

Scott County Comprehensive Plan

CHAPTER 11: MECHANISMS FOR PLAN IMPLEMENTATION

ADDENDUM A

Criteria for determination of agricultural exemption to County Zoning Ordinance and Building Codes and explanation of farmsteads split in agricultural zoning districts.

This addendum is adopted to establish criteria to be used in making determinations of when land and buildings are exempt from Scott County Zoning and Building Codes. It is also intended to clarify when a farm house can be split from the adjacent farm land.

State Law

Iowa Code Chapter 335 County Zoning allows Counties to adopt and implement zoning regulations in the unincorporated areas of a County. However Section 335.2 states:

Except to the extent required to implement Section 335.27 (which deals with agricultural land preservation), no ordinance adopted under this chapter applies to 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. However, the ordinances may apply to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream.

Iowa Code Chapter 331 County Home Rule Implementation allows Counties to adopt and implement building codes in the unincorporated areas of a County. However Section 331.304(3)(b) states:

A county building code shall not apply to farm houses or other farm buildings which are primarily adapted for use for agricultural purposes, while so used or under construction for that use.

As stated in 332.2 farm land and farm structures are not exempt from the County Floodplain Development Ordinance. Additionally farm land and farm structures are not exempt from Scott County Health Codes related to the installation of wells and wastewater disposal systems such as septic tanks and drain fields nor are they exempt from any State regulations related to electrical, mechanical or plumbing codes that are deemed to apply to farm structures.

Background

Scott County, with the adoption of the original Development Plan in 1980, the Revised Zoning Ordinance in 1981 and the current Comprehensive Plan in 2008, continues to have the protection and preservation of prime farm land and farming operations as one of the primary land use goals of Scott County. One of the main tools used to implement these goals is the Scott County

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Zoning Ordinance and Subdivision Regulations. In order to help ensure that the State mandated exemption to County Zoning Ordinance is not used to void Scott County's agricultural preservation land use policies the following criteria are established to make determinations on when the above stated exemption to the County Zoning and Building Codes apply. Additionally, since agricultural land is not exempt from County Subdivision Regulations it is the intention of this addendum to clarify under what conditions a farm house and/or farmstead can be split from the farm land in agriculturally zoned areas of the County.

In order to qualify for an agricultural exemption from both Scott County Zoning and Building Codes an applicant must show how the land, building, structures or house are:

“Primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used”

Determination of Agricultural Purposes: The Scott County Zoning Ordinance defines Farming as:

The science or art of producing agricultural products which involves cultivating the soil and producing crops for food, fiber, fuel or consumer products, or the raising of livestock for food or other consumer products. Farming does not include residential gardening or the raising of livestock for recreational or hobby purposes.

Traditionally agricultural purposes in Scott County have involved the cultivation of corn, soybeans or other grains as well as the raising of beef & dairy cattle, hogs, and poultry. However agricultural purposes can also include the raising of fruits and vegetables, sheep and goats, even fish. Prior to 1963, Section 335.2 included a requirement that in order to be exempt from County Zoning the agricultural purposes had to be the primary livelihood of the individual claiming the exemption. However in 1963 the Section 335.2 was amended to delete that requirement and it currently reads as cited above. This broadened the exemption to include agricultural purposes that were not the primary livelihood of those claiming the exemption. However in order to enforce and apply the adopted land use policies related to agricultural preservation in Scott County, individuals claiming this exemption must show how the land and buildings are primarily adapted for agricultural purposes. Furthermore, in the case of farm houses, the occupant of the farm house must demonstrate how they are actively involved in farming the land where the house is located, mere ownership of agricultural land does not qualify the owners to be able to build a farm house on their farmland. Agricultural exemptions will not be approved in cases where the agricultural purposes are determined to be incidental to the primary use of the land. Such exemptions will also not be approved where the uses are commercial uses related to or in support of agricultural operations but not “agricultural” themselves.

