RESOLUTION 26-16 FIXING THE DATE FOR A PUBLIC HEARING ON THE PROPOSITION TO REPEAL ORDINANCE NO. 2023-01 (AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE 2013 EMMET COUNTY ZONING ORDINANCE FOR THE PURPOSE OF REGULATING AND RESTRICTING THE USE OF LAND FOR THE TRANSPORT OF HAZARDOUS LIQUID THROUGH A HAZARDOUS LIQUID PIPELINE), AND PROVIDING FOR THE PUBLICATION OF NOTICE THEREOF.

WHEREAS, on March 7, 2023, the Emmet County Board of Supervisors enacted Emmet County Ordinance No. 2023-01, An Ordinance Amending Various Sections of the 2013 Emmet County Zoning Ordinance for the Purpose of Regulating and Restricting the Use of Land for the Transport of Hazardous Liquid through a Hazardous Liquid Pipeline; and

WHEREAS, various other Iowa counties enacted their own ordinances regulating hazardous liquid pipelines in or around this same time, including Shelby County, Iowa, and Story County, Iowa; and

WHEREAS, a company endeavoring to install a hazardous liquid pipeline within Emmet County challenged Emmet County's Ordinance No. 2023-01 in U.S. District Court for the Northern District of Iowa, by filing a lawsuit against the County, the Board of Supervisors, and the Supervisors in their official capacities; and

WHEREAS, at the time, ordinances enacted by Shelby County, Iowa, and Story County, Iowa, were already being challenged on similar grounds in separate legal actions brought before the U.S. District Court for the Southern District of Iowa; and

WHEREAS, the case against Emmet County in federal court for the Northern District of Iowa was stayed (paused) pending the outcome of the similar cases pending in federal court for the Southern District of Iowa; and

WHEREAS, the U.S. District Court for the Southern District of Iowa heard the two cases challenging Shelby and Story Counties' ordinances together and found the ordinances were both preempted by either federal law, state law, or both; and

WHEREAS, Shelby County and Story County both sought further review of the District Court's decisions before the United States Court of Appeals for the 8th Circuit; and

WHEREAS, a three-judge panel of the Eighth Circuit Court of Appeals upheld the District Court's finding of federal preemption, but for different reasoning, in *Couser, et al. v. Shelby County., et al.*, Nos. 23-3758 & 23-3760 (June 5, 2025); and

WHEREAS, all appellate options have now been exhausted by Shelby County and Story County; and

WHEREAS, Emmet County's Ordinance No. 2023-01contains provisions similar or substantially similar to the ordinances held to be preempted in the federal court's ruling; and

WHEREAS, the County recognizes the decision is likely dispositive as to any outstanding questions on the validity and legality of its own Ordinance No. 2023-01, and, as a result and in the interests of good governance, now wishes to repeal Ordinance No. 2023-01; and

WHEREAS, on April 21, 2026, the Planning and Zoning Commission met and held a public hearing on the proposal to repeal Ordinance No. 2023-01; and

WHEREAS, on the Planning and Zoning Commission has reviewed and recommended approval of the proposed repeal of Ordinance No. 2023-01; and

WHEREAS, Iowa Code chapter 335 requires notice of the time and place of a public hearing on the proposal to repeal the County's Ordinance No. 2023-01, a zoning ordinance, to be published as provided in section 331.305.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF EMMET COUNTY, STATE OF IOWA:

1. That this Board shall meet in the Supervisors Room, Emmet County Courthouse, 609 1st Avenue North, Estherville, IA 51334, at 9:00 A.M., on May 12, 2026, for the purpose of hearing public comment on and for considering and voting on the passage of the proposed amendment.

2. That the Auditor is hereby directed to cause at least one publication to be made of a notice of the meetings, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in the County. The publication to be not less than four clear days nor more than twenty days before the date of the public meeting on the proposed amendment.

3. That the notice of the proposed action shall be in substantially the following form:

(To be published on May 6 & 7, 2026)

NOTICE OF A PUBLIC HEARING BEFORE THE BOARD OF SUPERVISORS OF EMMET COUNTY, STATE OF IOWA, ON THE PROPOSITION TO REPEAL ORDINANCE NO. 2023-01 (AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE 2013 EMMET COUNTY ZONING ORDINANCE FOR THE PURPOSE OF REGULATING AND RESTRICTING THE USE OF LAND FOR THE TRANSPORT OF HAZARDOUS LIQUID THROUGH A HAZARDOUS LIQUID PIPELINE), FOLLOWING A FINAL COURT ORDER FINDING SUBSTANTIALLY SIMILAR COUNTY ORDINANCES TO BE PREEMPTED BY FEDERAL LAW

PUBLIC NOTICE is hereby given that the Board of Supervisors of Emmet County, State of Iowa, will meet in the Supervisors Room, Emmet County Courthouse, 609 1st Avenue North, Estherville, IA 51334, at 9:00 A.M., on May 12, 2026, for the purpose of hearing public comment on and for considering and voting on the passage of a proposed ordinance repealing Emmet County Ordinance No. 2023-01, An Ordinance Amending Various Sections of the 2013 Emmet County Zoning Ordinance for the Purpose of Regulating and Restricting the Use of Land for the Transport of Hazardous Liquid Through a Hazardous Liquid Pipeline, following a final court ruling finding substantially similar county ordinances to be preempted by federal law.

At the above meeting the Board shall receive oral or written comments or objections from any resident or property owner of the County to the above action. After all comments and objections have been received and considered, the Board will at the meeting or at any adjournment thereof, consider and vote on the passage of the proposed repeal.

This notice is given by order of the Board of Supervisors of Emmet County, State of Iowa, as provided by chapters 335 and 331 of the Code of Iowa.

Dated this 28th day of April, 2026.

Heidi M. Goebel
County Auditor, Emmet County, State of Iowa

(End of Notice)

PASSED AND APPROVED this 28th day of April, 2026.

Chairperson

ATTEST:

County Auditor