

# THE ICAP UPDATE

For members. For Iowans.



Sweet, sweet summertime. It's different, but it's here.

#icapiowa



### Letter from the Editor

Many of us look forward to an Iowa summer each year. We long for it through winter. We anticipate its arrival in spring. And we mourn its departure when we reach the depths of fall.

I don't know about you, but I've certainly had questions when considering what this summer might mean. What will it look like? Where will it take me? And to what might I be exposed?

These are all part of my circle of thoughts, which stem from all that is happening in the world right now.

Each time they pop into my head, I make a conscious effort to focus on all the positives instead. And there are positives.

This is summer in Iowa, folks! It is a season that regularly takes us, Iowans, out of the norm. And I have every confidence this year will be no exception.

This summer, like so many before it, will be engaging, yet peaceful. It will be active, yet relaxing. Community-oriented, but still full of time - and space - to be on our own.

Rather than stress about the "new normal," and what it might mean as we move further into the year, I have chosen to focus on everything around me instead.

This is the time to slow down and cycle the path you haven't yet explored. It is the time to savor the smell of fresh-cut grass, and the sounds of birds in the trees. It is the time to head out an early-morning walk, and to wave to your neighbors as you go by. It is the time to enjoy your community - albeit from a distance - because community isn't about proximity. It's about engagement.

This is a time to be engaged. It is a time to explore, and to relish in all that our local communities have to offer.

On behalf of the ICAP team, we hope you stay safe this summer, and we hope you are able to enjoy some of the many wonderful offerings that are a part of the communities in this great state.

Megan Hirst  
Marketing, Communications & Events

#icapiowa

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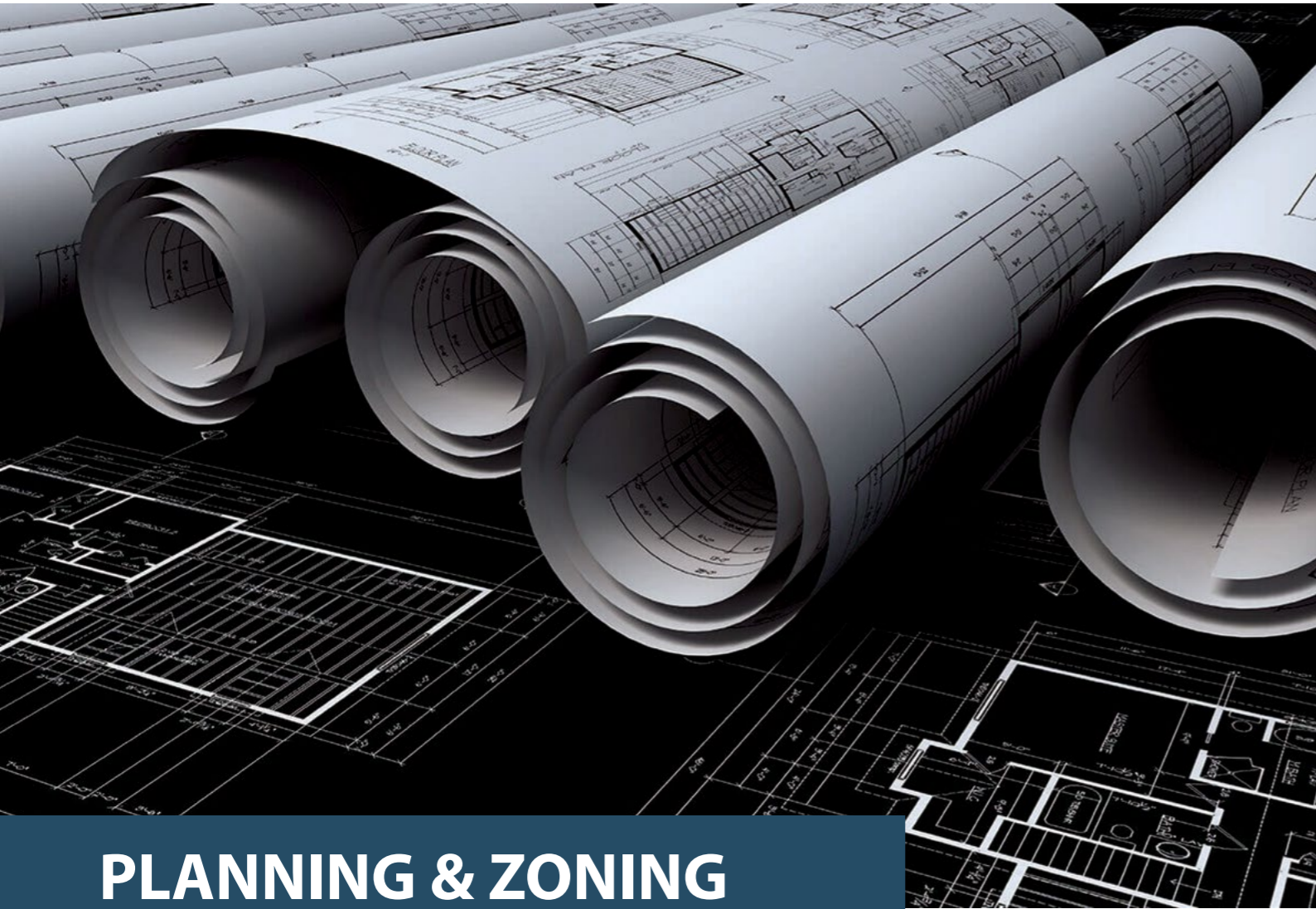
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# PLANNING & ZONING WORKSHOPS for members

## Intro Workshops + Uplevelled Courses

ICAP will once again cover the cost for member representatives who wish to attend Intro to Planning & Zoning Workshops. In addition, the Pool is offering “uplevelled” courses for all members of the Pool. Read on to learn more!



