

RESOLUTION 04-08-10-23

**APPROVING THE FRINGE AREA AGREEMENT BETWEEN JOHNSON COUNTY, IOWA
AND THE CITY OF HILLS, IOWA**

WHEREAS, the 2008 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/Hills Fringe Area Agreement.

NOW, THEREFORE BE IT RESOLVED BY THE JOHNSON COUNTY BOARD OF SUPERVISORS, that the following Johnson County/Hills 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/Hills Fringe Area Agreement shall become effective upon adoption of this Resolution.

On motion by Rettig seconded by Harney passed and approved the 8th day of April, 2010.

AYES:	NAYS:	ABSENT:	ABSTAIN:	
<u>✓</u>	_____	_____	_____	Harney
<u>✓</u>	_____	_____	_____	Neuzil
<u>✓</u>	_____	_____	_____	Rettig
<u>✓</u>	_____	_____	_____	Stutsman
<u>✓</u>	_____	_____	_____	Sullivan

Sally Stutsman
Sally Stutsman, Chairperson
Johnson County Board of Supervisors

Attest: Tom Slockett, Auditor

Tom Slockett
By: by Casie Parking, deputy
Deputy

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

2009

WHEREAS, Chapter 354, Code of Iowa (2007) allows the City of Hills 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 Development Policy for Rural 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 Hills Comprehensive Plan outlines the expected urban development; and

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

WHEREAS, Johnson County and the City of Hills 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 Hills 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 Hills 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 which 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.
2. Encourage cluster development which preserves large tracts of open space including environmentally sensitive areas and farm land, results in compact development which requires less infrastructure, and is more efficient for provision of services.

C. Fringe Area Development Policies

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

FRINGE AREA FA 1- URBAN PLANNING AREA (GROWTH AREA)

- Residential, commercial and industrial land uses are encouraged as recommended and described in the City's Comprehensive Plan (See Attachment 2)
- Cluster subdivisions contiguous with existing residential development or Hills city limits are preferred.
- Subdivisions will be reviewed by the City.
- City design standards will apply for streets, storm water management and sidewalks.

- Because this area is likely to experience urban growth, there is high potential for annexation by the City of Hills. Annexation should be encouraged and will be voluntary (per state code) in this area
- County building permit process will apply. All residential, commercial and industrial construction shall be performed in accordance with City building code.

FRINGE AREAS FA 2- RURAL 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.
- Subdivisions will be reviewed by the City.
- Farmstead splits are exempt from City review

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 Hills 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 (2008), 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 Hills's fringe area will be required to conform to both the County Subdivision Regulations, Chapter 8:1.21 and the Hills Subdivision Standards, Municipal Code of Ordinance, City of Hills, Iowa, Article 7, Zoning and Subdivision Regulation, Chapter 54 in accordance with the policies specified in this Agreement.

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 except in fringe area FA 1

C. Annexation:

1. Hills will annex territory only in accordance with the policy statements specified in this Agreement.

2. 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 Hills Planning and Zoning Commission.

3. As appropriate and necessary, 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 Hills and Johnson County shall work together to coordinate road planning when practical.

SECTION IV. AGREEMENT REVIEW

This agreement shall last for a period of twenty (20) years and be reviewed every three (3) years at the request of either party. At any time during the three (3) year term of this Agreement, either the Chair of the Johnson County Board of Supervisors or the Mayor of the City of Hills 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. SPECIAL EXCEPTIONS

If the City and County are in conflict over a proposed subdivision, annexation, or rezoning application that may violate this agreement, but that is in accordance with the Johnson County Comprehensive Land Use Plan, 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, with review after three (3) years at the request of either party. 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, and with the Johnson County Recorder in compliance with Chapter 28E, Code of Iowa (2007).

Dated this 12 day of April, 2010.

JOHNSON COUNTY

By: Sally Stutsman
Chairperson, Board of Supervisors

Attest: Tom Slocgett
by Carol Perkins, deputy
County Auditor

Dated this 21 day of December, 2009.

CITY OF HILLS

By: Russell Bailey
Mayor

Attest: Bonnie Hamner
City Clerk

ATTACHMENTS:

1. Land Use Map for the Hills Fringe Area/ Fringe Area Map
2. Hills Future Land Use Map

RESOLUTION No. 2009 - 21

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT

WHEREAS the City of Hills, Iowa and Johnson County have negotiated a Fringe Area Policy Agreement between Johnson County and the City of Hills, Iowa setting out the terms and conditions of said agreement, and

WHEREAS the City Council of the City of Hills deems it in the public interest to enter into said agreement and the agreement should be approved.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The attached Fringe Area Policy Agreement is hereby approved.

2. The Mayor and City Clerk are hereby authorized and directed to enter into said agreement on behalf of the City of Hills, Iowa.

3. Upon the execution of the agreement, the Mayor and City Clerk are hereby authorized and directed to cause the agreement to be recorded as provided by law.

It was moved by Kemp and seconded by Kirkpatrick that the Resolution as read be adopted and upon roll call the vote was as follows:

VOTE	AYES	NAYS	ABSENT	ABSTAIN
STEVE HARRIS	☒	☐	☐	☐
MERLE HILL	☒	☐	☐	☐
Tim Kemp	☒	☐	☐	☐
Thomas Kirkpatrick	☒	☐	☐	☐
Cathy Knebel	☒	☐	☐	☐

Therefore the Resolution was duly adopted this 21 day of December, 2009

Russell Bailey
MAYOR

Attest: Donnie Horner
CITY CLERK

State of Iowa)
) ss.
Johnson County)

I, Bonnie Hansen, Clerk of the City of Hills, Iowa certify
that this is a true and correct copy of the Ordinance passed and
approved this 21 day of December, 2009



(S) BONNIE HANSEN
BONNIE HANSEN



Michael A. Mauro
Secretary of State
State of Iowa

28E Agreement

FOR OFFICE USE ONLY:

FILED

M503279

4/13/2010 11:13:37 AM

PLEASE READ INSTRUCTIONS ON BACK BEFORE COMPLETING THIS FORM

Item 1. The full legal name, organization type and county of each participant to this agreement are:

	Full Legal Name	Organization Type	*County
Party 1	Johnson County Iowa	County	Johnson
Party 2	City of Hills	City	Johnson
Party 3			
Party 4			
Party 5			

*Enter "Other" if
not in Iowa

Item 2. The type of Public Service included in this agreement is: 560 Planning
(Enter only one Service Code and Description) Code Number Service Description

Item 3. The purpose of this agreement is: (please be specific)

To more effectively and economically provide services for future growth and development and to protect and preserve the fringe areas natural resources.



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Kind: AGREEMENT
Recorded: 04/19/2010 at 09:29:06 AM
Fee Amt: \$0.00 Page 1 of 9
Johnson County Iowa
Kim Painter County Recorder

BK **4577** PG **517-525**

Item 4. The duration of this agreement is: (check one) ☐ Agreement Expires _____ ☒ Indefinite Duration
[mm/dd/yyyy]

Item 5. Does this agreement amend or renew an existing agreement? (check one)

☒ **NO**

☐ **YES** Filing # of the agreement: _____

(Use the filing number of the most recent version filed for this agreement)

The filing number of the agreement may be found by searching the 28E database at: www.sos.state.ia.us/28E.

Item 6. Attach two copies of the agreement to this form if not filing online.

Item 7. The primary contact for further information regarding this agreement is: (optional)

LAST Name _____ FIRST Name _____

Title _____ Department _____

Email _____ Phone _____