

CHAPTER 396

COUNTY ZONING; FOREST LANDS

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396.01 ESTABLISHED IN CERTAIN COUNTIES. For the purpose of promoting health, safety, morals, public convenience, general prosperity and public welfare, the county board of any county in which there is now or may hereafter be located a state forest or a federal forest, or a state conservation area, is hereby empowered to regulate and restrict within the county the location and the use of buildings and structures and the use, condition of use or occupancy of lands for residence, recreation, agriculture, water conservation, forestry, and other purposes.

[1939 c. 340 s. 1] (669-37)

396.02 COUNTY BOARD TO DESIGNATE DISTRICTS. For any or all of the purposes designated in section 396.01, the county board may by ordinance divide all or any part of the unincorporated portions of the county into districts of such number, shape, and area as may be deemed necessary, and may likewise enact suitable regulations to carry out the purposes of this chapter. These regulations shall be uniform in each district, but the regulations in one district may differ from those in other districts.

[1939 c. 340 s. 2] (669-38)

396.03 OBJECT OF REGULATIONS. These regulations shall be made in accordance with a comprehensive plan and designed for any or all of the following purposes:

- (1) To protect and guide the development of non-urban areas;
- (2) To secure safety from fire, flood, and other dangers;
- (3) To encourage a distribution of population and a mode of land utilization that will facilitate the economical and adequate provision of transportation, roads, water supply, drainage, sanitation, education, recreation, or other public requirements;
- (4) To lessen governmental expenditures;
- (5) To conserve and develop natural resources, including but not limited to the conservation of shorelands, as defined in section 105.485;
- (6) To prevent soil erosion;
- (7) To foster the state's agricultural or other industries;
- (8) To protect the food supply;
- (9) To prevent waste.

These regulations shall be made with a reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses.

[1939 c. 340 s. 3; 1969 c. 777 s. 3] (669-39)

396.04 INVESTIGATIONS. The county board, in conjunction with the town boards of the affected areas shall investigate and determine the necessity of establishing districts and prescribing regulations therefor, as herein provided; and, for that purpose, shall consult with residents of affected areas, and with federal, state, and other agencies concerned. State, county, town, city, and village officials, departments, or agencies are hereby authorized to make available, upon request of the county board, such pertinent information as they may possess, to render technical assistance, and to cooperate in assembling and compiling pertinent information.

[1939 c. 340 s. 4] (669-40)

396.05 COUNTY BOARD TO PREPARE PLAN. After investigation, as herein provided, the county board shall prepare a proposed ordinance establishing districts and prescribing regulations therefor, as herein provided, which shall be approved by the town boards of the areas affected and filed in the office of the county auditor.

[1939 c. 340 s. 5] (669-41)

396.051 SHORELAND REGULATIONS; POWERS OF TOWNS. Notwithstanding the provisions of section 396.05, the approval of town boards is not required for ordinances regulating the conservation of shorelands. However, this section does not prohibit a town from adopting or continuing in force, by ordinance, regulations of shorelands which are more restrictive than those required by the county ordinance.

[1969 c. 777 s. 4]

396.06 HEARINGS. After the filing of the proposed ordinance, the county board shall hold a public hearing thereon, at which the proposed ordinance shall be submitted for discussion, and parties in interest and citizens shall have an opportunity to be heard. Notice of the time, place, and purpose of the hearing shall be published once each week for three consecutive weeks in the official newspaper of the county, and in such other legal newspapers published in the county as the county board may deem necessary.

[1939 c. 340 s. 6] (669-42)

396.07 PUBLICATION OF ORDINANCES. Following the public hearing, the county board may adopt the proposed ordinance, with such changes as it may deem advisable. Forthwith after the adoption of any such ordinance, the county auditor shall cause the same to be published for three successive weeks in the official newspaper of the county and in such other legal newspapers published in the county as the county board may deem necessary. Proof of such publication shall be filed in the office of the county auditor and thereupon the ordinance shall take effect.

Any such ordinance may, from time to time, be amended or repealed by the county board upon like proceedings as in case of the adoption of an ordinance.

[1939 c. 340 ss. 7, 8] (669-43, 669-44)

396.08 MAY COMPEL ATTENDANCE OF WITNESSES. The chairman or acting chairman of the county board may compel attendance of witnesses and administer oaths to witnesses at all hearings hereunder. The county auditor, as clerk of the board, shall keep separate minutes of all proceedings, including appearances, and other official actions hereunder, which shall be public records.

[1939 c. 340 s. 9] (669-45)

396.09 SEPARATE HEARINGS. Any person aggrieved by any provision of an ordinance adopted hereunder, or any amendment thereto may, within 60 days after the taking effect of such provision, demand a separate hearing thereon before the county board. The demand shall be in writing and shall specify in detail the ground of the objections. The demand shall be filed with the county auditor. A hearing thereon shall be held by the board no sooner than ten days, nor longer than 40 days, after the filing of the demand with the county auditor, who shall notify the applicant of the time and place of hearing. At this hearing the board shall consider the matter complained of and shall notify the applicant, by registered mail, what action, if any, it proposes to take thereon. The provisions of this section shall not operate to curtail or exclude the exercise of any other rights or powers of the county board or any citizen hereunder.