Register online: [www.icapiowa.com/planningworkshop](http://www.icapiowa.com/planningworkshop)

## Already attended the Intro Workshop? It's time to uplevel.

On Thursday, July 30, ICAP will host an “uplevelled” Planning & Zoning Workshop to address two bills, HF 2512 and HF 2477.

Together, these bills represent significant changes to county zoning. As such, we strongly encourage all member counties to register at least one representative to participate.

Please note attendance is not limited for this workshop, which will last from 1-2:30 PM. ICAP is sponsoring the event exclusively for ICAP members, and will allow any number of member representatives to attend.

To learn more about the implications of HF 2512 and HR 2477, please find the [website for ISU Extension and Outreach](http://extension.iastate.edu) via [extension.iastate.edu](http://extension.iastate.edu).

To register for the workshop, visit [www.icapiowa.com/planningworkshop](http://www.icapiowa.com/planningworkshop).

Additional workshops will be announced later in the year.

Those wishing to attend a workshop can register via the ICAP website.

Please note registration closes one week prior to the workshop. This is to ensure ISU Extension and Outreach has time to mail course materials to the registered participant.

Any number of representatives from a given member entity can register, provided registration is completed at least one week prior to the course dates.

To learn more, please visit the ICAP website via the link above, or email ICAP via [info@icapiowa.com](mailto:info@icapiowa.com).

The State of Iowa has multiple laws related to Planning and Zoning. Each has implications for Iowa public entities, which means your entity must not only be familiar with, but fully understand, the intents and limitations of such laws. This is essential, not only for purposes of land development, but also to limit liability and mitigate potential claims.



**LAST YEAR**, the ICAP Board of Directors covered the registration fees for member representatives to attend designated Intro to Planning & Zoning Workshops offered by Iowa State University Extension and Outreach.

Based on feedback from the member representatives who attended those sessions, the ICAP Board has elected to once again sponsor registrations for member representatives to participate in the digital Planning & Zoning Workshops ISU Extension is offering each month.

Per ISU’s Extension & Outreach, the Introduction to Planning and Zoning for Local Officials workshop is a three-hour session designed to introduce the basic principles of land use planning and development management to elected officials, planning and zoning officials, and board of adjustment members who do not have formal training in the subjects.

Using case scenarios, each workshop highlights issues frequently faced in the land use process, such as the roles and responsibilities of the planning and zoning commission, the board of adjustment, and the elected council and board of supervisors.

The course presenter utilizes a highly-interactive format to ensure participants are engaged throughout the workshop, and able to retain the information they need when the workshop is done.

ISU Extension offers the Intro to Planning & Zoning Workshops once per month, including on the upcoming dates:

- Tuesday, August 18, from 1-4 PM
- Tuesday, September 8, from 1-4 PM
- Tuesday, October 13, from 1-4 PM



## Member Events

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- **Law Enforcement Training Sessions**

All training sessions are hosted without charge to member entities. Notice of each training session is sent out to hundreds of law enforcement officers throughout the state, and registration is processed through online ([www.icapiowa.com/regional-training](http://www.icapiowa.com/regional-training)). Make sure you're on our mailing list! If you aren't - or are unsure whether you are - simply email [info@icapiowa.com](mailto:info@icapiowa.com) with a request to be added.

- **Planning & Zoning Workshops (see page 4 for additional information)**

Take a look at the previous page for additional information. Remember: registration for each workshop closes one week prior to the workshop date. Register early to ensure you don't miss out!

# Let's Get Physical Digital

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In light of the ongoing pandemic, ICAP events will be hosted online through the end of the year.

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Earlier this year, we, like so many others, scrambled to cancel events and make alternative arrangements as COVID-19 made its way to our figurative doors.

In the months since, the deadly disease has made it clear that its future will not be charted, and its presence will not easily be eliminated.

The health and safety of all Iowans is our top priority, and we do not wish to impose any undue pressure or potential risk(s) on the individuals who participate in and/or attend our training sessions and events.

As a result, we have elected to host all events digitally through the end of this year.

Additional information will be provided in advance of each event. For now, please be aware this includes the law enforcement training sessions ICAP hosts; Planning and Zoning Workshops; our annual Agent Seminar; Part II of the ICAP Agent Academy; and more.

For additional information, please view the page at right. Email [info@icapiowa.com](mailto:info@icapiowa.com) if you have questions or wish to learn more.

