

# CHAPTER 414

## CITY ZONING

Referred to in §18B.2, 303.34, 306B.2, 329.7, 354.1, 476A.5

414.1	Building restrictions — powers granted.	414.16	Writ — restraining order.
414.2	Districts.	414.17	Return.
414.3	Regulations and comprehensive plan — considerations and objectives — notice, adoption, distribution.	414.18	Trial — judgment — costs.
414.4	Zoning regulations, district boundaries, amendments.	414.19	Preference in trial.
414.5	Changes — protest.	414.20	Actions to correct violations.
414.6	Zoning commission — powers and duties.	414.21	Conflicting rules, ordinances, and statutes.
414.7	Board of adjustment — review by council.	414.22	Zoning for family homes.
414.8	Membership.	414.23	Extending beyond city limits.
414.9	Rules — meetings — general procedure.	414.24	Restricted residence districts.
414.10	Appeals.	414.25	Transitional provisions.
414.11	Effect of appeal.	414.26	and 414.27 Reserved.
414.12	Powers.	414.28	Manufactured home.
414.13	Decision on appeal.	414.28A	Land-leased communities.
414.14	Vote required.	414.29	Elder family homes. Repealed by 2004 Acts, ch 1101, §95.
414.15	Petition for certiorari.	414.30	Homes for persons with disabilities.
		414.31	Elder group homes.
		414.32	Home and community-based services waiver recipient residence.

### 414.1 Building restrictions — powers granted.

1. For the purpose of promoting the health, safety, morals, or the general welfare of the community or for the purpose of preserving historically significant areas of the community, any city is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

2. The city of Des Moines may, for the purpose of preserving the dominance of the dome of the state capitol building and the view of the state capitol building from prominent public viewing points, regulate and restrict the height and size of buildings and other structures in the city of Des Moines. Any regulations pertaining to such matters shall be made in accordance with a comprehensive plan and in consultation with the capitol planning commission.

[C24, 27, 31, 35, 39, §6452; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.1] 99 Acts, ch 204, §36

### 414.2 Districts.

For any or all of said purposes the local legislative body, hereinafter referred to as the council, may divide the city into districts, including historical preservation districts but only as provided in section 303.34, of such number, shape, and area as may be deemed best suited to carry out the purposes of this chapter; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations and restrictions shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

[C24, 27, 31, 35, 39, §6453; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.2]

Referred to in §414.5

[P] Certification of zoning district ordinance, §380.11

**414.3 Regulations and comprehensive plan — considerations and objectives — notice, adoption, distribution.**

1. The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy do not void any zoning regulation existing on July 1, 1981, or require zoning in a city that did not have zoning prior to July 1, 1981.

2. The regulations shall be made with reasonable consideration, among other things, as to the character of the area of the district and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

3. The regulations and comprehensive plan shall be made with consideration of the smart planning principles under section 18B.1 and may include the information specified in section 18B.2, subsection 2.

4. *a.* A comprehensive plan recommended for adoption by the zoning commission established under section 414.6, may be adopted by the council. The council may amend the proposed comprehensive plan prior to adoption. The council shall publish notice of the meeting at which the comprehensive plan will be considered for adoption. The notice shall be published as provided in section 362.3.

*b.* Following its adoption, copies of the comprehensive plan shall be sent or made available to the county in which the city is located, neighboring counties and cities, the council of governments or regional planning commission where the city is located, and public libraries within the city.

*c.* Following its adoption, a comprehensive plan may be amended by the council at any time.

[C24, 27, 31, 35, 39, §6454; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.3; 81 Acts, ch 125, §2; 82 Acts, ch 1245, §18]

2010 Acts, ch 1184, §23

Referred to in §414.6

**414.4 Zoning regulations, district boundaries, amendments.**

The council of the city shall provide for the manner in which the regulations and restrictions and the boundaries of the districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, the regulation, restriction, or boundary shall not become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published as provided in section 362.3, except that at least seven days' notice must be given and in no case shall the public hearing be held earlier than the next regularly scheduled city council meeting following the published notice.

[C24, 27, 31, 35, 39, §6455; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.4]

84 Acts, ch 1018, §1

Referred to in §329.9, 414.5, 414.24

**414.5 Changes — protest.**

The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, a council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this

section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the city clerk and signed by the owners of twenty percent or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty percent or more of the property which is located within two hundred feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the council. The protest, if filed, must be filed before or at the public hearing. The provisions of section 414.4 relative to public hearings and official notice apply equally to all changes or amendments.

