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EC71-844 The What, Why and Who of Rural Zoning

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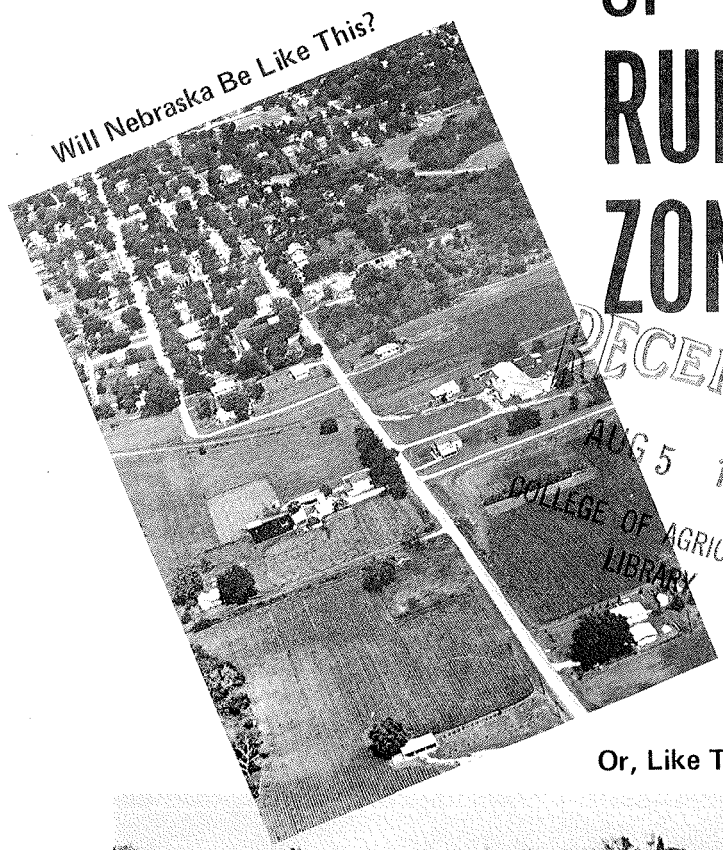
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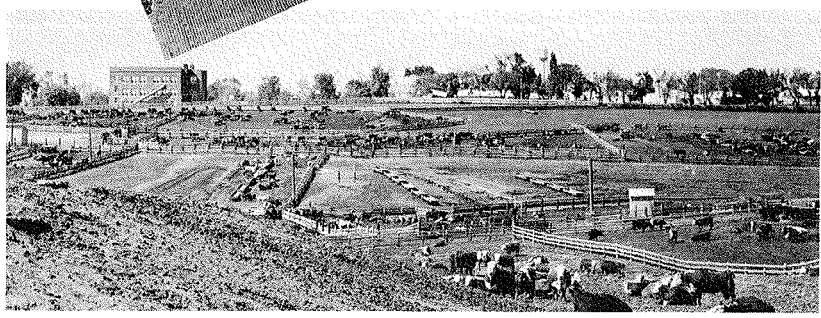
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The What, Why and Who of RURAL ZONING in Nebraska

Paul H. Gessaman and Douglas D. Duey¹

Zoning is a method by which rural people can better ensure their right to control changes occurring in their community.

This bulletin presents basic concepts and principles of zoning in rural areas, though no attempt has been made to present detailed information on legal procedures for instituting zoning.

Another circular, "The Why and How of Zoning in Nebraska," will provide a more detailed description of rural zoning and will provide information on legal procedures for instituting zoning in Nebraska.

Introduction

Zoning in rural areas is relatively new. It dates from the 1930s in some states and has recently started to attract interest in Nebraska.

This interest has developed as Nebraska citizens have expressed a desire for more orderly development of their communities. Industrial development efforts, urban expansion, intensified livestock feeding operations, recreation development and many other changes have become common in Nebraska. Conflicts over land use and environmental issues have occurred. Nebraskans have turned to planning and zoning as a means of dealing with the conflicts.

