

**DO NOT WRITE IN THE SPACE ABOVE, RESERVED FOR RECORDER**

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Return to Story County Planning and Development, Nevada, Iowa 50201 515-382-7210

**ORDINANCE NO. 235**

**AN ORDINANCE AMENDING SECTION 1.11(2) of THE *CODE OF ORDINANCES, STORY COUNTY, IOWA*, REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH AND ESTABLISHING AN EFFECTIVE DATE.**

BE IT HEREBY ORDAINED by the Board of Supervisors of Story County, Iowa;

Section 1: Section 1.11(2), Ordinance Adoption Procedure, is amended, as shown in Attachment A, in the manner authorized by the *Code of Ordinances, Story County, Iowa*.

Section 2: All other ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: This ordinance is in full force and effect from and after its adoption and publication as provided by law.

**Action upon FIRST Consideration:** \_\_\_\_\_  
**DATE:** \_\_\_\_\_

Moved by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_  
Voting Aye: \_\_\_\_\_  
Voting Nay: \_\_\_\_\_  
Not Voting: \_\_\_\_\_  
Absent: \_\_\_\_\_

**Action upon SECOND Consideration:** \_\_\_\_\_  
**DATE:** \_\_\_\_\_

Moved by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_  
Voting Aye: \_\_\_\_\_  
Voting Nay: \_\_\_\_\_  
Not Voting: \_\_\_\_\_  
Absent: \_\_\_\_\_

**Action upon THIRD Consideration:** \_\_\_\_\_  
**DATE:** \_\_\_\_\_

Moved by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_  
Voting Aye: \_\_\_\_\_  
Voting Nay: \_\_\_\_\_  
Not Voting: \_\_\_\_\_  
Absent: \_\_\_\_\_

ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Story County Board of Supervisors

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ATTEST: County Auditor

## CHAPTER 1

# CODE OF ORDINANCES

1.01 Title	1.09 Indemnity
1.02 Definitions	1.10 Personal Injuries
1.03 Rules of Construction	1.11 Ordinance Adoption Procedure
1.04 Extension of Authority	1.12 Catchlines and Notes
1.05 General Powers	1.13 Altering Code
1.06 Delegation of Powers	1.14 Standard Penalty
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1.08 Certifying, Recording and Filing	

**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of Story County, Iowa.

**1.02 DEFINITIONS.** Where words and phrases used in this Code of Ordinances are defined in Chapter 4 and Chapter 331 of the *Code of Iowa*, such definitions apply to their use in this Code of Ordinances and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances.

1. “Amendment” means a revision or repeal of an existing ordinance or code of ordinances.
2. “Auditor” means the County Auditor of Story County, Iowa.
3. “Assessor” means the County Assessor of Story County, Iowa.
4. “Board,” “Board of Supervisors” or “Supervisors” means the Board of Supervisors of Story County, Iowa.
5. “Board of Health” means the Board of Health of Story County, Iowa.
6. “Code” means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
7. “Code of Ordinances” means the Code of Ordinances of Story County, Iowa.
8. “County” means Story County, Iowa.
9. “County Attorney” means the Story County Attorney.
10. “County civil infraction” means a violation of a County ordinance which provides for a civil penalty as authorized by Section 331.307 of the *Code of Iowa*.
11. “County Engineer” means the Story County Engineer.
12. “May” confers a power.
13. “Measure” means an ordinance, amendment, resolution or motion. For the purposes of this Code of Ordinances, “measure” and “legislation” are synonymous. Adoption of “legislation” or a “measure” is the method used by the Board of

Supervisors to perform duties and exercise power granted by the Constitution and Laws of the State.

14. "Month" means a calendar month.
15. "Motion" means a statement of policy or an order for action to be taken. A "motion" is a proposal made to evoke action on the part of the Board of Supervisors, and if adopted, becomes the will and a resolution of the Board.
16. "Must" states a requirement.
17. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn."
18. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
19. "Ordinance" means a County law of a general and permanent nature. An "ordinance" is a local law, a rule of conduct prospective in its operation, applying to persons and things of the County.
20. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof.
21. "Preceding" and "following" mean the next before and the next after, respectively.
22. "Property" includes real property and tangible and intangible personal property unless clearly indicated otherwise.
23. "Property owner" means a person owning private property in the County as shown by the County Auditor's plats of the County.
24. "Public place" includes in its meaning (but is not restricted to) any County-owned open place, such as parks and squares.
25. "Public property" means any and all property owned by the County or held in the name of the County by any of the departments, commissions or agencies within the County government.
26. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.
27. "Recorder" means the County Recorder of Story County, Iowa.
28. "Resolution" means a statement of policy or an order for action to be taken. A "resolution" is not a local law but merely the form in which the Board of Supervisors expresses an opinion or will as to some given matter or thing, and is only to have a temporary effect. A "resolution" may be used to govern the procedures of the Board in the case of their ministerial functions and may direct performance.
29. "Shall" imposes a duty.
30. "State" means the State of Iowa.
31. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.

32. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.
33. "Treasurer" means the County Treasurer of Story County, Iowa.
34. "Writing" or "written" includes printing, typing, lithographing or other mode of representing words and letters.
35. "Year" means a calendar year.

**1.03 RULES OF CONSTRUCTION.** In the construction of this Code of Ordinances, the rules of statutory construction as set forth in Chapter 4 of the *Code of Iowa* shall be utilized to ascertain the intent of the Board of Supervisors with the understanding that the term "statute" as used therein will be deemed to be synonymous with the term "ordinance" when applied to this Code of Ordinances.

