

**331.302 County legislation.**

1. The board shall exercise a power or perform a duty only by the passage of a motion, a resolution, an amendment, or an ordinance.

2. For a violation of an ordinance a county shall not provide a penalty in excess of the maximum fine and term of imprisonment for a simple misdemeanor under section 903.1, subsection 1, paragraph "a". The criminal penalty surcharge required by section 911.1 shall be added to a county fine and is not a part of the county's penalty.

3. The subject matter of an ordinance or amendment shall be generally described in its title.

4. An amendment to an ordinance or to a code of ordinances shall specifically repeal the ordinance or code, or the section, subsection, paragraph, or subpart to be amended, and shall set forth the ordinance, code, section, subsection, paragraph, or subpart as amended.

5. a. A county may by ordinance adopt by reference any portion of the Code of Iowa in effect at the time of the adoption in the manner provided in section 380.8 for adoption of a proposed code of ordinances containing a proposed new ordinance or amendment, subject to the following limitations:

(1) The ordinance shall describe the subject matter and identify the portion of the Code of Iowa adopted by chapter, section, and subsection or other subpart, as applicable.

(2) A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed the maximum fine and term of imprisonment for a simple misdemeanor under section 903.1, subsection 1, paragraph "a".

(3) Amendments or other changes to those portions of the Code of Iowa which have been adopted by reference shall serve as an automatic modification of the applicable ordinance.

b. An ordinance which adopts by reference any portion of the Code of Iowa may provide that violations of the ordinance are county infractions and subject to the limitations of section 331.307.

6. a. A proposed ordinance or amendment shall be considered and voted on for passage at two meetings of the board prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than a majority of the supervisors.

b. However, if a summary of the proposed ordinance or amendment is published as provided in section 331.305 prior to its first consideration and copies are available at the time of publication at the office of the auditor, the ordinance or amendment shall be considered and voted on for passage at one meeting prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than a majority of the supervisors.

7. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the supervisors. Each supervisor's vote on an ordinance, amendment, or resolution shall be recorded.

8. A resolution becomes effective upon passage and an ordinance or amendment becomes a law when a summary of the ordinance or the complete text of the ordinance is published, unless a subsequent effective date is provided within the measure. As used in this subsection, "summary" shall mean a narrative description of the terms and conditions of an ordinance setting forth the main points of the ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the ordinance. The description shall include the title of the ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the ordinance may be inspected, when the ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

9. The auditor shall promptly record each measure, publish a summary of all ordinances or a complete text of the ordinances and amendments as provided in section 331.305, authenticate all measures except motions with signature and certification as to time and manner of publication, if any, and maintain for public use copies of all effective ordinances and codes. A copy of the complete text of an ordinance or amendment shall also be available for distribution to the public at the office of the county auditor. The auditor's certification is presumptive evidence of the facts stated therein.

10. *a.* At least once every five years, the board shall compile a code of ordinances containing all of the county ordinances in effect.

(1) If a proposed code of ordinances contains only existing ordinances edited and compiled without change in substance, the board may adopt the code by ordinance.

(2) If a proposed code of ordinances contains a proposed new ordinance or amendment, the board shall hold a public hearing on the proposed code before adoption. The auditor shall publish notice of the hearing as provided in section 331.305. Copies of the proposed code of ordinances shall be available at the auditor's office and the notice shall so state. Within thirty days after the hearing, the board may adopt the proposed code of ordinances which becomes law upon publication of the ordinance adopting it. If the board substantially amends the proposed code of ordinances after a hearing, notice and hearing shall be repeated.

*b.* Ordinances and amendments which become effective after adoption of a code of ordinances may be compiled as a supplement to the code, and upon adoption of the supplement by resolution, become part of the code of ordinances.

*c.* An adopted code of ordinances is presumptive evidence of the passage, publication, and content of the ordinances therein as of the date of the auditor's certification of the ordinance adopting the code or supplement.

11. The compensation paid to a newspaper for a publication required by this section shall not exceed the fee provided in section 618.11. The compensation paid to a newspaper for publication of the complete text of an ordinance shall not exceed three-fourths of the fee provided in section 618.11.

12. The board may adopt the provisions of a statewide or nationally recognized standard code or portions of any such code by an ordinance which identifies the code by subject matter, source, and date, and incorporates the provisions either by reference or by setting them forth in full. The code or portion shall be adopted only after notice and hearing in the manner provided in subsection 10.

13. Immediately after the effective date of a measure establishing a zoning district, building lines, or fire limits, the auditor shall certify the measure and a plat showing the district, lines, or limits, to the recorder. The recorder shall record the measure and plat in the miscellaneous record or other book provided for special records, and shall index the record.

14. A measure voted upon is not invalid because a supervisor has a conflict of interest, unless the vote of the supervisor was decisive to passage of the measure. If a majority or unanimous vote of the board is required by statute, the majority or vote shall be computed on the basis of the number of supervisors not disqualified by reason of conflict of interest. However, a majority of all supervisors is required for a quorum. For the purposes of this subsection, the statement of a supervisor that the supervisor declines to vote by reason of conflict of interest is conclusive and shall be entered of record.

15. A valid measure adopted by a county prior to July 1, 1981, remains valid unless the measure is irreconcilable with a state law.

16. A county shall not provide a civil penalty in excess of seven hundred fifty dollars for the violation of an ordinance which is classified as a county infraction or if the infraction is a repeat offense, a civil penalty not to exceed one thousand dollars for each repeat offense. A county infraction is not punishable by imprisonment.

1. [C31, 35, §5903-c9; C39, §5903.09; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §330.11; S81, §331.302(1); 81 Acts, ch 117, §301]

2. [C97, §1349; C24, 27, 31, 35, 39, §5587, 7180; C46, §361.7, 444.19; C50, 54, 58, §358A.26, 361.7, 444.19; C62, 66, 71, 73, 75, §332.30, 358A.26, 444.19; C77, 79, 81, §332.30, 332.51, 358A.26; S81, §331.302(2); 81 Acts, ch 117, §301]

3 – 5. [S81, §331.302(3 – 5); 81 Acts, ch 117, §301]

**6.** [C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §329.9; S81, §331.302(6); 81 Acts, ch 117, §301]

**7 – 10.** [S81, §331.302(7 – 10); 81 Acts, ch 117, §301]

**11.** [C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §358A.25; S81, §331.302(11); 81 Acts, ch 117, §301]

**12 – 14.** [S81, §331.302(12 – 14); 81 Acts, ch 117, §301]

84 Acts, ch 1219, §30; 86 Acts, ch 1202, §3; 91 Acts, ch 145, §1, 2; 96 Acts, ch 1098, §1; 98 Acts, ch 1144, §1; 99 Acts, ch 153, §7, 8; 2000 Acts, ch 1203, §17, 18; 2003 Acts, ch 178, §21; 2004 Acts, ch 1111, §1; 2009 Acts, ch 21, §3, 4

Referred to in §331.251, 331.304A, 335.6, 368.26, 455B.146, 455B.175, 455B.192

[P] See also Iowa Constitution, Art. III, §39A