## Agent Events

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- **ICAP Agent Seminar**

This will mark the first time the annual event has been hosted digitally. Despite the online venue, the event on November 5<sup>th</sup> will follow a similar format as previous events, and CE credits will once again be provided. Agents, look for additional information soon!

- **Quarterly CE Webinars**

Our webinars have been, well, webinars since we first started hosting them, so no change here! We just wanted to squeeze in notice of the sessions coming up. Mark your calendars for August 20 and October 22, then register online via [www.icapiowa.com/webinar](http://www.icapiowa.com/webinar).

- **ICAP Agent Academy - Part II**

Part I of the 2020 Agent Academy was hosted online earlier this year, and we could not have been more pleased with the event. Part II will follow a similar format, and will take place via Zoom on Thursday, September 10.

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// The health and safety of all Iowans is our top priority.

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# Equipment Breakdown

## Returning Idle Equipment to Service After an Extended Shutdown

**RETURNING EQUIPMENT** to normal operation after an extended idle period, such as following the COVID-19 pandemic, can increase the risk of equipment failure, particularly during startup. Different types of deterioration, such as sagging of rotating elements and migration of lubrication – caused largely by gravity – as well as oxidation of metal parts, can occur.

In most cases, building services equipment (HVAC, plumbing systems, etc.) will have remained in service during the shutdown. Whether or not these systems were shut down, their proper operation should be verified before re-occupancy of the building(s).

Here are a few steps to help you get started:

- Qualified contractors or employees familiar with the proper operation of the equipment should **verify that the equipment has no sign of leakage**, that it is maintaining proper operating temperature, and that fluid levels are sufficient. Where applicable, equipment cycling should occur within the normal operation parameters.
- Electricians should **restore electrical loads slowly** to prevent damage to electrical systems. Maintenance personnel should monitor equipment operation as power is restored.
- **Investigate any unexpected conditions** and resolve them prior to further operation. Normal preventive maintenance steps should be taken, and a schedule of maintenance reestablished.
- **Test emergency systems**, such as emergency power generators, as soon as practical for proper operation in accordance with original equipment manufacturer (OEM) guidelines and normal practices. A service contractor or qualified technician should observe testing of the emergency equipment.

## Restoration of Equipment to Service

**THE NECESSARY STEPS** to restore equipment to normal service following an extended period will depend on the amount and type of usage the equipment experienced during the shutdown.

For equipment that was shut down and not used:

- Consult OEM guidance for initial setup or returning equipment to service.
- Develop a checklist for the equipment restoration process, including verification of oil and coolant levels, removal of desiccant, checking for obstructions such as blocking or strapping that was placed to prevent unwanted movement, etc.
- Replace lubricants and cooling fluids for critical equipment, if necessary.
- Consult manufacturer's guidelines for startup and break-in periods. Most equipment should not be operated at full capacity on restart.
- Test installed safeguards, controls and interlocks as applicable during the restoration process.
- For close tolerance machinery, calibration and alignment checks may be needed to help ensure sensors and measuring devices are functioning properly.
- If possible, verify that moving parts of each piece of equipment are free and unobstructed prior to energizing.
- Continuously monitor parameters for proper operation (fluid levels, oil pressure, temperature, etc.) during the startup process.
- Increase the inspection frequency following restoration to service until normal operating conditions are established.

If additional questions arise as equipment is returned to normal operation, please reach out to your local agent for more information.

ICAP provides coverage for Equipment Breakdown under Section IV of the Governmental Property Agreement (GPA). This includes coverage for and resulting from equipment failure or breakdown vs damage that would otherwise be covered under Section II of the GPA.

## It's worth noting...

This information is relevant to more than just the ongoing pandemic.

We recognize a number of systems and machinery were shut down and/or not utilized for several weeks earlier this year, and that the majority of those systems will have returned to normal service at this point.

It is important to note, however, this information applies to all systems that go through periods of non-use each year.

Ever heard the term "winterize?" We're Iowans, so of course!

We often use it in reference to the steps we take before putting a car, motorcycle or boat in storage for the winter.

The terms is also relevant when it comes to:

- Sprinkler systems;
- Buildings - and pipes! - that will not be used during the colder months (this includes hose pipes!);
- Air conditioning units;
- Municipal vehicles;
- Lawn & Gardening Equipment; and
- Any other machinery or motorized units that will not be in use through the colder months.

Anything that's been winterized will also have to be returned to use after its extended shutdown, which means the steps outlined at left are relevant to all of the mentioned materials, and so many more!

Keep a copy of these steps and use them as reference as you develop/update your regular inspection and maintenance lists.

Contact your risk control representative if you have questions or require additional information.



## Had an Incident? **File a claim!**

There's no downside to filing a claim with ICAP. Literally, no downside. None.

If you read the headlines or watch the news, you know public entities can face liability for the dramatic and the mundane; for the large and the small; for the severe and the mild, for the legitimate and the exaggerated.

