

Office of Mills County Auditor
Carol Robertson
Mills County Courthouse
Glenwood, IA

The Mills County Board of Supervisors met this 4th day of June, 2014, in the Board of Supervisors meeting room at Mills County Courthouse in Glenwood with Richard Crouch and Ron Kohn present. Lonnie Mayberry was absent.

Motion by Kohn, seconded by Crouch to approve the June 4, 2014 agenda and the May 27, 2014 minutes as presented.

Motion carried on a vote: Ayes: 2 Nays: 0.

There were no utility permits to report this week.

Motion by Kohn seconded by Crouch to approve pay voucher #4 for project #STP-S-CO65(77)—5E-65, PCC pavement overlay for 221st Street south in the amount of \$1,112,846.33 which is 94.6% of the project's fee.

Motion carried on a vote: Ayes: 2 Nays: 0

Pay voucher #1 for project #FM-CO65(95)-55-65, farm to market rock was tabled until next week.

The discussion of the lot sale reimbursement along 229th Street was tabled until next week.

Engineer Mayberry discussed the project on 190th Street and updated the Board on the progress. The Board was also updated on 221st Street south and the Quandt Bridge.

Motion by Kohn seconded by Crouch to approve the 3rd reading of Recodification County Ordinance 14-01.

Motion was carried on a vote: Ayes: 2 Nays: 0

Motion by Kohn and Crouch to approve the Recodification of County Ordinances and with same motion approval of Ordinance 14-01.

ORDINANCE NO. 14-01

AN ORDINANCE READOPTING THE EXISTING COUNTY CODE OF ORDINANCES AND ALL AMENDMENTS THERETO AS WELL AS AN ORDINANCE TO AMEND THE COUNTY CODE OF ORDINANCES OF MILLS COUNTY, IOWA, BY AMENDING CHAPTER 3 – UNIFORM RURAL ADDRESS SYSTEM SETTING FORTH THE NEW PROCEDURE FOR HANDLING A DAMAGED SITE NUMBER MARKER.

BE IT THEREFORE ORDAINED BY THE BOARD OF SUPERVISORS OF
MILLS COUNTY, IOWA:

Section 1. PURPOSE. Iowa Code Section 331.302(9) requires a county shall compile its Code of Ordinances once every five (5) years. This Ordinance readopts ordinances already in effect, adopts ordinances that became effective after the last re-adoption and repeals any ordinance deemed no longer necessary to the operation of Mills County, Iowa or to the health, safety and welfare of its citizens.

Section 2. READOPTION OF CURRENT CODE. The Mills County Board of Supervisors previously adopted and/or enacted into law the following ordinances. The Mills County Auditor duly published all such ordinances as provided by law. The Ordinances stated herein are set forth by number and subject matter. Said ordinances are renumbered to incorporate new ordinances adopted by the Board of Supervisors since the previous compilation of the Ordinances. By the authority of the Mills County Board of Supervisors, the following ordinances comprise the Mills County Code of Ordinances:

CHAPTER 1 - URBAN RENEWAL AREA TAXATION
CHAPTER 2 - LOCAL OPTION SALES TAX
CHAPTER 3 - UNIFORM RURAL ADDRESS SYSTEM
CHAPTER 4 - ENTRANCE AND DRIVEWAY