[C24, 27, 31, 35, 39, §6456; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.5]

84 Acts, ch 1176, §1; 85 Acts, ch 9, §2; 88 Acts, ch 1246, §8

Referred to in §657.9

#### **414.6 Zoning commission — powers and duties.**

1. In order to avail itself of the powers conferred by this chapter, the council shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations and restrictions to be enforced therein. Where a city plan commission already exists, it may be appointed as the zoning commission. Such commission shall, with due diligence, prepare a preliminary report and hold public hearings thereon before submitting its final report; and such council shall not hold its public hearings or take action until it has received the final report of such commission. After the adoption of such regulations, restrictions, and boundaries of districts, the zoning commission may, from time to time, recommend to the council amendments, supplements, changes, or modifications.

2. The zoning commission may recommend to the council for adoption a comprehensive plan pursuant to section 414.3, or amendments thereto.

[C24, 27, 31, 35, 39, §6457; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.6]

2010 Acts, ch 1184, §24

Referred to in §329.9, 414.3, 657.9

#### **414.7 Board of adjustment — review by council.**

The council shall provide for the appointment of a board of adjustment and in the regulations and restrictions adopted pursuant to the authority of this chapter shall provide that the said board of adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinances in harmony with its general purpose and intent and in accordance with general or specific rules therein contained and provide that any property owner aggrieved by the action of the council in the adoption of such regulations and restrictions may petition the said board of adjustment direct to modify regulations and restrictions as applied to such property owners.

The council may provide for its review of variances granted by the board of adjustment before their effective date. The council may remand a decision to grant a variance to the board of adjustment for further study. The effective date of the variance is delayed for thirty days from the date of the remand.

[C24, 27, 31, 35, 39, §6458; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.7]

86 Acts, ch 1098, §1

Referred to in §329.12

#### **414.8 Membership.**

The board of adjustment shall consist of five, seven, or nine members as determined by the council. Members of a five-member board shall be appointed for a term of five years, excepting that when the board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members of a seven-member board shall be appointed for a term of five years, except when the board shall first be created two members shall be appointed for a term of five years, two members for a term of four years, one for a term of three years, one for a term of two years, and one for a one-year term. Members of a

nine-member board shall be appointed for a term of five years, except when the board shall first be created three members shall be appointed for a term of five years, two members for a term of four years, two for a term of three years, one for a term of two years, and one for a one-year term. A five-member board shall not carry out its business without having three members present, a seven-member board shall not carry out its business without having four members present, and a nine-member board shall not carry out its business without having five members present. A majority of the members of the board of adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

[C24, 27, 31, 35, 39, §6459; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.8]

2005 Acts, ch 66, §1

[P] See also §414.25

#### **414.9 Rules — meetings — general procedure.**

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

[C24, 27, 31, 35, 39, §6460; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.9]

Referred to in §329.12

#### **414.10 Appeals.**

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

[C24, 27, 31, 35, 39, §6461; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.10]

Referred to in §329.12

#### **414.11 Effect of appeal.**

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

[C24, 27, 31, 35, 39, §6462; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.11]

Referred to in §329.12

#### **414.12 Powers.**

The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.
2. To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

[C24, 27, 31, 35, 39, §6463; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.12]  
Referred to in §329.12

#### **414.13 Decision on appeal.**

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

[C24, 27, 31, 35, 39, §6464; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.13]  
Referred to in §329.12

#### **414.14 Vote required.**

The concurring vote of three members of the board in the case of a five-member board, four members in the case of a seven-member board, and five members in the case of a nine-member board, shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

[C24, 27, 31, 35, 39, §6465; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.14]  
2005 Acts, ch 66, §2; 2006 Acts, ch 1010, §98  
Referred to in §329.12

#### **414.15 Petition for certiorari.**

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment under the provisions of this chapter, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

[C24, 27, 31, 35, 39, §6466; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.15]  
Referred to in §329.12, 414.19

#### **414.16 Writ — restraining order.**

Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

[C24, 27, 31, 35, 39, §6467; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.16]  
Referred to in §329.12, 414.19

#### **414.17 Return.**

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

[C24, 27, 31, 35, 39, §6468; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.17]  
Referred to in §329.12, 414.19

**414.18 Trial — judgment — costs.**

If upon the hearing which shall be tried de novo it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

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

[C24, 27, 31, 35, 39, §6469; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.18]

Referred to in §329.12, 414.19

**414.19 Preference in trial.**

All issues in any proceedings under sections 414.15 through 414.18 shall have preference over all other civil actions and proceedings.

[C24, 27, 31, 35, 39, §6470; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.19]

2009 Acts, ch 133, §133

Referred to in §329.12

**414.20 Actions to correct violations.**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this chapter or of any ordinance or other regulation made under authority conferred thereby, the council, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

[C24, 27, 31, 35, 39, §6471; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.20]

**414.21 Conflicting rules, ordinances, and statutes.**

If the regulations made under this chapter require a greater width or size of yards, courts or other open spaces, or a lower height of building or less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under this chapter govern. If any other statute or local ordinance or regulation requires a greater width or size of yards, courts or other open spaces, or a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under this chapter, the other statute or local ordinance or regulation governs. If a regulation proposed or made under this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the department of natural resources is required to establish, amend, supplement, change or modify the regulation or to grant any variation or exception from the regulation.