The liability exposures for public entities are endless – roads, sidewalks, streets, jails, zoning, permits, sewers, buses, water, landfills, traffic signs, water towers, pipes, windows, hail damage, lightning strikes, computers, employee conduct, hiring, firing, di-

cipline, cyber criminals, and on and on and on.

People can file claims for anything and everything (AND THEY DO)!

Though you cannot stop someone from making a claim, you can help limit liability for your public entity (and shorten your to-do list at the same time).

Curious how? Start with the checklist at right.

// The truth: with ICAP, reporting claims early and often benefits you.

COMMON MISCONCEPTIONS ABOUT REPORTING AN INCIDENT OR CLAIM	TRUE OR FALSE?
Filing a claim takes time - and I don't have it.	<b>FALSE.</b> Reporting a claim is quick and easy. A claim can be reported online, via a call to your agent or even via email.
I don't have enough information to report a claim.	<b>FALSE.</b> The key pieces of information will be at your fingertips (think date, name and a brief description of the incident). You do not need to do an exhaustive investigation - ICAP will handle it for you.
The accident was not our fault, so we have nothing to report.	<b>FALSE.</b> Even if a claim has not been made, you can report a matter as an incident. ICAP will capture and preserve all relevant information so it is available, if a claim is asserted.
I am inviting a claim if I file a report.	<b>FALSE.</b> If an incident is reported, ICAP investigates behind the scenes, so as not to contact the potential claimant.
Reporting a claim will make our member contribution increase.	<b>FALSE.</b> ICAP works differently than your personal auto or homeowner's insurance policies. Filing a claim will not cause your ICAP contribution to increase.
It is better to wait and see what happens after a potential incident.	<b>FALSE.</b> A timely report of an incident will enable ICAP to gather and preserve information that may be altered or forgotten if you "wait and see."

### STILL SKEPTICAL? Consider these scenarios:

- A cyber-criminal sends a phishing email and your employee responds with personally identifiable information for 340 employees. When notice is provided to ICAP, our cyber protocol is activated. The Pool's professional cyber team immediately starts work to contain misuse of the released data. Until this happens, a cyber-criminal is free to run rampant with the sensitive data. He/she can open accounts, make purchases, etc.
- On her way out of the courthouse one February day, Jane Doe slips on the icy steps and twists her ankle. She picks herself up, brushes herself off, waves away the help of a county employee who was nearby, and drives home. Seven months later, Jane Doe contacts the county and says she is still suffering from her fall that happened due to a sheet of ice on the steps. Had notice been provided to ICAP, we would have investigated the circumstances surrounding her fall. Without notice, there is no documentation of the circumstances surrounding Jane Doe's fall. The county employee that was present cannot recall the temperature that day; whether there was ice on the ground; or even what time the fall occurred. This puts the county at greater risk of liability and/or loss. Had notice been provided to ICAP when Jane Doe fell, we would have taken photos and documented the condition of the steps at the time of the incident. We would have confirmed weather conditions; spoken to witnesses and noted details, including the time and date of the incident.

**THE EXAMPLES OF POTENTIAL CLAIM SCENARIOS** are endless. The important thing to remember is early documentation is key. As time passes, memories fade; documents are lost; and conditions change. It is essential information be gathered immediately, so as to protect your entity down the road. Provide ICAP notice of your (potential) claim as soon as possible, and we'll take it from there.

**Social distancing.** A sign of our new normal.



**T**his scene might be one we see for awhile. Let's take a look at what it might mean for your public entity.



## Reopening, Closing...Opening Again?

**SOCIAL DISTANCING** wasn't even in the lexicon for most of us until earlier this year.

By now, it is likely you already know several Iowa counties were among them.

Now, "social distancing" is more than a new term or key phrase - it's a lifestyle. And, it seems, it's one that's here to stay.

It goes without saying, both literally and figuratively, none of us are immune to the impact of COVID-19.

Earlier this year, the John Hopkins Bloomberg School of Public Health published ["Public Health Principles for Phased Reopening During COVID-10 Guidance for Governors."](#)

The ongoing pandemic presents global changes, which, one way or the other, affect all of us. Though recent legislation has made it more difficult for parties to file a claim against public entities due to COVID-19 (see page 18 for more!), your entity isn't off the hook.

Around the country, local jurisdictions started to reopen local businesses and municipal departments.

There are still things you must do to help protect your community against the threat of COVID-19.

Just weeks later, a number of areas once again shuttered local establishments due to a second/sudden spike in cases of COVID-19.

A good first step? Scheduling regular, ongoing risk assessments.

*What might that look like for your entity? Let's take a look!*

## Conduct Assessments to Evaluate COVID-19 Transmission

**THIS SHOULD BE DONE** across a variety of settings, including outdoor spaces, organized sports, community gathering spaces and childcare facilities.

The guide mentioned above provides significant instruction for this area, and includes factors such as contact intensity, number of contacts, and the degree to which activities are modifiable through mitigation measures.

Once the level of risks are identified, a prioritized plan can be developed for (re)openings and potential closures, should the need arise.

