



| CITY OF |

OTTUMWA

TENATIVE AGENDA  
OTTUMWA CITY COUNCIL

REGULAR MEETING NO. 23  
Council Chambers, City Hall

July 19, 2022  
5:30 O'Clock P.M.

PLEDGE OF ALLEGIANCE

A. ROLL CALL: Council Member Galloway, McAntire, Hull, Pope, Roe and Mayor Johnson.

B. CONSENT AGENDA:

1. Minutes from Regular Meeting No. 21 on July 5, 2022 as presented.
2. Approve appointment of Elizabeth Faust to the position of Beach Supervisor effective on or about July 20, 2022.
3. Approve the appointment of Cody Carter to the position of Utility Worker effective on or about July 31, 2022.
4. Civil Service Commission Eligibility Lists for July 13, 2022: Communication Specialist Entrance; WPCF Operator Entrance; Housing & Code Inspector Entrance.
5. Set August 2, 2022 as the date of a Public Hearing to Consider Justice Assistant Grant (JAG) Program Funds to be obtained from the Bureau of Justice Assistance.
6. Approve a Memorandum of Understanding between the City of Ottumwa and Wapello County for the 2022 JAG Grant.
7. Set August 2, 2022 as the date of a Public Hearing to consider amending Chapter 14 of the City of Ottumwa Municipal Code to Adopt the 2021 Edition of the International Fire Code.
8. Resolution No. 188-2022, approve and authorize signature of MOU regarding Overtime calculation between the City of Ottumwa and Teamsters Local No. 238 for the Police Department.
9. Resolution No. 195-2022, approve updates to the City of Ottumwa Personnel Policy.
10. Beer and/or liquor applications for: Elks – Ottumwa Lodge #347, 413 South Iowa Ave; all applications pending final inspections.

C. APPROVAL OF AGENDA

D. ADMINISTRATORS REPORT TO COUNCIL AND CITIZENS:

1. Greater Ottumwa Partners in Progress (GoPIP) Quarterly Presentation/Update.
2. Presentation regarding Franchise Fees

*All items on this agenda are subject to discussion and/or action.*

E. IDENTIFICATION OF CITIZENS DESIRING TO COMMENT ON AGENDA ITEMS:

(When called upon by the Mayor, step to the microphone; state their name, address and agenda item to be addressed. The Mayor will invite you to address the Council when that topic is being discussed. Remarks will be limited to **three minutes or less**. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments are to be directly germane to the agenda item being discussed; if not directly germane as determined by the Mayor will be ruled out of order.)

F. DEPARTMENTAL RECOMMENDATIONS/REPORTS:

1. Beach Ottumwa fees.

RECOMMENDATION: Approve the fee increases for the Beach Ottumwa.

G. PUBLIC HEARING:

1. This is the time, place and date set for a public hearing on the Proposed Resolution Adopting Revenue Purpose Statement Regarding use of revenues from Proposed Electric Franchise Fees pursuant to Iowa Code Section 364.2(4)(f).

- A. Open the public hearing.
- B. Close the public hearing.
- C. Resolution No. 174-2022, Adopting Revenue Purpose Statement regarding use of revenues from Proposed Electric Franchise Fee pursuant to Iowa Code Section 364.2(4)(f).

RECOMMENDATION: Pass and adopt Resolution No. 174-2022.

2. This is the time, place and date set for a public hearing on the Proposed Ordinance Amending Appendix D, Electricity Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee.

- A. Open the public hearing.
- B. Close the public hearing.
- C. Ordinance No. 3202-2022, an Ordinance Amending Appendix D, Electricity Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee.

RECOMMENDATION: Pass the first consideration of Ordinance No. 3202-2022.

3. This is the time, place and date set for a public hearing on the Proposed Resolution Adopting Revenue Purpose Statement regarding use of revenues from Proposed Gas Franchise Fees pursuant to Iowa Code Section 364.2(4)(f).

- A. Open the public hearing.
- B. Close the public hearing.
- C. Resolution No. 176-2022, Adopting Revenue Purpose Statement regarding use of revenues from Proposed Gas Franchise Fee pursuant to Iowa Code Section 364.2(4)(f).

RECOMMENDATION: Pass and adopt Resolution No. 176-2022.

4. This is the time, place and date set for a public hearing on the Proposed Ordinance repealing Ordinance No. 2888-2000, and granting to MidAmerican Energy Company, its successors and assigns, the Right and Non-Exclusive Franchise to acquire, construct, erect, maintain and operate in the City of Ottumwa, Iowa, a Natural Gas System and to furnish and sell natural gas to the City and its inhabitants and authorizing the City to collect Franchise Fees for a period of 25 years.

- A. Open the public hearing.
- B. Close the public hearing.
- C. Ordinance No. 3203-2022, an Ordinance repealing Ordinance No. 2888-2000, and granting to MidAmerican Energy Company, its successors and assigns, the Right and Non-Exclusive Franchise to acquire, construct, erect, maintain and operate in the City of Ottumwa, Iowa, a Natural Gas System and to furnish and sell natural gas to the City and its inhabitants and authorizing the City to collect Franchise Fees for a period of 25 years.

RECOMMENDATION: Pass the first consideration of Ordinance No. 3203-2022.

5. This is the time, place, and date set for a public hearing on the consideration of a Five Year Renewal of Lease Agreement between the City of Ottumwa and Musco Sport Lighting, LLC.
  - A. Open the public hearing.
  - B. Close the public hearing.
  - C. Resolution No. 189-2022, approving the authorization and execution of a Five Year Renewal of Lease Agreement between the City of Ottumwa and Musco Sports Lighting, LLC.

RECOMMENDATION: Pass and adopt Resolution No. 189-2022.

6. This is the time, place, and date set for a public hearing on the Proposed Ordinance No. 3200-2022, adopting the new State Electrical Code by Amending Chapter 13 of the City of Ottumwa Municipal Code.
  - A. Open the public hearing.
  - B. Close the public hearing.
  - C. Ordinance No. 3200-2022, adopting the new State Electrical Code by Amending Chapter 13 of the City of Ottumwa Municipal Code.

RECOMMENDATION: Pass the first consideration of Ordinance No. 3200-2022.

7. This is the time, place, and date set for a public hearing regarding the Proposed Vacation of public right-of-way in the portion of the Alleyway running Northwest/Southeast from E. McPherson Avenue to Phillips Street between West Second Street and Third Street West in the City of Ottumwa.
  - A. Open the public hearing.
  - B. Close the public hearing.
  - C. Ordinance No. 3205-2022, Vacation of public right-of-way in the portion of the Alleyway running Northwest/Southeast from E. McPherson Avenue to Phillips Street between West Second Street and Third Street West in the City of Ottumwa.

RECOMMENDATION: Pass the first consideration of Ordinance no. 3205-2022.

#### H. RESOLUTIONS:

1. Resolution No. 190-2022, (i) approving and authorizing execution of an Assignment and Assumption of Lease Agreement with George Allen Construction Co. from Wapello County Historical Society; (ii) approving and authorizing execution of an Assignment and Assumption of Lease Agreement with National Railroad Passenger Corporation from Wapello County Historical Society; and (iii) approving and authorizing execution of a Storage Lease Agreement between the City of Ottumwa and Wapello County Historical Society.

RECOMMENDATION: Pass and adopt Resolution No. 190-2022.

2. Resolution No. 191-2022, approving and authorizing the execution of a Real Estate Gift Agreement with Bridge View Center, Inc.

RECOMMENDATION: Pass and adopt Resolution No. 191-2022.

3. Resolution No. 192-2022, resolution adopting Policy No. 74 – Background Check Policy.

RECOMMENDATION: Pass and adopt Resolution No. 192-2022.

4. Resolution No. 193-2022, resolution adopting Policy No. 73 related to process and procedures for requesting Honorary Street Name(s).

RECOMMENDATION: Pass and adopt Resolution No. 193-2022.

5. Resolution No. 194-2022, resolution adopting Policy No. 75 – Hiring Policy and Process.

RECOMMENDATION: Pass and adopt Resolution No. 194-2022.

6. Resolution No. 196-2022, approving Change Order No. 1 for the Ottumwa Park Campground Shower House and Office Project.

RECOMMENDATION: Pass and adopt Resolution No. 196-2022.

7. Resolution No. 197-2022, approving an Agreement between the City of Ottumwa and the Iowa Department of Transportation (IDOT) through the TSIP (Traffic Safety Improvement Program) funding to construct the Albia Road and North Quincy Avenue Roundabout Project and authorize the Mayor to sign all pertaining documents.

RECOMMENDATION: Pass and adopt Resolution No. 197-2022.

#### I. ORDINANCES:

1. Ordinance No. 3198-2022, repealing and replacing Chapter 7, Animals and Fowl, of the Municipal Code of the City of Ottumwa, Iowa.

RECOMMENATION: Pass third consideration and adopt Ordinance No. 3198-2022.

#### J. PUBLIC FORUM:

The Mayor will request comments from the public on topics of city business or operations other than those listed on this agenda. Comments shall not be personalized and limited to three minutes or less. Comments not directly applicable to operations, inappropriate, or an improper utilization of meeting time, as determined by the Mayor, will be ruled out of order. When called upon by the Mayor, step to the microphone; give your name, address and topic on which to address the Council. The Council is not likely to take any action on your comments due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department, city administrator or legal counsel for response, if relevant.

#### K. PETITIONS AND COMMUNICATIONS

#### ADJOURN

**\*\*\* It is the goal of the City of Ottumwa that all City Council public meetings are accessible to people with disabilities. If you need assistance in participating in City Council meetings due to a disability as defined under the ADA, please call the City Clerk's Office at (641) 683-0621 at least one (1) business day prior to the scheduled meeting to request an accommodation. \*\*\***





[ CITY OF ]  
O T T U M W A

**FAX COVER SHEET**

City of Ottumwa

DATE: 7/15/22 TIME: 9:30 AM NO. OF PAGES 5  
(Including Cover Sheet)

TO: News Media CO: \_\_\_\_\_

FAX NO: \_\_\_\_\_

FROM: Christina Reinhard

FAX NO: 641-683-0613 PHONE NO: 641-683-0620

MEMO: Tentative Agenda for the Regular City Council Meeting #23 to be held on 7/19/2022 at 5:30 P.M.

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\*\*\* FAX MULTI TX REPORT \*\*\*  
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JOB NO. 1457  
DEPT. ID 4717  
PGS. 5  
TX INCOMPLETE -----  
TRANSACTION OK 96847834  
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ERROR 96828482

Ottumwa Courier  
KTVO  
Ottumwa Waterworks  
Tom FM



CITY OF  
OTTUMWA

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\*\*\* TX REPORT \*\*\*  
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JOB NO.	1457	
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	916606271885	KTVO
	96823269	Ottumwa Waterworks
ERROR	96828482	Tom FM



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MEMO: Tentative Agenda for the Regular City Council Meeting #23 to be held on 7/19/2022 at 5:30 P.M.

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REGULAR MEETING NO. 21  
Council Chambers, City Hall

July 5, 2022  
5:30 O'Clock P.M.

The meeting convened at 5:35 P.M.

Present were Council Member Pope, Roe, Galloway, McAntire, Hull and Mayor Johnson.

Galloway moved, seconded by McAntire to approve consent agenda items: Mins. from Special Mtg. No. 19 on June 21, 2022 and Regular Mtg. No. 20 on June 21, 2022 as presented; Recommend re-appointment of Bill Hoffman to Waterworks Brd. of Trustees, term to exp. 7/22/2028; Approve appointments of Kevin McDaniel, Drayton Hamm, Derik LeBoeuf and Cody Napoleon to Equip. Operator – Sewer Maint. & Street Cleaning, effective on or about July 10, 2022; Approve appointments of Tyler Phillips and Tyler Batterson to Equip. Operator – Street Maint., effective on or about Aug. 1, 2022; Approve appointment of Michael Ashlock to WPCF – Maint. Tech., effective on or about July 10, 2022; Civil Service Commission Eligibility List for June 22, 2022: Police Officer Entrance; Set July 19, 2022 as date of PH to Consider a Five Yr. Renewal of Lease Agt. between the City and Musco Sport Lighting, LLC; Res. No. 170-2022, setting July 19, 2022 as date of PH on Proposed Ord. No. 3200-2022, adopting the New State Electrical Code; Res. No. 173-2022, setting July 19, 2022 as date of PH on Proposed Ord. Amending Appendix D, Electricity Franchise, with Interstate Power and Light Comp. for the Purpose of Imposing a Franchise Fee; Res. No. 175-2022, setting July 19, 2022 as date of PH on Proposed Ord. Repealing Current Gas Franchise, Granting a New Franchise to MidAmerican Energy Comp., and Imposing a Franchise Fee; Res. No. 184-2022, fixing date for PH on proposed Vacation of a portion of the alleyway running northwest/southeast from E. McPherson Ave. to Phillips St. between West Second and Third St. West; Res. No. 186-2022, approving contract, bonds, and cert. of ins. for N. Market St. Façade Project, CDBG 20-CVN-024; Beer and/or liquor applications for: Courtside Bar & Grill, 2511 N. Court, with OSA; Smokin' Joe's Tobacco and Liquor Outlet #5, 1115 Albia Rd.; Morgan's Corner Bar & Grill, 436 W. Second; all applications pending final inspections. All ayes.

Roe moved, seconded by McAntire to approve the agenda as presented. All ayes.

City Admin. Rath provided information about Franchise Fee Implementation; we set the PH for both the gas and electric franchise fees that will be presented with Revenue Purpose Stmt. on July 19, 2022.

Rath also discussed bringing a policy before Council to establish a process for honorary street names. This will also be presented July 19.

Mayor Johnson inquired if there was anyone from the audience who wished to address an item on the agenda. Sandra Trejo-Wirfs requested on behalf of LULAC to name a street (300-900 blocks of Church St.) after Sister Irene Munoz, who encouraged migrant workers who settled permanently in Muscatine to exercise their citizenship rights and participate in the most fundamental expression of those rights – the right to vote. She advocates for migrants in Ottumwa and has inspired them to be more involved in the community; founding member of LULAC in Ottumwa. Jose Reyes and Cheri Doane both stated just how much of a difference Sister Irene made in many people's lives. Kathy Caldwell stated how enthusiastic We C.A.R.E is about the anti-tethering language included in the new animal Ord.; and she has a suggestion to place signs at all entrances into Ottumwa so citizens passing through may better understand what animals are banned from the city. Michael Harville also stated his disapproval of the breed specific language included in the new Ord.

Roe moved, seconded by Galloway to approve replacement of Vaughan Model HE6U8CS-118



Horizontal Suction Chopper Pump from Motion Industries for \$11,721 for WPCF. All ayes.

Hull moved, seconded by Roe to approve replacement of Vaughan Model HE3L6CS-080 Horizontal Suction Chopper Pump from Motion Industries for \$9,910 for WPCF. All ayes.