[C24, 27, 31, 35, 39, §6472; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §414.21; 82 Acts, ch 1199, §68, 96]

**414.22 Zoning for family homes.**

1. It is the intent of this section to assist in improving the quality of life of persons with a developmental disability or brain injury by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. "Brain injury" means brain injury as defined in section 135.22.

b. "Developmental disability" means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to an intellectual disability, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to an intellectual

disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with an intellectual disability or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

c. “*Family home*” means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under chapter 237.

d. “*Permitted use*” means a use by right which is authorized in all residential zoning districts.

e. “*Residential*” means regularly used by its occupants as a permanent place of abode, which is made one’s home as opposed to one’s place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding any provision of this chapter to the contrary, a city, city council, or city zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city. A city, city council, or city zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, new family homes owned and operated by public or private agencies shall be dispersed throughout the residential zones and districts and shall not be located within contiguous city block areas. Section 135C.23, subsection 2, shall apply to all residents of a family home.

4. Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a city which permits residential use of property but prohibits the use of property as a family home for persons with a developmental disability or brain injury, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

83 Acts, ch 11, §2; 93 Acts, ch 90, §4; 94 Acts, ch 1023, §110; 94 Acts, ch 1170, §9; 96 Acts, ch 1129, §113; 2012 Acts, ch 1019, §128

Referred to in §135C.9, 414.30, 414.31, 504C.1

#### **414.23 Extending beyond city limits.**

The powers granted by this chapter may be extended by ordinance by any city to the unincorporated area up to two miles beyond the limits of such city, except for those areas within a county where a county zoning ordinance exists. The ordinance shall describe in general terms the area to be included. The exemption from regulation granted by section 335.2 to property used for agricultural purposes shall apply to such unincorporated area. If the limits of any such city are at any place less than four miles distant from the limits of any other city which has extended or thereafter extends its zoning jurisdiction under this section, then at such time the powers herein granted shall extend to a line equidistant between the limits of said cities.

A municipality, during the time its zoning jurisdiction is extended under this section, shall increase the size of its planning and zoning commission and its board of adjustment each by two members. The planning and zoning commission shall include a member of the board of supervisors of the affected county, or the board’s designee, and a resident of the area outside the city limits over which the zoning jurisdiction is extended. The board’s designee, if any, shall be a resident of the county in which such extended area is located. The additional members of the board of adjustment shall be residents of the area outside the city limits over which the zoning jurisdiction is extended. The county supervisor, or the board’s designee, and the residents shall be appointed by the board of supervisors of the county in which such extended area is located. The county supervisor, or the board’s designee, and the residents

shall serve for the same terms of office and have the same rights, privileges, and duties as other members of each of the bodies. However, if the extended zoning jurisdiction of a municipality extends into an adjacent county without a county zoning ordinance, the boards of supervisors of the affected counties, jointly, shall appoint one of their members, or a designee, to the planning and zoning commission.

Property owners affected by such zoning regulations shall have the same rights of hearing, protest, and appeal as those within the municipality exercising this power.

Whenever a county in which this power is being exercised by a municipality adopts a county zoning ordinance the power exercised by the municipality and the specific regulations and districts thereunder shall be terminated within three months of the establishment of the administrative authority for county zoning, or at such date as mutually agreed upon by the municipality and county.

[C71, 73, 75, 77, 79, 81, §414.23]  
 2002 Acts, ch 1078, §1; 2004 Acts, ch 1074, §1  
 Referred to in §331.304, 331.321, 427B.2

**414.24 Restricted residence districts.**

A city may, and upon petition of sixty percent of the owners of the real estate in the district sought to be affected who are residents of the city shall, designate and establish, after notice and hearing as provided in section 414.4, restricted residence districts within the city limits.

In the ordinance designating and establishing a restricted residence district, the city may establish reasonable rules for the use and occupancy of buildings of all kinds within the district, and provide that no building or other structure, except residences, schoolhouses, churches and other similar structures, shall be erected, altered, repaired or occupied without first securing from the city council a permit to be issued under reasonable rules as may be provided in the ordinance. An ordinance and rules passed under this section shall not conflict with applicable building and housing codes.

A building or structure erected, altered, repaired, or used in violation of an ordinance passed under this section shall be deemed a nuisance.

When a city has proceeded under the other provisions of this chapter, this section shall no longer be in effect for the city.