Rural zoning is a legal process whereby local government (usually county government) regulates land use for the benefit of residents and landowners.

In this process, a zoning ordinance divides the land area into districts. Within these districts, zoning regulates the type and intensity of land use.

Rural zoning is initiated or enacted by a local government acting under the provisions of enabling legislation of the State of Nebraska.

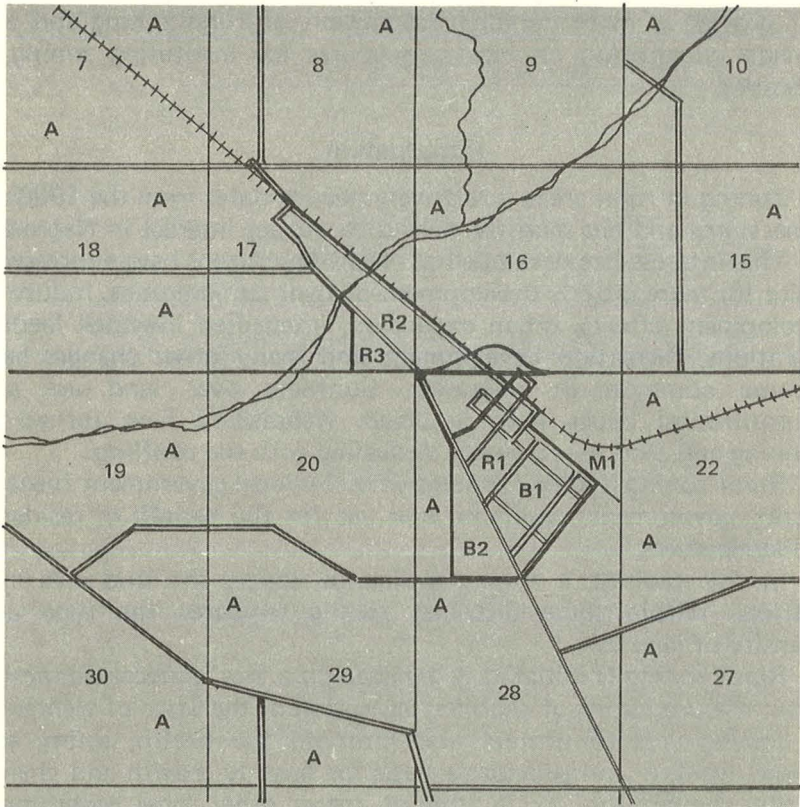
Zoning acts to protect and promote the health, safety and general welfare; and provides a basis for orderly growth and change in the community. As is true of many other local government activities, successful zoning is based upon widespread participation and support by residents.

¹Extension Specialist, Resource Development and Area Extension Specialist, Southeast Nebraska, respectively.

What Is Rural Zoning?

Rural zoning is zoning outside the jurisdictional limits of cities and incorporated villages. This can include suburban as well as strictly rural territory.

Any county or multi-county region in Nebraska may enact rural zoning regulations. These regulations have their roots in local communities and reflect the desire of residents to attain certain patterns of land use and development. Zoning regulations are the "tools" by which the community guides its growth and development.



Planned Agricultural (A), Residential (R1, R2, R3), Commercial (B1, B2) and Industrial (M1) land uses are indicated on a zoning map.

The ability of zoning regulations to shape the future of a community in the way desired by residents can be no better than the community's ability to define what it wants that future to be. Since comprehensive planning is an effective means of defining community objectives, the laws of Nebraska now require that comprehensive planning be completed before zoning regulations are adopted.

Comprehensive planning is an ongoing process, authorized by the laws of Nebraska in which a planning commission, with the advice and assistance of all residents, chooses guidelines and goals for the community.