This was the time, place and date set for a public hearing approving plans, specifications, form of contract and est. cost for Friction Seal Project 2022. PW Dir. Seals reported this process is similar to chip seal, except it uses angular granite chips instead of pea gravel. Bids due July 27, 2022 at 2:00 P.M.; est. cost \$115,000. No objections were rec'd. Hull moved, seconded by McAntire to close the public hearing. All ayes.

Roe moved, seconded by McAntire that Res. No. 177-2022, approving plans, specifications, form of contract and est. cost for Friction Seal Project 2022, be passed and adopted. All ayes.

This was the time, place and date set for a public hearing approving plans, specifications, form of contract and est. cost for Asphalt Street Repair Program 2022. Seals reported this is our annual asphalt street repair program that originated in 2003, and is used to set unit price cost. Streets included for overlays: N. Court from Golf north to the new HMA between Northview and Elmdale. Bids due July 27, 2022 at 2:00 P.M. No objections were rec'd. Galloway moved, seconded by Hull to close the public hearing. All ayes.

Hull moved, seconded by Roe that Res. No. 178-2022, approving plans, specifications, form of contract and est. cost for Asphalt Street Repair Program 2022, be passed and adopted. All ayes.

This was the time, place and date set for a public hearing approving plans, specifications, form of contract and est. cost for Troeger Parking Lot Project. Seals reported project will construct a parking lot in Troeger Park that will add 136 parking spaces. This project is tied directly to the development and construction of the Cobblestone Hotel at Bridge View Center site. The plan set bidding docs are set up to allow two bidding scenarios. One has completion date of Dec. 31, 2022 and the second set with a late start date of April 1, 2023. Bids due July 27, 2022 at 2:00 P.M.; est. cost \$569,377.50. Roe asked if there would be any environmental impact from the drainage into the lagoon. No objections were rec'd. Hull moved, seconded by McAntire to close the public hearing. All ayes.

Hull moved, seconded by Roe that Res. No. 179-2022, approving plans, specifications, form of contract and est. cost for Troeger Parking Lot Project, be passed and adopted. All ayes.

This was the time, place and date set for a public hearing approving plans, specifications, form of contract and est. cost for Bridge View Hotel Parking Lot Extension Project. Seals reported project will construct a parking lot at the south end of the existing Bridge View parking lot. The work also includes new storm sewer installation that will remove storm water from the existing sanitary sewer. It will allow for additional 117 paved parking spaces. The plan set bidding docs are set up to allow two bidding scenarios. One has completion date of Dec. 31, 2022 and the second set with a late start date of April 1, 2023. Bids due Aug. 2, 2022 at 2:00 P.M.; est. cost \$574,256. Roe again asked if there would be any environmental impact from the storm water drainage and Seals stated no. No objections were rec'd. Hull moved, seconded by McAntire to close the public hearing. All ayes.

Hull moved, seconded by McAntire that Res. No. 180-2022, approving plans, specifications, form of contract and est. cost for Bridge View Hotel Parking Lot Extension Project, be passed and adopted. All ayes.

This was the time, place and date set for a public hearing on proposed Ord. No. 3201-2022, amending the Municipal Code of the City of Ottumwa, IA by changing zoning classification of property known as 316 N. Court from R-4 to C-3. Comm. Dev. Dir. Simonson reported the applicant purchased the property at 316 N. Court to demolish a derelict house. The applicant now wants to build a parking lot for the adjacent law firm. P&Z recommended the rezoning by a vote of 8-0. Galloway asked how this will impact the courthouse if it is a private parking lot. There will be 11 spots moving from on-street parking to the private lot; creating street parking for others stopping at the courthouse or adjacent businesses. No objections were rec'd. McAntire moved, seconded by Hull to close the public hearing. All ayes.

Hull moved, seconded by McAntire to pass the first consideration of Ord. No. 3201-2022, amending the Municipal Code of the City of Ottumwa, IA by changing zoning classification of property known as 316 N. Court from R-4 to C-3. All ayes.

Roe moved, seconded by McAntire to waive the second and third consideration, pass and adopt Ord. No. 3201-2022. All ayes.

Roe moved, seconded by McAntire that Res. No. 171-2022, awarding contract for Asbestos abatement and demolition of 505 S. Sheridan to Weston McKee of Fairfield, IA for total bid \$13,700, be passed and adopted. All ayes.

Hull moved, seconded by McAntire that Res. No. 172-2022, awarding contract for Asbestos abatement and demolition of 125 S. Davis Street to Dan Laursen of Ottumwa, IA, for total bid \$23,500, be passed and adopted. All ayes.

Hull moved, seconded by Roe that Res. No. 181-2022, approving Sewer Service Agt. and Pre-Annexation Agt. between the City and RJ Performance and auth. Mayor to sign Agt., be passed and adopted. All ayes.

Roe moved, seconded by Galloway that Res. No. 183-2022, approving and auth. purchase of certain real property, and auth. execution of real estate purchase agt. with The Wapello County Historical Society, be passed and adopted. Rath reported the depot had previously been identified as one of the central pieces of the riverfront and downtown economic development due to its location and ability to serve as a transportation hub. Funds were included in our recent financing (bonds) to include this purchase. Galloway asked who would maintain bldg. Rath stated it would be owned by the city with grounds being maintained by city employees. Amtrak is looking at doing some improvements to the platform area; leasing the clubhouse; trying to figure out the best use of all spaces available and Amtrak has a secure partner with the city as we have similar interests in wanting them to cont. coming through Ottumwa. A few years back the City applied for a grant to turn the downtown area into a transportation hub, but we didn't have buy-in (as we didn't own the bldg.) so we lost out on that opportunity. McAntire expressed his reservations considering the shape our city is in financially, and lack of staff, I don't think it would be very wise for us to move forward with this and take on responsibility for something else. Galloway agreed; what we hear is this purchase has a lot of potential; but what if that doesn't come to fruition? I do think this bldg. is the heart of our downtown and we need to have open conversations about it. Rath explained that we will have funds coming into the city from current lease agt. already in place with Amtrak that should help. Vote taken: Ayes: Pope, Roe, Galloway, Hull. Nays: McAntire. Motion carried 4-1 vote.

Galloway moved, seconded by Pope that Res. No. 187-2022, approving Real Estate Gift Agt. with Wells Fargo Bank NA for the property located at 422 S. Ferry, be passed and adopted. Simonson reported the

current property owner requested to donate the property to the City at no cost. The property is suitable for developing housing according to the Vacant Lot Policy. All ayes.

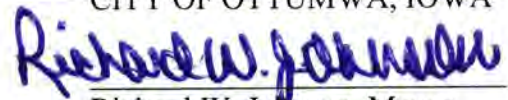
Roe moved, seconded by McAntire to pass the second consideration of Ord. No. 3198-2022, repealing and replacing Ch. 7, Animals and Fowl, of the Municipal Code of the City of Ottumwa, IA. Vote taken: Ayes: Pope, Roe, McAntire, Hull. Nays: Galloway. Motion carried 4-1 vote.

Mayor Johnson inquired if anyone else from the audience wished to address an item not on the agenda. There were none.

There being no further discussion, Galloway moved, seconded by Hull that the mtg. adjourn. All ayes.

Adjournment was at 6:42 P.M.

CITY OF OTTUMWA, IOWA

  
Richard W. Johnson, Mayor

ATTEST:

  
Christina Reinhard, CMC, City Clerk

Published in the Ottumwa Courier on 7/14/2022



**CITY OF OTTUMWA**  
**Staff Summary**

PM 2:25

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

Administration  
Department

Barbara Codjoe

Prepared By

Barbara Codjoe

Department Head

\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: Approve the appointment of Elizabeth Faust to the position of Beach Supervisor.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Approve the appointment of Elizabeth Faust to the positions Beach Supervisor on or about July 20, 2022.

DISCUSSION: Appoint Elizabeth Faust to the positions Beach Supervisor. This position will start at \$13.82 per hour as per the Municipal Collective Bargaining agreement - Beach Concessions Manager.

This appointment will backfill a resignation.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed: No



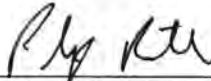
**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

Administration  
Department

Barbara Codjoe  
Prepared By  
Barbara Codjoe  
Department Head



\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: Approve the appointment of Cody Carter to the position of Utility Worker.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Approve the appointment of Cody Carter to the position of Utility Worker in the Street Maintenance & Patch Crew Department on or about July 31, 2022.

DISCUSSION: Appoint Cody Carter to the position of Utility Worker in the Street Maintenance & Patch Crew Department. Starting salary will be \$19.80 per hour as per the collective bargaining agreement.

This appointment will fill a position that was vacated due to resignation.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed:

**OTTUMWA CIVIL SERVICE COMMISSION**

**COMMUNICATION SPECIALIST – Entrance Eligibility List**

1. Amy Napoleon
2. Tammy Diephuis
3. Debra Blew

Certified July 13, 2022

OTTUMWA CIVIL SERVICE COMMISSION

Ed Wilson, Chairman  
Ann Youngman  
Amy Gardner

# **OTTUMWA CIVIL SERVICE COMMISSION**

## **WPCF Operator Entrance Eligibility List**

1. Jesus Jaime
2. Jordan Zook

Certified July 13, 2022

**OTTUMWA CIVIL SERVICE COMMISSION**

Ed Wilson, Chairman  
Ann Youngman  
Amy Gardner

# **OTTUMWA CIVIL SERVICE COMMISSION**

## **Housing & Code Inspector Entrance Eligibility List**

1. Shelby Durlinger
2. Jeff Clark

Certified July 13, 2022

**OTTUMWA CIVIL SERVICE COMMISSION**

Ed Wilson, Chairman  
Ann Youngman  
Amy Gardner



**CITY OF OTTUMWA**  
**Staff Summary**

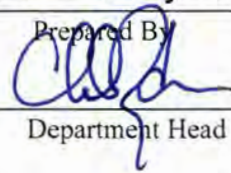
**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

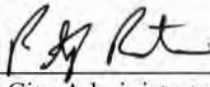
Police  
Department

Lt. Mickey Hucks

Prepared By



Department Head



City Administrator Approval

AGENDA TITLE: Set a public hearing on the proposed spending plans for \$23,980.00 in Justice Assistance Grant (JAG) Program Funds to be obtained from the Bureau of Justice Assistance.

\*\*\*\*\*

**\*\*Public hearing required if this box is checked.\*\***

\*\*The Proc. of Publication of such Public Hearing must be attached to the Staff Summary. If the Proc. of Publication is not attached the item will not be placed on the agenda.\*\*

RECOMMENDATION: Set the time, date and place of public hearing as:  
August 2, 2022  
5:30 P.M.  
City Council Meeting  
City Hall Council Chambers  
105 E. 3rd Street  
Ottumwa, IA 52501

DISCUSSION: At the August 2nd City Council meeting, staff will bring a recommendation to the Council to accept an award from the Bureau of Justice through the Justice Assistance Grant (JAG) Program in the amount of \$23,980.00. A public hearing on spending plans prior to approving the application is one of the routine steps in the process.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed: No

## Notice of Public Hearing

Notice is hereby given that the City Council of the City of Ottumwa will hold a public hearing on August 2, 2022 at 5:30 P.M. in City Hall in the City of Ottumwa, Iowa on proposed spending plans for the 2022 Justice Assistance Grant (JAG) Program funds to be obtained from the Bureau of Justice Assistance. All written public comments may be submitted to the City Clerk's Office, City Hall by 4:30 pm on August 2, 2022. All persons interested in the proposed spending plans are invited to be present at the above time, place and date to present their arguments for or against.

FOR THE CITY OF OTTUMWA:

Christina Reinhard, City Clerk


**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

Police  
Department

Lt. Mickey Hucks

Prepared By  
  
Department Head

  
City Administrator Approval

AGENDA TITLE: Approve a Memorandum of Understanding between the City of Ottumwa and Wapello County for the 2022 JAG Grant.

\*\*\*\*\*

**\*\*Public hearing required if this box is checked.\*\***

\*\*The form of Publication for each Public Hearing Notice attached to this Staff Summary. If the form of Publication is not attached, the form will not be placed on the agenda.\*\*

RECOMMENDATION: Approve the Memorandum of Understanding with Wapello County and authorize the Mayor to sign all related documents.

DISCUSSION: The Ottumwa Police Department is eligible to receive a JAG Grant in the amount of \$23,980.00. The Police Department is required to share the grant with the Wapello County Sheriffs Department as in previous years. Grant regulations require a Memorandum of Understanding between the City of Ottumwa and Wapello County to share the grant funds and identify who will be the fiscal agent/grant administrator (City of Ottumwa Grant Administrator). This is one of the steps in the grant process.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed: No

**THE STATE OF IOWA  
COUNTY OF WAPELLO**

**INTERLOCAL AGREEMENT**

**BETWEEN THE CITY OF OTTUMWA, IOWA, AND COUNTY OF WAPELLO, IOWA  
2022 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD**

This Agreement is made and entered into this 12th Day of July, 2022, by and between The COUNTY of Wapello, Iowa, acting by and through its governing body, the Wapello County, Iowa Board of Supervisors, hereinafter referred to as COUNTY, and the CITY of Ottumwa, acting by and through its governing body, the City Council of the City of Ottumwa, Iowa, hereinafter referred to as CITY, both of Wapello County, State of Iowa, and

**WHEREAS**, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party, and

**WHEREAS**, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement, and

**WHEREAS**, the CITY and COUNTY agree that the CITY will be the financial administrator of the JAG program, which includes a grant award to the CITY of \$23,980.00, and to the COUNTY of \$0, and

**WHEREAS**, the CITY and COUNTY agree to share the CITY's award wherein the CITY will receive 85% of the funds (\$20,383.00) and the COUNTY will receive 15% of the funds (\$3,597.00), and

**WHEREAS**, the CITY and COUNTY believe it to be in their best interests to allocate the JAG funds for the purpose area of "Law Enforcement Programs", and specifically the purchase of law enforcement equipment.

**NOW, THEREFORE, the COUNTY and CITY agree as follows:**

**Section 1.**

CITY agrees to act as financial administrator of said JAG award and the CITY and COUNTY agree to share the funds as previously setout.

**Section 2.**

Once JAG authorized and awarded, all funds are to be expended by the proscribed time allotment of the current fiscal year of acceptance, and the following one year, for a total of two grant period years or as may be directed by grant rules and regulations.

**Section 3.**

CITY and COUNTY agree to all conditions set forth in the JAG award, including but not limited to: JAG purpose areas, prohibited uses, financial and programmatic reporting, etc.



**Section 4:**

Nothing in the performance of this Agreement shall impose any liability for claims against the CITY or the COUNTY other than claims for which liability may be imposed by the Tort Claims Act.