CHAPTER 5 VIOLATIONS AND PENALTIES
CHAPTER 6 DUMPING AND BURNING
CHAPTER 7 SNOW AND ICE REMOVAL
CHAPTER 8 REDUCED MAINTENANCE ROADS
CHAPTER 9 PLANNED OPEN BURNING NOTIFICATION
CHAPTER 10 ASSESSEMENT OF WIND ENERGY CONVERSION PROPERTY
CHAPTER 11 HAZMAT RECOVERY ORDINANCE
CHAPTER 12 TO CHAPTER 14 RESERVED
CHAPTER 15 CONSTRUCTION AND ABANDONMENT OF PRIVATE WATER WELLS
IN MILLS COUNTY
CHAPTER 16 INSTALLATION OF ON-SITE WASTEWATER TREATMENT AND
DISPOSAL SYSTEMS IN MILLS COUNTY
CHAPTER 17 PUBLIC WATER SUPPLY SERVICE HOOK-UP
CHAPTER 18 SEXUALLY ORIENTED BUSINESSES
CHAPTER 19 MILLS COUNTY BOARD OF HEALTH REGULATIONS
CHAPTER 20 Repealed
CHAPTER 21 TO CHAPTER 23 RESERVED
CHAPTER 24 BUILDING AND PROPERTY MAINTENANCE
CHAPTER 25 SUBDIVISION REGULATIONS
CHAPTER 26 FLOOD PLAIN REGULATIONS
CHAPTER 27 ZONING ORDINANCE
CHAPTER 28 RESERVED
CHAPTER 29 PRECINCT BOUNDARIES AND POPULATIONS

Section 3. REPEALING UNNECESSARY ORDINANCES IN CURRENT CODE. The Mills County Board of Supervisors hereby repeals any ordinance deemed no longer necessary to the operation of Mills County, Iowa or to the health, safety and welfare of its citizens. By the authority of the Mills County Board of Supervisors, the following ordinances are repealed from the Mills County Code of Ordinances:

CHAPTER 17 – TIME OF TRANSFER INSPECTION

CHAPTER 20 – ANIMAL CONTROL ORDINANCE

Section 4. AMENDMENT. Chapter 17 – Time of Transfer Inspection is hereby repealed and replaced with the new Chapter 17 – Public Water Supply Service Hook-Up. Chapters 3, Chapter 5, Chapter 9, and Chapter 26 are also amended to reflect a raise in the fines for violations of the Code of Ordinances.

Section 4.1 AMENDMENT. Chapter 17 – Public Water Supply Service Hook-up is enacted as follows:

CHAPTER 17 – PUBLIC WATER SUPPLY SERVICE HOOK-UP

17.1.1 Purpose

The purpose of this ordinance to require landowners who have access to public water supply systems to hook-up to those systems to improve water quality, health and safety in the county.

17.1.2 Mandatory Hook-up

- (a) Any new construction that will require potable water service or those homeowners or business utilizing a well that fails to operate properly and/or no longer produces usable water shall be required to attach to a public water supply system. This requirement shall only be effective if there is a public water supply line within two hundred (200) feet of the building.
- (b) It shall be the landowner's responsibility to make sure that any permits or other requirements are met during the installation.

17.1.3 Enforcement

This Ordinance shall be enforced by the Mills County Board of Health.

17.1.4 Penalties

Any person violating any provision, section or paragraph of this Ordinance shall be ordered to comply by the Mills County Board of Health. Failure to comply constitutes a County Infraction as defined and punished in Chapter 5 - Violations And Penalties of the Mills County Code of Ordinances.

Section 4.2 AMENDMENT – Under Chapter 3 – Violations and Penalties shall now read as follows:

3.1.11 Violations and Penalties

Any person violating, any of the provisions contained in this Chapter shall be deemed guilty of a county infraction.

- a. A county infraction is a civil offense punishable in the following schedule of civil penalties:
 - (1) First Offense \$150.00
 - (2) Second Offense \$300.00
 - (3) Third and subsequent offense(s) \$600.00
- b. Each and every day that the violation is permitted to exist after notification shall constitute a separate offense.
- c. Each separate provision of this Ordinance violated shall constitute a separate offense.
- d. Enforcement of a county infraction shall be pursuant to Iowa Code Section 331.307, as amended.
- e. Seeking a civil penalty does not preclude seeking alternative relief from the court in the same action, including, but not limited to an order for abatement or cessation of the violation.
- f. Nothing herein contained shall prevent the County from taking such other lawful action as necessary to prevent or remedy any violation.

