

House File 294 - Introduced

HOUSE FILE 294

BY KLEIN

A BILL FOR

1 An Act relating to eligible electors residing in an
2 unincorporated area subject to a city's zoning ordinance and
3 including applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 39.3, subsection 2, Code 2017, is amended
2 to read as follows:

3 2. "*City*" means a municipal corporation not including a
4 county, township, school district, or any special purpose
5 district or authority. When used in relation to land area,
6 "*city*" includes only the land area within the city limits and,
7 for purposes of determining the rights of an eligible elector
8 to petition the city council and vote in city elections, the
9 land area of any unincorporated area that is subject to a city
10 zoning ordinance under section 414.23.

11 Sec. 2. Section 49.5, Code 2017, is amended to read as
12 follows:

13 **49.5 City precincts.**

14 1. The council of a city where establishment of more
15 than one precinct is necessary or deemed advisable shall, at
16 the time required by law, divide the city into the number
17 of election precincts as will best serve the convenience of
18 the voters while promoting electoral efficiency. As used in
19 this section, the term "*the convenience of the voters*" refers
20 to, but is not necessarily limited to, the use of precinct
21 boundaries which can be readily described to and identified
22 by voters and for which there is ease of access by voters to
23 their respective precinct polling places by reasonably direct
24 routes of travel. As used in **this section**, the term "*promoting*
25 *electoral efficiency*" means reducing the cost of staffing
26 election precincts by requiring cities to avoid creating more
27 precincts than is reasonably necessary to provide voters access
28 to voting.

29 2. The precinct boundaries shall conform to **section 49.3**
30 and shall be described in an ordinance adopted by the council
31 within the time required by **section 49.7**. Before final
32 adoption of any change in election precinct boundaries pursuant
33 to **this section** or **section 49.6**, the council shall permit the
34 commissioner not less than seven and not more than ten days'
35 time to offer written comments to the council on the proposed

1 reprecincting. If the commissioner recommends changes in the
2 proposed reprecincting which the commissioner concludes could
3 better serve the convenience of the voters or could promote
4 electoral efficiency, including lowering election costs, the
5 council shall, if no changes to the reprecincting are made,
6 include reasons in the ordinance for not adopting the proposed
7 changes of the commissioner. A public hearing shall be held
8 before final adoption of the ordinance. Notice of the date,
9 time, and place of the hearing shall be given as provided in
10 chapter 21.

11 3. For city elections, if a city has extended the
12 applicability of the city's zoning ordinance to an
13 unincorporated area pursuant to section 414.23, the city
14 council shall include the eligible electors residing in the
15 unincorporated area subject to the zoning ordinance within the
16 precinct boundaries of a city precinct. The city council may
17 reprecinct if necessary to meet the requirements of section
18 49.3 and this subsection.

19 Sec. 3. Section 372.13, subsection 7, paragraph b, Code
20 2017, is amended to read as follows:

21 b. Wards Notwithstanding any requirement to the contrary
22 under section 49.3, subsection 4, wards shall be as nearly
23 equal as practicable to the ideal population determined
24 by dividing the number of wards to be established into the
25 combined population of the city and areas subject to the city's
26 zoning ordinance under section 414.23.

27 Sec. 4. Section 414.23, Code 2017, is amended to read as
28 follows:

29 **414.23 Extending beyond city limits.**

30 1. The powers granted by **this chapter** may be extended by
31 ordinance by any city to the unincorporated area up to two
32 miles beyond the limits of such city, except for those areas
33 within a county where a county zoning ordinance exists. The
34 ordinance shall describe in general terms the area to be
35 included. The exemption from regulation granted by section

1 335.2 to property used for agricultural purposes shall apply
2 to such unincorporated area. If the limits of any such city
3 are at any place less than four miles distant from the limits
4 of any other city which has extended or thereafter extends
5 its zoning jurisdiction under this section, then at such time
6 the powers herein granted shall extend to a line equidistant
7 between the limits of said cities.

8 2. A municipality city, during the time its zoning
9 jurisdiction is extended under this section, shall increase
10 the size of its planning and zoning commission and its board
11 of adjustment each by two members. The planning and zoning
12 commission shall include a member of the board of supervisors
13 of the affected county, or the board's designee, and a resident
14 of the area outside the city limits over which the zoning
15 jurisdiction is extended. The board's designee, if any, shall
16 be a resident of the county in which such extended area is
17 located. The additional members of the board of adjustment
18 shall be residents of the area outside the city limits
19 over which the zoning jurisdiction is extended. The county
20 supervisor, or the board's designee, and the residents shall
21 be appointed by the board of supervisors of the county in
22 which such extended area is located. The county supervisor,
23 or the board's designee, and the residents shall serve for the
24 same terms of office and have the same rights, privileges, and
25 duties as other members of each of the bodies. However, if the
26 extended zoning jurisdiction of a municipality city extends
27 into an adjacent county without a county zoning ordinance, the
28 boards of supervisors of the affected counties, jointly, shall
29 appoint one of their members, or a designee, to the planning
30 and zoning commission.

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

34 b. An eligible elector residing in an unincorporated area
35 subject to the zoning ordinance shall be considered an eligible

1 elector of the city for purposes of signing petitions for
2 submission to the city council and voting in city elections and
3 for no other purposes. Following reprecincting under section
4 49.5 and in the year following the year in which the federal
5 decennial census is taken, the city council shall notify each
6 eligible elector residing in the unincorporated area subject
7 to the zoning ordinance of the eligible elector's right to
8 petition the city council and to vote in city elections.

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

16 Sec. 5. APPLICABILITY. This Act applies to city elections
17 held on or after July 1, 2017.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill relates to extraterritorial zoning by certain
22 cities and the rights of eligible electors who reside in areas
23 subject to such zoning.

24 Current Code section 414.23 authorizes a city to extend
25 its zoning ordinance two miles outside the city's boundaries
26 if a county has not adopted a zoning ordinance and requires
27 the city to add two members each to its planning and zoning
28 commission and board of adjustment. The planning and zoning
29 commission must add a member of the county board of supervisors
30 and a resident of the extraterritorial area. The board of
31 adjustment is required to add two members who are residents of
32 the extraterritorial area.

33 The bill provides that an eligible elector residing in
34 an unincorporated area that is subject to a city's zoning
35 ordinance is an eligible elector for the purposes of

1 petitioning the city council and voting in city elections, and
2 for no other purposes. Under the bill, the city council of
3 such a city is required to include the eligible electors within
4 the precinct boundaries of a city precinct for the purposes of
5 city elections. The bill establishes certain reprecincting
6 and notice provisions. For a city that is divided into wards
7 for the purposes of electing members to the city council,
8 current law requires that the city wards be as nearly equal
9 in population as practicable based upon the population of
10 the city. Under the bill, this requirement is based upon
11 the combined population of the city and areas subject to the
12 city's zoning ordinance. Current law also requires that ward
13 boundaries follow precinct boundaries.

14 The bill applies to city elections held on or after July 1,
15 2017.