**Section 5.**

Each party to this Agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

**Section 6.**

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

**Section 7.**

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

CITY OF OTTUMWA, IOWA

Richard W. Johnson  
Mayor

COUNTY OF WAPELLO, IOWA

Jerry D. Leakes  
Chair, Wapello County, Iowa Board of Supervisors

ATTEST:

Christina Runhard  
City Clerk

APPROVED AS TO FORM:

[Signature]  
City Administrator

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

COVER SHEET  
FOR  
AGENDA ITEM

Board Meeting of July 12, 2022

Auditor's Office

Kelly Spurgeon

AGENDA TITLE:

Agreement between City of Ottumwa and Wapello County for  
2022 Byrne Justice Assistance Grant (JAG) Program.

RECOMMENDATION:

**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

Christina Reinhard 

Prepared By

Fire  
Department

Department Head

  
City Administrator Approval

AGENDA TITLE: Set a public hearing on the proposed Ordinance amending the City of Ottumwa's Fire Protection and Prevention Code by amending Chapter 14 of the City of Ottumwa Municipal Code to Adopt the 2021 Edition of the International Fire Code.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Set the time, date and place of public hearing as:

August 2, 2022  
5:30 P.M.  
City Council Meeting  
City Hall Council Chambers  
105 E. 3rd Street  
Ottumwa, IA 52501

DISCUSSION: At the August 2nd City Council meeting, staff will bring a recommendation to the Council to adopt the 2021 Edition of the International Fire Code into the City of Ottumwa's Municipal Code. Copies of the 2021 Edition of the International Fire Code are available for public review at the City Clerk's office. All written public comments may be submitted to the City Clerk's Office, City Hall by 4:30 P.M. on August 2, 2022. All persons interested in the proposed amended Ordinance are invited to be present at the above time, place and date to present their arguments for or against.

Source of Funds:

Budgeted Item:  Budget Amendment Needed: No

## Notice of Public Hearing

Notice is hereby given that the City Council of the City of Ottumwa will hold a public hearing on August 2, 2022 at 5:30 P.M. in City Hall in the City of Ottumwa, Iowa on an Ordinance amending the City of Ottumwa's Fire Protection and Prevention Code by amending Chapter 14 of the City of Ottumwa Municipal Code to Adopt the 2021 Edition of the International Fire Code. Copies of the 2021 Edition of the International Fire Code are available for public review at the City Clerk's office. All written public comments may be submitted to the City Clerk's Office, City Hall by 4:30 pm on August 2, 2022. All persons interested in the proposed amended Ordinance are invited to be present at the above time, place and date to present their arguments for or against.

FOR THE CITY OF OTTUMWA:

Christina Reinhard, City Clerk

**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

Administration  
Department

Barbara Codjoe  
Prepared By  
Barbara Codjoe  
Department Head

  
\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: Resolution #188-2022 - Approve and authorize signature of MOU regarding Overtime calculation between the City of Ottumwa and Teamsters local No. 238 for the Police Department.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt resolution #188-2022.

DISCUSSION: Approve and authorize the mayor to sign the MOU between the City of Ottumwa and Teamsters local No. 238 for the Police Department.

This MOU clarifies how overtime is figured with night differential and field training officer pay.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed:



RESOLUTION NO. 188-2022

RESOLUTION APPROVE EMPLOYEE  
OVERTIME CALCULATIONS

WHEREAS, the City of Ottumwa, Iowa desires to clarify language in the Police Department contract regarding Overtime Calculations pertaining to night differential and field training officer pay; and

WHEREAS, the City of Ottumwa has reviewed and revised said MOU and finds that approval of said policies and procedures, as revised, would be in the best interest of the City and the employees of the City covered under Teamsters Local No. 238 for the police department, and;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA:

the said MOU, with an effective date of July 1, 2022 are hereby adopted by and for the City of Ottumwa, Iowa, and rescinding all others.

PASSED, ADOPTED and APPROVED this 19<sup>th</sup> day of July, 2022.

CITY OF OTTUMWA, IOWA

  
Richard W. Johnson, Mayor

ATTEST:

  
Christina Reinhard, City Clerk

MEMORANDUM OF UNDERSTANDING

Between

OTTUMWA, IOWA And

TEAMSTERS LOCAL NO. 238

Ottumwa, Iowa (hereinafter "the City") and Teamsters Local 238 (hereinafter "the Union") enter this Memorandum of Understanding.

WHEREAS, the City and the Union are parties to a collective bargaining agreement effective July 1, 2019 and continuing through June 30, 2023.

WHEREAS the collective bargaining agreement (**Article 17, Section 1**) states:

**"Upon implementation of the 12-hour shift, police officers who work a majority of his/her hours between the hours of 1800 and 0600 shall receive a shift differential of \$0.30 per hour for all hours actually worked during this period."**

WHEREAS the collective bargaining agreement (**Article 20, Section 8**) states:

**"Officers and Communications Specialists will receive an additional five (5) percent hourly pay (including longevity) for hours spent serving as a Field Training Officer, Police Training Officer, or similar training position."**

WHEREAS the City and the Union agree to **add (Article 17, Section 1)**:

**"This shift differential will be included to calculate the overtime rate if an employee works the majority of their shift between the hours of 1800 and 0600. "**

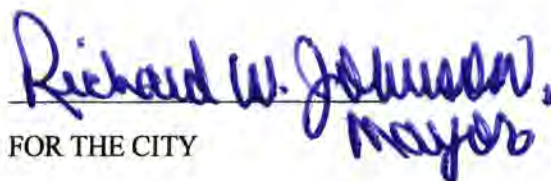
WHEREAS the City and the Union agree to **add (Article 20, Section 8)**:

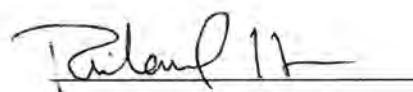
**"This additional pay for hours spent serving as a training officer will be included to calculate the overtime rate, if applicable for that pay period."**

**IT IS THEREFORE AGREED AS FOLLOWS:**

The City and the Union will change Article 17, Section 1 and Article 20, Section 8 effective July 1, 2022.

This MOU will be attached to the current Collective Bargaining Agreement and the adjustment will be incorporated for future collective bargaining agreements.

  
FOR THE CITY

  
FOR THE UNION  
Business Agent  
Teamsters



**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

Administration  
Department

Barbara Codjoe  
Prepared By  
Barbara Codjoe  
Department Head

  
\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: Resolution #195-2022 - Approve updates to Personnel Policy

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt resolution #195-2022

DISCUSSION: Changes in the personnel policy are outlined on the next page and highlighted in the actual policy.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed:

- 1) Add in article titled "Recruiting" - assigned as Article #4. Wording comes from "Hiring Policy and Process".
- 2) Add additional information reference to background check policy.
- 3) Re-number all articles and align table of contents to appropriate pages.
- 4) Article 8 - Clarified that check stubs are available in UKG for employees to review.
- 5) Article 10 - donated time - changed from Finance department to Human Resources Department

RESOLUTION NO. 195-2022

RESOLUTION APPROVE UPDATED PERSONNEL POLICIES AND PROCEDURES

**WHEREAS**, the City of Ottumwa, Iowa had approved a revised Personnel Policies and Procedures manual on June 2, 2020, which incorporated the current practices regarding recruiting and background checks, pay stubs and donated vacation time as part of the document' and;

**WHEREAS**, staff for the City of Ottumwa has reviewed the current policies regarding recruiting and background checks, pay stubs and donated vacation time and determined the current policy does not meet the short and long term care for employees and operational needs for the employer, and;

**WHEREAS**, staff has drafted and revised the Personnel Policies and Procedures to meet the needs of both employee and employer and finds that approval of said policies and procedures, as revised, would be in the best interest of the City and the employees of the City, and;

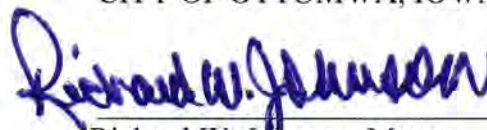
**WHEREAS**, the City Council of the City of Ottumwa, Iowa desires to approve the new Personnel Policies and Procedures containing reference to recruiting and background checks, pay stubs and donated vacation time in accordance with the Municipal Code of the City of Ottumwa, sections 2-144 and 2-145

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Ottumwa, Iowa, that the current Personnel Policies and Procedures approved on June 2, 2020 and any supplements thereafter are hereby repealed and that the attached Personnel Policies and Procedures are hereby adopted in their place with an effective date of July 19, 2022.

**BE IT FURTHER RESOLVED**, by the Ottumwa City Council of the City of Ottumwa, Iowa, that the Mayor and City Clerk are hereby authorized and directed to execute said resolution.

PASSED, ADOPTED and APPROVED this 19<sup>th</sup> day of July 2022.

CITY OF OTTUMWA, IOWA



Richard W. Johnson, Mayor

ATTEST:

  
  
Christina Reinhard, City Clerk

**CITY OF OTTUMWA**

**PERSONNEL POLICIES AND PROCEDURES**

**Passed by resolution**  
**JULY 19, 2020**

**Updated**  
**June 2022**



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## **SCOPE OF PERSONNEL POLICIES**

### **ARTICLE 1. GENERAL PROVISIONS**

The purpose of these Policies and Procedures is to establish a fair and equitable system of personnel administration that will allow for the efficient and effective public service for the City of Ottumwa.

These Policies and Procedures shall apply to all full-time and regular part-time City employees. Each department may adopt their own policies and procedures that are more stringent than these policies with approval of the City Administrator; but in no event shall they be less stringent.

In case of conflict with a collective bargaining unit agreement, the contract shall supersede these personnel policies of the City. In case of conflict with more stringent departmental rules, the departmental rules shall supersede these personnel policies of the City.

In the case of conflict with Chapter 400 of the Iowa Code (Civil Service) or any other Iowa statute or Federal Regulation, the statute or Federal Regulation shall supersede the personnel policies of the City.

These Policies and Procedures and any amendments shall become effective upon adoption by resolution of the City Council.

The City Administrator may adopt, amend, and rescind administrative policies and procedures not in conflict with these Policies and Procedures or any collective bargaining agreement as necessary for the proper administration of the City. Department heads may adopt, amend, and rescind departmental administrative policies and procedures not in conflict with these Policies and Procedures or any collective bargaining agreement, or the City Administrator directives, as necessary for proper departmental administration. A copy of all individual department policies and procedures are to be maintained in Human Resources.

These Policies and Procedures are designed to acquaint you with the City of Ottumwa and provide you with information about working conditions, employee benefits, and some of the policies affecting your employment. No Policy book can anticipate every circumstance or question about policy.

Ottumwa citizens are our organization's most valuable assets. Every employee represents the City of Ottumwa to its citizens and the public as a whole. The way we do our jobs presents an image of our entire organization. Citizens will judge all of us by how they are treated with each employee contact. Our first priority should be toward the citizens of our community. Nothing is

more important than being courteous, friendly, helpful and prompt in the attention we give our community.

## **ARTICLE 2. EMPLOYMENT AT WILL**

This manual has been prepared to advise employees of their responsibilities as an employee of the City of Ottumwa, Iowa and the many benefits and privileges they may enjoy. It is presented as a matter of information only. It is not a written contract or a legal document. While the City believes in the policies and procedures described, it is committed to reviewing them continually, and reserves the right to change or terminate any or all of them at any time.

Unless otherwise provided for in a written employment contract authorized by the Ottumwa City Council, or in a collective bargaining agreement, all employment relationships with City of Ottumwa, Iowa are at-will. At-will employees of the City of Ottumwa, Iowa are not guaranteed, in any manner, employment for any period of time. Just as the employee retains the right to terminate employment at any time, for any reason, the City of Ottumwa retains a similar right. No policy or practice of the City shall be construed to change this relationship. Only the City Council has the right to modify or change this practice, and such action must be in writing.

These personnel provisions may not be all-inclusive, are subject to interpretation by the City Administrator or designee, and represent brief summaries of City guidelines, which are subject to change without prior notice at any time at the sole discretion of the City Council. This handbook supersedes and replaces all previous handbooks and policies.

Nothing in these guidelines, creates, is intended to create, or shall be construed to constitute an express or implied contract of employment between the City and employees. No City employee can make any representation otherwise. Any representation by any City employee does not change these conditions of employment and cannot be relied upon.

## **ARTICLE 3. EQUAL EMPLOYMENT OPPORTUNITY**

The Policy of the City of Ottumwa is to provide equal opportunity in employment to all employees and applicants for employment. No person is to be discriminated by reason of race, color, religion, creed, sex, age, veteran status, national origin, disability, sexual orientation, gender, citizenship status, familial status, political affiliation, genetic information or testing, gender identity or expression or any other legally protected status which may be protected by applicable federal or state law with respect to hiring, upgrading, transfers, recruitment advertising, recruitment, selection, placement, promotion, demotion, layoff, compensation, benefits, training, termination, and any other terms, conditions, and privileges of employment. Other protected groups include those who have been arrested but not convicted of a crime, individuals infected with HIV, individuals who smoke outside the workplace, and individuals who are actively involved in politics or local unions.

1. Any communication from an applicant for employment, an employee, a government agency, or an attorney, concerning any equal employment opportunity matter shall be referred to the City Administrator or designee for action.
2. While overall authority for implementing this Policy is assigned to the City Administrator or designee, an effective equal employment opportunity program cannot be achieved without the support of supervisory personnel and employees at all levels. Employees who believe they are the victims of discrimination have a responsibility to promptly report this fact to their supervisor and/or the City Administrator or designee.
3. Complaints of discrimination by an employee will be handled and investigated under the City's Grievance Procedure, unless special procedures are considered appropriate, such as referral to the Iowa Civil Rights Commission or another outside investigator. All complaints of discrimination will be investigated promptly and in an impartial and confidential manner. The City prohibits retaliating against employees who engage in "protected activity" such as complaining about discrimination or harassment, or participating in an investigation. The City prohibits any form of retaliation against employees for bringing bona fide complaints or providing information about discrimination.

#### **ARTICLE 4. RECRUITING**

The City of Ottumwa believes that hiring qualified individuals to fill positions contributes to the overall success of the City. Each employee is hired to make significant contributions to the City of Ottumwa. The City of Ottumwa also strives to retain employees through an environment that creates opportunity and encourages advancement.

The City of Ottumwa has adopted an internal and an external posting process that may run concurrently. Positions will be posted on designated employee communication boards at each location along with electronically in UKG (the City's Human Resources Information System).

*For additional information, please review policy #75 – Hiring Policy and Process.*

#### **Background Checks:**

To ensure that individuals who join the City are well qualified and have a strong potential to be productive and successful employees, it is the City's policy to investigate the backgrounds and employment references of applicants. In addition, the City may conduct background investigations when employees are being considered for promotions or transfers, or in furtherance of an internal investigation of alleged misconduct. Background investigations will be conducted at City's discretion and in accordance with federal and state law.



Motor Vehicle checks for employees who drive on behalf of the City or have required CDL licenses will be conducted annually, including required annual checks with the Federal Clearinghouse. The City relies on the accuracy of information contained in employment applications, as well as the accuracy of other data presented throughout the hiring process and during employment. Any misrepresentations, falsifications, or material omissions in any of this information or these data may result in an applicant being excluded from further consideration for employment or, if an individual has already been hired, termination of employment.

