

Contract No.

110036

Name: Amended City-County Planning and Zoning Agreement
Between Marion County, Iowa and Pella, Iowa

Date: August 16, 2011

Comment: _____

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KAREN SCHWANEBECK, RECORDER
MARION COUNTY IOWA

Prepared by: Michael S. Brown, GIS Manager, City of Pella, 100 Truman Rd., Pella, IA 50219 (641) 628-1601
Return to: Michael S. Brown, GIS Manager, City of Pella, 100 Truman Rd., Pella, IA 50219(641) 628-1601
SPACE ABOVE THIS LINE FOR RECORDER

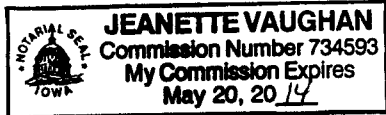
CERTIFICATE

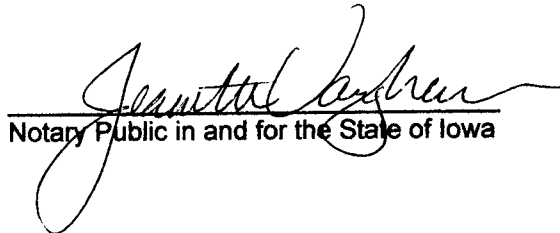
STATE OF IOWA, MARION COUNTY, ss:

The undersigned, Michael S. Brown, being first duly sworn, does hereby depose and certify that I am the duly appointed, qualified and acting GIS Manager of The City of Pella, Iowa and that as such I have in my possession or have access to the complete GIS records of said City. I have in my possession or have access to original 28E Agreements under the jurisdiction of the City of Pella, County of Marion, Iowa, and that attached hereto are copies of said 28E Agreement.


Michael S. Brown, GIS Manager

Subscribed and sworn to before me by the said Michael S. Brown known to me to be the GIS Manager of The City of Pella, Marion County, Iowa, who executed said Certificate in his capacity as GIS Manager this 17th day of August, 2011.




Notary Public in and for the State of Iowa

AMENDED CITY-COUNTY PLANNING AND ZONING AGREEMENT
BETWEEN MARION COUNTY, IOWA
AND PELLA, IOWA

1. Parties to the agreement: The parties to this agreement are the incorporated City of Pella, Iowa, and Marion County, Iowa. For simplicity in the rest of this agreement they will be referenced as “City” and “County”.

2. Intent and purpose: In order to better facilitate orderly development in the fringe area surrounding the Pella city limits and to maximize efficiencies of governmental administration with respect to planning and zoning; and,

In order to better facilitate and coordinate land use and infrastructure planning in areas where the City of Pella will likely extend urban services in the future; and,

In the interest of protecting the quality of life for existing and future residents and businesses of this fringe area, the City of Pella and Marion County agree, as provided in Chapter 28E of the Code of Iowa, to the following key components of this agreement:

- (1) to allow the City to exercise exclusive zoning and platting jurisdiction within the area designated as “Subarea A” as amended in Exhibit A;
- (2) to allow the City to exercise exclusive platting jurisdiction within the area designated as “Subarea B” as amended in Exhibit A;
- (3) to maintain joint subdivision control and Marion County zoning control within the area designated as “Subarea C” as amended in Exhibit A;
- (4) to allow exclusive City building permit control within the area designated as “Subarea A” in Exhibit A;
- (5) to increase the City Planning and Zoning Commission by a member of the Marion County Board of Supervisors and a resident of the affected areas of the extraterritorial jurisdiction, City Board of Adjustment and City Community Development Committee by two members each from residents of the affected extraterritorial jurisdiction areas with memberships to be appointed by the Board of Supervisors.
- (5) to rescind the County’s zoning and building permit authority within in the area designated as “Subarea A” in Exhibit A.

3. Legal authority: The Iowa Code provides, in Chapter 28E, that governmental agencies may enter into joint agreements like this one.

Section 414.23 of the Iowa Code and Chapter 354 provides that a city may exercise zoning and platting jurisdiction into an unincorporated area up to two miles beyond the limits of such city. Section 414.23 further provides that the city may exercise such jurisdiction only by increasing the size of its Planning and Zoning Commission and Board of Adjustment each by two members who will be residents of the two mile unincorporated area outside the city limits and shall be appointed by the Board of Supervisors of the county.

