



2015 FRINGE AREA POLICY AGREEMENT  
BETWEEN  
JOHNSON COUNTY, IOWA AND  
CITY OF SWISHER, IOWA

  
Doc ID: 026044670014 Type: GEN  
Kind: AGREEMENT  
Recorded: 07/23/2015 at 11:33:00 AM  
Fee Amt: \$0.00 Page 1 of 14  
Johnson County Iowa  
Kim Painter County Recorder  
BK 5399 PG 683-696

**THIS AGREEMENT** is entered into pursuant to Chapter 28E of the Code of Iowa, by and between Johnson County, Iowa, hereinafter referred to as "COUNTY," and the City of Swisher, Iowa, a municipal corporation, hereinafter referred to as "CITY" to-wit:

**WHEREAS**, Chapter 354, Code of Iowa, allows the CITY to establish a fringe area within two miles of the CITY for the purpose of reviewing and approving subdivisions, and Chapter 354 further grants the CITY the authority to require subdivisions within the fringe area to adhere to the CITY'S subdivision standards and conditions unless the CITY established alternative standards and conditions for subdivision by means of a 28E agreement with the COUNTY; and

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

**WHEREAS**, Swisher and Johnson COUNTY entered into an agreement in 1999 establishing policies for the development of land within the extraterritorial area of Swisher; and

**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 the municipality and its environs; and

**WHEREAS**, it is in the interest of the COUNTY and the CITY to establish policies for the orderly growth and development within the two-mile extraterritorial jurisdiction of the CITY; and

**WHEREAS**, the COUNTY and the CITY mutually agree that such policies are necessary in order to more effectively and economically provide services for future growth and development.

**NOW, THEREFORE**, the parties hereto, do agree for themselves and their respective successors as follows:

**SECTION 1**  
**STATEMENT OF INTENT**

The purpose of this Agreement is to provide for the orderly use and development of land, natural resources and infrastructure. The intent of this Agreement is to allow for the continued reasoned and coordinated development of residential, commercial, industrial, and recreational land uses, as well as to preserve the availability and use of agricultural land for agricultural production. The goal of this Agreement is to promote cooperation between the COUNTY and the CITY in matters affecting land use regulations.

**SECTION 2**  
**DEVELOPMENT POLICIES FOR THE FRINGE AREAS**

As provided in Chapter 28E of the *Code of Iowa*, the COUNTY and the CITY agree that each Area (as shown on the Fringe Area Map) shall have applied to it the following Development Policies. These Areas are within the two-mile extraterritorial jurisdiction of the CITY. The Development Policies affect growth patterns, annexation, zoning and subdivision review, and the coordination of land use regulation between the two parties. These Areas are as follows:

**AREA 1**  
**URBAN PLANNING AREA**  
(Mixed Land Uses Outside the CITY Limits but  
Under Platting Standards of the CITY)

**Location:** Potential growth area adjacent to the CITY of Swisher and located in Jefferson Township as shown on Area I of the Fringe Area Map.

**Policy:** This Area should develop in accordance with the 1998 Extraterritorial Future Land Use Plan for the CITY. The COUNTY will apply CITY standards and regulations to any un-annexed, non-agricultural development activity in this area.

**Recommended**

**Land Uses:** Mixed Residential, Commercial, Office Park Commercial and Industrial land uses, developed in accordance with the CITY planning and zoning documents, should be permitted in this Area. Some property in this area is better suited for agricultural or low-density residential land uses. Recommended land uses are identified in the CITY Extraterritorial Future Land Use Map on file with the CITY Clerk and available through the COUNTY Planning and Zoning Office and on the Johnson COUNTY – Swisher Fringe Area Agreement Map available through the COUNTY Planning and Zoning Office. Future Growth Area "Use" to be determined by the Swisher Extraterritorial Future Land Use Plan.