**Use of Information Obtained in a Background Investigation:**

Information obtained from a background investigation will be considered for employment purposes as permitted by federal and state law and in accordance with City's Equal Employment Opportunity Policy.

Information will be reviewed to determine:

- Whether false statements or material omissions were made by an individual on an application for employment or during an interview;
- Whether an applicant or employee, based on the job duties of the position in question, poses a threat to security and/or employee safety in the workplace; *and*
- The likelihood of an applicant or employee being successful and productive on the job.

*For additional information, please review our Background Check Policy.*

**ARTICLE 5. CIVIL SERVICE**

The duties and powers of the Civil Service Commission are set forth in Chapter 400 of the Code of Iowa, as if may be amended from time to time. The Mayor appoints Civil Service Commission members. The Commission will issue its own policies and procedures. The City Clerk serves as the Secretary to the Civil Service Commission as provided by Chapter 400 of the Code of Iowa.

The City Clerk keeps current lists of those employees covered by Civil Service as well as seniority lists in each employment category. Lists are posted at City Hall.

Seniority with the City is the length of an employee's continuous service with the City from the employee's most recent date of hire for calculating benefits. Classification seniority is the length of an employee's continuous service within a civil service classification.

An employee shall lose his seniority rights and the employment relationship shall be broken and terminated as follows:

1. Quits or retires;

2. Discharge, and discharge is not reversed through grievance procedure;
3. Fails to report to work at the end of a leave of absence;
4. Does not report for work for a period of three consecutive days, and does not notify the Employer; or
5. Has been laid off. When the work force is reduced, the employee loses his/her seniority rights. Employees facing work force reduction will be given at least two weeks of notice of the layoff. Employees facing a reduction through layoff or job abolishment may apply for any open positions in the City or may test for another position in accordance with civil service rules.

Job posting for open positions within the Public Works and Muni Bargaining Agreement positions will be dated and transfers of employees will be at the convenience of the City but preferably no later than forty (40) days after the date of the job posting. Notice of all vacancies or newly created positions will be posted by the City on the employee bulletin board. Employees, with civil service seniority in that classification, shall be given three (3) days' time in which to make application to fill the position. The employee with the best qualifications, as determined by the Department Head, will be assigned to fill the position. The employee has fourteen (14) days to disqualify him/herself and return to their former position if it is available. Employees may only exercise the self-disqualification once every two (2) years. The City has up to thirty (30) days to disqualify employees and return that employee to his/her former position if it is available.

#### **ARTICLE 6. RESIDENCY REQUIREMENTS**

Unless specified in a collective bargaining agreement, there is no requirement that an employee live in a specific community or county. However, each employee is expected to report to work on time and at all times when his/her office/work station is in operation. While the employee's domicile is not a condition of employment, neither is it a justification for not reporting to work in a timely manner.

#### **ARTICLE 7. NEPOTISM**

It is the policy of the City of Ottumwa to hire and promote employees on the basis of their qualifications, merits and for the good of the public service. It is the policy of the City of Ottumwa to prohibit nepotism in hiring, promotion, demotion, termination or other personnel actions pertaining to city employees, and to avoid the appearance of nepotism in personnel actions.

For purposes of this policy, nepotism is defined to mean that the City will not hire members of the same family, as hereinafter defined, to work in the same department or division within a department. Family members are defined for the purpose of this section of this policy as follows: parent, stepparent, child, stepchild, stepsibling, daughter, sibling, spouse, grandparent, grandchild, parent-in-law, son-in-law, daughter-in-law, half-sibling, cohabitating couples.



The following family members are not allowed to have direct or indirect supervisory or administrative authority over any family member, as hereinafter defined. Family members are defined as those in the previous paragraph in addition to any aunt, uncle, niece, nephew, brother-in-law, sister-in-law, grand-parent-in-law, first cousin.

Family members working in the same department as of the date this policy is adopted will be exempt from this policy. Employees who become family members after the adoption of this policy will also be exempt, although future transfers, promotions and new shift assignments shall be governed by this policy. Employees who marry each other or cohabitate together after they are both employed by the City, shall notify the City and, if one of them is in a supervisory position over the other, the employee in the supervisory capacity shall be discharged unless the other employee, within thirty (30) days of such marriage, resigns or transfers to a vacancy in another department for which he or she can qualify.

Exceptions – The Ottumwa Beach may have family members working at the Beach. However, employees may not be supervised by family members.

#### **ARTICLE 8. WAGES/JOB CLASSIFICATIONS**

Non-bargaining unit employees, excluding Department Heads, will be paid in accordance with the City's non-union pay plan adopted by the City Council on June 20, 1989 and effective July 1, 1989.

Employees will be paid on a bi-weekly basis. If the regular payday occurs on a holiday, the preceding workday is the payday. Direct deposit must be set up for each employee, except for those employees whose hire date precedes July 1, 2005. Those employees may continue to receive an actual check. A holiday may require the direct deposit to occur the next working day after the holiday.

Copies of paychecks are available in UKG the morning of payday. Employees receiving a paper check will be available for the Department Heads or their designee to pick up in the Finance Department after 11:30 a.m. on payday.

Employees on each payday will receive in addition to their check or direct deposit stub, a statement showing gross pay, deductions, and net pay. State and Federal taxes, as well as pension withholding required by Federal and Iowa law, will be deducted automatically. No other deductions will be made unless required or allowed by law, contract or employee obligation, such as garnishments. Employees may elect to have additional City approved deductions taken from their pay only if they authorize the deductions in writing.

Employees who discover a mistake in their paycheck, should notify the Finance Department immediately. Employees are responsible for promptly reviewing each paystub to determine if there are any errors. In the case of mistake on the part of the Finance Department, the error will be remedied promptly. If the mistake was on the part of the employee, it will be corrected on the next paycheck. However, the employee is solely responsible for any monetary loss, and the City cannot be responsible for the loss or theft of money from an employee's account.

Employees may discuss any questions or concerns regarding their rate of pay and/or the City's pay plan with their Supervisor, Department Head, Finance or Human Resource Department.

### ***Employee Definitions***

**Full-time Employee** – An employee is considered a full-time employee if they are scheduled to work 40 or more hours a week on a regular basis.

**Part-time Employee** – An employee is considered a part-time employee if they are scheduled to work less than 40 hours a week on a regular basis.

**Seasonal Employee** - Seasonal employees are defined as those who work on a seasonal basis (typically no more than 6 months) at one or more of the various departments within the City. These employees will work varied schedules pursuant to the department's operating hours. Seasonal employees will receive no benefits other than those afforded to them by State or Federal regulations.

**Contracted Employee** – A contracted employee is one that is hired through our current employment agency. The contracted employee will be paid directly by the employment agency and all benefits will be offered through the employment agency, not through the City of Ottumwa.

**Exempt Employee** – An employee is considered exempt meaning they are exempt from the overtime rules of the Fair Labor Standards Act (FLSA). This is because they are classified as an executive, professional, administrative or certain computer professional employee and meets the specific criteria for the exemption. With some limited exceptions, exempt employees must be paid on a salary basis.

**Non-exempt Employee** - An individual who is not exempt from the overtime provisions of the FLSA and is therefore entitled to overtime pay for all hours worked beyond 40 in a workweek (unless stipulated otherwise in a collective bargaining agreement). Nonexempt employees may be paid on a salary, hourly or other basis.

### Overtime/Compensatory Time

Consistent with efficient operations and service, it is City policy that overtime be minimized. Overtime must be authorized by the Department Head prior to its utilization.

Overtime is time authorized by the Department Head or designee in advance, assigned, and worked by employees in non-exempt positions in excess of the regularly scheduled work shift or workweek. Overtime is paid at the rate of one and one-half times the employee's regular hourly rate of pay for hours over 40 per week, or as defined by the Fair Labor Standards Act.

- Overtime rates for police and fire departments are different as bargained and as pursuant to the Fair Labor Standards Act.
- Due to the nature of their work, field supervisors will have overtime figured as per their department's collective bargaining agreement. This applies to classified events (snow, flooding, etc.), call-backs, and mandatory overtime
  - Field Supervisors are defined as those non-exempt supervisors working in Streets, Sewer, Traffic, Central Garage, Engineering Supervisor, Water Pollution Control and the Recycling Center.

Unless negotiated as part of a collective bargaining agreement, paid holidays, incentive time, vacation, sick leave or comp. time are not considered as time worked under Fair Labor Standards.

Compensatory time off in lieu of overtime is calculated at the rate of one and one-half times the employee's regular hourly rate of pay. Compensatory time may be accumulated up to a maximum of one hundred (100) hours; not more than forty (40) hours may be carried from one calendar year to the next. A Department Head may reduce overtime for non-union covered non-exempt positions by allowing flex time during the week overtime would be accumulated. For instance, if an employee works an hour of overtime on Tuesday, the Department Head may allow the employee to leave an hour early on Friday of the same week that overtime occurred.

Payment for overtime, flex time or compensatory time off is determined by the Department Head.

Once an employee moves from a non-exempt position to an exempt position, any comp time that they have accumulated will be paid out on their next scheduled pay at their last hourly rate.

An employee on paid leave shall be considered on paid leave until their next scheduled work day and will not be called in for overtime unless in the case of an emergency.



## ARTICLE 9. HOURS OF WORK

It is the policy of the City of Ottumwa to establish the time and duration of working hours as required by workload and service needs, the efficient management of human resources, and any applicable law. The City expects its employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the City. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence. Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.

The normal workweek is Sunday through Saturday, and consisting of eighty hours within a pay period. Fire, Police and other personnel may have varying schedules. Department Heads or designee may schedule overtime or extra shifts when it is necessary. Employees are not permitted to work overtime without the prior approval of their Supervisor or Department Head.

All non-exempt employees are required to complete an individual time record showing the daily hours worked. All non-exempt employees are required to punch into the UKG System when reporting to duty and punch out of the UKG System when ending their shift. Employees are NOT allowed to work "off the clock." Employees who fail to properly punch in and out for work and meal periods will be subject to disciplinary action, up to and including termination of employment.

Each Department Head or designee will determine the scheduled hours for employees. The Department Head or designee will inform employees of their daily work schedule, including meal periods and breaks, and of any changes that are considered necessary or desirable by the City. When able to do so, breaks should be taken at the work location.

Breaks are defined as short periods of rest lasting less than 20 minutes and are considered compensable time. Meal periods are 30 minutes or longer and aren't compensable time unless the employee is required to continue working while eating. Employees are to be completely relieved from duty during their meal break. If a nonexempt employee is required to perform any work duties while on his or her meal break period, the employee must be compensated for the time spent performing work duties. The time spent working during the meal break will be counted toward the total hours worked.

Personnel employed in executive, administrative, or professional capacities generally are exempt from the provisions of the Fair Labor Standards Act. These employees are not required to fill out hourly time records but must account for daily attendance and time spent on particular categories of activities to be accountable for public projects and for payroll purposes.

## ARTICLE 10 - BENEFITS

The City's Benefit package is set out as follows. It should be noted that this package can vary between departments and employees covered by independent boards and pursuant to applicable collective bargaining agreements. The following is a general overview of these benefits. Employees with specific questions regarding the benefit package within their department should address those questions to their Department Head, Supervisor or Human Resources.

### HOLIDAYS:

The following will be recognized as paid holidays for City employees unless otherwise stipulated except those employees covered by independent boards.

New Year's Day	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Day after Thanksgiving Day
Labor Day	Christmas Day
Martin Luther King Day	President's Day

One (1) day (eight (8) hours) the last working day before or after Christmas, as designated by the Mayor.

When a holiday falls on Saturday, the holiday shall be observed on the preceding Friday. When a holiday falls on a Sunday, the holiday shall be observed on the following Monday.

Any employee eligible for overtime under Article 8, who works by request of the employer on his/her holiday shall be paid the holiday pay plus overtime rate of one and one-half (1 ½) times his/her regular rate for hours worked. Police and Fire personnel who are granted holidays to be taken in conjunction with vacation and other leave will not be paid overtime for working the scheduled holidays.

An employee shall forfeit his/her right to payment for any such holiday if he or she has an unexcused absence on the last regular working day preceding such holiday or on the next regular working day following such holiday.

For religious or other holidays not listed above, an employee must use vacation or personal days.

For Public Safety employees (Fire and Police), holidays will be granted as floating holidays.

- Police – all Sergeants, Lieutenants and the Police Chief will be given 88 hours of holiday pay each year on November 1<sup>st</sup>. Holiday pay not used by October 31<sup>st</sup> shall be forfeited.



**VACATION:**

It is the policy of the City of Ottumwa to grant its employees paid vacation time to accrue based on years of service. Use of accrued vacation time is to be granted, with due consideration to departmental staffing needs.

All full-time employees and regular part-time employees will accrue vacation leave benefits. Part-time employees will accrue vacation leave on a pro-rated basis based upon the number of hours budgeted each fiscal year. Seasonal and/or temporary employees will not accrue vacation leave benefits.

Every employee shall be eligible for a vacation with pay after successfully completing the probationary period. Employees shall start to earn vacation leave at their first date of employment and shall accrue vacation time bi-weekly. Employees increase will take effect on the first day of the pay period closest to the date of the actual increase. Employees receiving an increase in vacation will accumulate as set out below.

Vacation allowance shall be earned annually and shall be based on the employee's anniversary date as follows, unless otherwise stipulated by an employment agreement with that employee:

Years of Service	Vacation Period	Bi-Weekly Vacation Accrual
0 through 5 years	80 hrs – 2 weeks	3.08 hours
6 through 12 years	120 hrs – 3 weeks	4.62 hours
13 through 20 years	160 hrs – 4 weeks	6.15 hours
Over 20 Years	200 hrs – 5 weeks	7.69 hours

Upon retirement, death, or any other type of separation, vacation credit shall be given based on the employee's accumulation.

Vacation requests shall be made in the following manner:

1. Vacation requests must be made through UKG. All requests will be routed to the direct supervisor for approval. All vacation requests must be approved by the Department Head or designee or City Administrator before vacation may be taken. Scheduling of vacation time shall be the responsibility of Department Head or designee, subject to staffing needs.
2. Vacation periods may be changed after they are approved only with the approval of the Department Head or designee or City Administrator.

Accrued vacation will be limited to an amount equal to 1 ½ times the employee's annual accrual rate at any point in time. Once that limit is met, the employee will begin to lose vacation accrual over the limit. It is the employee's responsibility to watch their accruals set out in their paystub to determine when the employee could lose vacation time if not used. An employee called in to work on a vacation day will receive pay of time and one half plus the vacation pay (double time and a half) or be paid time and one half and receive another day off later.

**SICK:**

It is the policy of the City of Ottumwa to grant its employees paid sick time to be used during times of incapacitation for work. This includes time needed to address the medical needs of an immediate family member. An illness or injury to spouse or minor child which requires the employee's immediate attention will cause time to be used from sick leave to make arrangements for medical and other needs up to a maximum of eighty (80) hours per fiscal year.