Section 4.3 AMENDMENT – Under Chapter 5 County Infractions shall now read:

5.1.1 County Infractions

Any person violating, any of the provisions contained in this Code and so designated, shall be deemed guilty of a county infraction.

- a. A county infraction is a civil offense punishable in the following schedule of Civil penalties:
 - (1) First offense \$150.00
 - (2) Second offense \$300.00
 - (3) Third and subsequent offense(s) \$600.00
- b. Each and every day that the violation is permitted to exist after notification shall constitute a separate offense.
- c. Each separate provision of this Ordinance violated shall constitute a separate offense.
- d. Enforcement of a county infraction shall be pursuant to Iowa Code Section 331.307, as amended.
- e. Seeking a civil penalty does not preclude seeking alternative relief from the court in the same action, including, but not limited to an order for abatement or cessation of the violation.
- f. Nothing herein contained shall prevent the County from taking such other lawful action as necessary to prevent or remedy any violation.

Section 4.4 AMENDMENT – Under Chapter 9 – Penalties it shall now read as follows:

9.1.5 Penalties

Any responsible party in violation of this Ordinance shall be found guilty of committing a County Infraction as defined in Chapter 5 - Violations And Penalties of the Mills County Code of Ordinances.

- a. **Civil Penalty**
A responsible party shall pay all court costs and a civil penalty of:
 - (1) One Hundred Fifty dollars (\$150.00) for the first violation;
 - (2) Three hundred dollars (\$300.00) for a second violation; and
 - (3) Six Hundred dollars (\$600.00) for a third and any subsequent violation.
- b. This Ordinance authorizes a law enforcement officer or fire official to issue a civil citation for a County Infraction. This Ordinance does not preclude a law enforcement officer or fire official from exercising his or her discretion and issuing a criminal citation for a violation of the Iowa Code in lieu of issuing a civil citation for violation of the Mills County Code of Ordinances.

Section 4.5 AMENDMENT - Under Chapter 26 – Penalties for Violation shall now read as follows:

26.1.5 Penalties for Violation

Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$600.00 or imprisoned for not more than thirty (30) days. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 4. NEW ORDINANCE. In addition to readopting the above titled sections of the Mills County Code of Ordinances and the amendments to said Code of Ordinances since its last

readoption, the Board of Supervisors enacts as part of those provisions the new Chapter 11 – HAZMAT RECOVERY ORDINANCE. Chapter 11 – HAZMAT RECOVERY ORDINANCE is hereby enacted as follows:

CHAPTER 11 - HAZMAT RECOVERY ORDINANCE

11.1.1 Purpose. - In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills within the County limits.

11.1.2 Definitions. - For the purpose of this chapter, these words have the following meanings:

(1) "Cleanup" means action necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste.

(2) "Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance or hazardous waste onto the land, into the water, or into the atmosphere which creates an immediate or potential danger to the public health or safety.

(3) "Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under Section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designed by the secretary of transportation under the Hazardous Materials Transportation Act.

(4) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects:

(a) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(b) Poses a substantial danger to human health or the environment. "Hazardous waste" may include, but is not limited to, wastes that are toxic, corrosive, or flammable or irritants, strong sensitizers or explosives.

(5) "Hazardous waste" does not include:

(a) Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners;

(b) Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

(6) "Person" means individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(7) "Responsible person" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance or hazardous waste, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance or hazardous waste when a hazardous condition occurs, whether the person owns the hazardous substance or waste or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance or waste.

11.1.3 Cleanup required. - (a) Whenever a hazardous condition is created so that a hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup as defined by Section 11.1.2(1), as rapidly as feasible to an acceptable safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of cleanup shall be borne by the responsible person.

(b) If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the County may, by authorization of the BOS Chairperson or his/her designee, give reasonable notice based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup, or the County may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the

County to finance, the Board of Supervisors shall immediately seek any state or federal funds available for such cleanup.