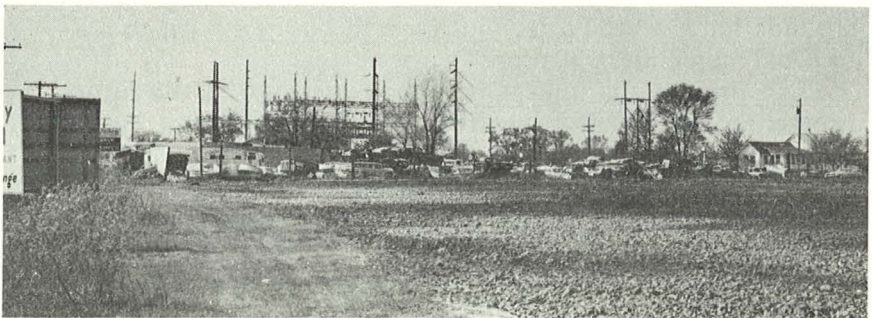
The community's present situation is inventoried, alternatives for the future are examined and choices are made. Comprehensive planning (as a minimum) must provide the community with a land use plan, a transportation plan and a public facilities plan. Good comprehensive planning can, and usually will, provide a basis for good zoning regulations.

Rural zoning cannot change things that already exist in Nebraska communities but it can serve to shape the future in conformity with the desire of residents.

Why Have Rural Zoning?

Rural zoning is a means of controlling or preventing problems resulting from conflicts in land use. These problems come about as a result of economic and social changes and can often be solved or prevented by foresight and planning.

No part of rural Nebraska is immune to change and problems incidental to change. When there is no control over change, rural roads may become inadequate for the present population; rural school districts may experience increased suburban development resulting in larger school enrollments without significant increases in



This can happen to your unzoned neighborhood.

the tax base; or industries, businesses, junkyards and dumps may be indiscriminately scattered across the countryside, raising public costs and creating eyesores or health hazards.

By enacting rural zoning regulations, residents of rural Nebraska can preserve and protect the aesthetic and material qualities of the area in which they live. They can act to prevent the disruption of Nebraska's agriculture, prevent the pollution of Nebraska's streams and lakes, and prevent the creation of conflicts between neighbors from incompatible land uses adjacent to each other. Zoning regulations can also prevent the loss of property value which can occur from the introduction of conflicting uses of land in adjacent areas.

What Can and Cannot Be Done With Zoning?

Rural zoning is sometimes presented as a cure-all for the problems of rural Nebraska. In an opposing point of view, it is sometimes viewed as ineffectual and of little use in alleviating conflicts in land use and environmental problems. As is usually the case where divergent points of view exist, the true situation lies somewhere between these extremes. Some examples will help identify what zoning can and cannot do.

At Its Best, Rural Zoning:

- Can help protect agricultural operations by controlling the leapfrog movement of urban land uses (especially residential housing) into farming areas.

- Can help avert limitations on normal farming operations which result from residential development in farming communities, such as restrictions on hours of machinery operation, use of insecticides, use of sewage lagoons for disposal of livestock waste.

- Can help keep farming communities from being the dumping grounds for everything from garbage to businesses which are trying to avoid municipal regulation.

- Can prevent the unwise mixing of land use in the future, thus protecting individual property owners from future harmful or undesirable uses of adjacent property.

- Can protect the public's property from inconsistent or harmful uses, as the location of a truck stop or a feedyard next to a rural school.

- Can assist in community economic growth by helping reserve adequate and desirable sites for industrial, recreational and commercial use.

Can serve as a tool of planning and development to help keep down future public costs for utilities and public services.

Can protect future industry from harassment by residential neighbors.

On The Other Hand, Zoning:

Cannot correct past mistakes in land use which have resulted in inconsistent uses of neighboring properties.

Cannot permanently maintain any specific type of land use originally assigned to an area under zoning regulations.

Cannot maintain any specific type of economic activity (agriculture or other industry) against long-run economic trends which create pressure for changes in the use of land.