Sick pay is not, however, interchangeable with paid vacation. The use of sick pay by any employee for non-medically related absences from work is considered to be sick pay abuse and subjects the employee to disciplinary action.

All full-time employees and regular part-time employees will accrue sick pay benefits. Part time employees will accrue sick pay on a pro-rated basis based upon the number of hours budgeted each fiscal year. Seasonal and/or temporary employees will not accrue sick pay benefits.

Any eligible employee contracting or incurring any non-service connected sickness or disability which renders such employee unable to perform the duties of his/her employment shall receive sick pay, subject to the provisions of this policy. Sick leave does not include elective cosmetic procedures. If an employee is exposed to a contagious disease and a doctor certifies the employee would endanger the health of others by attendance at duty, sick pay may be used.

Employee doctor and dentist appointments may also be charged as sick pay when they cannot be scheduled outside the employee's regular work hours. Sick pay will only be allowed for the doctor's appointment and reasonable travel time to and from the doctor's office.

Eligible employees shall earn and accrue sick pay at the rate of 7.39 maximum hours per pay period for continuous service starting on the date of entry to the service unless provided for otherwise pursuant to a collective bargaining agreement.

On the first payday after November 30<sup>th</sup> of each year, each current employee shall be paid for 25% of accrued sick pay in excess of 1920 hours, up to a maximum of forty-eight (48) hours and the employee's sick pay accrual will be reduced to 1920 hours. The date used will be the pay



period ending closest to November 1 of each year for determining payment. An individual must be employed at that time to be eligible for the payout.

Unless otherwise provided in a collective bargaining agreement, beginning November 1 of each year, each employee receives 8 hours casual time which must be used by the following October 31st. Casual time is deducted from employee's accumulated sick pay.

An employee, on leave because of an occupational disability related to his\her employment, may take such sick pay allowance to which he\she is entitled and the prorated amount will be added to the amount of disability/worker's compensation which will result in an equivalent payment to the employee of a full salary for any particular period.

Sick pay may be used for absence caused by sickness, injury, disability, or pregnancy. Sick pay will not be used for employees on vacation or holidays. Employees shall be eligible for pay for any holiday falling within a pay period for which they received compensation.

**Donated time** - Employees who have exhausted their sick pay may utilize vacation leave donated by another employee. Donations are voluntary and shall be turned in confidentially to the **Human Resources** department for the benefit of the employee on sick pay.

The Department Head or City Administrator may require that the use of sick pay be supported by a doctor's statement if the employee (or immediate family member) is off three (3) or more consecutive workdays OR takes more than three (3) workdays off in any 90 calendar day period. An employee returning to work following serious illness or incapacitation will be required to present a written release from his\her physician at the employee's expense. *Please see our Leave Policy for more information.*

Employees shall at all times submit to examination by such medical examiner as may be designated by the city, when required by the appropriate department head or City Administrator. In cases of extended use of sick pay, the employee may be required to appear for a physical examination to determine whether FMLA or leave of absence is necessary.

Employees shall report prior to the start of their shift to their immediate supervisor when they are unable to work because of illness or injury. Each department will determine the amount of time needed to report off on sick pay. Department heads shall report to their departments and City Administrator if they are unable to work. Employees reporting shall inform their supervisors of the anticipated duration of the recuperation period. Text messages or phone calls to co-workers other than their immediate supervisor, are not sufficient notice.

An employee using sick pay in excess of 90 consecutive days will not continue to accrue paid sick time. Sick pay is not an accrued leave benefit and will not be paid out upon the employee's separation from employment with the City.

### **INCENTIVE LEAVE:**

Unless a collective bargaining agreement provides otherwise, personal leave in the amount of one hour shall be awarded for each pay period in which an employee is not absent from work due to the use of sick leave. No exceptions shall be permitted to excuse an absence, except legal holidays, vacation, and personal days or employees on family medical leave. Personal leave may be taken at any time, but a minimum of twenty-four (24) hours' notice shall be given to the employee's supervisor subject to appropriate staff coverage. A maximum of eight (8) hours of Personal Leave may be carried over each year. The reset period shall be the pay period ending closest to November 1, each year.

### **PARENTAL LEAVE:**

An individual on parental leave may take up to 12 workweeks off under the Family Medical Leave Act (FMLA). If an employee has accrued benefits, they may choose to use this paid time off concurrently with their FMLA leave.

**NOTE:** At this time, parental leave does not count as dependent sick time, so if after using sick time for parental leave, the baby or other dependent defined as spouse or child, becomes ill, the employee may use 80 hours dependent sick time (if available from accrued sick time) to use during that fiscal year.

*Please review our Leave policy for more information.*

### **FUNERAL LEAVE:**

Employees may be granted bereavement leave for death in the immediate family, which shall not be deducted from an employee's accumulated sick leave as follows:

- (1) Up to five (5) days for the death of a spouse, child or stepchild.
- (2) Up to three (3) days for the death of a parent, stepparent, sibling, grandchild or employee's own grandparents.
- (3) Up to one (1) day for the death of a father/mother-in-law, brother/sister-in-law, son/daughter-in-law or spouse's grandparents.

Regular part-time employees will be granted funeral leave on a pro-rated basis.



**LONGEVITY PAY:**

The City will pay full-time and part-time regular employees a longevity rate based on \$25.00 per month for each five years of continuous service. Library employees will be paid a per hour rate set by their collective bargaining agreement. As per the Fair Labor Standards Act, this will be paid as an hourly rate and applied to the base compensation rate to determine an employee's regular rate of pay to calculate for overtime, holiday, incentive, funeral, military, sick (casual and dependent), comp time payment and vacation pay.

Years of Service	Monthly Amount	Yearly Amount	2080 Hours	2184 Hours	2912 Hours	Library
			Per hour	Per hour	Per hour	Per hour
5	\$ 25.00	\$ 300.00	\$ 0.14	\$ 0.14	\$ 0.10	\$ 0.15
10	\$ 50.00	\$ 600.00	\$ 0.29	\$ 0.27	\$ 0.21	\$ 0.30
15	\$ 75.00	\$ 900.00	\$ 0.43	\$ 0.41	\$ 0.31	\$ 0.45
20	\$ 100.00	\$ 1,200.00	\$ 0.58	\$ 0.55	\$ 0.41	\$ 0.60
25	\$ 125.00	\$ 1,500.00	\$ 0.72	\$ 0.69	\$ 0.52	\$ 0.75
30	\$ 150.00	\$ 1,800.00	\$ 0.87	\$ 0.82	\$ 0.62	\$ 0.90
35	\$ 175.00	\$ 2,100.00	\$ 1.01	\$ 0.96	\$ 0.72	\$ 1.05
40	\$ 200.00	\$ 2,400.00	\$ 1.15	\$ 1.10	\$ 0.82	\$ 1.20

*\*for reference only – differences may be minimal due to rounding*

**FLEX SPENDING PLAN:**

The City currently has a Flex Spending Plan being administered by Advantage Administrators. This plan allows an employee to set aside dollars each year as a deduction to pay for qualified health and dependent care expenses. These dollars are deducted from the employee's wages before any income or social security taxes are paid. By using this tax savings plan, the employee will not only notice an increase in take home pay, but the employee will have access to a reimbursement account throughout the year to pay qualified expenses. This is on a calendar year basis. Employees are notified in November of each year for signup for the next calendar year. A failure to sign up during this open enrollment period will result in the inability to utilize this plan for that year. The IRS sets the maximum amount of money that can be placed in this plan annually. The sum of \$500 can be carried over into the next year and participants may have until January 31 of the next calendar year to submit claims. An employee must consider carefully how much is needed annually. Any amount over \$500 will be forfeited.

See Human Resources for further information regarding this Plan.

## **RETIREMENT PLANS:**

All regular full time and regular part time employees are covered under one of the following City retirement plans:

1) Sworn Police Officers & Fire Fighters are covered by Chapters 400 & 411 Code of Iowa. Contributions by employee and employer are determined by annual actuarial studies.

2) All other covered employees participate in the Iowa Public Employees Retirement System and Social Security. Contributions by employees and employers are determined by Iowa Public Employees Retirement System. The State of Iowa sets the contribution rates for both the employee and the City of Ottumwa. This plan is subject to all State and Federal retirement regulations.

See Human Resources for further information.

## **HEALTH AND LIFE INSURANCE:**

The City offers Single to Family coverage to all of its full-time employees. The City has a self-funded plan that is currently being administered by Wellmark Blue Cross and Blue Shield. Currently, the City pays 90% of the monthly premium for a Family Hospital, Medical, Surgical Group Insurance Plan, including major medical coverage and dental coverage, dental coverage to be on the employee only, and 90% of the monthly premium for a single person Hospital, Medical, Surgical Group Insurance Plan, including major medical coverage and dental coverage. In addition, the City pays 90% of the monthly premium for the same type of plan for an employee/spouse or an employee/child(ren). At this time, there is a \$300 deductible for single plans and a \$600 deductible for family plans. The out of pocket is \$1,000 for single plans and \$2,000 for family plans.

The City currently provides a three-tier drug card program for employees and their dependents. The three-tier drug card program consists of a \$10.00/\$25.00/\$40.00 co-pay effective January 1, 2008. The employee currently pays 10% of the cost for these plans. The plan that is in place meets all State and Federal regulations as well as under the Affordable Care Act, including coverage for adult children to age 26. This plan will be subject to change based upon Federal and State regulations.

The City of Ottumwa offers Life Insurance for all full-time regular, active employees working a minimum of 40 hours each week. Employees will become eligible for Life Insurance on their start date. Employees may purchase coverage for qualified dependents as per the current pricing schedule. Dependents are defined as per the plan document and schedule of insurance. Please contact Human Resources for a copy of the current rates.

Please review the Life Insurance Policy and plan documents from our provider for further information.

### **ARTICLE 11. BENEFITS CONTINUATION - COBRA**

The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the City's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, or death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee or beneficiary pays the full cost of coverage plus an administration fee. The City provides each eligible employee with a written notice describing rights granted under COBRA when the employee becomes eligible for coverage under the City's rights and obligations. Contact the Human Resources Department for more information about COBRA.

### **ARTICLE 12. EMPLOYEE LEAVE POLICY**

Eligible employees may request leave pursuant to the terms and conditions of the federal Family and Medical Leave Act (FMLA). If an employee does not qualify for leave under FMLA, eligible employees may qualify for a leave of absence for a period not to exceed one (1) year, unless otherwise stipulated by a collective bargaining agreement.

If an employee has accrued time off (sick, vacation, comp), they may use this time concurrently with FMLA or a paid leave of absence. If an employee has accrued time off and only qualifies for a personal leave of absence, they must exhaust the accrued time before taking an unpaid leave of absence.

The Department Head may authorize leave with pay, which will not be charged to vacation or sick leave, for the following reasons:

- For appearance in court, either as a member of the jury, or when required to appear as a witness in a criminal case. If the employee is required to appear as a witness in a civil case not involving the City or the employee is a Defendant in a criminal case, the employee will need to take accrued leave. When an employee appears in court pursuant to jury duty or as a result of a subpoena during regular working hours and receives full pay from the City, any jury or witness fees that the employee might receive except for mileage from the Court, will be turned over to the City Clerk's office.



- For attendance at an official meeting where the good of the City is involved, but within the budget allowance for this purpose. All leave with pay except those related to sickness or injury must be applied for in advance.

*Please refer to the Leave of Absence Policy for more information.*

### **ARTICLE 13. MILITARY LEAVE**

In accordance with Iowa Code, Chapter 29A.28, "Leave of Absence of Civil Employees," all municipal employees when ordered by proper authority to active military service shall be entitled to a leave of absence for the period of such active service without loss of pay during the first thirty days of such leave of absence.

Active service for a period of less than thirty days: When such active service is for periods of less than 30 days, a leave of absence shall be required and the employee will be paid for those days that the employee would have normally worked. Payments will not exceed thirty (30) total calendar days in any calendar year.

Active service for a period of more than thirty days: When such active service is for a continuous period greater than thirty days, this leave of absence will be without pay except for the first thirty days during which time the employee will suffer no loss of normal pay. This means the employee will be paid only for those days that normally would have been work days during this first thirty day period. But, again, in any case, payments for accumulated periods of less than thirty (30) days and more than thirty (30) days will not exceed payments for greater than a total combined period of thirty (30) days.

**Beginning Date:** The period of thirty days for such payment begins with the date such employees are ordered to report to their home station in preparation for mobilization.

**Proper Authority:** The proper authority for any such activation is the Office of the Adjutant General, Headquarters, Iowa National Guard, for National Guard soldiers, or the Office of the Adjutant General, Headquarters, US Forces Command for soldiers of the Army Reserve. The authorization for the City to make such payment will be a valid copy of written orders with appropriate order numbers from the authorizing headquarters provided to the City Administrator or designee.

### **ARTICLE 14. HARASSMENT POLICY**

It is the policy of the City of Ottumwa, Iowa, to strictly prohibit discrimination and harassment and to maintain a professional and quality working environment for all employees or future employees. It is the City's policy that all employees have a right to work in an environment



free of discrimination and harassment based on sex, age, race, national origin, religion, disability, genetic information, sexual orientation, marital status, or any other basis protected by federal, state, or local law. The City prohibits harassment of its employees in any form—by supervisors, co-workers, customers, or suppliers.

The City of Ottumwa has a zero tolerance policy for any form of sexual harassment in the workplace, and will treat all incidents seriously and promptly investigate all allegations of sexual harassment. Any person found to have sexually harassed another will face disciplinary action, up to and including dismissal from employment. All complaints of sexual harassment will be taken seriously and treated with respect and in confidence. There shall be no retaliation for the submission of a complaint unless the complaint is proven to be false. Harassment may also be based on another protected class and can be in violation of the City's Equal Employment Opportunity Policy set out in Article 3. All procedures set out for other illegal harassment will be followed based upon this policy.

Sexual Harassment is a violation of Section 703 of Title VII Civil Rights Act of 1964. The City defines sexual harassment as:

1. Unwanted sexual advances
2. Requests for sexual favors
3. Other verbal or physical conduct of a sexual nature

These constitute sexual harassment when:

- Submission to such conduct is a term or condition of employment
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting the individual
- Such conduct unreasonably interferes with the employee's work or creates an intimidating, hostile or offensive working environment

Sexual Harassment may be physical in nature, verbal and non-verbal conduct. Inappropriate physical conduct includes unwelcome physical contact, touching and violence. Inappropriate verbal conduct includes comments regarding a person's appearance, age, private life, sexual comments, jokes and stories, sexual advances, repeated and unwanted social invitations, insults, condescending or paternalistic remarks and sending sexually explicit messages through text, phone or e-mail. Inappropriate non-verbal conduct includes displaying sexually explicit or suggestive materials, gestures, whistling and leering.