**Justification:** The CITY Extraterritorial Future Land Use Plan anticipates growth and development in this Area. This Area can be provided with CITY services. Development in this Area will have significant impacts on the CITY traffic patterns, environmental quality, flood plain management, property valuations, and municipal services. Growth in this Area should be carefully integrated with existing CITY developments.

**Subdivisions:** The applicant shall send subdivision applications to both the CITY and the COUNTY. The applicant shall obtain CITY approval prior to review by the Johnson COUNTY Planning and Zoning Commission. Approval by the CITY is required. All subdivisions in this area shall meet the minimum requirements of the CITY'S subdivision ordinance, and shall meet the technical infrastructure standards of the CITY. Developments must also conform to the CITY Flood Plain Management Ordinance. Cluster subdivisions contiguous with existing residential development or Swisher CITY limits are preferred.

**Zoning:** The applicant shall send rezoning applications to both the CITY and COUNTY. The applicant shall obtain CITY review prior to review by the Johnson COUNTY Planning and Zoning Commission. COUNTY zoning regulations and standards shall be in effect.

Building Code: COUNTY building code shall be in effect. All Residential, Commercial, and Industrial construction shall be performed in accordance with COUNTY Building Code. Properties meeting the COUNTY'S definition of a farm shall not be required to comply.

Annexation: Annexation of properties in Area I by the CITY is HIGHLY LIKELY. If proposed development is adjacent to the CITY, annexation is recommended.

**AREA 2**  
**RURAL RESIDENTIAL PLANNING AREA**  
(Land Uses Outside the CITY Under COUNTY Control with  
CITY Approval Required for Subdivision Platting)

- Location:** Agricultural and low density residential planning area not adjacent to the corporate boundaries of the CITY, as shown on the attached Fringe Area Map; generally located east of Hwy 965.
- Policy** The area should develop in accordance with the Johnson COUNTY Land Use Plan, using COUNTY standards.
- Recommended Land Use:** Residential land uses are preferred. Residential Development is recommended to be clustered to preserve large tracts of open space including environmentally sensitive areas and agricultural land. To the extent consistent with the Johnson County Land Use Plan, as amended, shared wells and wastewater systems are encouraged.
- Justification:** The COUNTY'S Land Use Plan directs rural density residential growth into this area. Land in this area is best suited for clustered residential use.
- Subdivisions:** The applicant shall send subdivision applications to both the CITY and COUNTY. The applicant shall obtain CITY approval prior to review by the Johnson COUNTY Planning and Zoning Commission. All subdivisions in this area shall meet the minimum requirements of the COUNTY'S subdivision ordinance. Farmstead splits are exempt from City review in Area 2.
- Zoning:** The applicant shall send rezoning applications to both the CITY and COUNTY. The applicant shall obtain CITY review prior to review by the Johnson COUNTY Planning and Zoning Commission. COUNTY zoning regulations and standards shall be in effect.
- Building Code:** COUNTY building code shall be in effect. Properties meeting the COUNTY'S definition of a farm shall not be required to comply.
- Annexation:** Annexation by the CITY in this area is UNLIKELY.

**AREA 3**  
**RURAL AGRICULTURAL PLANNING AREA**

(Land Uses Outside the CITY Under COUNTY Control with CITY Approval Required for Non-Ag and Major Subdivision Platting, and where agricultural uses are preferred)