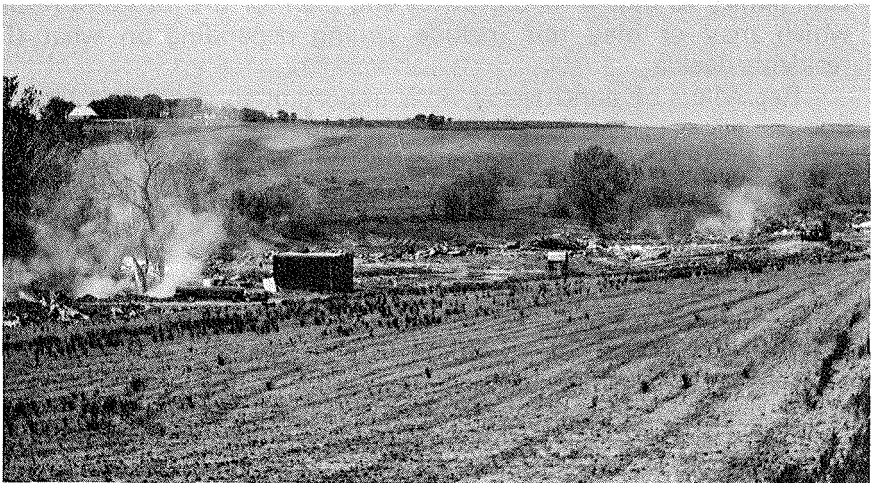
Cannot require the termination of any legal activity which existed prior to the adoption of zoning.

Cannot be effective unless it represents the interests and desires of residents of the community.

Whom Does Zoning Affect?

Zoning can affect everyone in the community in a direct or indirect manner.

As rapid change has become the dominant characteristic of the times, all citizens in Nebraska are affected by the changes occurring around them. The change may be a new factory or motel or gas



There may be better ways to fill a gully.

station at a highway interchange. It may be a residential development on land that was formerly farmed. It may be a landfill dump in a nearby gully, or a sewage treatment plant along a stream, or any other of a long list of pleasant or unpleasant changes.

When zoning is instituted, the pattern of land use in the zoned area is determined by the zoning regulations. Similar activities are designated as acceptable within each of the specified use areas, and conflicting uses are restricted or barred. This can have direct effects on the economic advantage of landowners and businessmen. Opposition to zoning is often based on a real or anticipated zoning related loss of windfall profit, or on dislike of the regulatory aspects of zoning.

For example, the owner of undeveloped land zoned for residential use may receive windfall profits from such development. The owner of land zoned for agricultural use no longer has the opportunity for such windfall profits (he may never have had such an opportunity) but does have greatly increased certainty of being able to continue his farming operation without interference from nonfarm development. At the same time, farmers usually (not always required) have to comply with other regulations that may be adopted.

The restructuring of the possibilities for losses and for windfall profits may cause controversy over any proposal for zoning. It is to be expected that leaders will emerge and groups of residents form who are either for or against zoning. Conflicts of interest will become evident. Discussion between opposing points of view can help the community to define its objectives and plan for the future—a future which may or may not include zoning depending on what the residents decide.

Regardless of controversy, it is important to remember that, in our society, change is almost inevitable. It is only by developing plans for the future—plans which reflect the wishes and desires of the residents for the future of their community—and by enacting zoning regulations which will help make those plans come true, that change will be orderly.

Just as change affects everyone, zoning affects everyone by helping give direction and coherence to the ongoing process of change. Or, if the decision is against zoning, the effects of this decision will also affect everyone, though in a less predictable way.

Who Is Involved In Rural Zoning?

People representing all points of view within the local area must be involved in the zoning process if rural zoning is to have the broadly based local support it needs to be effective. This involvement typically comes about through the direct participation of residents in local government, or through attendance at, and involvement in, public meetings or hearings.



The people have a right to be heard.

It is only by such participation that residents can assure that the zoning regulations (and the comprehensive planning upon which they are based) reflect the desires and objectives of residents. This type of broad-based participation cannot stop when the zoning regulations are adopted if they are to remain viable and useful. Both the Comprehensive Plan and the Zoning Regulations must be periodically reexamined and reevaluated, and needed changes incorporated.