Sexual harassment is a manifestation of power relationships and often occurs within unequal relationships in the workplace, for example between a supervisor and employee. It can also include clients, customers, contractors or visitors. It is possible that a co-worker may take offense even though that person is not the direct target of the sexual harassment.

## COMPLAINTS PROCEDURES:

Anyone who is the subject of sexual harassment should, if possible, inform the alleged harasser that the conduct is unwanted and unwelcome. However, if the victim cannot directly approach an alleged harasser, he/she can file a complaint with the City Administrator or designee.

When a complaint is received, the City Administrator or designee will:

- immediately record the dates, times and facts of the incident(s)
- ascertain the views of the victim as to what outcome he/she wants
- ensure the victim understands the city's procedures for dealing with the complaint
- discuss and agree to the next steps: either informal or formal complaint, on the understanding that choosing to resolve the matter informally does not preclude the victim from pursuing a formal complaint if he/she is not satisfied with the outcome
- keep a confidential record of all discussions
- respect the choice of the victim
- ensure that the victim knows that he/she can lodge a complaint with the Iowa Civil Rights Commission at any time

Throughout the complaint procedure, a victim is entitled to be helped by a counsellor through the City's EAP program.

Any City employee who has been found to have sexually harassed another person under the terms of this policy is subject to the City's Disciplinary Process, including termination. The nature of the sanctions will depend on the gravity and extent of the harassment. Suitable deterrent sanctions will be applied to ensure that incidents of sexual harassment are not treated as trivial.

## ARTICLE 15. INTERNAL INVESTIGATIONS

It is the policy of the City of Ottumwa to provide a method by which employee conduct may be investigated by the city to: (1) protect the public from employee misconduct, (2) protect the city's image and avoid claims against the city, (3) protect the employee against false allegations of misconduct, (4) remove unfit personnel, and (5) correct procedural problems. Investigations involving Police and Fire personnel shall be handled pursuant to Chapter 80F of the Code of Iowa.

1. The City Administrator or department head may cause an internal investigation to be initiated. Unless the City Administrator or designee is the subject of the investigation, he/she will be notified and participate in the investigation. A copy of the report will be forwarded to the City Administrator.

2. The person initiating the internal investigation shall appoint one or more city employees to conduct the investigation.
3. The internal investigation shall be conducted in a manner substantially similar to a Police Department internal investigation. The person or persons conducting the investigation shall consult the attorney designated by the City Administrator before initiating the investigation to ensure that the investigation's procedures comply with appropriate legal standards.
4. The employee under investigation and any other employee with information about the matter shall be required to answer fully and truthfully all questions related to his/her fitness for city employment and the performance of official duties. Refusal or failure to answer such questions fully or truthfully may result in disciplinary action, including termination. The investigator who is conducting the investigation will provide all necessary warnings to the employee required by law, including but not limited to the Garrity Warning.
5. Upon completion of the internal investigation, those assigned to conduct the investigation shall make full written report to the person initiating the investigation for review and disposition. Copies of the completed investigation report shall be forwarded to Human Resources and the City Administrator.

#### **ARTICLE 16. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

It is the policy of the City of Ottumwa to make available for its employees and their dependents confidential counseling and guidance for problems such as alcohol and drug abuse, marital and family problems, mental and emotional illness, and financial, legal and similar areas of concern that may be contributing to unacceptable job performance. The current EAP provider is the Southern Iowa Mental Health Clinic, located at 1527 Albia Road, Ottumwa. The contact telephone number is 641-682-8772. The EAP provider may change periodically. City employees will be promptly notified of any change. An employee may call directly for an EAP appointment, may go through the City Administrator or designee or through the supervisor.

The city may suggest an employee take advantage of the EAP if it is observed that the employee has a deterioration in work performance or attendance or other incidents which indicate a possibility of a personal problem.

- a. The basis of the referral should be a written account of the performance problem that is observed. The account should be as detailed as possible including the dates, times and descriptions of behaviors that have become a part of a pattern of deterioration or particular incidents that warrant supervisory action. This may not be possible in cases such as those involving use of alcohol or drugs on city property which require immediate attention.)



- b. The supervisor should meet with the employee with the problem to discuss the performance problem and communicate clearly the consequences of failure to resolve the problem. In this meeting, the supervisor should not speculate as to the cause of the performance problem nor engage in discussion with the employee concerning any personal problems. (Should a particularly unusual pattern develop, the supervisor may consult with the EAP counselor prior to his\her meeting with the employee).
- c. After the employee has been confronted with the performance problem, the supervisor must review the EAP with the employee, advise him\her of the availability of confidential professional assistance for any work-hampering personal problem and strongly encourage the employee to allow the supervisor to arrange an appointment with the EAP counselor. While the final decision to use the EAP shall be left up to the employee, the supervisor should emphasize the importance of the EAP.
- d. If the employee agrees to accept assistance, the supervisor should call the EAP counselor and arrange a meeting between the employee and the EAP counselor. The counselor will advise the supervisor of any further action which might be necessary.
- e. The supervisor should make available to the EAP counselor all information that is relevant to the performance problem of the employee prior to the arranged meeting. If necessary, the EAP counselor will request a conference with the supervisor to further discuss the situation.
- f. If the employee chooses not to accept assistance at this time, the supervisor should reinforce the expectation for improved performance and the consequences for failure to improve. The supervisor should also point out that the EAP will be available should the employee change his\her mind in the future. The discussion of the EAP as an option should be clearly documented by the supervisor.
- g. All information pertaining to the employee's referral to the EAP and information provided by the EAP counselor to the supervisor should be accorded the same high standards of confidentiality as applied to other disciplinary procedures and personnel records.
- h. The supervisor will be sensitive to the employee's needs while the employee is involved in the program and participate, as needed, in the continuing recovery plan.



- i. In all cases of formal supervisor requests, particularly those associated with job performance problems on the part of the employee), the EAP will provide follow up information to the supervisor. Only information related to the employee's cooperation with the EAP and ability to perform his/her duties will be released. This release of information may require written permission by the employee, under Federal or State law.

It is expected that city employees will comply with any referrals for diagnosis and cooperate with prescribed counseling or therapy. Employees who refuse evaluation, diagnosis and treatment, if indicated, will be handled in accordance with standard administrative disciplinary policies for unacceptable job performance. The City of Ottumwa EAP is not to be considered a substitute for disciplinary action and failure to receive treatment and to make satisfactory progress will result in the employee being subject to normal disciplinary procedures.

Time away from work will be treated the same as for any other absence due to illness, injury, or for personal reasons. An employee may use accumulated available sick leave, vacation, personal days and/or compensatory time during the treatment if the employee must be absent. It is the responsibility of the employee to advise his/her department immediately of the need to be absent from work. An unpaid leave must be requested for any portion of leave time not covered by paid leave, pursuant to standard procedures.

While the first 5 visits to the EAP counselor will be paid for by the City, further referrals or trips to the EAP Counselor may result in a cost to the employee which may or may not be covered in full or partially by the City's group health insurance program. The EAP will make every effort to suggest referrals that are covered by insurance and are within the means of the employee to pay.

In cases of drug and alcohol abuse treatment, the treatment must be provided in an approved facility. The employee or dependent must be sure that the facility is approved before entering. Employees or dependents that receive alcohol and/or drug abuse treatment are expected to participate in follow-up therapy. In cases where the employee is referred to a treatment center in lieu of discipline, the employee must remain for the full course of treatment or the employee will be subject to the originally planned discipline. The cost of drug and alcohol abuse treatment will be paid by the employee subject to any coverage by the City's group health insurance program.

An employee who must be absent from work because of counseling or treatment shall be returned to his/her regular position with full benefits and seniority afforded other employees with medical problems if the position has not been filled. The department head will require the returning employee to furnish a return to work release.

## ARTICLE 17. ACCIDENT REVIEW

All City employees are responsible for promptly reporting any accidents or near misses that occur while they are on duty. Employees who fail to report any accident will be subject to discipline up to and including termination. A Police report must be filed for all motor vehicle accidents involving on duty City employees and City vehicles. It is the responsibility of the vehicle operator, unless totally incapacitated by the accident, to make sure a Police report is filed. The vehicle operator is also responsible for promptly completing employee accident report forms, which may be obtained from the Department Heads or the Finance Director. All accidents involving City vehicles shall be reported to the Police Department and an officer may be dispatched to do the initial investigation and to complete an accident report. The officer will perform a full investigation to determine if the accident was caused as a result of violating a City or State traffic law. The Police Department will forward a copy of all reports made to the Finance Director. Depending on the circumstances of the accident, the Sheriff's Department or the Iowa State Patrol may be called to perform an investigation.

Department Heads and supervisors are responsible for reviewing all reports related to accidents or near misses, ensuring the completion of all reports, providing additional information as needed and for promptly forwarding all reports to the Finance Director.

The Risk Manager shall be empowered to review all personal injury accidents and Workers' Compensation claims and all records and information relating to such incidents.

The Risk Manager shall have the right to require written reports from such persons as the Risk Manager shall deem appropriate for the proper determination of the facts surrounding each accident and shall have access to such documentary evidence as may be needed to complete the Risk Manager's investigation. Before making a determination, the Risk Manager will fully investigate each accident or near miss. The procedure for investigation will be established by the Risk Manager.

Following investigation, the "Class" of accident will be determined by the Risk Manager. The decision should be made in a fair, unbiased and objective fashion. Each case must be reviewed on a case-by-case basis. Once a recommendation has been made, both the Employee and the Department will be promptly advised in writing by the Risk Manager. **It will be the Department Head's responsibility to administer disciplinary action after notification from the Risk Manager of the "Class" of accident determination.**

The Employee may appeal the Risk Manager's ruling in writing, submitted to the City Administrator within ten (10) working days of the dated written notice sent to the Employee of the findings/actions. The City Administrator shall review the appeal, may interview the employee,

witnesses, and will speak to the Department Head and/or Supervisor. Within thirty (30) days of the receipt of the written notice by the Employee, the City Administrator may affirm, modify, or reverse the ruling based upon the merits presented at the appeal.

All personal Bodily Injury Forms must be properly completed and forwarded to the City Administrator or designee for distribution. This allows the employee, supervisor and Department Head an opportunity to submit factual as well as subjective information to the Risk Manager who will determine whether or not an employee was negligent in actions which contributed to the accident or near miss.

The determination of negligence will be based on all information presented and not exclusively on a violation of the City or State traffic codes. The Risk Manager may have the following information available to them when reviewing an employee's motor vehicle accident.

1. Possession of valid license
2. Driving experience with the City
3. State driving record

Procedures:

1. The following will be classified as vehicle/equipment accidents for the purpose of review by the Risk Manager.
  - a. Property damage to a third party
  - b. Damage to City vehicle or City property
  - c. Bodily injury to a third party as a result of an accident
  - d. Bodily injury to employee
2. Definitions:
  - a. Unavoidable – an accident/incident which resulted in a finding of nonfault.
  - b. Minor, but avoidable – the accident is one that poses minimum danger to life and property, a mistake.
  - c. Avoidable/mitigating circumstances – an accident with extenuating circumstances.
  - d. Avoidable/negligence – the individual responsible for the act or action had a duty and that duty was violated. The act caused the accident. Damages resulted.
  - e. Avoidable/Carelessness – the individual responsible for the act or action carelessly violated a law or one or more specific safety policies and procedures.
  - f. Negligence with intent – act or actions which demonstrate an intentional lack of care or caution of consequences marked by total disregard for caution when that person should have realized it.
3. Accident Causes
  - a. Worker's Compensation accidents can usually be broken down generally into two causes:

- i. an UNSAFE ACT - usually account for 85% of accidents
  - 1. Making safety devices inoperable
  - 2. Failure to use guards provided
  - 3. Using defective equipment
  - 4. Servicing equipment in motion
  - 5. Failure to use proper tools or equipment
  - 6. Operating machinery at unsafe speed
  - 7. Failure to use proper tools or equipment
  - 8. Operating without authority
  - 9. Lack of skill or knowledge
  - 10. Unsafe loading or placing
  - 11. Improper lifting, lowering or carrying
  - 12. Taking unsafe position
  - 13. Unnecessary haste
  - 14. Influence of abusive substances
  - 15. Physical limitation or mental attitude
  - 16. Unaware of hazard
  - 17. Unsafe act of another
- ii. an UNSAFE CONDITION – usually account for 15% of accidents
  - 1. Inadequate guards of protection
  - 2. Defective tools or equipment
  - 3. Unsafe condition of machine
  - 4. Congested work area
  - 5. Poor housekeeping
  - 6. Unsafe floors, platforms, stairways
  - 7. Improper material storage
  - 8. Inadequate warning system
  - 9. Fire or explosion hazards
  - 10. Hazardous substances
  - 11. Inadequate ventilation
  - 12. Excessive noise
  - 13. Inadequate illumination
  - 14. Hazardous atmosphere: gases, dust
  - 15. Fumes or vapors

All unsafe conditions should be reported immediately to the supervisor.

#### 4. Accidents Involving On-Duty Employees Operating City-Owned Vehicles:

When available and if the severity of damage necessitates it or the accident involves an injury, an outside law enforcement agency may be requested to conduct the investigation. This



will require supervisors and officers to use their discretion as to whether an outside agency will be contacted. If the Police Department does investigate the accident, the investigating office will then forward the accident report as well as any other paperwork relating to the investigation to the City Administrator or designee, who will determine whether a traffic citation should be issued and, if so, to whom.

The Police Department is not precluded from taking enforcement action against any driver for those violations that are incidental to the accident, such as drunk driving or driving under suspension. The Police Department may also arrest any driver or occupant for a criminal offense that may be observed. City employees may also be subject to drug and alcohol testing based upon the City's Substance Abuse Policy set out in Article 35.

#### **ARTICLE 18. WORKER'S COMPENSATION/ RESTRICTED DUTY ASSIGNMENTS**

Employees who are injured on the job could be eligible for worker's compensation coverage. The Employee is required to promptly report any injury by calling the "Company Nurse" telephone number on the card provided to each employee upon employment. Additional cards may be obtained from Human Resources. The cards are also posted in each department. This is the First Report of Injury. Failure to report an injury promptly without a reasonable explanation may result in disciplinary action against an employee, the supervisor if he/she fails to report the injury, and potentially could result in a denial of work related injury benefits. The injured employee must as soon as possible call the "Company Nurse," report the injury and symptoms and follow the advice of the medical provider for treatment. The "Company Nurse" will direct the injured employee for treatment. If the injury is severe and the employee is unable to call, the employee should seek immediate treatment and the employee's immediate supervisor will make the report. Employees are required to follow all treatment protocol as directed. Medical bills for treatment are to be forwarded to the Human Resource Department. IMWCA is the City's Worker's Compensation administrator.

It is the policy of the City of Ottumwa to establish a policy relative to restricted duty assignments for City employees who are temporarily disabled due to work related injuries.

The City of Ottumwa has established a policy for employees to Return-to-Work or Light Duty assignments after injury or illness for employees who are unable to return to their regular job classifications. This includes employees who are temporarily unable to perform the full functions of their position.