Section 331.304 of the Iowa Code allows the county to act jointly with the city if a Chapter 28E agreement is entered into.

These statements of the law are paraphrased references to identified sections of the Iowa Code. For complete details, please reference the identified Iowa Code chapters.

4. Planning and Zoning Commission: Two new members shall be appointed by the Marion County Board of Supervisors to the Pella Planning and Zoning Commissions. One new member shall be a resident of the identified extraterritorial area and one member will be a Marion County Supervisor. They shall have the same rights, privileges, and duties as the existing members. These two members shall be appointed for the same terms of office as the existing members of the Planning and Zoning Commission.

5. Board of Adjustment: Two new members shall be appointed by the Marion County Board of Supervisors to the Pella Board of Adjustment. These two new members shall be residents of the identified extraterritorial area and have the same rights, privileges, and duties as the existing members. These two members shall be appointed for the same terms of office as the existing members of the Board of Adjustment.

6. Community Development Committee: Two new members shall be appointed by the Marion County Board of Supervisors to the Pella Community Development Committee. These two new members shall be residents of the identified extraterritorial area and have the same rights, privileges, and duties as the existing members. These two members shall be appointed for the same terms of office as the existing members of the Community Development Committee.

7. Modified Zoning Districts: In areas where the City adopts zoning within the Fringe Area the following modifications to the City Zoning Districts shall apply so long as the affected areas remain unincorporated:

A-1 Agricultural District: The minimum lot area for non-farm, single family dwellings shall be 3 acres net (excluding right of ways and road easements). Home occupations shall be allowed pursuant to the Marion County A-1. A-R Zoning District regulations (Exhibit B) for home occupations in lieu of the City home occupation standards.

RR Rural Residential District: Home occupations shall be allowed pursuant to the Marion County A-1, A-R Zoning District regulations (Exhibit B) for home occupations in lieu of the City home occupation standards.

8. Powers and duties: The enabling authority for the creation of and powers of these Boards comes from Chapter 28E, 331, 354 and 414 of the Iowa Code. All three Boards are subject to the authority and supervision of the City of Pella. Generally, the Boards shall have the same legal powers and duties in the areas identified that they have had within Pella's city limits.

9. Duration of this agreement: This agreement becomes effective upon approval by both the City and County by duly enacted ordinance or resolution or otherwise pursuant to the law of the governing bodies (Section 28E.4, Iowa Code), and then filing of the agreement by Marion County with the Secretary of State of Iowa and the County Recorder (Section 28E.4, Iowa Code). This agreement shall remain in effect perpetually, unless dissolved by ordinance or resolution of either the City or County.

10. Amendments: No amendment to this agreement shall be effective unless both the Pella City Council and Marion County Board of Supervisors approve it by at least a two-thirds vote of each of the those governing bodies.

11. Financing: Any budget for, revenues received by, or expenses of any of the Boards shall be the responsibility of the City.

12. Boundaries of jurisdiction: The Pella Planning and Zoning Commission, Pella Board of Adjustment and Pella Community Development Committee shall have the same legal powers and duties as provided in the Iowa Code and Pella Zoning Ordinance within the identified areas as identified in this agreement. The Zoning Administrators of Marion County and the City of Pella shall keep current and available for public inspection a map showing the city limits and extent of the identified areas of jurisdiction.

CITY OF PELLA

MARION COUNTY, IOWA

BY: *David D. Henderson*
Mayor

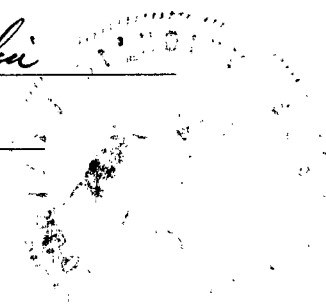
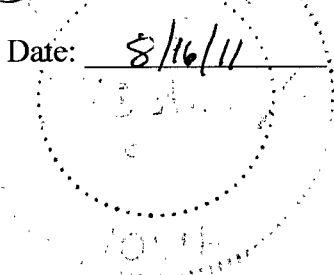
BY: *Sam L. Aulick*
Board of Supervisors

