

PLANNING & DEVELOPMENT

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Timothy Huey
Director

To: Dee F Bruemmer, County Administrator

From: Timothy Huey, Planning Director

Date: November 1, 2011

Re: Proposed amendments to the text of the Revised Zoning Ordinance for unincorporated Scott County and addendum to the Comprehensive Plan on criteria for determinations on ag-exemptions.

The Board of Supervisors held a public hearing on October 27, 2011 on the proposed Zoning Ordinance amendments. At its October 4, 2011 meeting the Planning and Zoning Commission unanimously (all seven members in attendance) recommended approval of the amendments to the Zoning Ordinance and the addendum to the Comprehensive Plan. The consensus of the commission was that they wanted Scott County to remain as strict as possible, within the limits of the law, on when ag exemptions are granted. Also to be consistent and fair with the information that would need to be submitted to review such requests.

As discussed at the joint meeting September 28 the recommendation from the Planning Commission is to amend Section 6-3 of the Scott County Zoning Ordinance to exactly mirror the language of State Law 335.2 on ag exemptions. Also to amend the definition of farmer to remove any income requirements and just define it as "a person actively involved in farming" and finally to define farmland, farm buildings and farm houses as "primarily adapted and used for agricultural purposes."

The second recommendation of the Planning Commission is to approve a proposed addendum to Chapter 11 **Mechanisms for Plan Implementation** of the Scott County Comprehensive Plan. The addendum states the basis for determination of agricultural exemptions from the Scott County Zoning Ordinance and Building Code. It states that it is the intention of Scott County to strictly enforce its long established agricultural preservation land use policies and not allow any exemptions to be used to void or circumvent those policies inappropriately. It states, as clearly as possible, when an exemption will and will not be granted, what information needs to be submitted for a determination to be made and how any determination can be appealed to the Zoning Board of Adjustment. It states the criteria under which an agricultural exemption for a farm house will be granted and that it will not be granted to the owner of the farmland if the land owner is not actively involved in the farming operation nor will it be granted to family members or others who are not involved with farming the land. The criteria also discusses the basis on which a farm house or farmstead can be split from the surrounding farm land.

Since the zoning amendments and Comp Plan addendum are interrelated, comments for both were taken at the public hearing. Staff recommends that the first reading of the ordinance amendment and the resolution approving the Comp Plan addendum both be approved in accordance with the Planning and Zoning Commission.

SCOTT COUNTY ORDINANCE NO. 11-_____

AN ORDINANCE TO AMEND CERTAIN PROVISIONS AND SECTIONS OF CHAPTER 6 SCOTT COUNTY CODE, THE REVISED ZONING ORDINANCE FOR UNINCORPORATED SCOTT COUNTY, IOWA RELATIVE TO THE DEFINITIONS OF FARMS, FARM BUILDINGS, FARMER AND FARM HOUSES

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF SCOTT COUNTY IOWA:

Section 1. Modify Section 6-3 to strike and replace as follows:

SEC. 6-3. **SPECIAL FARM EXEMPTIONS**

- A. Except to the extent required to implement Section 6.18, no regulation adopted under the provisions of this Chapter shall be construed to apply to farm land, farm houses, farm barns, farm outbuildings, or other buildings or structures which are primarily adapted, by reason of nature and area for use for agricultural purposes, while so used ~~by the farmer~~.
- (1) Agricultural buildings and land uses are not exempt from complying with Federal, State, or Local regulations concerning developing, depositing, or excavating in or on the designated Scott County flood plain.
 - (2) It shall be the responsibility of any person or group claiming that certain property or buildings are ~~is~~ entitled to exemption on the basis of this Section to demonstrate that the property and buildings are primarily adapted and used for agricultural purposes by a farmer in accordance with the policies for determining such exemption established by the Scott County Comprehensive Plan.

Section 2. Modify Section 6-5 to strike and replace as follows:

SEC. 6-5 **DEFINITIONS**

36. FARM: A tract of land ~~owned or rented by a farmer~~, primarily adapted and used for agricultural purposes, ~~forty (40) acres or greater in size and assessed as agricultural property by the Scott County Assessor. Tracts of land owned or rented by a farmer, less than forty (40) acres in size, assessed as agricultural property by the Scott County Assessor and claimed as exempt from Zoning regulations as being primarily adapted for agricultural purposes shall be reviewed by making application to the Zoning Board of Adjustment in accordance with the Board's procedures for Appeals of Interpretation. The Board of Adjustment shall make a determination on whether the level of existing or proposed agricultural activity on the property can be considered "primarily adapted for agricultural purposes" and therefore exempt from Zoning regulations.~~

- 36(b) FARM BUILDING: An enclosed building or other structures primarily adapted and used for agricultural purposes located on a farm ~~and used by a farmer.~~
- 36(c) FARM HOUSE: A single-family residence located on a farm, ~~assessed as agricultural property~~ and occupied by a farmer.
37. FARMER: A person or persons actively engaged in farming ~~and deriving taxable income from such activity amounting to at least 50% or greater of the median household income for Scott County as established from the current decennial census by the US Census Bureau~~ or someone who is retired from farming when it relates to the land the farmer formerly farmed.

Section 3. The County Auditor is directed to record this ordinance in the County Recorder's office.

Section 4. Severability Clause. If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of this Ordinance, which are separate from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

Section 5. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. Effective Date. This Ordinance shall be in full force and effect after its final passage and publication as by law provided.

Approved this _____ day of _____ 2011

Tom Sunderbruch, Chairman
Scott County Board of Supervisors

Roxanna Moritz
County Auditor