This policy is not intended to supersede or modify the procedures applicable to employees eligible for reasonable accommodation under the Americans with Disabilities Act (ADA) or leave benefits under the Family and Medical Leave Act (FMLA). Inquiries about the ADA or FMLA should be directed to the human resource department (HR).

*For further information, please refer to our current Return-to-Work/Light Duty Policy.*

### **ARTICLE 19. EMPLOYEE PHYSICALS AND MEDICAL SERVICES**

This policy is established relative to physical examinations for new employees and for medical services for work related injuries and illnesses. The purpose of the policy is to establish a designated Physician or Clinic to perform physical examinations for all new City employees including Police and Fire and to perform medical services for all work related injuries and illnesses. Emergency care will be handled by the Emergency Department of Ottumwa Regional Health Center if after the doctor's regularly scheduled office hours or in case of medical emergencies. New employee physicals are required for all regular full and part-time employees, which also includes a drug screen. Those physicals are currently conducted by Occupational Health at the Ottumwa Regional Health Center. Drug testing will also occur at the Ottumwa Regional Health Center. All pre-employment physicals and drug testing are paid for by the City.

Any work related injury shall be reported to the on-call Company Nurse promptly. Please see Article 18 for further information regarding Worker's Compensation claims. Under the Iowa Worker's Compensation law Chapter 85, the City is authorized to choose the medical care provided for employees who are injured on the job.

Any employee who is required to hold a CDL pursuant to his/her position, may be required to undergo drug and/or alcohol testing as a result of any accident while on duty.

### **ARTICLE 20. FITNESS FOR DUTY**

#### **Fitness for Duty:**

The City endeavors to provide a safe workplace. This policy applies when an employee is having observable difficulty performing his/her work duties in a manner that is safe for the employee and/or for his or her co-workers, or is posing a safety threat to self or others.

The purposes of this fitness-for-duty policy are:

1. To promote the safety and health of employees and citizens
2. To establish procedures by which the City can evaluate an employee's ability to safely and competently perform her/his duties when a health or safety problem arises; and
3. To comply with applicable law.

#### **Procedures:**

1. Employees are responsible for managing their health in such a way that they can safely perform their essential job functions, with or without reasonable accommodation, e.g.,

- employee with the flu should stay home, and employees taking medications that advise against driving should not drive.
2. Employees at work or on-call must remain in a fit condition for the entire period.
  3. Supervisors may refer employees for a fitness-for-duty evaluation as provided by these procedures.
  4. Before a supervisor refers an employee for a fitness-for-duty evaluation, the Human Resources Manager must approve the evaluation unless the circumstances require immediate action. As an alternative to requiring an employee to submit to a fitness-for-duty evaluation, the supervisor may send the employee home with pay on an administrative leave pending a determination whether to require a fitness-for-duty evaluation.
  5. Application of this policy is not intended as a substitute for other City policies or procedures related to performance. In addition, application of this policy is not a substitute for discipline. In any situation involving misconduct or violation of City policy, disciplinary action may be taken.
  6. The City will pay the cost of fitness-for-duty evaluations and will pay the employee for time spent in the fitness-for-duty evaluation.
  7. An impartial, independent healthcare evaluator, with appropriate expertise in areas including one or more of the following: medical, psychological, alcohol, or other drug conditions, will conduct a fitness-for-duty evaluation.
  8. The City will make the final determination of an employee's fitness-for-duty status.
  9. An employee referred for a fitness-for-duty evaluation will be relieved of duties pending completion of the evaluation. Generally, the employee will be placed on administrative leave.
  10. When an employee is found to be unfit for some or all duties, his or her employment status will be determined on a case-by-case basis, in accordance with City policy and practice and applicable law. The employee may be placed on a medical leave, intermittent leave, or restricted duty.
  11. An employee's pay status while fitness for duty is being determined will depend on his or her employment status and the facts of the case.
  12. In all cases, the City must receive a "return-to-work/fitness-for-duty form" from the independent evaluator before an employee may return to full or restricted duty.
  13. In most cases, a re-entry conference with the supervisor and the Human Resources manager (if appropriate) will occur prior to the employee's return to work.
  14. Noncompliance with a request for a fitness-for-duty evaluation may be considered insubordination and constitute cause if disciplinary action is warranted. False information or the omission of information in the course of a determination of the employee's fitness for duty may also lead to discipline. Employees are expected to fully cooperate with a determination of their fitness for duty.
  15. Confidentiality/privacy

- a. Records of fitness-for-duty evaluations will be treated as confidential medical records and be kept separate from existing personnel files; this information will be shared only as permitted by law.
- b. After an evaluation, information available to the employee's supervisor will be limited to:
  - i. Whether a person is fit to resume some or all of his or her job duties
  - ii. Whether a person is a direct threat to self or others
  - iii. Whether a person needs specific reasonable accommodations

This policy may be modified without notice in order to comply with applicable law.

**Fitness-for-Duty Certification**

Employee: \_\_\_\_\_

Department/Location: \_\_\_\_\_

Status: \_\_\_ Full time \_\_\_ Part time On leave since: \_\_\_\_\_

You have my permission to have a healthcare provider contact the healthcare provider indicated on this certification for purposes of clarification related to this serious health condition, if necessary.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**(Information below to be completed by healthcare provider)**

Effective as of this date, the above named employee is hereby certified as fit to resume work duties as follows:

- \_\_\_ Full-time duties, no restrictions
- \_\_\_ Full-time duties, with the following restrictions (conditions and duration):
- \_\_\_ Part-time duties, no restrictions
- \_\_\_ Part-time duties, with the following restrictions (conditions and duration):

Intermittent duties, with the following restrictions (conditions and duration):

Name of healthcare provider: \_\_\_\_\_

Address: \_\_\_\_\_



Telephone: \_\_\_\_\_  
Type of practice/ specialty: \_\_\_\_\_  
Signed: \_\_\_\_\_ Date: \_\_\_\_\_

### **ARTICLE 21. PERSONNEL FILES/EMPLOYEE ACCESS**

It is the policy of the City of Ottumwa that personnel files contain all information relevant to the employment history of each city employee. It is the policy of the City of Ottumwa to permit access by all city employees to their own personnel files and to provide for correction of any erroneous information maintained in such files. Only information related to job performance or business necessity will be maintained in these files.

1. Official personnel files shall be kept at City Hall in the Human Resource office. Personnel files include all relevant employee information including the following: application for employment, commendations; certificates of completion of any special training, class or degree program; requests for leaves of absence; performance evaluations; notices of employee counseling, reprimands, suspensions and any other disciplinary actions; discrimination complaints and statements of grievances. Copies of any performance evaluations and disciplinary actions shall be forwarded to the City Administrator for review. Medical information will be kept in a separate Medical file, including the results of medical exams required by the City.
2. City employees will be permitted access to their employment files during normal office hours in the Human Resource office, provided that the employee has requested in writing access to their own file. Employees will be permitted to examine, take notes and make copies of any materials contained in their file. Employees wishing to examine their files must have the permission of their supervisor or department head to leave the job. The Human Resource Manager or the person designated by the City Administrator must be present during this examination and may require 24 hour advance notice or schedule review in advance at such time as mutually agreeable.
3. An employee may request correction of any alleged misinformation contained in these files. If this request is denied, the employee will receive an explanation of the reason thereof, and will be permitted to place a concise statement of disagreement in the file.
4. Access to the employee's personnel file will be limited to the employee, the employee's department head, Human Resource Manager or representative, City Administrator, by the lawful custodian of the records, or by another person duly authorized to release information, unless otherwise ordered by a court.
5. Except when authorized by a statement signed by the employee or former employee, no information concerning the employee will be given to an outside source other than: confirmation of employment, confirmation of salary, dates of employment, job title, and department as well as any information considered public records pursuant to Iowa Code

Chapter 22, as it may be amended from time to time. It should be noted that under Iowa Code Section 22.7(11)(a)(5) the fact that an employee resigned in lieu of termination, was discharged, or was demoted as the result of a disciplinary action, and the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion is considered public record. A demotion is interpreted as changing an employee from a position in a given classification to a position in a classification having a lower pay grade.

6. All requests for information pertaining to current or previous employment with the City will be forwarded to the Human Resource Manager.

### **ARTICLE 22. PERFORMANCE EVALUATIONS**

It is the policy of the City of Ottumwa to ensure that city revenues are appropriately spent on wages by periodically evaluating the job performance of each employee. It is the policy of the City that each employee may receive an evaluation annually by his/her supervisor. This procedure will assist in employee performance improvement, assist the employee in setting goals, and determining training if necessary.

1. The job performance of each employee will be evaluated by his/her supervisor at the completion of thirty (30) days of the employee's anniversary date.
2. The evaluations shall be conducted privately between the employee and the supervisor at a time and place designated by the department head.
3. The job performance of each department head will be evaluated by the City Administrator at least once a year and before receiving any merit increases.
4. Each employee shall receive a written copy of the results of the evaluation. The form of the evaluation shall be prescribed by the City Administrator. The employee will be asked to sign the evaluation to indicate that he/she has discussed it with his/her department head. A refusal to sign the evaluation shall be so noted on the form.
5. A portion of the evaluation shall consist of designating areas where improvement is needed. At the time of the next evaluation, the evaluator shall note whether improvement has been achieved in those areas.
6. The evaluation shall become a part of the employee's personnel file.

### **ARTICLE 23. ACCESS TO CITY ADMINISTRATOR**

Employees may have access to the City Administrator to present complaints, disputes or disagreements for which union grievance procedures or Civil Service procedures are not applicable. Before employees meet with the City Administrator they shall first present their complaints, disputes or disagreements in a timely fashion through their departmental chain-of-command and/or Human Resource Manager. In the event that such use of the chain of command constitutes part of the complaint or dispute, the employee may request a confidential hearing with the City Administrator by confidential written request.

## **ARTICLE 24. CYBERSECURITY**

The use of electronic mail and the Internet is necessary for City employees, elected officials, and others serving in an official capacity with the City to communicate with each other more efficiently and to provide superior customer service, increase productivity, and provide opportunities for professional growth. The City encourages the use of these media and associated services because these communications and access to information are useful in conducting City business. It remains, however, that electronic media and services provided on or through City devices are City property and their purpose is to facilitate City business. The goal of this policy is to encourage the responsible and prudent use of this resource.

With the rapidly changing nature of electronic media, this policy cannot establish rules to cover or anticipate every possible situation. This policy is intended to express the City's philosophy and establish general principles to be applied in the use of electronic media and services on City property or with City-owned devices.

*Please refer to our Cybersecurity Handbook which outlines the following seven (7) policies:*

- General Email/Internet Security and Use
- Personally Identifiable Information and Protected Personally Identifiable (PII) Information Requirements Applicable to all Federal Awards (PII)
- Cell Phone (revision to policy #56-2015)
- Bring Your Own Device (BYOD)
- Acceptable Use
- Online Social Networking
- SAQ Point-to Point Encryption (P2PE)

## **ARTICLE 25. DISCIPLINARY PRACTICES/PROCEDURE**

Certain rules and regulations governing the conduct of all City employees must be adhered to by all employees in order to ensure safe, efficient and successful operation of city functions. This policy is not intended to abrogate the appointing authority's discretion to discipline and/or terminate an at will employee.

To ensure a safe, efficient and effective working environment, city employees need to adhere to city and departmental rules regarding appropriate conduct on the job. It may sometimes be necessary for a supervisor to take disciplinary action with an employee. The City is committed to a policy of progressive discipline. Progressive discipline is defined as a series of disciplinary measures, ranging from employee counseling to discharge of an employee, designed to effectively correct problems as they occur and to let an employee know if his/her conduct is inappropriate.



However, the City reserves the right to terminate promptly or bypass progressive disciplinary steps in the event of flagrant and/or intentional misconduct.

The following items will be considered to be infractions subject to disciplinary action up to and including discharge from employment. This list is not all inclusive of all acts that may be subject to disciplinary action and are illustrative only, but not limited to, the types of behavior for which disciplinary action may be taken.

- Gifts, Gratuities, Fees, Rewards, Loans – Employees shall not, under any circumstances, solicit or accept any gift, gratuity, loan, reward, or fee when there is any direct connection between it and their Department or employment. Employees must abide by the State’s Gift Law, Iowa Code Chapter 68B, as it may be amended from time to time.
- Controlled Substances – Employees shall not use controlled substances other than those prescribed to them by a physician.
- Drugs – No employee shall be at work while under the influence of drugs or be unfit for work because of their excessive use. This includes the abuse of prescription drugs.
- Alcohol – No employee shall report to work while under the influence of alcohol or drink alcohol while at work.
- False Injury Claims - Employees injured while not at work shall not falsely claim it to be an injury while on the job.
- Embezzlement – theft or misappropriation of funds, equipment or property placed in one’s trust or belonging to the City.
- Employee Arrested or Cited - An employee who has been arrested or cited for any criminal violation shall immediately notify the Human Resource department in writing. Conviction of a crime closely or directly related to the ability of the employee to perform his/her job effectively.
- Policies - Employees shall observe and obey the lawful verbal and written rules, duties, policies, procedures and practices of the City of Ottumwa.
- Professional Conduct - Employees shall conduct themselves toward the public in a civil and professional manner that indicates a service orientation and that will foster public respect and cooperation.
- Performance - Employees shall perform their duties in a manner which shall maintain the highest standards of efficiency in carrying out the functions and objectives of the City. Unsatisfactory performance may be demonstrated by an unwillingness or inability to perform assigned tasks or a failure to conform to work standards established for the position.
- Willful, careless, and/or repeated violation of departmental rules, which have been properly posted, standard operating procedures, or any other rules or regulations promulgated by the City.



- Falsification, alteration, deletion of required information or failure to include material information on any application or City record Punching the time clock or unauthorized completion of a time slip for another employee.
- Abusive, improper treatment during the performance of duty to any member of the public, fellow employee or City official, including harassment on the basis of race, creed, color, sex, national origin, religion, age, sexual orientation, marital status, mental or physical disability, or any behavior or harassment which has the effect of producing a hostile work environment.
- Sleeping On the Job - Employees shall not sleep on the job.
- Judgment or Condition - No employee shall report to work or be on the job when his/her judgment or physical condition has been impaired by alcohol, medication, or other substances.
- Use of Equipment – Employees are accountable for the proper use and care of any property or equipment assigned to them, used by them, or placed in their care. Equipment shall not be used in a manner not specified in procedure, directives, training, or in a fashion other than the intended use. If equipment is broken or malfunctions, the employee shall report it to the appropriate person in prescribed manner.
- Committing Unsafe Acts – Employees shall not commit acts or behave in such a manner that has the potential for endangering or injuring themselves, another person, or property. Disregard for safety policies and procedures, including proper use of safety gear, clothing or equipment.
- Cooperation with Employees, the Public and Other Officials – Employees shall not engage in disorderly or abusive/violent conduct with other members and/or personnel from other City departments or agencies as well as the public.
- Safe Driving – The driver of any City vehicle shall operate said vehicle in a reasonable and safe manner, exercising due caution and judgment, following all state and federal traffic regulations, including the mandatory use of seatbelts within City vehicles.
- Possession of Firearms or Explosives – Possession of firearms or explosives on City property are prohibited by City employees except by certified police officers, those certified by the Iowa Law Enforcement Academy and currently the Deputy Fire Chief.
- Reporting for Work – Employees shall be punctual in reporting for work at the time and place designated by their supervisor(s). Employees shall not provide a false excuse for an absenteeism for which pay is received.
- Employees are required to maintain valid driver’s license, and any endorsements required in said job description.
- Insubordination.
- Employees are required to maintain all licenses and/or certifications that are necessary to fulfill the requirements of the job.
- Violation of city or departmental rules, regulations, policies and procedures.

