, requirement, decision or determination made by an adminis-
4 trative official in the enforcement of this chapter or of any ordinance
5 adopted pursuant thereto.
6 2. To hear and decide special exceptions to the terms of the ordinance
7 upon which such board is required to pass under such ordinance.
8 3. To authorize upon appeal, in specific cases, such variance from
9 the terms of the ordinance as will not be contrary to the public interest,
10 where owing to special conditions a literal enforcement of the provi-
11 sions of the ordinance will result in unnecessary hardship, and so that
12 the spirit of the ordinance shall be observed and substantial justice
13 done.

1 SEC. 16. In exercising the above mentioned powers such board may,
2 in conformity with the provisions of this chapter, reverse or affirm,
3 wholly or partly, or may modify the order, requirement, decision, or
4 determination appealed from and may make such order, requirement,
5 decision, or determination as ought to be made, and to that end shall
6 have all the powers of the officer from whom the appeal is taken.

1 SEC. 17. The concurring vote of three members of the board shall
2 be necessary to reverse any order, requirement, decision, or determina-
3 tion of any such administrative official, or to decide in favor of the
4 applicant on any matter upon which it is required to pass under any
5 such ordinance or to effect any variation in such ordinance.

1 SEC. 18. Any person or persons, jointly or severally, aggrieved by
2 any decision of the board of adjustment under the provisions of this
3 act, or any taxpayer, or any officer, department, board or bureau of
4 the county, may present to a court of record a petition, duly verified,
5 setting forth that such decision is illegal, in whole or in part, specifying
6 the grounds of the illegality. Such petition shall be presented to the
7 court within thirty days after the filing of the decision in the office
8 of the board.

1 SEC. 19. Upon the presentation of such petition, the court may allow
2 a writ of certiorari directed to the board of adjustment to review

3 such decision of the board of adjustment and shall prescribe therein
4 the time within which a return thereto must be made and served upon
5 the relator's attorney, which shall not be less than ten days and may
6 be extended by the court. The allowance of the writ shall not stay
7 proceedings upon the decision appealed from, but the court may, on
8 application, on notice to the board and on due cause shown, grant a
9 restraining order.

1 SEC. 20. The board of adjustment shall not be required to return
2 the original papers acted upon by it, but it shall be sufficient to return
3 certified or sworn copies thereof or of such portions thereof as may
4 be called for by such writ. The return shall concisely set forth such
5 other facts as may be pertinent and material to show the grounds of
6 the decision appealed from and shall be verified.

1 SEC. 21. If upon the hearing which shall be tried de nova it shall
2 appear to the court that testimony is necessary for the proper disposi-
3 tion of the matter, it may take evidence or appoint a referee to take
4 such evidence as it may direct and report the same to the court with
5 his findings of fact and conclusions of law, which shall constitute a
6 part of the proceedings upon which the determination of the court shall
7 be made. The court may reverse or affirm, wholly or partly, or may
8 modify the decision brought up for review.

9 Costs shall not be allowed against the board unless it shall appear
10 to the court that it acted with gross negligence or in bad faith or with
11 malice in making the decision appealed from.

1 SEC. 22. All issues in any proceedings under the foregoing sections
2 shall have preference over all other civil actions and proceedings.

1 SEC. 23. In case any building or structure is erected, constructed,
2 reconstructed, altered, repaired, converted, or maintained; or any
3 building, structure, or land is used in violation of this act or of any
4 ordinance or other regulation made under authority conferred thereby,
5 the board of supervisors, in addition to other remedies, may institute
6 any appropriate action or proceedings to prevent such unlawful
7 erection, construction, reconstruction, alteration, repair, conversion,
8 maintenance, or use, to restrain, correct, or abate such violation, to
9 prevent the occupancy of said building, structure, or land, or to prevent
10 any illegal act, conduct, business, or use in or about such premises.

1 SEC. 24. Wherever the regulations made under authority of this
2 act require a greater width or size of yards, courts or other open spaces,
3 or require a lower height of building or less number of stories, or
4 require a greater percentage of lot to be left unoccupied, or impose
5 other higher standards than are required in any other statute or local
6 ordinance or regulation, the provisions of the regulations made under
7 authority of this act shall govern. Wherever the provisions of any
8 other statute or local ordinance or regulation require a greater width
9 or size of yards, courts or other open spaces, or require a lower height
10 of building or a less number of stories, or require a greater percentage
11 of lot to be left unoccupied, or impose other higher standards than are
12 required by the regulations made under authority of this act, the
13 provisions of such statute or local ordinance or regulation shall govern.

1 SEC. 25. Subject to the provisions of sections one (1) and two (2)
 2 hereof, the board of supervisors of any county is further authorized
 3 to adopt regulations to provide that every dwelling, whether now or
 4 hereafter erected within the county but outside the corporate limits
 5 of any city or town which shall develop a private water supply or
 6 install a pressure water system or install sanitary house drains, shall
 7 comply with the recommendations of the state department of health on
 8 minimum requirements as set out in the state plumbing code in regard
 9 to such development or installation. Any such regulation may be
 10 enforced in the same manner as any other regulation adopted under
 11 this act.

1 SEC. 26. In addition to any other remedy granted herein, the viola-
 2 tion on any regulation, restriction or boundary adopted under this act
 3 or the occupancy or use of any structure erected, altered or maintained
 4 in violation of this act shall constitute a misdemeanor. Such occupancy
 5 or use shall be deemed a continuing violation and may be the subject
 6 of repeated prosecutions if so continued. Every person convicted of
 7 a misdemeanor, by reason of violations hereinabove set forth, shall
 8 be punished by a fine of not more than \$100.00 or by imprisonment
 9 of not more than thirty days.

Approved April 1, 1947.

CHAPTER 185

COUNTY SHERIFFS' FEES

H. F. 263

AN ACT to amend section three hundred thirty-seven point eleven (337.11), code 1946, relating to boarding prisoners.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section three hundred thirty-seven point eleven
 2 (337.11), subsection eleven (11), Code 1946, is amended by striking
 3 the word "twenty" in line two (2) and inserting in lieu thereof the
 4 word "thirty-five".

Approved April 18, 1947.

CHAPTER 186

SHERIFF

H. F. 88

AN ACT providing that upon a vacancy in the office of sheriff, the first deputy shall immediately assume the office of sheriff until the vacancy is filled.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Upon a vacancy in the office of sheriff the first deputy
 2 shall assume the office of sheriff upon qualifying as required by law,