[C24, 27, 31, 35, 39, §6473, 6474, 6475, 6476; C46, 50, 54, 58, 62, 66, 71, 73, §414.22, 415.1, 415.2, 415.3; C77, 79, 81, §414.24]  
 84 Acts, ch 1018, §2  
 [P] Nuisances in general, chapter 657

**414.25 Transitional provisions.**

Of the two additional members which may be appointed to increase a five-member board of adjustment to a seven-member board after January 1, 1980, one member shall be appointed to an initial term of five years and one member shall be appointed to an initial term of four years. The terms of office of members of a board of adjustment serving unexpired terms of office on or after January 1, 1980, shall expire according to their original appointments.

Of the four additional members which may be appointed to increase a five-member board of adjustment to a nine-member board on or after July 1, 2005, one member shall be appointed to an initial term of five years, one member to an initial term of four years, one to an initial term of three years, and one to an initial term of two years. The terms of office of members of a board of adjustment serving unexpired terms of office on or after July 1, 2005, shall expire according to their original appointments.

Of the two additional members which may be appointed to increase a seven-member board of adjustment to a nine-member board on or after July 1, 2005, one member shall be appointed to an initial term of five years and one member shall be appointed to an initial term of four years. The terms of office of members of a board of adjustment serving unexpired terms of office on or after July 1, 2005, shall expire according to their original appointments.

[C81, §414.25]  
 2005 Acts, ch 66, §3, 4



**414.26 and 414.27** Reserved.

**414.28 Manufactured home.**

A city shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot, and shall require that the home is assessed and taxed as a site-built dwelling. A zoning ordinance or other regulation shall not require a perimeter foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. A city shall not require more than one permanent foundation system for a manufactured home. For purposes of this section, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site. When units are located outside a manufactured home community or mobile home park, requirements may be imposed which ensure visual compatibility of the permanent foundation system with surrounding residential structures. As used in this section, “*manufactured home*” means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. § 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. This section shall not be construed as abrogating a recorded restrictive covenant.

A city shall not adopt or enforce construction, building, or design ordinances, regulations, requirements, or restrictions which would mandate width standards greater than twenty-four feet, roof pitch, or other design standards for manufactured housing if the housing otherwise complies with 42 U.S.C. § 5403. However, this paragraph shall not prohibit a city from adopting and enforcing zoning regulations related to transportation, water, sewerage, or other land development.

84 Acts, ch 1238, §2; 93 Acts, ch 154, §4; 94 Acts, ch 1110, §2; 97 Acts, ch 86, §3; 2001 Acts, ch 153, §16

**414.28A Land-leased communities.**

A city shall not adopt or enforce zoning or subdivision regulations or other ordinances which disallow or make infeasible the plans and specifications of land-leased communities because the housing within the land-leased community will be manufactured housing.

“*Land-leased community*” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. The term “*land-leased community*” shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. A manufactured home located in a land-leased community shall be taxed under section 435.22 as if the manufactured home were located in a mobile home park.

97 Acts, ch 86, §4; 98 Acts, ch 1107, §16, 33

Referred to in §331.301, 364.3, 435.1, 562B.7

**414.29 Elder family homes.** Repealed by 2004 Acts, ch 1101, § 95.

**414.30 Homes for persons with disabilities.**

A city council or city zoning commission shall consider a home for persons with disabilities a family home, as defined in section 414.22, for purposes of zoning in accordance with chapter 504C.

93 Acts, ch 90, §5; 94 Acts, ch 1023, §111; 2010 Acts, ch 1079, §17

**414.31 Elder group homes.**

A city council or city zoning commission shall consider an elder group home a family home, as defined in section 414.22, for purposes of zoning, in accordance with section 231B.4, and may establish limitations regarding the proximity of one proposed elder group home to another.

93 Acts, ch 72, §8; 2005 Acts, ch 62, §23

[P] Similar provision, see §335.33

**414.32 Home and community-based services waiver recipient residence.**

1. A city, city council, or city zoning commission shall consider the residence of the recipient of services under a home and community-based services waiver as a residential use of property for the purposes of zoning and shall treat the use of the residence as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city.

2. A city, city council, or city zoning commission shall not require that the recipient, or owner of such residence if other than the recipient, obtain a conditional use permit, special use permit, special exception, or variance. A city, city council, or city zoning commission shall not establish limitations regarding the proximity of one such residence to another.

3. This section applies to the residence of a recipient of services under a home and community-based services waiver if the residence meets any of the following conditions:

a. The residence is a single-family dwelling owned or rented by the recipient.

b. The residence is a multifamily dwelling which does not hold itself out to the public as a community-based residential provider otherwise regulated by law, including but not limited to a residential care facility, and which provides dwelling units to no more than four recipients of services under a home and community-based services waiver at any one time.

4. For the purposes of this section, “*home and community-based services waiver*” means “*waiver*” as defined in section 249A.29.

2007 Acts, ch 218, §131, 132

[P] Similar provision, see §335.34