- Location:** Properties outside of the CITY of Swisher, located in Jefferson Township as shown on the Fringe Area Map. Policy: This Area should develop in accordance with the Johnson COUNTY Land Use Plan.
- Recommended Land Uses:** Agricultural land uses are preferred.
- Justification:** This area is identified as agricultural. Provision of CITY services is unlikely, and only at a considerable expense to consumers. Nonagricultural or higher density land uses may adversely affect the CITY. The predominant COUNTY zoning for this area is agricultural.
- Subdivisions:**
- a. Farmstead Splits and "Minor" Subdivisions (3 lots or less) shall be filed with the COUNTY. COUNTY subdivision requirements shall be in effect. COUNTY shall INFORM the CITY of all approved subdivision plats.
  - b. Major Residential Subdivisions (4 lots or more):  
The applicant shall send subdivision applications to both the CITY and COUNTY. The applicant shall obtain CITY approval prior to review by the Johnson COUNTY Planning and Zoning Commission. COUNTY subdivision regulations and standards shall be in effect.
- Zoning:** The preferred zoning in this area is agricultural. The applicant shall send rezoning applications to both the CITY and COUNTY. The applicant shall obtain CITY review prior to review by the Johnson COUNTY Planning and Zoning Commission. COUNTY zoning regulations and standards shall be in effect.
- Building Code:** COUNTY building code shall be in effect for all construction. Properties meeting the COUNTY'S definition of a farm shall not be required to comply.
- Annexation:** Annexation is UNLIKELY if land uses remain agricultural or low-density residential

**AREA 4**  
**EXEMPT EXTRATERRITORIAL AREA**  
(Unincorporated Areas within two miles of Swisher and outside of  
Area 1, Area 2 and Area 3)

- Location:** Areas within two miles of the CITY of Swisher which are not covered under Area 1, Area 2 or Area 3 of this agreement, and which are not under the jurisdiction of other cities. Policy: This Area should develop in accordance with the General Planning for the COUNTY or the appropriate municipality.
- Land Use Plan:** The majority of Area 4 is in the County's North Corridor Development Area.
- Justification:** This Area is not included in the long-range CITY Extraterritorial Future Land Use Plan. This Area cannot currently be provided with CITY services.
- Zoning:** COUNTY zoning regulations shall be in effect. All zoning changes shall be in accordance with the COUNTY Zoning Ordinance. The CITY waives the right to review and comment on requests for rezoning.
- Subdivisions:** COUNTY subdivision requirements shall be in effect. The CITY waives the right to review and comment on subdivision plats.
- Building Code:** COUNTY building regulations shall be in effect.
- Annexation:** Annexation of properties in the Area by the CITY is HIGHLY UNLIKELY.

**SECTION 3**  
**ADMINISTRATIVE POLICIES**

*Zoning regulation*, as a rule, is COUNTY'S prerogative while *subdivision regulation* in these areas comes under joint authority. Each of these activities, however, affect both jurisdictions and has produced a clear and pressing need for coordination and joint administration. To that end, the CITY and COUNTY agree to the following procedures for administration of land use regulations.

**1. Correspondence Between Authorized Representatives of the COUNTY and the CITY**

The CITY may elect, from time to time, to appoint an Authorized Representative to coordinate activities with COUNTY officials. The Mayor of the CITY shall provide a written notice of the Authorized Representative's name, address, telephone number, and the extent of his/her authority to act on behalf the CITY. The COUNTY shall provide a written notice of the name, title, address, and telephone number of the COUNTY Official responsible for coordination of land use regulations. These Authorized Representatives may establish the practical guidelines for the transmission of information, coordination of actions, and documentation of decisions as they affect this Agreement.

**2. Rezoning Requests Received by the COUNTY:**

Persons requesting Rezoning as affected by this Agreement shall submit applications to the COUNTY, and, according to the specific Fringe Area in which that property is located, may be required to submit an application to the CITY for review. Where CITY review is required, the CITY shall have each request reviewed by the CITY Planning and Zoning Commission and City Council prior to review by the COUNTY Planning and Zoning Commission. Written copies of the Council decision will be forwarded to the COUNTY.

**3. Subdivision Plats Received by the COUNTY:**

Persons proposing Subdivisions as affected by this Agreement shall submit plats and all necessary application materials to the COUNTY in accordance with the COUNTY requirements. The COUNTY Planning Commission shall review all plats.

