

SECTION 4

General Provisions

401. Jurisdiction

The jurisdiction of this Ordinance shall apply to all the area of Fillmore County outside the incorporated limits of municipalities, except for those incorporated municipalities who adopt the County Zoning Ordinance stating the regulations set forth in this document apply within their incorporated boundaries.

402. Application

This Ordinance shall be applicable to all lands, structures, and waters within the boundaries specified under the jurisdiction section above.

- 1) In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare.
- 2) Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- 3) Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered; and no structure or land shall be used for any purpose or in any manner that is not in conformity with this Ordinance. Temporary buildings that are used in conjunction with construction work, including trailers and manufactured/mobile homes used as offices and for tool storage, may be permitted in any district during the period that construction is taking place, but such temporary buildings shall be removed within thirty (30) days after completion of construction work. Portable agricultural buildings of 160 square feet or less and placed on skids shall also be exempt from obtaining a building permit.

403. Separability

It is hereby declared to be the intention that several provisions of this Ordinance are separable in accordance with the following:

- 1) If any court of competent jurisdiction shall judge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- 2) If any court of competent jurisdiction shall judge invalid the application of any provision of this Ordinance to a particular property, building or structure, such judgment shall not affect other property, buildings, or structure.

404. Zoning Permits

A zoning permit shall be obtained prior to erecting, installing, altering, converting, moving any building or structure or part thereof, or demolition of any historically significant structure, within areas regulated by this Ordinance in Fillmore County. Before a zoning permit is issued, the terms of this Ordinance shall be met.

404.01. Application Procedure

- 1) Application for a zoning permit shall be made by the owner or General Contractor if employed. Application shall be made to the Zoning Administrator on blank forms to be furnished by the County. Each application for a permit to construct or alter a building, structure or use shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building or use and accessory buildings to be erected. Applications for any kind of zoning permit shall contain such other information as may be deemed necessary for the proper enforcement of the Ordinance. An application is not complete until all of the information and fees (including late fees) have been provided. For those townships which have enacted zoning ordinances, an application is not complete until the applicant provides a township permit, resolution or other documentation which certifies that the township has approved the proposed project. Fillmore County's application requirements do not imply or create a duty or legal obligation by the County to insure compliance with or enforce township zoning.
- 2) A Zoning Permit shall require that the applicant significantly begin* construction on the project for which the permit is issued within 1 year and the project must be ready for its permitted purpose within 2 years. Failure to significantly begin construction within one year or be ready for its intended purpose within 2 years shall render the Zoning Permit null and void.
 - "Significantly Begin" shall mean the structure must have all footings, sidewalls, and roof on the structure.
- 3) A fee for the issuance of the permit shall be paid to the Zoning Administrator at the time of application. Fees shall be determined by the use of a fee schedule that shall be adopted by the Board of Commissioners, shall be posted in the office of the Zoning Administrator and shall be altered or amended only by the Board of Commissioners.
- 4) Any activity requiring a zoning permit, which is begun prior to obtaining the required permit, shall be subject to a penalty of two hundred fifty dollars (\$250) plus the normal permit fee. Any activities in violation of this ordinance shall be subject to the legal remedies available.
- 5) A permit shall not be required for:
 - a. The remodeling or repair of a structure.
 - b. Portable buildings under 160 square feet.

- c. Concrete or blacktop poured for Agricultural Uses when the total of existing attached concrete plus the newly poured concrete is less than 160 total square feet.
- d. Concrete or asphalt poured for driveways.
- e. Concrete poured on the inside of an existing building regardless of size.

405. Non-Conforming Uses

It is the purpose of the Section to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. It is necessary and consistent with the establishment of zoning districts that non-conforming buildings, structures and uses not be permitted to continue without restriction.

405.01. Land

The non-conforming use of land shall not in any way be expanded or extended either on the same or adjoining property.

405.02. Lot of Record

A non-conforming lot of record may be used for any principal use permitted in the zoning district in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the non-conforming lot shall be of a size and design to meet the minimum requirements of the Board of Health regulations for such wells and septic systems.

405.03. Structure, Enlargement or Alterations

No non-conforming structure may be enlarged or altered in any way that increases its non-conformity. No addition or modification to a use within a flood fringe or floodway district shall increase the flood damage potential of the structure or increase the degree of obstruction to flood flow. No addition or modification to a non-conforming structure with a conforming use within a flood fringe or floodway district shall exceed fifty percent (50%) of its current market value as determined by the Fillmore County Assessor's records, unless the entire structure is made conforming.

405.04. Structures, Damage or Destruction

If a non-conforming structure is destroyed by any means to an extent of more than fifty percent (50%) of its current market value, as determined by the Fillmore County Assessor's records at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the zoning code. If destroyed to less than fifty percent (50%) of its market value, said restoration shall begin within twelve (12) months or the structure shall be made conforming.

405.05. Structure, Relocation

If a non-conforming structure is moved any distance, for any reason what ever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

405.06. Use, Change

Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed back to a non-conforming use.

405.07. Use, Discontinuance

In the event that a non-conforming use of any structure or structure and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

405.08. Use, Zone Change

The foregoing provisions relative to non-conforming uses shall apply to buildings, land and uses which hereafter become non-conforming due to classification or reclassification of districts under this Ordinance.

405.09. Exceptions

Any dwelling located outside of a Shoreland Area or Floodplain that is destroyed by forces constituting an act of God shall be exempt from Section 405.04 of this Ordinance.

406. Notifications to the Department of Natural Resources

406.01. DNR Notices

Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner of the Department of Natural Resources or the commissioner's representative by the Zoning Office and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivision/plats must include copies of the subdivision/plat.

406.02. Copies to DNR

A copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative by the Zoning Office and postmarked within ten (10) days of final action.

407. Uses not provided for in any Zoning District

Whenever a use is neither specifically permitted nor denied, the use shall be considered prohibited. If a property owner were to submit a request to establish such a use, the Planning Commission may conduct a study to determine if the use is appropriate for the district in which the property is located, or if not, whether the use would be appropriate to one of the County's other districts. The County Board or Planning Commission, upon receipt of the study, shall initiate an amendment to the Zoning Ordinance, if appropriate, to provide for the use under consideration or shall determine the use is not compatible in the County.