

RESOLUTION 05-14-09-24
**APPROVING THE FRINGE AREA AGREEMENT BETWEEN JOHNSON COUNTY, IOWA
 AND THE CITY OF ELY, IOWA**

WHEREAS, the 1998 Johnson County Land Use Plan as amended and updated calls for the preparation and adoption of development plans and agreements between the County and the City regarding municipality and its environs: and

WHEREAS, the Board of Supervisors finds that such policies are necessary to more effectively and economically provide services for future growth and development and to protect and preserve the fringe areas natural resources and its environmentally sensitive features, and

WHEREAS, the Board of Supervisors finds that it is in the public interest to adopt said Johnson County/Ely Fringe Area Agreement.

NOW, THEREFORE BE IT RESOLVED BY THE JOHNSON COUNTY BOARD OF SUPERVISORS, that the following Johnson County/Ely Fringe Area Agreement, copies of which can be obtained at the Johnson County Planning and Zoning Office, Johnson County Auditor's Office or at www.johnson-county.com, is hereby adopted.

BE IT FURTHER RESOLVED that this Johnson County/Ely Fringe Area Agreement shall become effective upon adoption of this Resolution.

On motion by Harney seconded by Stutsman passed and approved the 14th day of May, 2009.

| AYES: | NAYS: | ABSENT: | ABSTAIN: | |
|----------|-------|---------|----------|----------|
| <u>✓</u> | _____ | _____ | _____ | Meyers |
| <u>✓</u> | _____ | _____ | _____ | Harney |
| <u>✓</u> | _____ | _____ | _____ | Neuzil |
| <u>✓</u> | _____ | _____ | _____ | Stutsman |
| <u>✓</u> | _____ | _____ | _____ | Sullivan |



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 Johnson County Iowa
 Kim Painter County Recorder
BK 4441 PG 357-364

Terrence D. Neuzil
 Terrence Neuzil, Chairperson
 Johnson County Board of Supervisors

Attest: Tom Slockett, Auditor

By: Tom Slockett
 Deputy Cari Rindler

SEAL

Approved February 9, 2009

**CITY OF ELY
LINN COUNTY, IOWA**

**RESOLUTION No. 09-0209-09
APPROVING FRINGE AREA POLICY AGREEMENT BETWEEN JOHNSON COUNTY AND
ELY**

WHEREAS, the Ely City Council seeks to provide for orderly use and development of land in the "fringe area" extending two-miles from Ely's city limits; and,

WHEREAS, Johnson County and Ely have prepared Fringe Area Policy Agreement that achieves that goal; and,

WHEREAS, the Ely Plan and Zoning Commission recommends approval of said agreement; and,

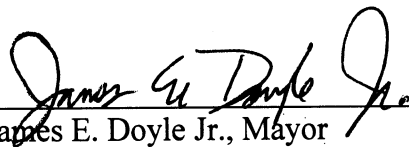
WHEREAS, the Ely City Council seeks to approve the Fringe Area Policy Agreement between Johnson County and Ely, under the terms and conditions set out in said agreement.

NOW THEREFOR BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELY, IOWA, that the City Council does hereby approve the "Fringe Policy Agreement Between Johnson County and Ely".

BE IT FURTHER RESOLVED that the Mayor and City Administrator/Clerk are hereby authorized to execute the agreement referred to above on behalf of the City of Ely, Iowa.

AYE: Winkowski, Grove, Banowetz, Mai, Ballantyne
NAY: None
ABSENT: None

Passed and approved this 9th day of February, 2009


James E. Doyle Jr., Mayor

ATTEST:

SEAL


Aaron Anderson, Clerk/Administrator

**FRINGE AREA POLICY AGREEMENT
BETWEEN JOHNSON COUNTY AND ELY**

2009

WHEREAS, Chapter 354, Code of Iowa (2007) allows the City of Ely to establish an extraterritorial area, known as the fringe area, within two miles of the City boundaries for the purpose of reviewing and approving subdivisions; and

