

RESOLUTION NO. 2022-39

RESOLUTION APPROVING THE 28E ANNEXATION MORATORIUM AGREEMENT BETWEEN THE CITY OF SWISHER AND THE CITY OF CEDAR RAPIDS, AS ALLOWED PER IOWA STATE CODE 368

WHEREAS, Cedar Rapids and Swisher have heretofore deemed it necessary and desirable to establish an agreement for annexation in order to provide the best opportunity for orderly planning, development and the provision of municipal services within an area of unincorporated Linn County and Johnson County that borders both cities; and

WHEREAS, to that end, the cities desire to establish an annexation boundary to allow for both cities to engage in long range planning for this area and to efficiently provide municipal infrastructure and services to the area; and

WHEREAS, pursuant to section 368.4 of the Code of Iowa (2013), the cities desire to formally enter into a moratorium agreement for a period of ten (10) years from the effective date of this Agreement;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SWISHER, IOWA, that said 28E Annexation Moratorium Agreement is hereby approved and the Mayor and City Clerk are authorized and directed to execute the same of behalf of the City.

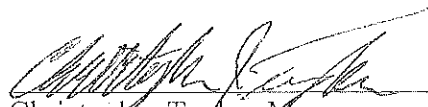
On the 25th day of July 2022, at a regular meeting of the Swisher City Council, Swisher, Iowa, Councilperson Stagg introduced RESOLUTION NO. 2022-39, and made a motion for approval. The motion was seconded by Councilperson Heims.

Roll Call Vote	Absent	Aye	Nay	Abstain
Mary Gudenkauf	✓			
Kris Heims		✓		
Rebekah Neuendorf		✓		
Kody Pudil		✓		
Mike Stagg		✓		

Motion Carried.

WHEREUPON, the Mayor declared that RESOLUTION NO. 2022-39, be adopted and signified his approval of the same by affixing his signature thereto.

PASSED, by the Council on the 25th day of July 2022, and approved by the Mayor on the 25th day of July 2022.


Christopher Taylor, Mayor

ATTEST:


Tawnia Kakacek, City Clerk/Finance Officer

ANNEXATION 28E AGREEMENT

THIS AGREEMENT entered into by and between the City of Cedar Rapids, Iowa, hereafter referred to as "Cedar Rapids"; and the City of Swisher, Iowa, hereafter referred to as "Swisher."

WHEREAS, Cedar Rapids and Swisher have heretofore deemed it necessary and desirable to establish an agreement for annexation in order to provide the best opportunity for orderly planning, development and the provision of municipal services within an area of unincorporated Johnson and Linn Counties that borders both cities; and

WHEREAS, to that end, the cities desire to establish an annexation boundary to allow for both cities to engage in long range planning for this area and to provide municipal infrastructure and services to the area; and

WHEREAS, a previous fringe area agreement, adopted in July, 2004 by both cities and Johnson County expired in July, 2019; and

WHEREAS, Cedar Rapids and Swisher has negotiated a common boundary for future growth

WHEREAS, in addition, pursuant to section 368.4 of the Code of Iowa (2022), the cities desire to formally enter into a moratorium agreement for a period of ten (10) years from the effective date of this Agreement;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Purpose.** It is in the public interest of the Citizens of Cedar Rapids, the Citizens of Swisher, and the Citizens of Linn and Johnson Counties that are within the areas set out below (and illustrated in the attached Exhibit A) to establish this Annexation Agreement in order to provide for effective planning, orderly development, and efficient delivery of municipal services along the common future boundary of Cedar Rapids and Swisher.
2. **Extent of Agreement.** This Annexation Agreement shall apply to all unincorporated lands west of Interstate 380 and east of Echo Ave NW in Johnson County and east of Tissel Hollow Rd SW in Linn County as depicted in Exhibit A. No part of this Agreement shall be applied to any other common boundary or future growth area between or adjacent to Cedar Rapids and Swisher.
3. **Annexation Boundary.** Cedar Rapids and Swisher hereby agree upon the establishment of an Annexation Boundary, depicted in Exhibit A, which is attached hereto and incorporated into this Agreement by this reference and legally described as follows:

BEGINNING AT THE SOUTHEAST CORNER OF AUDITOR'S PARCEL 2015055 AS WAS RECORDED IN THE JOHNSON COUNTY RECORDER'S OFFICE IN BOOK 59, PAGE 282, BEING A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. INTERSTATE 380 AND LOCATED WITHIN THE NE ¼ OF THE SW ¼ OF SECTION 4, TOWNSHIP 81 NORTH, RANGE 7 WEST OF THE 5TH PRICIPAL MERIDIAN, JOHNSON COUNTY, IOWA; THENCE WESTERLY A DISTANCE OF 1786.74' MORE OR LESS ALONG

THE SOUTH LINE OF SAID AUDITOR'S PARCEL 2015055 AND THE WESTERLY EXTENSION THEREOF TO A POINT ON THE CENTERLINE OF HIGHWAY 965 NW; THENCE SOUTHERLY ALONG SAID CENTERLINE OF HIGHWAY 965 NW A DISTANCE OF 329 FEET MORE OR LESS TO A POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE SOUTH LINE OF THE NE ¼ OF THE SE ¼ OF SECTION 5, TOWNSHIP 81 NORTH, RANGE 7 WEST OF THE 5TH PRICIPAL MERIDIAN, JOHNSON COUNTY, IOWA; THENCE WESTERLY ALONG SAID EASTERLY EXTENSION AND ALONG THE SOUTH LINE OF THE NE ¼ OF THE SE ¼ OF SAID SECTION 5 TO THE SOUTHWEST CORNER THEREOF; THENCE NORTHERLY ALONG WEST LINE OF THE NE ¼ OF THE SE ¼ OF SAID SECTION 5 TO THE NORTHWEST CORNER THEREOF; THENCE NORTHERLY ALONG WEST LINE OF THE SE ¼ OF THE NE ¼ OF SAID SECTION 5 TO THE NORTHWEST CORNER THEREOF; THENCE NORTHERLY ALONG WEST LINE OF THE NE ¼ OF THE NE ¼ OF SAID SECTION 5 TO THE NORTHWEST CORNER THEREOF BEING A POINT ON THE NORTH LINE OF SAID SECTION 5; THENCE WESTERLY ALONG SAID NORTH LINE TO THE NORTHWEST CORNER OF SAID SECTION 5 ALSO BEING THE NORTHEAST CORNER OF SECTION 6, TOWNSHIP 81 NORTH, RANGE 7 WEST OF THE 5TH PRICIPAL MERIDIAN; THENCE WESTERLY ALONG THE NORTH LINE OF SAID SECTION 6 AND BEING ALONG THE CENTERLINE OF LINN JOHNSON ROAD NW, TO THE NORTHWEST CORNER OF SAID SECTION 6, ALSO BEING THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 81 NORTH, RANGE 8 WEST OF THE 5TH PRICIPAL MERIDIAN; THENCE WESTERLY ALONG THE NORTH LINE OF SAID SECTION 1 AND BEING ALONG THE CENTERLINE OF LINN JOHNSON ROAD NW, TO THE NORTHWEST CORNER OF SAID SECTION 1, ALSO BEING THE NORTHEAST CORNER OF SECTION 2, TOWNSHIP 81 NORTH, RANGE 8 WEST OF THE 5TH PRICIPAL MERIDIAN; THENCE WESTERLY ALONG THE NORTH LINE OF THE NE ¼ OF SAID SECTION 2 AND BEING ALONG THE CENTERLINE OF LINN JOHNSON ROAD NW, TO THE NORTH ¼ CORNER OF SAID SECTION 2 BEING THE POINT OF INTERSECTION WITH ECHO AVENUE NW (TISSEL HOLLOW ROAD).

All unincorporated territory located to the north and east of the Annexation Boundary herein described shall be referred to as "**Area A**"

All unincorporated territory located to the south and west of the Annexation Boundary herein described shall be referred to as "**Area B**"

(Note: The intent of the term “Center Line” in these descriptions is to indicate the referenced line coincides with the applicable quarter section or quarter/quarter section lines between the referenced fractional parts of the sections.)

4. **Annexation Moratorium** Cedar Rapids and Swisher hereby agree to the following with respect to the three areas depicted in Exhibit A:

Area A: Swisher shall not annex property in Area A for the term of this Agreement and any extensions hereto. Cedar Rapids may use any form of annexation legally available to it under applicable state law to annex property in Area A, without objection from Swisher.