Areas that need to be reviewed include:

- Physical distancing and limiting gatherings
- Cleaning and disinfection practices
- Staff capacity
- Measures to protect staff and the public
- Site-based accommodations
- Equity and inclusion measures
- Communication and community awareness

It is worth noting such review will take a significant amount of time to conduct, and there will be some work required to complete any recommendations that come out of the review. It's worth it. And, fortunately, ICAP can help.

The Pool has a dedicated team or risk control representatives who are ready and waiting to assist your member with such risk control assessments, related measures and contingency plans.

## What About Pools and Aquatic Centers?

**SWIMMING POOLS** present their own unique risks as relates to the spread of viruses and bacteria. As a result, they require their own, facility-dependent assessments and plans.



When developing a plan, aquatic facilities must consider:

- Facility, local, state and federal requirements
- Mitigating hazards
- Safe practices/PPE
- Communication
- Programmatic considerations
- Other considerations and communication to share with staff, athletes and parents

The [Centers for Disease Control and Prevention \(CDC\)](#) encourages public aquatic venues to consider a number of strategies which encourage healthy hygiene. These include:

- Encouraging hand hygiene and respiratory etiquette
- Mandating cloth face coverings be worn around the facility, but not in the water
- Educating patrons on instances when they should stay home (for example, if they are unwell)
- Ensuring adequate supplies which support health hygiene
- Posting signs about each of the measures above, and regularly communicating information and updates as pertains to appropriate hygiene and the spread of COVID-19

Visit the CDC website ([www.cdc.gov/coronavirus](http://www.cdc.gov/coronavirus)) for additional information.





## Getting Out While Keeping In

Looking for alternatives to your traditional summer fun? We've got ideas for you!

**FOR MONTHS**, we've been told to keep apart; to avoid close contact; to wear face masks and other protective gear, among other things.

In this world of "new normal," some are more comfortable than others when it comes to stepping back out into life.

We don't blame anyone who is a little leery to jump back into social activities or interaction. In fact, we support them. We should all take caution when it comes to the things we do and the places we go.

Fortunately, there are a great many things we can do this summer that are low-risk and still a great opportunity for fun.

The ICAP team has compiled a list of favorites for summer activities around the state.

From walking trails to ice cream shops, pizza restaurants and a few places in between, we've got you covered.

Let us plan your next day out!

*Destination:*

### Coralville, for an easy outing on the Clear Creek Trail

An easy, Eastern Iowa outing that includes local fare, light activity and an easy rest near the shores of Coralville Lake.

Start your day with a stop at [Press Coffe Company](#), which offers a variety of hot drinks, smoothies and frappes (we're partial to the mango smoothie and a cup of "Driftless Morning" - served piping hot with just a splash of milk).

Grab your drink to go, then make your way to one of the nearby trails for a morning stroll before the day heats up.

Coralville has [more than 20 miles of recreational trails](#) and extra-wide sidewalks to choose from. Our favorite? The [Clear Creek Trail](#), which stretches just over four miles from start to finish. The trail is easy to get to, and has free parking and facilities at its [trailhead](#).

The paved trail is wide, scenic and flat, which makes it good for both cyclists and walkers. Dogs are welcome, too, provided they are kept on the leash and picked up after.

Take as long as you need, walking the full length of the trail or looping back whenever you're ready. Then make your way to one of Coralville's many locally-owned establishments for an easy carryout lunch (an easy option is a deli-style sandwich from the [Co-op Cafe](#), but do note it operates only during [library hours](#)), which can be eaten at one of the picnic spots surrounding [Coralville Lake](#).

