

ORDINANCE # 300B

AN ORDINANCE REPEALING KOSSUTH COUNTY ORDINANCE # 300 A (AN ORDINANCE AMENDING VARIOUS PROVISIONS OF KOSSUTH COUNTY ZONING ORDINANCE # 300 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 SIMILAR ORDINANCES TO BE PREEMPTED BY FEDERAL AND STATE LAW

WHEREAS, on December 26, 2023, the Kossuth County Board of Supervisors adopted Kossuth County Ordinance # 300 A, An Ordinance Amending Various Provisions of the Kossuth County Zoning Ordinance # 300 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 Kossuth County challenged Kossuth County's Ordinance # 300 A in the 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 U.S. District Court for the Southern District of Iowa heard the two cases challenging Shelby County and Story County's ordinances together and found the ordinances were preempted by both federal and state law; and

WHEREAS, Shelby County and Story County appealed the District Court's decisions to the United States Court of Appeals for the Eighth Circuit; and

WHEREAS, the case against Kossuth County in the U.S. District Court for the Northern District of Iowa was stayed (paused) pending the outcome of Shelby County and Story County's appeal; and

WHEREAS, a three-judge panel of the Eighth Circuit Court of Appeals upheld the District Court's finding of federal and state preemption of Shelby County and Story County's ordinances in the case entitled *Couser v. Shelby County, Iowa*, 139 F.4th 664 (8th Cir. 2025); and

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

WHEREAS, Kossuth County's Ordinance # 300 A contains provisions substantially similar to the ordinances held to be preempted in the Eighth Circuit's ruling; and

WHEREAS, while Kossuth 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 # 300 A and, as a result and in the interests of good governance, now wishes to repeal Ordinance # 300 A.

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

SECTION 1. Kossuth County Ordinance # 300 A, An Ordinance Amending Various Provisions of the Kossuth County Zoning Ordinance # 300 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. All provisions of the Kossuth County Zoning Ordinance # 300 not amended by Ordinance # 300 A shall remain in full force and 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 whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4: EFFECTIVE DATE. This Ordinance shall take effect upon final passage, approval, and publication as provided by law.

First Reading Passed: 6.9.26

Second Reading Passed: Waived 6.9.26

Third Reading Passed: Waived 6.9.26

Passed and adopted this 9 day of June, 2026.


Carter Nath, Chairperson

ATTEST:


Tammy Eden, County Auditor or Designee