ATTEST: *Randa Brown*

ATTEST: *Jake Henderson*







Date: 8/16/11

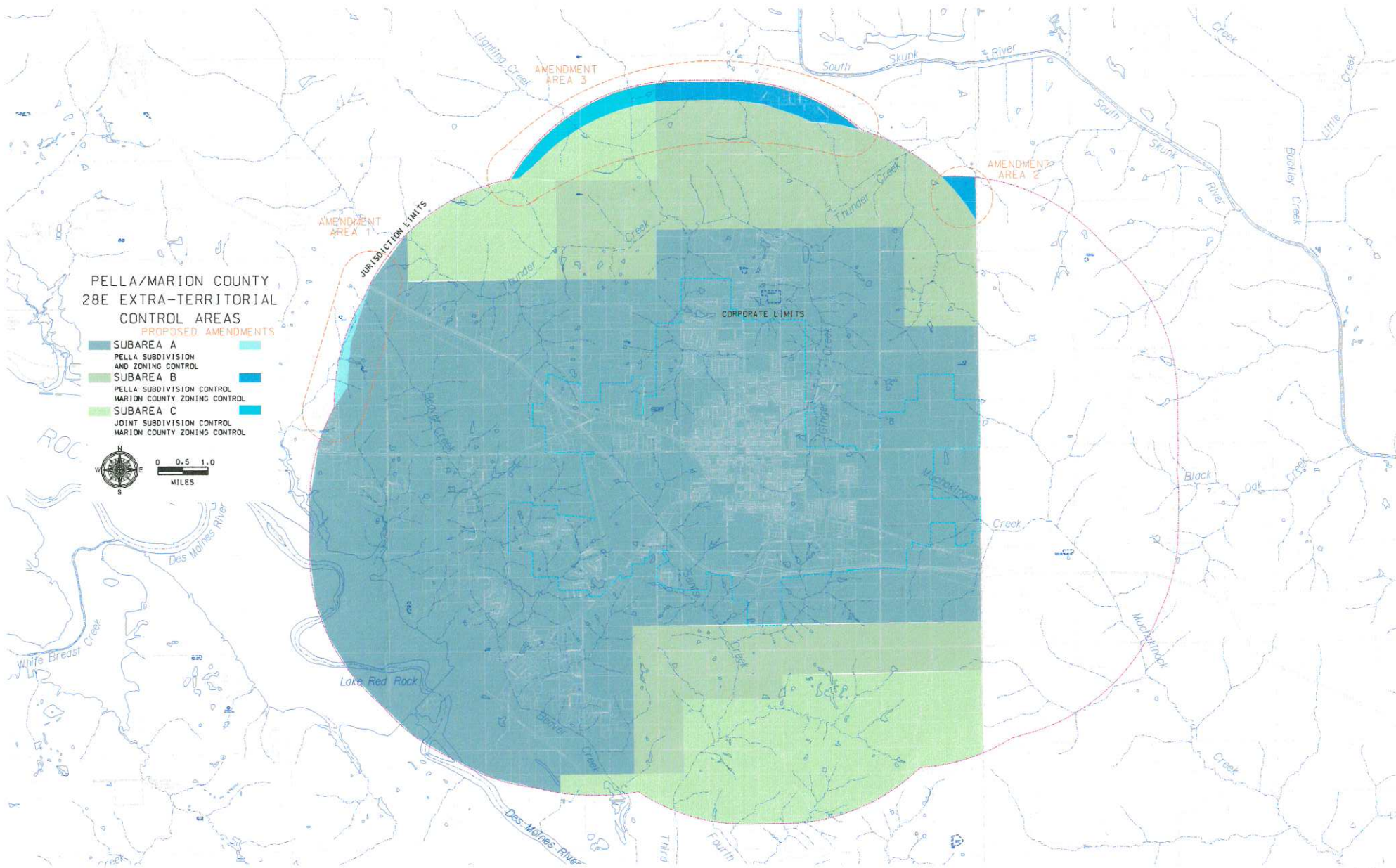
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PELLA/MARION COUNTY
28E EXTRA-TERRITORIAL
CONTROL AREAS

PROPOSED AMENDMENTS

- | | | |
|---|---|---|
|  | SUBAREA A |  |
| | PELLA SUBDIVISION
AND ZONING CONTROL | |
|  | SUBAREA B |  |
| | PELLA SUBDIVISION CONTROL
MARION COUNTY ZONING CONTROL | |
|  | SUBAREA C |  |
| | JOINT SUBDIVISION CONTROL
MARION COUNTY ZONING CONTROL | |



55.17 HOME OCCUPATIONS IN RESIDENTIAL DISTRICTS. Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the Zoning Administrator pursuant to the provisions of this chapter. A home occupation permit shall be required for all home occupation uses under this section. The Zoning Administrator shall approve, conditionally approve, or deny such request for home occupation. The regulations of this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in the home. This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure. The following regulations apply to dwellings located in all zoning districts except "A-1", "C-A" or "A-R" zoning districts which shall comply with Section 55.18.

1. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
 - A. No more than two (2) employees that are not residents on the premises shall be employed.
 - B. No more than 25% or 400 square feet of the floor area of the dwelling unit, whichever is less, shall be devoted to the home occupation.
 - C. No alteration of the principal residential building shall be made which changes the character and appearance thereof as a dwelling.
 - D. The home occupation shall be conducted entirely within the principal dwelling unit or in a permitted building accessory thereto, and in no event shall such use be apparent from any public way.
 - E. There shall be no outdoor storage of equipment or materials used in the home occupation.
 - F. Not more than one commercial vehicle used in connection with any home occupation shall be parked on the property.
 - G. No more than one vehicle or piece of equipment shall be displayed for sale on the property.
 - H. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.
 - I. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.
 - J. No sign, other than one unlighted sign not over two (2) square feet in area attached flat against the dwelling and displaying only the occupant's name and occupation, shall advertise the presence or conduct of the home occupation.
 - K. There shall be no off-premises signs.

2. Home Occupations Permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each such home occupation shall be subject to the use limitations set out in subsection 1 above.
 - A. Providing instruction to not more than four students at a time.
 - B. Office facilities for accountants, architects, brokers, doctors, dentists, engineers, lawyers, insurance agents and real estate agents.
 - C. Office facilities for ministers, priests and rabbis.
 - D. Office facilities for salesmen, sales representatives and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises.
 - E. Studio of an artist, photographer, craftsman, writer or composer.
 - F. Homebound employment of a physically, mentally or emotionally handicapped person who is unable to work away from home by reason of his or her disability.
 - G. Shop of a beautician, barber, hair stylist, dressmaker or tailor.
 - H. Bed and Breakfast establishments limited to not more than three guest rooms.
 - I. Providing day care to not more than seven (7) children at one time.

55.18 HOME OCCUPATIONS IN AGRICULTURAL DISTRICTS. Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling or of an accessory building in "A-1", "C-A" and "A-R" Districts shall be permitted in any dwelling unit or accessory building. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the Zoning Administrator pursuant to the provisions of this chapter. A home occupation permit shall be required for all home occupation uses under this section. The Zoning Administrator shall approve, conditionally approve, or deny such request for home occupation. The regulations of this section are designed to protect and maintain the agricultural character of the area while recognizing that certain professional and limited business activities have traditionally been carried on in the home or on premises in agricultural areas. This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the area or the structure. The following regulations apply to dwellings located in the "A-1", "C-A" or "A-R" zoning districts only. Home occupations in any other zoning district shall comply with Section 55.17.

1. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
 - A. Not more than four (4) persons who are not residents on the premises shall be employed.
 - B. No more than 30% or 600 square feet of the floor area of the dwelling unit, not including the cellar, whichever is less, shall be devoted to the home occupation.
 - C. No alteration of the principal residential building shall be made which changes the character and appearance thereof as a dwelling.
 - D. The home occupation shall be conducted entirely within the principal dwelling unit or in a permitted building accessory thereto, and in no event shall such use be apparent from any public way.
 - E. Outdoor storage of equipment or materials used in the home occupation shall be enclosed by a fence not to exceed six (6) feet in height.

- F. Not more than two (2) commercial vehicles used in connection with any home occupation shall be parked on the property.
 - G. No more than two vehicles or pieces of equipment shall be displayed for sale on the property.
 - H. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.
 - I. No sign, other than one (1) unlighted sign not over six (6) square feet in area attached flat against the dwelling.
2. Home Occupations Permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided, however, each such home occupation shall be subject to the use limitations set out in subsection 1 above.
- A. Home occupations permitted in "R" Districts (Section 55.17).
 - B. Bait shop.
 - C. Repair shops of home appliances such as washers, dryers, clocks, and similar uses.
 - D. Repair of automobiles and trucks provided the repairs are conducted within enclosed accessory structure.
 - E. Display for sale of not more than two (2) vehicles on premises at any one time.

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