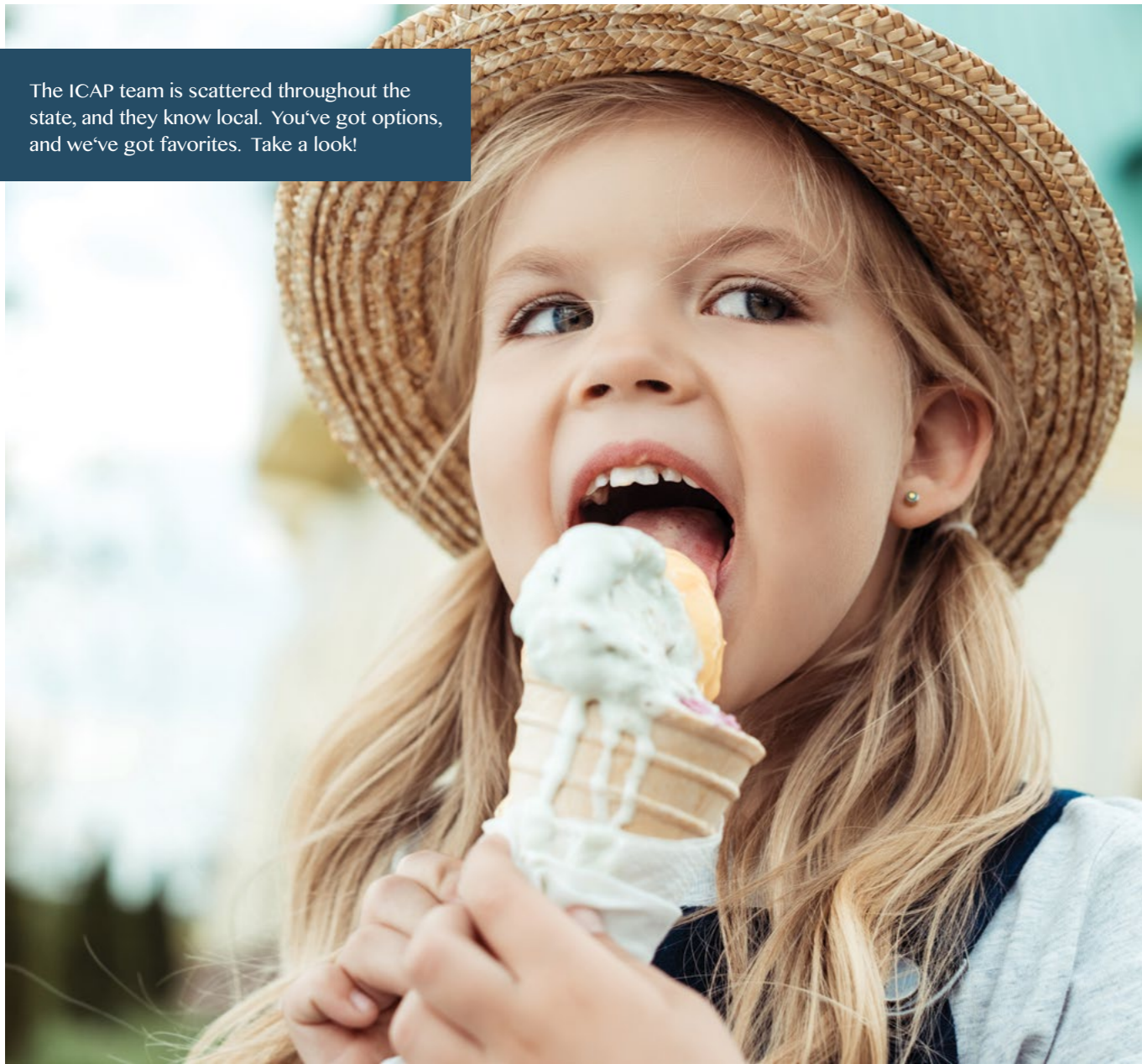
With wildlife, boaters, plenty of green space and wooded areas, you'll be sure to find a spot that appeals to you. Once you get there, put your feet up. Relish in all the sounds, sights and smells the Midwest nature has to offer.

Picnics are a quick, easy way to get out of the house for a couple of hours. Both packing and clean-up are quick and easy, which makes a no-frills picnic a breeze to handle. Even better? They're fun for children young and old! Load up the hamper and head outdoors for a picnic by the water. Easy, breezy (literally) and relaxing!



Looking for a destination a bit closer to home? Check out our recommendations on the next page!

The ICAP team is scattered throughout the state, and they know local. You've got options, and we've got favorites. Take a look!



## Our Favorite Iowa Spots

I scream, you scream...alright, alright, you know the beat. Your local ICAP team chose their favorite stops and shops - ice cream included - from around the state. We've laid them out for you on the following page.

### Favorite Walking Trails

- [Walker-Johnston Park](#) | Urbandale | 9000 Douglas Ave | Urbandale, IA 50322
- [Pine Lake State Park](#) | Eldora | 22620 Co Hwy S56 | Eldora, IA 50627
- [Poe Hollow Park](#) | Ringgold County | Just east of Mt. Ayr
- [Loess Hills State Forest](#) | Pisgah | 206 Polk Street | Pisgah, Iowa 51564
- [Wildcat Den State Park](#) | Muscatine | 1884 Wildcat Den Road | Muscatine, IA 52761

### Favorite Cycling Paths

- [Neal Smith Bike Trail](#) | Polk City to Des Moines
- [Fairfield Loop Trail](#) | Fairfield
- [Heritage Trail](#) | Dubuque County (through eight communities!)
- [High Trestle Trail](#) | Ankeny to Woodward
- [Sauk Rail Trail](#) | Lake View to Carroll

### Favorite Coffee Shops

- [Euphoria Coffee](#) | West Union | 124 E Elm St | West Union, IA 52175
- [Swed & Co. Coffee](#) | Fort Madison | Sells at the Fort Madison Farmers Market
- [Burgie's Coffee](#) | Ames | 110 Airport Road | Ames, IA 50010
- [The Lantern Coffeehouse & Roastery](#) | Sibley | 304 9th St | Sibley, IA 51249
- [The Coffee Attic](#) | Iowa Falls | 604 Washington Ave | Iowa Falls, IA 50126

