**ORDINANCE NO. 2026-02**

**AN ORDINANCE REPEALING EMMET COUNTY ZONING 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 COURT RULING FINDING SIMILAR ORDINANCES TO BE PREEMPTED BY FEDERAL LAW.**

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, while Emmet County remains concerned with the impact of the Eighth Circuit's ruling on local power, generally, and land use, specifically, 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.

NOW THEREFORE, BE IT ENACTED BY THE SUPERVISORS OF EMMET COUNTY, IOWA THAT:

SECTION 1. 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, is hereby repealed in its entirety and shall no longer have any force or effect.

SECTION 2: REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

SECTION 3: SEVERABILITY CLAUSE. 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 while or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4: EFFECTIVE DATE. This Ordinance No. 2026-02 repealing Ordinance 2023-01, as adopted, shall be in effect from and after its final passage, approval, and publication as provided by law.

First Reading Passed: May 12, 2026

Second Reading Passed: waived

Third Reading Passed: waived

Passed and adopted this 12th day of May, 2026.

Lisa Hansen, Chairperson

ATTEST:

Heidi Goebel, County Auditor or Designee

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