Area B: Cedar Rapids shall not annex property in Area B for the term of this Agreement and any extensions hereto. Swisher may use any form of annexation legally available to it under applicable state law to annex property in Area B, without objection from Cedar Rapids.

5. **Applicability of Agreement.** This Agreement is applicable to all annexation proceedings, whether voluntary or involuntary, any pending annexation applications currently before the City Development Board, and any annexation proceedings commenced after the effective date of this Agreement. All such proceedings that have been commenced by either city, but not completed, shall be amended to comply with the terms of this Agreement. Furthermore, any portion of any petition for annexation, whether voluntary or involuntary, in conflict with the terms of this Agreement shall be terminated and withdrawn by the petitioning city. For the purposes of this Section 5, completion of annexation shall mean the approval by the City Development Board, expiration of appeal period and recording of the annexation petition/application in the Office of the Linn County or Johnson County Recorder prior to the effective date of this agreement.

Both Cedar Rapids and Swisher expressly agree not to annex territory in violation of the terms of this Agreement. Each city, its officials, agents and representatives, expressly agree not to aid or support in any way, any person, party, agency or governmental body who may oppose, enjoin or obstruct the other city in pursuit of any annexation that conforms to this Agreement.

6. **Extraterritorial Subdivision Plat Review.** Notwithstanding which city is located closer to any proposed subdivision or rezoning in unincorporated Linn or Johnson Counties, Cedar Rapids and Swisher agree that pursuant to Iowa Code Section 354.9:

Area A: Proposed subdivision plats and land-use shall be reviewed by Cedar Rapids only. Cedar Rapids agrees to provide requests in Area A to Swisher for review and informal comment. Swisher agrees to provide comment on proposals within 30 business days.

Area B: Proposed subdivision plats and land-use shall be reviewed by Swisher only. Swisher agrees to provide requests in Area B to Cedar Rapids for review and informal comment. Cedar Rapids agrees to provide comment on proposals within 30 business days.

7. **Municipal Utilities.** Both cities agree that the intent of this agreement is that land to be annexed shall be served by municipal utilities of the annexing community.
8. **Rights and Obligations.** This Agreement creates rights and obligations only among these two parties as political subdivisions and is to be interpreted, applied or enforced by these entities only. This Agreement is not intended and shall not be interpreted to create any rights, title or interest in any other person, firm, corporation, or entity, whether or not a resident or taxpayer of any city, and whether directly or as a third party beneficiary.
9. **Statutory Authority.** This Agreement is entered into pursuant to Chapter 368 of the Code of Iowa (2022).
10. **Effective Date and Duration.** The effective date of this Agreement shall be the later of the dates of the Resolutions approving this Agreement, as shown herein. Prior to approval, each city is required to provide written notice to the Iowa City Development Board, the Johnson County Board of Supervisors, and Linn County Board of Supervisors, public notice of said Agreement in each city's official newspaper and to hold hearings as required by Section 368.4 of the Code of Iowa (2022) to ensure that this Agreement meets the requirements of a Moratorium Agreement. This agreement shall remain in force and effect for a period of ten (10) years following the effective date of this Agreement. Within ten (10) days following the effective date of this Agreement, the City Clerk of Cedar Rapids and the City Clerk of Swisher shall file a copy of this Agreement with the Iowa City Development Board.
11. **Extensions.** The Cities agree to regularly review this Agreement and anticipate extending the Agreement periodically for the maximum time permitted by state law, so long as this Agreement continues to serve the long term interest of both cities, as determined by the City Council of each city respectively.
12. **Amendment and Extension.** All amendments and extensions must be in writing and signed by both parties hereto.
13. **Severability.** If any section, provision or part of this Agreement shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Agreement as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.
14. **Approval by Resolution.** Attached hereto as Exhibits B and C are copies of the resolutions of the City Councils of Cedar Rapids and Swisher respectively.
15. **Filing.** This Agreement shall be filed with the Iowa Secretary of State as provided by law.

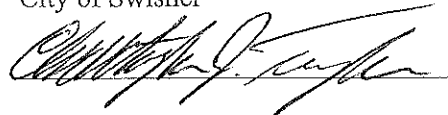
City of Cedar Rapids

City Mayor

ATTEST:

City Clerk

City of Swisher



City Mayor

ATTEST:



City Clerk

Cedar Rapids - Swisher Annexation Moratorium

Author: City of Cedar Rapids
May 10, 2022

