

Washington County Iowa
Jo Greiner - Recorder
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Prepared by and Return to: Dan Widmer Washington County Auditor PO Box 889
Washington IA 52353 319-653-7715

WASHINGTON COUNTY ORDINANCE NO. 10-10

AN ORDINANCE TO RESCIND AND REPEAL THE ZONING ORDINANCE 10-1 OF WASHINGTON COUNTY, IOWA IN ITS ENTIRETY

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF WASHINGTON COUNTY, IOWA THAT:

WHEREAS, on March 2, 2010, Washington County adopted a Zoning Ordinance of Washington County, Iowa and designated as Ordinance No. 10-1, recorded in Book 1, on page 320, in the Office of the Recorder, Washington County, State of Iowa, hereinafter referred to as the Zoning Ordinance; and

WHEREAS, the Zoning Ordinance became effective on July 1, 2010; and

WHEREAS, the Zoning Ordinance was subsequently amended at various times including December 7, 2010, October 11, 2011, August 7, 2012, and October 30, 2012; and

WHEREAS, on March 12, 2013 the Board of Supervisors of Washington County, Iowa, hereinafter referred to as the Board of Supervisors, requested that the Washington County Planning and Zoning Commission, hereinafter referred to as the Zoning Commission, prepare a report regarding the possibility of rescinding the Zoning Ordinance; and

WHEREAS, the Zoning Commission held four work sessions on April 2, 2013, April 18, 2013, April 30, 2013 and May 23, 2013 and prepared a draft report to the Board of Supervisors regarding the impact of rescinding the Zoning Ordinance; and

WHEREAS, the Zoning Commission held a public hearing on May 30, 2013 to receive comments from the public regarding the draft report; and

WHEREAS, the Zoning Commission presented its final report to the Board of Supervisors on June 4, 2013; and

WHEREAS, the Board of Supervisors has received much public input on this matter and has held another public hearing for the public to have more input on the adoption of this ordinance; and

WHEREAS, the Board of Supervisors has determined that the current Zoning Ordinance is undesirable, ineffective and does not sufficiently benefit or meet the needs of Washington County for the following reasons:

- (a) The Washington County Comprehensive Plan does not require the implementation of a Zoning Ordinance; and its content is not necessarily representative of the bulk of the population;
- (b) Zoning has not been shown to be particularly successful in preserving prime farmland. For example, see the Washington County Planning and Zoning Commission report dated May 30, 2013 and Preserving Iowa's Farmland, by Susan E. Cosner and published by Iowa State University.
- (c) Incompatible uses which are illegal or constitute a nuisance may be dealt with using other legal channels, including Iowa Code §352.11 and §657.11;
- (d) Zoning has failed to attract major industrial development and has stifled a significant amount of small business development, particularly smaller startup businesses in Washington County;
- (e) There is a critical need for the creation and growth of startup businesses in Washington County;
- (f) Washington County incurs no legal liability by rescinding a short-lived and unpopular zoning ordinance;
- (g) The will of the public has been clearly discerned through recent elections in which all pro-zoning candidates were defeated and anti-zoning candidates were elected;
- (h) Washington County has limited authority to regulate agricultural operations. Given that much of Washington County is agricultural property, this has resulted in a situation whereby a small portion of Washington County is subject to extensive regulations while a larger portion is devoid of significant zoning regulation. This inconsistency is not equitable;
- (i) It is the judgment of the Board of Supervisors, based upon their observations and experience during the time period during which zoning has existed and during the lengthy time period that it did not exist, that overall Washington County was better served and better regulated without governmental zoning intervention;
- (j) Modifying the Zoning Ordinance would not be efficient as there are too many changes that are necessary and no practical way to address the shortcomings of the Zoning Ordinance.

WHEREAS, the Board of Supervisors for the reasons enumerated above voted 3 to 2 to draft an ordinance for rescinding the Zoning Ordinance of Washington County, Iowa pursuant to Iowa Code sections 331.302, 331.305, 335.5, 335.6, and 335.7; and

NOW THEREFORE, the Board of Supervisors of Washington County does ordain as follows:

SECTION 1. Pursuant to published notice and following public hearing on the 13th day of August, 2013, as required by Sections 331.302, 331.305, 335.5, 335.6, and 335.7, Code of Iowa, there is hereby adopted by Washington County, Iowa ORDINANCE NO. 10-10.

SECTION 2. The Zoning Ordinance of Washington County, Iowa adopted on March 2, 2010 and formally designated as Ordinance 10-1, and recorded in Book 1, on page 320, in the Office of the Recorder, Washington County, State of Iowa, which became effective on July 1, 2010 and was subsequently amended from time to time including on December 7, 2010, October 11, 2011, August 7, 2012, and October 30, 2012, is hereby repealed and rescinded in its entirety from and after the effective date of this ordinance, except as hereinafter provided. Any ordinances and resolution, parts thereof, or amendments thereto, which are in any way in conflict with this ordinance are hereby repealed. This ordinance shall be deemed to be a complete rescission of the Zoning Ordinance and all amendments thereto even though not all amendment to the Zoning Ordinance may be listed in this ordinance. All ordinances and resolutions, parts thereof or amendments thereto, which are in conflict with this ordinance are repealed.

SECTION 3. The repeal provided for in the preceding section of this ordinance shall not affect any prosecution or enforcement action concerning the Zoning Ordinance or any violation thereof which occurred or was commenced prior to the rescission of the Zoning Ordinance, nor shall it limit or waive any penalty assessed for such a violation.

SECTION 4. Any denial of a building permit or other restriction, administrative action or limitation on land use which existed or occurred prior to the rescission of the Zoning Law will not prevent or impair any person from making any use of their property which is lawful after rescission of the Zoning Ordinance.

SECTION 5. Nothing in this ordinance will prevent Washington County from subsequently enforcing or enacting any floodplain or nuisance legislation or other limitations on the use of property, nor does this ordinance in any way limit the right of any private person to bring any nuisance action or repeal or limit any ordinance or law other than Washington County Ordinance 10-1 unless inconsistent with this ordinance.

SECTION 6. An official copy of ORDINANCE 10-10, including a certificate of the County Auditor as to its adoption and the effective date, shall be on file in the office of the County Auditor, and shall be kept available for public inspection.

SECTION 7. This ordinance shall be in full force and effect on September 27, 2013, having previously been published as required by law.

Passed by the Board of Supervisors of Washington County, Iowa, the 3rd day of September, 2013.

Steve Davis

Steve Davis, Chairperson-Board of Supervisors

Date: 9-10-13

Attest:

Daniel L. Widmer

Daniel L. Widmer, Washington County Auditor

Date: 9-10-13

First Reading: 8-20-13

Second Reading: 8-27-13

Third Reading: 9-3-13

COUNTY AUDITOR'S CERTIFICATE

I hereby certify that the foregoing ORDINANCE NO. 10-10 was published as required by law on the 26 day of September, 2013.

SIGNED:

Daniel L. Widmer

Daniel L. Widmer, Washington County Auditor