WHEREAS, Chapter 354 further grants the City the authority to require that subdivisions within the fringe area adhere to the City's subdivision standards and conditions, unless the City establishes alternative standards and conditions for review and approval of subdivisions via a 28E agreement between the City and the County; and

WHEREAS, Chapter 28E of the Code of Iowa (2007) enables two or more local governments to enter into agreements to cooperate for their mutual advantage; and

WHEREAS, the Johnson County Land Use Plan, adopted May 15, 2008, calls for the preparation and adoption of development plans and agreements between the County and the City regarding the municipality and its environment; and

WHEREAS, the Ely Comprehensive Plan outlines the City's expected urban development; and

WHEREAS, it is in the interest of Johnson County and the City of Ely to establish policies for the orderly growth and development within the City's fringe area; and

WHEREAS, Johnson County and the City of Ely mutually agree that such policies are necessary to more effectively and economically provide services for future growth and development and to protect and preserve the fringe area's natural resources and its environmentally sensitive features.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION I. FRINGE AREA DEVELOPMENT POLICIES

The parties accept and agree to the following development policies regarding annexation, zoning, and subdivision review for the Ely fringe area as authorized by Chapter 354, Code of Iowa (2007).

Purpose:

The Fringe Area Policy Agreement is intended to provide for orderly and efficient development patterns appropriate to a non-urbanized area, protect and preserve the fringe area's natural resources and environmentally sensitive features, direct

development to areas with physical characteristics which can accommodate development, and effectively and economically provide services for future growth and development.

In light of these objectives, the City and the County examined the development capabilities of the Ely fringe area and determined that development within this fringe area is to occur in accordance with a) the Johnson County Land Use Plan (fringe area map) attached to this Agreement, b) development standards contained in Section B of this agreement, and c) the fringe area development policies contained in Section C of this Agreement.

A. Johnson County Land Use Plan

The Johnson County Land Use Plan (fringe area map), attached to this Agreement as Attachment 1, illustrates the land use patterns for the fringe area.

B. Development Standards

The following standards apply to unincorporated development in the fringe area.

1. Discourage development in areas that conflict with the Johnson County Comprehensive Land Use Plan which considers conformance with the policies identified on the Land Use Map for the area in which the property is located, CSR (Corn Suitability Rating), high water table, wetlands, floodplain, non-erodible soil, road suitability and other sensitive areas.

C. Fringe Area Development Policies

The parties agree to apply the following fringe area development policies.

FRINGE AREA FA 1- RURAL / AGRICULTURAL PLANNING AREA

Agricultural uses are preferred. Until otherwise changed by amending this agreement, this area shall be restricted to those uses consistent with a Rural/Agricultural area as indicated in the Johnson County Land Use Plan, and as designated for a Rural/Agricultural area in Chapter 8:1.6 Class A District of the Johnson County Unified Development Ordinance as amended.

- Agricultural uses in a rural setting are preferred.
- County review of subdivisions
- County building permit process will apply.
- The City will waive review subdivisions less than three lots.

SECTION II. PROTECTING AGRICULTURAL OPERATIONS

Any regulations in the Fringe Area Agreement will not interfere with the Right to Farm, as contained in the Code of Iowa Chapter 335.2, Farms Exempt; and as noted in the Johnson County Unified Development Ordinance, Chapter 8.2, Protecting Agricultural Operations.

SECTION III. ADMINISTRATIVE POLICIES

As a rule, zoning regulation is the County's prerogative if a county has adopted a zoning ordinance. The City, however, exercises authority over subdivision regulation in a city's fringe area. Annexation is also primarily under exclusive rule of cities. Each of these activities, however, affects both jurisdictions and produces a clear need for coordination and joint administration. To that end, the City of Ely and Johnson County agree to the following procedures for administration of land use regulations.