If the proposal is located in Fringe Area 1, Fringe Area 2 (excepting Farmstead Splits), or is a major subdivision in Fringe Area 3, the applicant will also submit plats and all necessary application materials to the CITY in accordance with CITY subdivision review requirements. Such applications shall be reviewed by the CITY prior to review by the COUNTY Planning and Zoning Commission. The CITY will forward a recommendation to the COUNTY or waive approval. Favorable review by the CITY is required in Fringe Area 1, Fringe Area 2 (excepting farmstead splits major subdivisions in Fringe Area 3, and not required in Fringe Area 4. Properties located primarily in Area 4, minor subdivisions in Area 3, and farmstead splits in Area 2 do not require subdivision review by the CITY of Swisher.

Written copies of the CITY Council decision will be forwarded to the COUNTY Applicants may request a joint consultation with the COUNTY and CITY Authorized Representatives to determine requirements for subdivision approval. A record of this joint consultation shall be presented to the COUNTY Planning Commission and the CITY Planning and Zoning Commission.

#### **4. Flood Plain Development Permits**

The CITY shall forward copies of any Flood Plain Development Permit application or other Flood Plain related information to the COUNTY'S representative when available to the CITY. The COUNTY shall provide the CITY'S representative with copies of any Flood Plain Development Permit application and or permit affecting properties in the Fringe Area.

#### **5. Exchange of Information on Land Use Regulations**

The CITY shall provide the COUNTY'S Authorized Representative and the COUNTY Planning Commission with current copies of the CITY Extraterritorial Future Land Use Map, the CITY Zoning Ordinance, Subdivision Regulations, Design Standards and all other land use regulations or any annexation or change in extraterritorial jurisdiction. The COUNTY shall provide the CITY'S Authorized Representative and CITY Planning and Zoning Commission with current copies of COUNTY Land Use Plan, zoning and subdivision regulations, Zoning Map, and all other land use regulations.

#### **6. Advance Notice of Annexation**

CITY will provide notice to the COUNTY of all anticipated annexations. The written notice will identify the property to be annexed, and describe any requested amendment to this Agreement resulting from the annexation. The COUNTY shall provide acknowledgement of receipt of the notice, and shall respond to any request for amendment to this Agreement. This section does not alter the parties' responsibilities for annexations as set out in Chapter 368, *Code of Iowa*, as amended.

#### **7. Conflict Resolution**

If the CITY and COUNTY are in conflict over a proposed subdivision, annexation, or rezoning application, a review committee comprised of members of the City Council, Board of Supervisors and City and County staff, to be appointed the Board and Council (so as not to have the entire Board and Council), shall be established to make a good faith attempt to negotiate a resolution..

#### **8. Review of Agreement**

This agreement shall be reviewed every three years. At any time during any three year review period of this Agreement, either the Chair of the Johnson County Board of Supervisors or the Mayor of the City of Swisher may also initiate review of the policies of this Agreement by contacting the other party to this Agreement. Both parties to this Agreement shall consider modifications to this Agreement in good faith.

9. Effective Period

This Agreement shall become effective upon acceptance and execution by the parties, and shall be in effect for twenty years after the date of execution of this Agreement.

This Agreement shall be filed with the Secretary of State of Iowa in Compliance with Chapter 28E, *Code of Iowa*, as amended.

JOHNSON COUNTY, IOWA

Board of Supervisors:

By: *Patrick L. Hanny* Date: *June 1, 2015*  
Chairman

ATTEST: *[Signature]* Date: *6/1/2015*  
Johnson COUNTY Auditor

**SEAL**

CITY OF SWISHER, IOWA

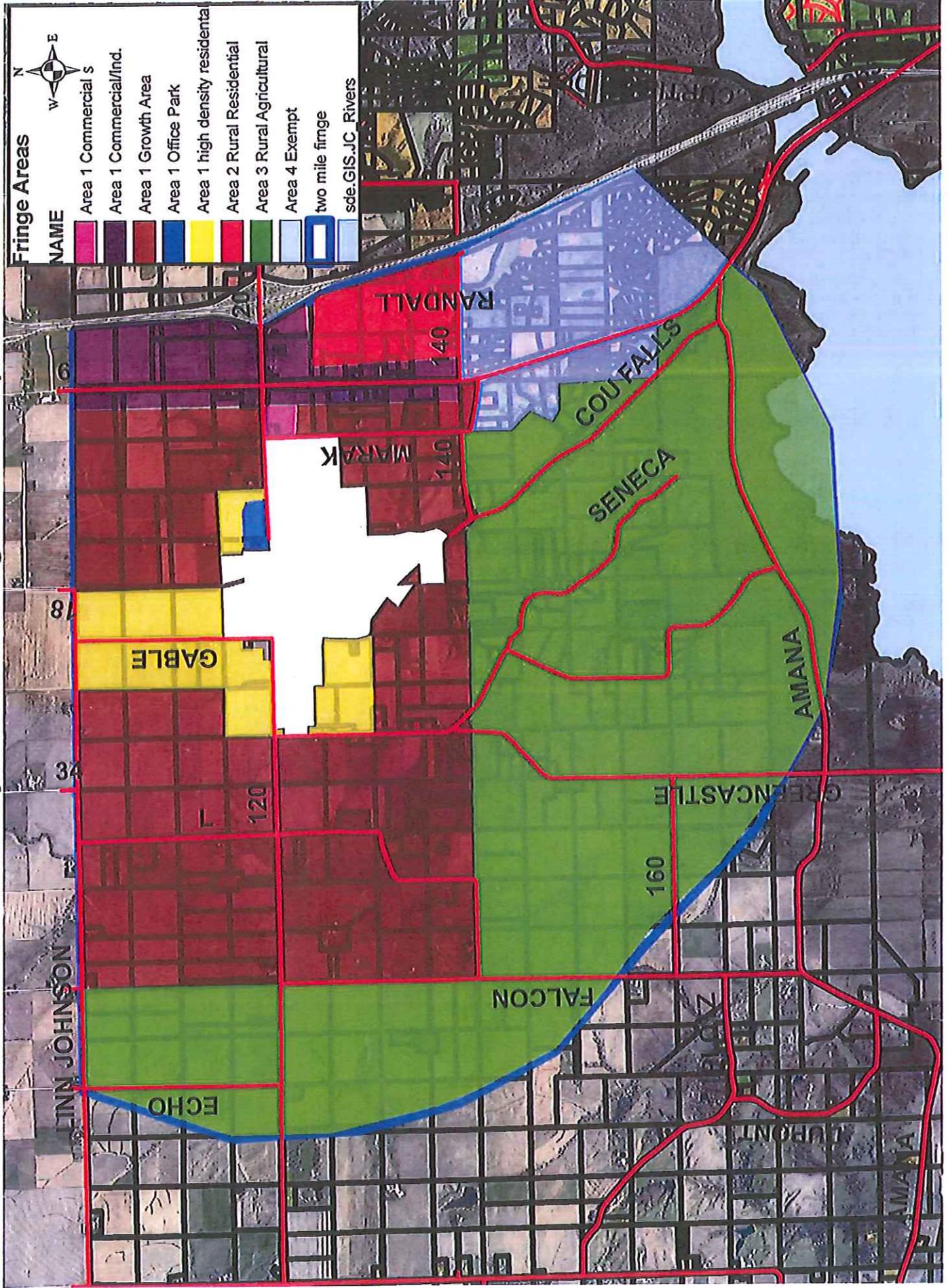
CITY Council of Swisher Iowa:

By: *Christine J. Taylor* Date: *7/15/15*  
Mayor, CITY of Swisher

ATTEST:

By: *[Signature]* Date: *7.15.15*  
Swisher CITY Clerk

# JULIUSBURG COUNTY SWISHER FRINGE AREA MAP 2010



Map Revised: February 25, 2015

RJ Moore

CERTIFICATION OF CITY CLERK

I, Tawnia Kakacek, City Clerk of the City of Swisher, Iowa, do hereby certify that the resolution attached hereto is a true and correct copy of the Resolution No. 2015.27, which was passed by the City Council of Swisher, Iowa, at a regular meeting held on the 13th day of July 2015, all as the same appears of record in my office.