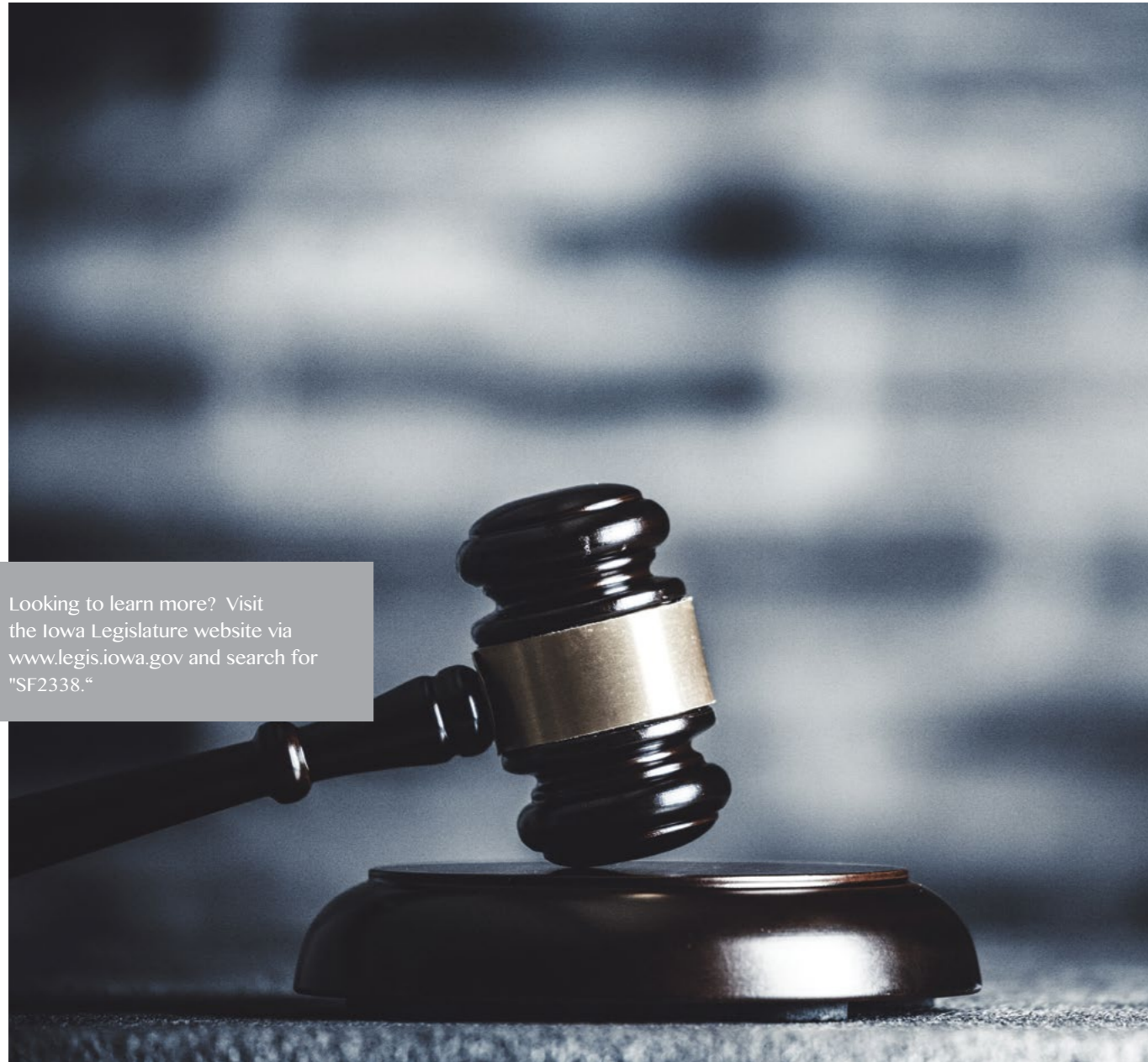
### Favorite Place to Dip Our Toes

- [Blue Heron Lake](#) | West Des Moines
- [West Okoboji Lake](#) | West Okoboji
- [Lake Manawa](#) | Pottawattamie County
- [Black Hawk Lake](#) | Sac County
- [Lake Darling](#) | Washington County

### Favorite Place to Grab Ice Cream

- [Heavenly Delights](#) | Grimes | 105 E 1st St, Grimes, IA 50111
- [Grandpa's Parlour](#) | Bellevue | 306 S Riverview St, Bellevue, IA 52031
- [Birdsall's](#) | Mason City | 518 N Federal Ave, Mason City, IA 50401
- [Elena's](#) | Bloomfield | 201 N Washington St, Bloomfield, IA 52537
- [Over the Top](#) | Pleasant Hill | 955 NE 56th St, Pleasant Hill, IA 50327

The ongoing outbreak may have impacted the listed businesses (along with countless others throughout the state). We recommend verifying hours of operation before planning a visit to any local establishment.



Looking to learn more? Visit the Iowa Legislature website via [www.legis.iowa.gov](http://www.legis.iowa.gov) and search for "SF2338."

## New Legislation

Iowa Legislature Passes Law to Help Protect Governmental Entities Against COVID-19 Lawsuits

By Jodie McDougal and Katelynn McCollough, Davis Brown Law Firm

**THE IOWA LEGISLATURE AND GOVERNOR** wasted no time enacting new legislation that offers broad protections to businesses, municipalities, other governmental agencies and subdivisions, employers, and medical providers, among others, in the face of expected litigation stemming from COVID-19.