**1.04 EXTENSION OF AUTHORITY.** Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

**1.05 GENERAL POWERS.** The County may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the County and of its residents, and preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

*(Code of Iowa, Sec. 331.301)*

**1.06 DELEGATION OF POWERS.** The Board of Supervisors shall not delegate legislative powers, or any power vested by State statute or rule exclusively in the Board or in any other County officer or agency, except as authorized by Chapter 28E of the *Code of Iowa*. The Board may delegate administrative functions and some discretion may be vested in a County official or agency in the exercise of these functions. County officers and agencies may review administrative decisions when requested by the Board and recommend action.

**1.07 LEGISLATIVE CONSIDERATION.** Legislation may be effectively introduced, filed, discussed, amended, changed, read, adopted or otherwise considered at any session of the Board of Supervisors subject to the limitations of Section 331.302 of the *Code of Iowa*. Publication and notice requirements must be in compliance with Sections 331.302, 331.305 and Chapter 21 of the *Code of Iowa*. Legislation may be considered for a reasonable length of time after filing provided there is reasonable continuity in the consideration. Irregular acts of the Board may be corrected at subsequent meetings prior to final passage. Actions may be reconsidered until the final vote on that action. Actions may be rescinded before the legislation becomes effective or at any time unless vested personal or property rights will be affected. Actions may be repealed or amended in accordance with Section 331.302 of the *Code of Iowa*. Legislative acts are prospective.

**1.08 CERTIFYING, RECORDING AND FILING.**

1. Motion. Action of the Board in the form of a motion will be recorded as required by Section 331.302 of the *Code of Iowa*, in summary form.
2. Resolution. Action of the Board in the form of a resolution will be certified, recorded and filed as required by Section 331.302 of the *Code of Iowa*. A preamble, prefatory statement or explanation of a resolution, if employed, shall not be a substantive part of a resolution, and may be omitted from entry in the “minute book” and from publication of the Board of Supervisors proceedings. Copies of adopted resolutions will be delivered to agencies, officers and other persons as required by law or as directed by the Board.
3. Ordinances and Amendments of Ordinances. Action of the Board in the form of an ordinance, amendment of an ordinance, Code of Ordinances or a supplement to the Code of Ordinances will be certified, recorded and filed in accordance with Section 331.302 of the *Code of Iowa*.

**1.09 INDEMNITY.** The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the County and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the County whether expressly recited therein or not.

**1.10 PERSONAL INJURIES.** When action is brought against the County for personal injuries alleged to have been caused by its negligence, the County may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the County believes that the person notified is liable to it for any judgment rendered against the County, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the County against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the County to the plaintiff in the first named action, and as to the amount of the damage or injury. The County may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the County in the suit.

**1.11 ORDINANCE ADOPTION PROCEDURE.**

1. Application of Section. The procedures in this section shall be used by the Board of Supervisors of Story County, Iowa, for the adoption or amendment of all ordinances in the County.
2. Procedure for Consideration; Adoption and Publication.

~~A. A proposed ordinance must be considered and receive a favorable vote by a majority of the supervisors at two regular meetings of the Board. A proposed ordinance shall be considered and receive a favorable vote for passage in accordance with Section 331.302(6) of the Code of Iowa, as amended.~~

B. The title of the proposed ordinance shall be published ~~at least 15 days~~ in accordance with Section 331.305 of the Code of Iowa, as amended, prior to its first consideration by the Board. Copies of the full text of the ordinance shall be made available to the public at the time of publication at the office of the County Auditor, and the published notice shall specify where such copies may be obtained.

~~C. The title of the ordinance shall be published at least 15 days before the meeting at which the second and final consideration of the ordinance is scheduled.~~

~~D.C. A summary of the ordinance or the complete text of the ordinance, in accordance with Section 331.302(8) of the Code of Iowa, as amended. The complete ordinance shall be published not more than 10 days following its final passage.~~

~~E.D. If, during consideration of an ordinance, a substantial change is made by amendment, the amended ordinance shall be made available at the office of the County Auditor, with the change indicated, no less than three work days following the date of the change.~~

3. Amendment. All ordinances which amend, repeal or in any manner affect this Code of Ordinances shall include proper reference to chapter, section, subsection, or paragraph to maintain an orderly codification of ordinances of the County, and shall set forth in full the chapter, section, subsection, or paragraph, as amended. Procedure for consideration and publication of amendments shall be as set forth in subsection 2 above for proposed ordinances.

4. Majority Requirement. Passage of an ordinance or of an amendment to an existing ordinance requires an affirmative vote of at least a simple majority of all Story County Supervisors. Each member's vote on an ordinance must be recorded in the Board's official minutes.

5. Effective Date. Ordinances or amendments adopted pursuant to the procedures stated herein and signed by the supervisors voting for adoption shall become effective upon publication, unless a subsequent effective date is provided by the ordinance or amendment.

6. Maintenance and Publication. The County Auditor shall cause all publications required by subsection 2 of this section to be published in at least one newspaper having general circulation in the County. Each ordinance or amendment concerning zoning or similar matters affecting land records and titles shall be recorded by the County Recorder. All adopted and amended ordinances shall be printed or otherwise reproduced for adequate distribution.

**1.12 CATCHLINES AND NOTES.** The catchlines of the several sections of the Code of Ordinances, titles, headings (chapter, section and subsection), editor's notes, cross references and State law references, unless set out in the body of the section itself, contained in the Code

of Ordinances, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

**1.13 ALTERING CODE.** It is unlawful for any unauthorized person to change or amend by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code of Ordinances in any manner whatsoever which will cause the law of the County to be misrepresented thereby.

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.

*(Code of Iowa, Sec. 331.302[2])*

**1.15 SEVERABILITY.** If any section, provision or part of the Code of Ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the Code of Ordinances as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

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