

Procedural Requirements for Joint Zoning Requests

Court decisions nationwide have upheld the constitutionality of extraterritorial zoning. But this authority is based on several critical elements. First, there must be a grant of state enabling authority. Secondly, it must be determined that the regulations are a reasonable exercise of the police power in the public interest. Third, it must be established that extension of municipal zoning powers over adjacent territory is necessary to the orderly and harmonious expansion of the core city. Fourth, the exact area to which extraterritorial zoning will apply must be justified on the basis of municipal need and the general welfare.

It can only be implied that the State Legislature had the last element in mind when enacting planning and zoning statutes in South Dakota. To ensure that any authorization of extraterritorial zoning jurisdiction is constitutionally defensible, the county has set forth the following requirements to be met by a municipality proposing joint zoning control outside corporate boundaries.

- 1) The municipality must have adopted a comprehensive plan or updated a previously adopted plan within the past three years. The plan shall include the following elements:
 - a) Population component, including past and present trends, and projected population for the 20-year planning period shown in five year increments.
 - b) Forecast of land consumption during the planning period for residential, commercial and industrial uses based on projected population.
 - c) Location and supply of vacant developable land presently within corporate limits and the classification of these areas for residential, commercial or industrial use.
 - d) Net land area required beyond the corporate limits during the planning period.
 - e) Feasibility and timetable for extending municipal utilities to serve future development areas.
- 2) The municipality shall present their comprehensive plan to the county planning director. The planning director shall review the document for completeness and accuracy before making a recommendation to the Planning Commission. The plan shall include the proposed boundary of the extraterritorial jurisdiction.
- 3) The Planning Commission shall make a recommendation to the Board of County Commissioners as to the need for joint jurisdiction. The Planning Commission may recommend a different boundary or recommend denial of the municipal request.
- 4) If the Board authorizes joint zoning jurisdiction for a municipality, the county and city planning commissions shall meet jointly to propose a zoning ordinance for the area. The zoning ordinance should conform as much as possible to the existing zoning regulations of the county. Administration of the regulations should rest with the county.
- 5) Joint action by the county and city in adopting the ordinance shall constitute the agreement for the extraterritorial zoning jurisdiction.