

COUNTY ZONING PROGRESS IN WISCONSIN

By

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The first county zoning ordinance in Wisconsin was adopted by Milwaukee County in 1927. This county is a highly urbanized area of about 238 square miles and a 1930 population of over 725,000. With the cities sprawling over their corporation limits into the adjoining countryside, the zoning of this county was on much the same plan as would be the zoning of any city. That is, the ordinance provides for family residence districts, several types of multiple family residence districts, central and neighborhood commercial districts, light and heavy industrial districts, and also a system of highway setback lines for the future development of a major thoroughfare system. It is of interest that now, after 12 years, consideration is being given to a revision of this early ordinance.

The Milwaukee County ordinance was followed (1933 to 1936) by similar enactments in 24 of the 26 so-called cut-over counties in the northern and central portions of the State. The objective in these counties, however, was totally different from the one sought in Milwaukee County. It was proposed to use the police power to prevent the further influx of settlers into areas of land unfit for agriculture, where such settlers could not become self supporting and might easily become subjects for relief at public expense. It was sought, through the ordinance, to prevent the occupancy of such areas by isolated settlers, thereby preventing an increase in the attendant high costs of roads and schools and facilitating the administration of all public services. As a consequence of this objective, the ordinances adopted by these counties generally provide regulations for a forestry district and a recreation district only, the remainder of the county being an unrestricted district. This so-called cutover region includes the poorest and least populated counties in the State.

Between the highly urbanized county of Milwaukee and the cutover counties, there are some forty odd counties, developed to varying degrees for agricultural and industrial uses. Up to 1936 these counties had taken no steps toward the development of zoning ordinances or comprehensive plans. Since 1936, there has been considerable activity among these counties. Zoning ordinances have been adopted by the counties of Dane, Walworth and Jefferson. Such ordinances have been approved by the county boards in the counties of Marathon and Door and others are being developed for the counties of Kenosha, Waukesha and Washington.

From the foregoing it appears that these ordinances fall into three general types which are stated in the chronological order of their development, as follows:

1. The type applicable to the predominantly urban county (Milwaukee).
2. The type applicable to the sparsely settled "cutover" counties.
3. The type applicable to the agricultural-industrial counties intermediate between (1) and (2). The regulations in the various counties of this class will shade from those in the type (1) counties to the type (2), depending largely on the degree of urbanization.

Since counties similar to those of the agricultural-industrial type in Wisconsin are numerous in the more populous States, the procedure involved in the preparation of such ordinances is of interest.

The preparation of zoning ordinances for these industrial-agricultural counties has been in cooperation with the State Planning Board staff, which has provided the necessary technical service. The procedure has been to record, in a series of maps, all information pertinent to the development of the zoning ordinances. In general, this series of maps shows:

1. The location and use of all rural buildings.
2. All lands having timber cover.
3. A generalized soils map showing good agricultural lands, fair agricultural lands and lands unfit for agriculture.
4. A map showing the tax delinquent lands for a period of five years.
5. A map showing the topography of the county.
6. A map showing all publicly owned property.
7. Any such other special studies as may be peculiar to the county under consideration.

(It is usually necessary to prepare an entirely new base map upon which an official zoning plan can be drawn. These base maps are usually drafted to the scale of 1 inch to the mile, but in the counties having more complex development, such as exist in the southeastern part of the State, we have sometimes prepared the base maps on a scale of 2 inches to the mile. The choice of scale depends entirely upon the complexity of the proposed plan which, in turn, is a matter of determination by the county authorities.)

Some of the agricultural-industrial counties find it desirable to go into much more detail in their ordinances than do others. This depends very largely on the objectives sought and the desire of the people within the county for such regulations. For example, the county of Jefferson has only three districts, namely, a forestry district, a conservancy district which is really a residential district, and an agricultural district. On the other hand, Door County has approved of a plan which contains seven districts: (1) a forestry district; (2) and (3) two recreation districts; (4) a residence district; (5) an agricultural district; (6) a commercial fishing district; and (7) a commercial district. Further, each one of these ordinances is so drafted that, irrespective of the extent of detail as finally adopted, each may be expanded into a more detailed plan without disturbing the original plan.

