A BILL FOR

1 An Act related to city and county zoning by allowing for the
2 creation and conveyance of development rights.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
H.F. ____

1 Section 1. Section 331.602, Code 2017, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 33. Record deeds for the conveyance of
4 development rights that are approved in accordance with section
5 335.3, subsection 2, or section 414.1, subsection 1A.
6 Sec. 2. Section 335.3, Code 2017, is amended to read as
7 follows:
8 335.3 Powers.
9 1. Subject to section 335.2, the board of supervisors
10 may by ordinance regulate and restrict the height, number of
11 structures, and size of buildings and other structures, the
12 percentage of lot that may be occupied, the size of yards,
13 courts, and other open spaces, the density of population, the
14 establishment and conveyance of development rights, and the
15 location and use of buildings, structures, and land for trade,
16 industry, residence, or other purposes, and may regulate,
17 restrict, and prohibit the use for residential purposes
18 of tents, trailers, and portable or potentially portable
19 structures. However, such powers shall be exercised only with
20 reference to land and structures located within the county but
21 lying outside of the corporate limits of any city.
22 2. a. The board of supervisors may by ordinance or
23 amendment allow, regulate, or restrict the conveyance of
24 development rights, subject to this subsection and subject to
25 any contrary provisions of this chapter. Such ordinance or
26 amendment shall provide that there is created, as a separate
27 estate in land, the development rights arising from an estate
28 in land, and such development rights are declared to be
29 severable and separately conveyable by deed from the estate
30 in fee simple from which the development rights are derived.
31 Such ordinance or amendment shall require that a deed conveying
32 development rights be individually approved by at least a
33 majority vote of the board of supervisors. Any person or
34 persons, jointly or severally, aggrieved by any decision of the
35 board of supervisors under this subsection may seek judicial
review of the decision in the same manner as otherwise provided
for decisions of the board of adjustment under sections 335.18
through 335.22.

b. If a conveyance of development rights is approved by the
board of supervisors, the transferee shall file the deed of the
conveyance with the county recorder for recording. The county
recorder shall not accept for recording any deed conveying
development rights unless the board of supervisors has endorsed
the board's approval on the deed not more than sixty days prior
to the filing with the county recorder.

c. Development rights are not transferable across the
boundaries of the county or across the boundaries of a
city within the county, except that development rights are
transferable across the boundaries of counties and cities that
have adopted ordinances or amendments allowing the conveyance
of development rights and that are parties to a chapter 28E
agreement that specifically permits the conveyance of such
rights across political subdivision boundaries and provides for
the approval of such conveyances by at least one governing body
of a political subdivision that is a party to the agreement.

Sec. 3. Section 414.1, subsection 1, Code 2017, is amended
to read as follows:

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, the
establishment and conveyance of development rights, and the
location and use of buildings, structures, and land for trade,
industry, residence, or other purposes.

Sec. 4. Section 414.1, Code 2017, is amended by adding the
following new subsection:

NEW SUBSECTION. 1A. a. The city council may by ordinance
1 or amendment allow, regulate, and restrict the conveyance of
development rights, subject to this subsection and subject to
any contrary provisions of this chapter. Such ordinance or
amendment shall provide that there is created, as a separate
estate in land, the development rights arising from an estate
in land, and such development rights are declared to be
severable and separately conveyable by deed from the estate
in fee simple from which the development rights are derived.
Such ordinance or amendment shall require that a deed conveying
development rights be individually approved by at least a
majority vote of the city council. Any person or persons,
jointly or severally, aggrieved by a decision of the council
under this subsection may seek judicial review of the decision
in the same manner as otherwise provided for decisions of the
board of adjustment under sections 414.15 through 414.19.
b. If a conveyance of development rights is approved by
the city council, the transferee shall file the deed of the
conveyance with the county recorder for recording. The county
recorder shall not accept for recording any deed conveying
development rights unless the city council has endorsed the
council’s approval on the deed not more than sixty days prior
to the filing with the county recorder.
c. Development rights are not transferable across the
boundaries of the city, except that development rights are
transferable across the boundaries of cities and counties that
have adopted ordinances or amendments allowing the conveyance
of developments rights and that are parties to a chapter 28E
agreement that specifically permits the conveyance of such
rights across political subdivision boundaries and provides for
the approval of such conveyances by at least one governing body
of a political subdivision that is a party to the agreement.

EXPLANATION

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

This bill relates to city and county zoning by allowing
cities and counties to allow, regulate, and restrict the
transfer of development rights.

Under the bill, a city or county may, by ordinance or
amendment, establish development rights arising from estates
in land as a part of the political subdivision’s zoning
regulations. Such development rights are declared to be
severable and separately conveyable from the estate in fee
simple from which the development rights are derived.

The bill requires that individual conveyances of development
rights be approved by the city council or board of supervisors
that established those rights. The bill requires a transferee
to file a deed of conveyance with the county recorder and
requires the county recorder to record deeds if approved by
the appropriate governing body within the 60 days prior to
filing. The bill also requires that an ordinance establishing
development rights provide for judicial review of the decisions
of the applicable governing body.

The bill provides that development rights are not
transferable across the boundaries of the political
subdivision, unless the relevant political subdivisions are
parties to an intergovernmental agreement that specifically
permits the conveyance of such rights across the political
subdivision boundaries and provides for the approval of each
conveyance.