[1939 c. 340 s. 10] (669-46)

396.10 MAY ADJUST ENFORCEMENT. The county board is authorized to adjust the application or enforcement of any provision of an ordinance hereunder in any specific case where a literal enforcement of such provision would result in great practical difficulties, unnecessary hardship, or injustice, so as to avoid such consequences, provided such action shall not be contrary to the public interest or the general purposes hereof.

[1939 c. 340 s. 11] (669-47)

396.11 APPEALS TO DISTRICT COURT. Any person or persons, jointly or severally, aggrieved by a decision of the county board, may, within 30 days from the date the applicant received the notice of the proposed action of the county board, appeal to the district court in the same manner as an appeal is taken from an order of a county board disallowing a claim. Within ten days after an appeal has been taken the auditor shall without charge file in the office of the clerk of the court a certified copy of the demand for hearing, the order of the county board appealed from, together with the minutes and records of the county board with reference

thereto, including the date of the filing of the appeal. The proceedings shall be put upon the calendar for trial at the next general or special term of the district court. The court shall summarily hear and determine the issues and may take such testimony as is necessary to determine the matter.

[1939 c. 340 s. 12] (669-48)

396.12 NOT TO AFFECT USE. The lawful use or occupation of land or premises existing at the time of the adoption of an ordinance hereunder may be continued, although such use or occupation does not conform to the provisions thereof, but if such non-conforming use or occupancy is discontinued for a period of more than two years, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. If the state acquires title to any land or premises, all further use or occupancy thereof shall be a conforming use or occupancy.

[1939 c. 340 s. 13] (669-49)

396.13 NON-CONFORMING USES REGULATED. The county board may, by ordinances, as herein provided, prescribe such regulations, not contrary to law, as it deems desirable or necessary to regulate and control non-conforming uses and occupancies.

[1939 c. 340 s. 14] (669-50)

396.14 COUNTY BOARD TO MAKE COMPLETE LIST. Immediately after the adoption of any zoning ordinance, the county board shall prepare a complete list of all non-conforming uses and occupancies existing at the time of the adoption of the ordinance. This list shall contain the names of the owner or owners, and any occupant other than the owner, the legal description or descriptions of the land, and the nature and extent of the non-conforming use. Copies of these lists shall be filed for record in the office of the register of deeds and of the county auditor and shall be corrected, from time to time, as the county board may prescribe. Immediately after the filing of this list, the county auditor shall furnish each town assessor, or the county assessor, as the case may be, a record of non-conforming uses or occupancies existing within his assessment district. At the time of each assessment thereafter each assessor shall prepare a list of all non-conforming uses or occupancies, which list shall be given to the county board. The county board shall thereupon amend the previous list and file a certified copy of the same in the office of the register of deeds of the county.

[1939 c. 340 s. 15] (669-51)

396.15 ENFORCEMENT. The county board shall provide for the enforcement of this chapter and of ordinances and regulations made thereunder, and may impose enforcement duties on any officer, department, agency, or employee of the county.

[1939 c. 340 s. 16] (669-52)

396.16 ORDINANCES AND REGULATIONS. The provisions of all ordinances and regulations adopted hereunder shall have the force and effect of law. No person shall use or occupy any lands or premises in violation of any such ordinances or regulations, except as hereinafter provided. A violation of this chapter or of any ordinance or regulation hereunder shall be a misdemeanor.

[1939 c. 340 s. 17] (669-53)

396.17 TAXPAYERS MAY COMPEL ACTION. Any taxpayer or taxpayers of the county may institute mandamus proceedings in district court to compel specific performance, by the proper official or officials, of any duty required by this chapter or by any ordinance adopted hereunder.

[1939 c. 340 s. 18] (669-54)

396.18 MAY RESTRAIN VIOLATIONS. In the event of a violation or a threatened violation of this chapter or of any ordinance or regulation adopted hereunder, the county board, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations. It shall be the duty of the county attorney to institute such actions and the county board may allow him reasonable compensation therefor, in addition to his other compensation.

[1939 c. 340 s. 19] (669-55)

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396.19 COUNTY AUDITOR TO FILE CERTIFIED COPY WITH REGISTER OF DEEDS. Upon the adoption of any ordinance hereunder, the county auditor shall file a certified copy thereof with the register of deeds for record.

[1939 c. 340 s. 20] (669-56)

396.20 COUNTY BOARD MAY APPROPRIATE MONEY. The county board is empowered to appropriate, out of the general revenue fund of the county, such moneys, not otherwise appropriated, as may be necessary for the purposes of this chapter.

[1939 c. 340 s. 21] (669-57)

396.21 EXCEPTIONS. The following uses are excepted from the provisions of this chapter. (1) Hunting and fishing cabins on privately owned lands; (2) Mines, quarries and gravel pits; (3) Hydro dams, private dams, flowage areas, transmission lines and substations; and (4) The harvest of any wild crop.

[1939 c. 340 s. 23] (669-59)