SF2338, the COVID-19 Response and Back-to-Business Limited Liability Act, creates a higher bar for individuals bringing civil actions alleging either exposure or potential exposure to COVID-19. It also contains other provisions aimed at protecting businesses, governmental entities, and individuals against COVID-19 lawsuits.

### Safe Harbor Defense for Defendants Complying with COVID-19 Guidance and Regulations

The law also provides a safe harbor defense for businesses, municipalities, and

was in substantial compliance or was consistent with federal or state regulations, executive orders, or public health guidance related to COVID-19 applicable at the time the alleged exposure occurred. Such guidance and regulations can come from the CDC, the Centers for Medicare and Medicaid Services, OSHA, the Office of the Governor, or other state agencies, including the Iowa Department of Public Health.

### SF2338 is legislation your entity will want to know.

other governmental agencies and subdivisions when a lawsuit is filed. The law states that entities shall not be held liable for civil damages for any injuries sustained from exposure or potential exposure to COVID-19 if their conduct

This safe harbor defense emphasizes the importance of municipalities and other entities understanding and following governmental guidance on COVID-19. Municipalities can most easily protect themselves from liability by consistently checking and following federal and state COVID-19 guidance

and documenting efforts to comply. Most practitioners interpret the law as not requiring a party to follow multiple sources for guidance; therefore, even if federal or state regulations, executive orders, or public health guidance related to COVID-19 are inconsistent with one another, as long as a business or municipality can demonstrate it was following the guidance of at least one approved source, the safe harbor defense should apply.

If allegations of COVID-19 exposure do arise, it will be important to demonstrate what public health guidance was being followed and in what ways. Continuous documentation and recordkeeping of these efforts is suggested.



continued on following page

# New Legislation RE Covid-19 continued from previous page

## Protection for Property Owners and Other Entities in Possession of Real Property

The law provides that a business or person who possesses or is in control of real property, including governmental entities, is protected from liability related to exposure to COVID-19 unless the plaintiff can prove that the business or person possessing or in control of the property:

1. Recklessly disregarded a substantial and unnecessary risk that others would be exposed to COVID-19;
2. Exposed an individual to COVID-19 through conduct constituting actual malice; or
3. Intentionally exposed an individual to COVID-19.

Individuals who are “in control” of property include tenants and occupants, not just the outright property owner. Therefore, this section applies broadly and would include entities in control of their premises, no matter whether they own, rent, or simply occupy the property. This portion of the law should also help substantially limit lawsuits based on COVID-19 exposure.

As with the above safe harbor provision, this portion of the law emphasizes the importance of entities understanding COVID-19 risks and governmental guidance on COVID-19. Seek legal counsel if you have any questions.

## Additional Provisions Applicable to Health Care Providers

The law sets forth several additional provisions limiting the liability of health care providers. Seek legal counsel for further specifics on the law applicable to health care providers.



### BIG PICTURE

As the COVID-19 pandemic continues to threaten our communities, it is important to continue to consult with public health experts and legal counsel to determine the right steps to protect yourself and your organization. Keeping records of the guidance and the steps you have taken to abide by this guidance may reduce your risk of future lawsuits.

**Jodie McDougal** is a shareholder and Chair of the Construction Law Department at the Davis Brown Law Firm in Des Moines. In addition to her construction practice, Jodie is a litigation and insurance defense attorney.

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**Katelynn McCollough** maintains a practice in Davis Brown Law Firm’s Litigation Division. Her practice encompasses employment, business, litigation and insurance defense matters as well as those relating to the medical cannabidiol industry.

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# Last Chance to Nominate!

August 14 is your last chance to nominate an individual for their respective class seat on the ICAP Board of Directors.

**THE BOARD** is accepting nominations for the January 1, 2021 to December 31, 2024 term.

The seats for Tom Roth, City Representative, and Dave Hageman, County Representative, are set to expire at the end of this year.

Both individuals have expressed intent to seek re-election to their respective seats.

Per the terms of the Board Election Policy, ICAP is also accepting nominations from other members for their respective class seat.

Only city members may submit nominations for the city board seat, while only county members can submit nominations for the county seat.

Nominations must be sent to the local ICAP office prior to August 14 of this year. All submissions should include a short biography of the no-

minee, and must be sent via a letter or instrument authorized by the entity’s governing board.

Nomination materials can be mailed to:

Iowa Communities Assurance Pool (ICAP)  
Attn: Board Election Committee  
5701 Greendale Road  
Johnston, IA 50131

Submissions will be forwarded to ICAP’s Board Election Committee and reviewed by September 15.

Electronic voting will become available on the ICAP website November 15, and will close one month later, with the results being made known prior to the end of the year.

If you have questions or wish to submit a nomination, please contact Joni Biggart via 1-800-383-0116 or email [joni@icapiowa.com](mailto:joni@icapiowa.com).

Someday, we will look back  
on this moment in time.  
When we do, we will see it  
as a **part of history.**

5701 Greendale Road  
Johnston | IA 50131  
[www.icapiowa.com](http://www.icapiowa.com)