11.1.4. Liability for cleanup costs. - The responsible person shall be strictly liable to the County for all of the following:

- (1) The reasonable costs incurred by the County in containing and/or controlling a hazardous condition;
- (2) The reasonable cleanup costs incurred by the County as a result of the failure of the person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person;
- (3) The reasonable costs incurred by the County to evacuate people from the area threatened by a hazardous condition caused by the person;
- (4) The reasonable damages to the County for the injury to, destruction of, or loss of County property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction, or loss.
- (5) The costs referenced above shall be as determined by the fire chief for: manpower, apparatus, ambulance/rescue squad, command vehicle or utility truck, supplies and outside services, mileage, and decontamination, repairs, replacement, maintenance of equipment, apparatus or supplies, plus a reasonable administrative fee. It is unlawful for any responsible person to fail to pay a billing for such services within thirty (30) days of receipt therefor.

11.1.5 Notifications. - (a) A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Council Bluffs fire chief of the occurrence of a hazardous condition as soon as possible, but no later than one hour after the onset of the hazardous condition or discovery of the hazardous condition. The fire chief shall notify the proper state office in the manner established by the state.

(b) Any County employee who discovers a hazardous condition shall notify the fire department, which shall notify the proper state office in the manner established by the state.

11.1.6 Police authority. - If the circumstances reasonably so require, the Council Bluffs fire chief or police chief, or their representative(s), may:

- (1) Evacuate persons, even from their homes, to areas away from the site of a hazardous condition; and
- (2) Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of the fire chief or any other deputy or peace officer/law enforcement officer issued under this section.

11.1.7 County liability. - The County of Mills shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition. Except, if the County is the responsible person as defined in Section 11.1.2(7).

11.1.8 Penalty - Any person found guilty of a violation of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Chapter 5 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. This penalty shall not be the exclusive remedy of the County. In addition to this penalty, the County may pursue any other appropriate remedy as against the "responsible person."

Section 5. RENUMBERING AND TYPOGRAPHICAL ERRORS. The Mills County Board of Supervisors corrected any and all typographical errors in the Mills County Code of Ordinances as well as renumbered all the ordinances to incorporate new ordinances adopted by the Mills County Board of Supervisors since the previous compilation of the Mills County Code of Ordinances. The Mills County Board of Supervisors hereby summarily adopts any and all corrections of typographical errors in the Mills County Code of Ordinances as well as the renumbering of the ordinances comprising the newly compiled Mills County Code of Ordinances.

Section 6. REPEALER. All other ordinances, rules, regulations, or part thereof, in conflict with this ordinance are hereby repealed by this ordinance.

Section 7. SEVERABILITY. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole, or any provision thereof not adjudicated to be invalid or unconstitutional.

Section 8. CODE OF ORDINANCES. Copies of the Mills County Code of Ordinances as adopted herein shall be on file and available for public inspection in the office of the Mills County Auditor.

Section 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its final passage, approval, and publication as provided by law.

Motion carried on a roll call vote: Crouch – Aye, Kohn – Aye, Mayberry – Absent

Motion by Kohn seconded by Crouch to approve the 5 day Loess Hills Harley Davidson 2nd Anniversary liquor license beginning June 7th and ending June 12th for a Class BB beer which includes wine coolers and outdoor service.

Motion carried on a vote: Ayes: 2 Nays: 0

Motion by Kohn seconded by Crouch to approve the Briar Patch liquor license for a Class B native wine permit which includes living quarters, outdoor service and Sunday sales for a one year renewal.

Motion carried on a vote: Ayes: 2 Nays: 0

The Board received the Recorder's statement of fees for May.

Supervisor Crouch updated the Board on the Mental Health region rules that will need to be put into place by July 1, 2014.

There being no further business to come before the Board at this time, they adjourned to meet on Tuesday, June 10, 2014

Vice Chairman, Richard Crouch

ATTEST:

Carol Robertson, Auditor