Dated at Swisher, Iowa, this 13th day of July 2015.

Tawnia Kakacek no seal  
Tawnia Kakacek, City Clerk

**CITY OF SWISHER**  
**RESOLUTION NO. 2015.27**

**A RESOLUTION APPROVING THE ATTACHED 28E  
AGREEMENT BETWEEN THE CITY OF SWISHER, IOWA AND  
JOHNSON COUNTY, IOWA REGARDING THE REVISIONS OF  
THE ESTABLISHED TWO-MILE FRINGE AREA FOR PURPOSES  
OF REVIEWING SUBDIVISIONS**

WHEREAS, Chapter 28E.1 of the *Code of Iowa* makes it permissible for local governments to make efficient use in the exercise of their separate powers by enabling them to jointly provide services or otherwise operate in ways of mutual advantage;

WHEREAS, Chapter 28E.4 of the *Code of Iowa* provides that the local governments may enter into an agreement with one or more public agencies for a joint action; provided, however, that the governing bodies involved shall take appropriate approval action by resolution before any such agreement may enter into force.

WHEREAS, Chapter 354, *Code of Iowa*, allows Cities to establish a two-mile fringe area for the purpose of reviewing and approving subdivisions, and Chapter 354 further grants Cities the authority to require subdivisions within the fringe area to adhere to the Cities' subdivision standards and conditions unless alternative standards and conditions for subdivisions are established by means of a 28E Fringe Area Agreement with the County; and

WHEREAS, it is in the interest of Swisher and the County to establish policies for the orderly growth and development within the two-mile extraterritorial jurisdiction of each City; and

WHEREAS, Swisher and the County mutually agree that such policies are necessary to effectively and economically provide services for future growth and development.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF SWISHER, IOWA**, that the Mayor and Clerk are hereby authorized to execute the attached Revised Fringe Area Agreement, attached hereto and incorporated herein, thereby agreeing to the certain terms for the review of subdivisions within a two-mile fringe area of the City. Further, it is agreed that this resolution along with the attached Fringe Area Agreement shall be filed with the Secretary of the State of Iowa and recorded with the Recorder of Johnson County, Iowa.

**ON THE** 13th day of July 2015, at a regular meeting of the Swisher City Council, Swisher, Iowa, Council Person Gudmundsson introduced " A RESOLUTION APPROVING THE REVISED ATTACHED 28E AGREEMENT BETWEEN THE CITY OF SWISHER, IOWA AND JOHNSON COUNTY IOWA REGARDING THE ESTABLISHED TWO-MILE FRINGE AREA

FOR PURPOSES OF REVIEWING SUBDIVISIONS” and made a motion for approval. The motion was seconded by Council Person Stagg.

Ayes: Fulls, Gudentaut, Hinrichs, Stagg, Sue  
Nays: None  
Absent: None  
Motion Carried.

WHEREUPON, the Mayor declared the “RESOLUTION APPROVING THE ATTACHED REVISED 28E AGREEMENT BETWEEN THE CITY OF SWISHER, IOWA AND JOHNSON COUNTY IOWA REGARDING THE ESTABLISHED TWO-MILE FRINGE AREA FOR PURPOSES OF REVIEWING SUBDIVISIONS”, be adopted and signified his approval of the same by affixing his signature thereto.

PASSED, by the Council on the 13th day of July 2015, and approved by the Mayor on the 13th day of July 2015.

CITY OF SWISHER, IOWA:

By: Christopher J. Taylor  
CHRISTOPHER TAYLOR, Mayor

ATTEST:

Tawnia Kakacek  
Tawnia Kakacek, City Clerk