

Zoning Ordinances Depend on the Land's Location

Each locality commonly uses its own abbreviations for the various types of zoning. For example, in one place, "R1" zoning might indicate a "residential" zone, and in another, "R1" might describe a "rural" zone.

Also, some locations have "cumulative zoning" schemes, which allow any use that's considered less harmful or impactful than the zoned use. For example, industrial zones might rank as the highest impact, with commercial use next, and residential zones the lowest impact. So if you're really eager to build a home in an industrial area, cumulative zoning might allow you to do so.

Don't count on this system existing in all areas, however. Another location might not use cumulative zoning, and instead only allow the exact use specified by the designated zone.

How to Find Out About a Property's Zoning

The property's seller (or real estate agent, if applicable) should be able to tell you the zoning designation for the land. It's also an excellent policy to confirm what you're told by looking at a zoning map of the area. Available on the City of Franklin Website or the Simpson County Website

The local Planning and Zoning office that deals with land use and zoning can likely provide you with a copy of the applicable zoning map. Also take a look at the zoning of nearby properties, to ensure other allowed uses in the area won't pose a problem. If, for example, you don't wish to live near a farm or factory, make sure the nearby properties don't allow for such uses.

Also obtain a copy of the applicable zoning ordinances and review their requirements. If you need help deciphering the language of the ordinances or determining which are applicable, an experienced real estate attorney in the area can assist.

You Might Get the Zoning Changed

What if you love a particular piece of land, but its zoning won't allow you to use it the way you want to? For example, perhaps you want sell the vegetables you intend to grow on the land by operating a small retail farm stand. However, you find out that the property's "rural" zoning designation prohibits any commercial activity in that location.

You are not necessarily out of luck. Sometimes you can get zoning changed.

Alternatively, you might be able to obtain a zoning variance or exemption to allow a use prohibited under the current zoning. Check with the local zoning Administrator to see whether one of these is possible, and if so, what the next steps would be.

Obtaining a waiver, variance, or zoning change will likely involve a lot of paperwork, fees, hassle, and time. Furthermore, there is no guarantee of success. If the prohibited use is especially important to you, finding a different property compatible with your use might be the best solution.

If you are set on a particular property, however, *you should include a clause in the land purchase contract conditioning the purchase on first obtaining the necessary waiver or zoning change.* The clause should allow a certain time period during which you can cancel the contract and receive the return of your earnest money deposit if you are not satisfied that you can obtain the zoning you need. *An experienced attorney can help you draft an effective contingency to accomplish this.*

Investigate Zoning Now to Avoid Problems Later

Learning about the land's zoning before you buy can help ensure you don't make the mistake of purchasing some "wonderful" land that you can't use the way you want after you own it.