Specifically the following criteria are established to evaluate requests for agricultural exemptions:

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Farm Land: An individual must show that the land and buildings are primarily adapted and used or intended to be used for agricultural purposes. This would include the production and storage of agricultural products on the land or the raising of livestock on the land. This would not include conservation areas, wildlife preserves, forest land, parks or recreation areas.

Farm Buildings: An individual must show that the buildings would be primarily adapted and used for agricultural purposes, which would include but not be limited to the storage and maintenance of vehicles and equipment used on the farm, the storage of materials grown on the farm or for the shelter and care of livestock raised on the farm. Commercial operations not directly part of the farming operation such as trucking and excavation, vehicle and equipment repair for others, seed or fertilizer sales, commercial dog kennels and commercial horse stables, or other commercial operations not related to the operation of the farm would not be considered exempt. Such uses may very well be permitted as primary, secondary or special uses under the zoning ordinance and allowed to be conducted on the property but be required to meet all County Code requirements.

Farm House: An individual must show that the house or dwelling would be or is occupied by the individual farming the land on which the residence is located. The ownership of the farm land, which is rented to others who conduct the farming of the property, does not qualify the owner of the property to have a residence on the property considered a farm house and exempt from Scott County Zoning and Building Codes. Residences solely occupied by family members not actively involved in the farm operation would also not qualify to be considered a farm house. However the agricultural exemption would apply to someone who is retired from farming when it relates to a farm house on the land the retired farmer formerly farmed.

Sufficient information required for determination of Ag exemption

It is the responsibility of the individual claiming an agricultural exemption to submit sufficient information and documentation to the Scott County Planning Director that the land, farm buildings and/or farm house are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used. Such information should include number of acres farmed, type of crops, livestock or agricultural products produced, inventory of farming equipment used in farming the land, amount of time devoted to such farming practices, if income is derived from such farming practices and any additional information deemed necessary to make a determination of agricultural exemption. The Board of Adjustment will hear any appeal of the Planning Director's determination filed in accordance with the requirements of the Zoning Ordinance.

Subdivision Regulations

Even though State Code exempts farm land and farm buildings from County Zoning and Building Codes it does not exempt farm land from subdivision regulations. All subdivisions of land must be reviewed by the Scott County Planning and Zoning Commission for compliance with the Scott County Subdivision Code and approved by the Scott County Board of Supervisors prior to being recorded with the Scott County Recorder's Office.

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Scott County Code Chapter 9 Subdivisions defines subdivision as the repeated or simultaneous division of a lot, tract or parcel of land into three or more lots or tracts, for immediate or future sale, transfer or building development. The following shall also be considered subdivisions within the meaning of this ordinance: (1) divisions of property via probate procedures; and (2) divisions of property upon applications for court orders, including but not limited to judgments of foreclosure and equitable distributions of property pursuant to dissolution of marriage proceedings. The term includes re-subdivision and when appropriate to the context shall relate to the process of subdividing or the land subdivided.

Scott County has established its agricultural preservation land use policies, along with its zoning and subdivision regulations to limit the encroachment of non-agriculturally related development in the areas of prime farm land. Subdivisions for the purposes of residential or commercial development in the agriculturally zoned areas of the County would not comply with these land use policies or the zoning regulations.

Splitting the farmstead from the surrounding farm land

When an individual wishes to split a farmstead from the surrounding farm land in agriculturally zoned areas of rural Scott County for mortgage, estate planning or other purposes it can be done only if no other splits from the aliquot part have been made since the adoption of the Scott County Development Plan; December 23, 1980. Following approval of a Plat of Survey for the initial split of a farmstead from the farm parcel, any subsequent split of land would have to be approved as a subdivision plat. Such a plat would only be approved if it was determined to meet Scott County land use policies. This allows a onetime split of a farm house from the farm land but not the repeated subdivision of other farm houses on the same farm parcel.