All of the ordinances in the agricultural-industrial counties contain provisions for: (1) a system of highway setback lines; (2) the regulation of outdoor advertising structures; (3) minimum land subdivision standards; (4) a board of adjustment; and (5) enforcement of the ordinance by means of building permits. None of these last five provisions appear in the type (2) ordinances now in force in the cutover areas, although there is a movement to amend some of those ordinances to include highway setback lines.

In the agricultural-industrial counties, the zoning ordinances generally follow a similar basic pattern, but at the same time each one is "tailor-made" so as to be applicable specifically to the needs of the county for which it is designed. Perhaps this can best be illustrated by discussing in some detail the ordinance approved by the Door County Board at its November, 1939 meeting.

Door is a rather small county lying in the northeast corner of the State between Green Bay and Lake Michigan. The southern portion is given over largely to agriculture and dairying, with fruit raising of lesser importance, while the northern half has as its principal activities, fruit raising and recreation, with dairying and general agriculture. The county has very outstanding scenic assets and a variety of flora found in almost no other portion of this part of the country. The shore line of both Green Bay and Lake Michigan is generally rugged and covered with a considerable timber growth. In addition to its value as wood, this timber has two very specific economic values: (1) in combination with the water areas of the county it enhances the recreational values, and (2) it is so located as to protect the fruit orchards from the winter winds which may prove damaging. Commercial recreation, which is largely dependent upon a preservation of the amenities, is rapidly developing in this county,

and at the same time there are signs of abandonment of some of the forested areas by their present owners. In the absence of regulation, this process of abandonment may operate detrimentally along these lines: The land may be sold to someone who slashes the timber clean, sells the product and proceeds to move out and forget the land, allowing it to become tax delinquent. This results in (1) the accumulation of tax delinquent lands; (2) the destruction of the recreational value of the forest; and (3) the destruction of the protective value of the forest from the standpoint of agriculture. Fear of such destructive development had something to do with the considerations which led to the proposal to adopt an appropriate zoning ordinance and plan for Door County. The County Board now has approved a plan which provides that in the forestry districts, the land can be used generally for sustained forestry yield only. In the forestry-recreation district "A", the permitted uses are sustained yield forestry and summer residence. In the forestry-recreation district "B", permanent year-round residence has been added to the uses permitted in the two foregoing districts. A residential district which includes general farming is also established. In the agricultural district, the land may be used for any agricultural purpose except those of a nuisance type such as the disposal of sewage, rubbish and offal, automobile junk yards - commercial uses are also prohibited. There are an ample number of locations set aside within the county in which all future commercial uses will be located. Separate special areas are set aside for commercial fishing. The regulations are drafted so that in the future all outdoor advertising structures will be confined strictly to the commercial districts and permitted in no others. There is, in addition, a system of highway setback lines measured from the center line of the highway such that the principal highways will have, in the future, a distance of 200 feet between buildings, the secondary highways 150 feet, and the minor highways 120 feet.

One of the outstanding features of the Door County ordinance, which does not appear in any other county ordinance in Wisconsin is a provision to enforce the forestry regulations by means of the requirement of a permit for timber cutting. In addition, there is a requirement for a permit for all building operations. There are, also, minimum land subdivision standards for each district. The terms of this ordinance have been broadly stated to show how the police power is being used by Wisconsin counties for the purpose of protecting the public interest in general and the particular natural assets of a specific county.

The foregoing summarizes the principal features of the ordinance. It will be noted that zoning ordinances of the Door County type do not especially emphasize roadside improvement.

However, through provisions limiting business, of which outdoor advertising is one kind, to commercial districts, business is prohibited in all other districts, that such business as is being conducted indiscriminately along the highways outside of the business districts, becomes a nonconforming use which eventually will disappear, taking with it all of its objectionable features. The positive requirements of the regulations applicable to the forestry districts will tend to protect the forests, which are needful to the preservation of the amenities. Just as valuable is the interest engendered among the people through the educational program which results from carrying out the procedure involved in the enactment of the ordinance. This is because any zoning ordinance, if it is to be of value, must be sustained by an enlightened public opinion among the people, that is, through education.

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