So, in answer to the question, "Who is involved in rural zoning?", the answer is *everyone* should be if zoning is to be successful. With widespread participation and support, rural zoning can be an effective means of bringing reasonable order to the changes that lie ahead. Without such support, zoning is usually ineffective and unsatisfactory.

When to Zone?

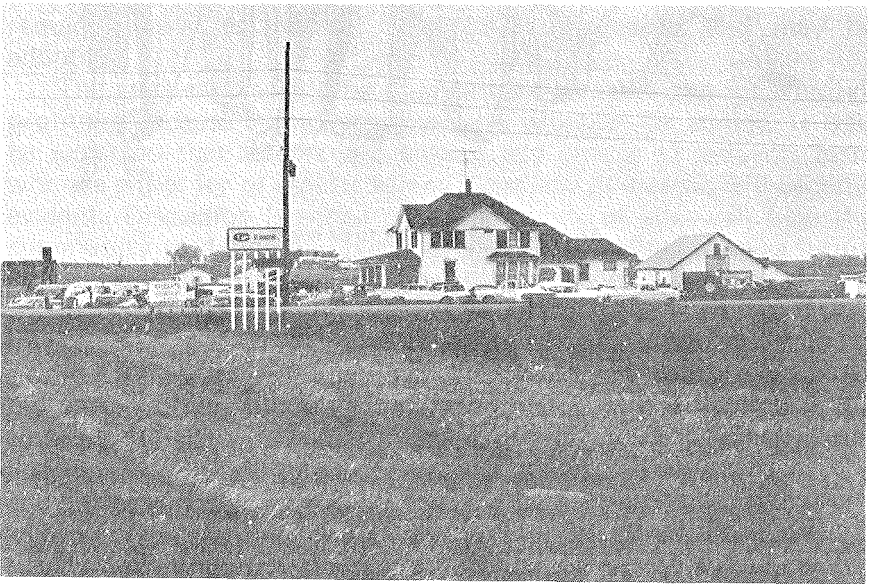
Zone before it is too late.

Zoning is often dismissed or put off on the grounds that the community or county is as yet relatively free of problems or unwanted situations. Therefore, it is argued: "Why zone until such problems occur?"

No thinking citizen or responsible government should indulge in such self-deception.

The belief that a bad or wrong condition can be corrected by zoning when it occurs is false. Zoning is not retroactive. It cannot recapture the quality of a neighborhood hurt by the actions of an indifferent property owner. It cannot readily restore to good order the hodgepodge of a community that "just grew."

The time to zone is before problems arise, or before more problems occur, if a community is already afflicted.



It's too late.

Where Do You Go From Here?

Rural zoning is usually thought of as one means of dealing with potential rural development problems. As local people view their current surroundings and activities and assess what they would like the future to be, they bring their concerns to the county governing board (supervisors or commissioners). If the Board is responsive to the concerns and requests of the residents, interest and action may develop to the place that a planning commission is officially appointed.

The appointment of a planning commission and the development of a comprehensive plan provides the basis for zoning proposals. The importance of the actions of the planning commission cannot be overemphasized. The commission needs to be made up of members who will effectively and actively participate with the local people in the identification of community objectives and in the formation of a comprehensive plan.

The planning commission usually also works with a professional planning consultant. The Division of Community Affairs, Nebraska Department of Economic Development, will provide assistance, advice and coordination in planning efforts and is also the administrative agency for planning grants.

If you are interested in planning and zoning as a means of dealing with present and future problems in your community; start with local people, local government and local concerns. Use this bulletin and other sources of information to create awareness of what can and cannot be done in determining the future of your community. Work with your local government and other community leaders in developing a comprehensive plan that is truly representative of the community's wishes; and use that comprehensive plan as the basis of zoning proposals that can help make the plan come true.