A. Zoning Regulation:

1. Zoning regulation for all unincorporated territory will remain under the authority of the Johnson County Unified Development Code and the provisions of Chapter 335, Code of Iowa (2007), the enabling legislation for the County's zoning powers.
2. Pursuant to Section 8:1.23 of the Johnson County Unified Development Ordinance, any person may request a variance to the lot area regulations of the zoning ordinance or appeal the decision of any officer of the County as that decision relates to enforcement of the Zoning Ordinance.
3. The County will forward each request for rezoning of property within the Fringe Areas specified in this Agreement to the City for review and comment prior to the public hearing before the County Planning and Zoning Commission. Any zoning change will conform with the policies identified for the Area in which the property is located.
4. Properties zoned for a classification which is inconsistent with this Agreement, at the time this Agreement is executed, shall retain the rights under that zoning, unless and until such zoning is changed through due process.

B. Subdivision Regulation:

1. Subdivision of land within Ely's fringe area will be required to conform to the County Subdivision Regulations, Chapter 8:1.21.

2. Persons wishing to subdivide land within the fringe area specified in this Agreement shall be required to simultaneously file a subdivision application with both the City and the County. The City and the County shall coordinate the processing of the application to ensure concurrent review by both the City Planning and Zoning Commission and the County Planning and Zoning Commission.

3. Subdivisions of land into less than three lots will continue to be regulated by the County.

C. Annexation:

1. The City will, upon receipt, forward applications requesting annexation or severance (de-annexation) of property within the fringe area specified in this Agreement to the County for review and comment prior to consideration by the Ely Planning and Zoning Commission. This section does not alter the parties' responsibilities for annexations as set out in Chapter 368, Code of Iowa, as amended.

2. After any annexation, the City may extend the two-mile extraterritorial subdivision plat review area. Prior to any such extension, the City will forward to the County a proposal which includes the extension of the City's plat review authority for any distance up to the two mile limit provided by State law. The County will respond in affirmative agreement, negatively or with an alternative proposal. The City will take the County's response under advisement when determining the extension of extraterritorial review.

D. Roads:

1. The City of Ely and Johnson County shall work together to coordinate road planning when practical.

2. Ely Road Improvements: When the ultimate route of Ely Road is determined, the City of Ely and Johnson County should amend this agreement, as necessary, to reflect potential changes in development patterns.

SECTION IV. AGREEMENT REVIEW

This agreement shall be reviewed every five (5) years at the request of either party. At any time during the five (5) year term of this Agreement, either the Chair of the Johnson County Board of Supervisors or the Mayor of the City of Ely may initiate review of the policies of this Agreement by contacting the other party to this Agreement. Alternatively, either party may re-affirm the current agreement in writing, at which point, both parties may agree to waive review of this agreement. Both parties to this Agreement shall consider modifications of this Agreement, as appropriate.

SECTION V. CONFLICT RESOLUTION

If the City and County are in conflict over a proposed subdivision, annexation, or rezoning application that is covered by this agreement, a review committee, comprised of members of the City Council, Board of Supervisors and staff, to be appointed by the Board and Council (so as not to have the entire Board and Council), shall be established to negotiate a resolution

SECTION VI. EFFECTIVE PERIOD

This Agreement shall become effective upon acceptance and execution by the parties, and shall be in effect for twenty (20) years after the date of execution of this Agreement. This Agreement may be modified or extended by the written mutual consent of the parties.

SECTION VII. RECORDATION

This Agreement shall be filed with the Secretary of the State of Iowa in compliance with Chapter 28E, Code of Iowa (2007).

Dated this 21st day of May, 2009.

JOHNSON COUNTY

SEAL

By: James D. Dering
Chairperson, Board of Supervisors

Attest: Tom Gierke
County Auditor *Deputy*

Dated this 21st day of May, 2009.

CITY OF ELY

By: James E. Dink Jr.
Mayor

SEAL

Attest: A. Ac
City Clerk

ATTACHMENTS:

- 1. Land Use Map for the Ely Fringe Area
- 2. Johnson County Land Use Map

City of Ely Fringe Area Map 2009