- Refusal or failure to answer questions in an internal investigation. If an employee answers questions in an internal investigation, then the information obtained during the investigation cannot be used in a criminal prosecution case against the employee.
- Supervisors should not engage in any inappropriate relationships with their employees.
- Employees shall not abuse sick leave or dependent sick leave.
- Smoking on the job or in any city vehicle except during breaks in a designated location.
- Fighting, or threatening violence in the workplace/
- Horseplay, boisterous or disruptive activity in the workplace or practical jokes that are carried too far.
- Any other act, which is not in the best interest of the City.

The Disciplinary process includes the following forms:

- Oral reprimand reduced to writing.
- Written reprimand.
- Suspension.
- Demotion.
- Termination.

Depending on the severity of the misconduct, all or some of these progressive disciplinary steps may be waived and the employee may be terminated. Termination must be with the recommendation of the City Administrator or designee.

DEFINITIONS: For a period of time during which the employee will not be working for the City of Ottumwa.

1. Punishment – suspension carries with it a censure for misconduct on the part of the employee.
  2. Pay – during the suspension the employee will receive no pay.
  3. Return To Work – return to work after the suspension is at the sole discretion of the City.
- Suspension is when an employee is suspended due to an act or behavior that is unacceptable by the Employer.

1. Employee will be placed on suspension.
2. Employee will receive no pay while on said suspension.
3. Return to work after the suspension at the sole discretion of City.

Layoff is when an employee is placed on lay-off status due to the reduction in the employees regularly scheduled work hours.

1. No punishment.

2. Employee could be eligible for unemployment benefits and could utilize any accumulated leave, excluding sick leave.
3. Sole discretion of the City.

## **ARTICLE 26. GRIEVANCE PROCEDURE**

**Definition.** A grievance is defined as a timely filed claim by an employee which alleges that there has been a violation of the employee's rights. Should an employee claim a grievance, it shall be processed in the following manner:

**Informal Step.** The employee shall first discuss the problem with the immediate supervisor in an attempt to resolve the problem informally. If the problem is not settled to the employee's satisfaction, the following procedure should be used.

**Step one.** An employee who claims a grievance shall reduce the grievance to writing by giving and signing a statement of facts. The written grievance must be submitted to the immediate supervisor no later than seven (7) working days after the occurrence upon which the grievance is based or the grievance is waived. The immediate supervisor shall give a written answer to the aggrieved employee within seven (7) working days after the grievance is presented to the supervisor.

**Step Two.** If the grievance is not settled in Step One and the grievant wishes to take the grievance forward, the grievant must submit the signed grievance to the Department Head or his designee within seven (7) working days after receipt of the immediate supervisor's written answer or the grievance is waived. The Department Head will give a written answer to the aggrieved employee within seven (7) working days after the grievance is presented to the Department Head.

**Step Three.** If the grievance is not settled in Step Two, the grievant may submit the grievance to the Personnel Officer and the City Administrator within seven (7) working days of the receipt of the Department Head's written answer or the grievance is waived.

The City Administrator shall give a written answer to the aggrieved employee within ten (10) working days after the grievance is presented.

All completed copies of the grievance shall be forwarded to Human Resources and placed in the employee's personnel file.

A Civil Service employee shall request a hearing before the Civil Service Commission according to Chapter 400, Code of Iowa, if applicable. The Civil Service Commission shall decide whether or not the grievance is within the scope of the Commission's responsibilities prior to agreeing to hear the grievance.

## **ARTICLE 27 – EMPLOYEE PRIVACY**

Employees have a reasonable expectation that offices, desks, lockers, file cabinets, etc. that are assigned to them will not be exposed to indiscriminate examination by other employees. However, the City does retain the right to enter an employee's office, desk, file cabinets, etc. for work related purposes.

No employee shall enter another employee's office, desk, file cabinet, locker, or similar "private" area, unless:

1. Authorized by the person who has control of the office or equipment;
2. Necessary for the proper conduct of City business;
3. Authorized by a Supervisor/Department Head for the purpose of investigating employee misconduct;
4. Part of an inspection; or
5. In response to an emergency situation.

Employees are cautioned that personal items may be inadvertently observed during the above situations. If an employee is concerned that this may happen, personal items should be stored elsewhere.

## **ARTICLE 28 – VIOLENCE IN THE WORKPLACE**

The City of Ottumwa does not tolerate violence in any form or the threat or perception of violence by or against any employee while performing his or her official duties, or due to the employee's official duties, wherever those duties are performed. Additionally, the City of Ottumwa recognizes an individual's right to bear arms in accordance with state and federal laws afforded by the Second Amendment of the United States Constitution and the State of Iowa. The City is not liable for any wrongful or negligent act or omission related to actions of persons or employees who carry a concealed weapon.

Unless specific job duties require it, the ability to carry a concealed weapon is not within the scope of employment and is not a condition of employment. Nothing in this policy should be interpreted to require or encourage any employee who lawfully possesses a weapon to use it in defense of others.

An employee in violation of this policy will be subject to discipline up to and including termination of employment.

*For additional information regarding the City of Ottumwa's expectations of its employees who wish to carry a concealed weapon while engaged in the duties of their employment, please reference the Workplace Violence and Threats Prevention Policy.*



## ARTICLE 29 – DRESS CODE

### CITY HALL EMPLOYEES:

#### **Business Attire Policy: Business Casual Dress Code:**

The City of Ottumwa expects its City Hall employees to dress appropriately in business casual attire. Because our work environment serves customers, professional business casual attire is essential. Customers make decisions about the quality of our services to the community based on their interaction with you. Employees must be neat, clean and well-groomed with proper hygiene.

Consequently, business casual attire includes suits, dress pants, capris, jackets, shirts, skirts and dresses that, while not formal, are appropriate for a business environment. Examples of appropriate business attire include a polo shirt with pressed khaki pants, a sweater and shirt with corduroy pants, and a jacket, sweater, and skirt and leggings as part of a dressy ensemble and with a top that covers the rear end. Jeans, t-shirts, shorts, short skirts, tube tops, tank tops with shoulder strap width of 3 inches or less, and spaghetti straps (unless covered by a jacket), halter tops, low-cut blouses or sweaters, low cut shirts, blouses and sweaters, spandex or Lycra, clothing that is tight and suggestive, sweatpants, workout gym clothing, swim wear, and footwear such as flip flops are not appropriate for business casual attire. Open toed dress sandals for women are appropriate unless as directed by the Department Head due to the need to perform field inspections or work responsibilities outside of the office.

Be considerate and thoughtful regarding clothing that other employees might find offensive or that might make coworkers uncomfortable. This includes clothing with profane language statements or clothing that promotes causes that include, but are not limited to, politics, religion, sexuality, race, age, gender, and ethnicity. Clothing may not be revealing, in disrepair (torn, ripped or ragged) and cannot promote alcohol or tobacco products, violence or sexually suggestive or lewd written or visually suggestive images.

Employees are expected to demonstrate good judgment and professional taste. Courtesy of coworkers and your professional image to customers should be the factors that are used to assess that you are dressing in business attire that is appropriate.

Although it is impossible to establish an absolute dress and appearance code, the City of Ottumwa will apply a reasonable and professional workplace standard to individuals on a case-by-case basis. Management may make exceptions for special occasions or in the case of inclement weather, at which time employees will be notified in advance. An employee unsure of what is appropriate should check with his or her department head.

City Hall staff performing field inspections should wear clothing commensurate with the tasks they are performing, keeping in mind that attire should project a professional image. Staff may wear trousers, jeans, knit shirts with collars, city logo shirts and dress shirts. Attire should be clean, in good repair and suitable to employees in a professional position. Jeans are permitted if the staff member is actually performing field inspections or as approved by the Department Head. Closed toed shoes, as designated by the Department Head, are required.

Visible tattoos are permissible. However, any tattoo that would include profane language, promote alcohol or tobacco products, violence or sexually suggestive or lewd written or visually suggestive images should be covered. Tattoos on the face will not be permissible. Tattoos on the chest shall be covered.

Nose rings, eyebrow rings, gauge earrings, lip rings or studs are prohibited and cannot be worn in the workplace. Gauge earrings will need to be removed and have nude or clear plugs inserted while working. Earrings and small nose studs are allowed. Tongue piercings are permissible if they do not interfere with clear speech. Other visible body piercings are prohibited.

Every effort will be made to reasonably accommodate employees with a disability or with religious beliefs that may make it difficult for that employee to comply fully with the dress code policy. Employees should contact the City Administrator to request such a reasonable accommodation. The City will reasonably accommodate a staff member in terms of workplace attire unless the accommodation creates an undue hardship such as safety issues.

When applicable, protected concerted activity covered by the National Labor Relations Act (NLRA) or a City collective bargaining agreement is not prohibited by this policy. Wearing union insignia or displaying a union logo on clothing may be viewed as a form of protected concerted activity.

Employees who wear business attire that is deemed inappropriate in this workplace will be dealt with on an individual basis rather than subjecting all employees to a more stringent dress code for appropriate business attire. If a supervisor or Department Head decides that an employee's dress or appearance is not appropriate as outlined in this policy, he or she may take corrective action and require the employee to leave the work area and make the necessary changes to comply with the policy. Hourly paid staff members will not be compensated for any work time missed because of a failure to comply with designated workplace attire and grooming standards.

Employees may face more severe consequences up to and including termination if they violate the dress code repeatedly.

### **Business Attire Policy: Casual Dress Code:**

The City of Ottumwa will allow employees to dress appropriately in business attire of a casual nature on Fridays. On this day of the week, employees may wear jeans which are appropriate, not ripped, torn or revealing. We expect that your business attire, although casual, will exhibit common sense and professionalism.

Employees are expected to demonstrate good judgment and professional taste. Courtesy to coworkers and your professional image to coworkers should be the factors that are used to assess that you are dressing in business attire that is appropriate.

In addition, at the discretion of the City Administrator, in special circumstances, such as during unusually hot or cold weather or during special occasions, staff members may be permitted to dress casually. On these occasions, staff members are still expected to present a neat appearance and are not permitted to wear ripped, frayed or disheveled clothing or athletic wear. Likewise, tight, revealing or otherwise workplace-inappropriate dress is not permitted.

Employees who wear business attire that is deemed inappropriate in this workplace will be dealt with on an individual basis rather than subjecting all employees to a more stringent dress code for appropriate business attire.

### **Council Meetings:**

#### **Business Attire Policy: Formal Dress Code:**

The City of Ottumwa expects employees to dress appropriately in business attire during Council meetings and work sessions. Because these meetings are televised, professional business attire is essential to promote the professional competency of city staff.

Business attire includes suits, dress shirts and dress pants, dresses and skirts that are typical of business formal attire at work.

Employees are expected to demonstrate good judgment and professional taste. Courtesy of coworkers and your professional image to clients should be the factors that are used to assess that you are dressing in business attire that is appropriate.

Employees who wear business attire that is deemed inappropriate in this workplace will be dealt with on an individual basis rather than subjecting all employees to a more stringent dress code for appropriate business attire.

## **OTHER NON-CITY HALL CITY EMPLOYEES:**

Certain staff members in the Fire, Police, and Transit departments have a separate dress code and require staff to wear specific uniforms or attire. Policies are in place for each of those departments.

Public Works, Parks, Airport, Landfill, Recycling and Water Pollution Control employees will be neat, clean and well-groomed with proper hygiene. Jeans, t-shirts and work shirts are appropriate. Foot wear will be according to that department's internal policy.

Do not wear anything that other employees might find offensive or that might make coworkers uncomfortable. This includes clothing with profane language statements or clothing that promotes causes that include, but are not limited to, politics, religion, sexuality, race, age, gender, and ethnicity. Clothing may not be revealing, in disrepair (torn, ripped or ragged) and cannot promote alcohol or tobacco products, violence or sexually suggestive or lewd written or visually suggestive images.

Employees are expected to demonstrate good judgment and professional taste. Courtesy of coworkers and your professional image to the public should be the factors that are used to assess that you are dressing appropriately.

Although it is impossible and undesirable to establish an absolute dress and appearance code, the City of Ottumwa will apply a reasonable and professional workplace standard to individuals on a case-by-case basis. Management may make exceptions for special occasions or in the case of inclement weather, at which time employees will be notified in advance. An employee unsure of what is appropriate should check with his or her department head.

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Every effort will be made to reasonably accommodate employees with a disability or with religious beliefs that may make it difficult for that employee to comply fully with the dress code policy. Employees should contact the City Administrator to request such a reasonable



accommodation. The City will reasonably accommodate a staff member in terms of workplace attire unless the accommodation creates an undue hardship such as safety issues.

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Employees may face more severe consequences up to and including termination if they violate the dress code repeatedly.

### **ARTICLE 30 – CONFLICTS OF INTEREST**

Employees have an obligation to conduct City business within guidelines that prohibit actual or potential conflicts of interest. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of the City's business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to the employee's supervisor as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

Personal gain may result not only in cases where an employee or relative has a significant ownership interest in a firm with which the City does business, but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving the City. Specific questions can be addressed to the City Administrator.

## **ARTICLE 31 – SMOKING**

Iowa's Smokefree Air Act prohibits smoking in any public place where the public is invited or permitted. Smoking is strictly prohibited in all enclosed areas within places of employment within the City, such as work areas, private offices, garages, hangars, conference and meeting rooms, classrooms, auditoriums, employee lounges, hallways, restrooms, elevators, stairways and stairwells, and any and all vehicles owned, leased, or provided by the City for use by City employees. Smoking is also prohibited while working on the job. Smoking may occur only during appropriate break times and in designated locations.

## **ARTICLE 32 – SUBSTANCE ABUSE POLICY**

### **GENERAL POLICY:**

The City of Ottumwa is committed to providing and maintaining a safe and healthy work environment free from the influence of alcohol and drugs. To that end, the City is adopting this Substance Abuse Policy.

The city recognizes that its own health and future is dependent upon the physical and psychological health of its employees. It is the right, obligation and intent of the City to maintain a safe, healthy and efficient working environment for all of its employees and to protect the public, as well as City property, equipment and operations.

The City also maintains an Employee Assistance Program which provides help to employees who seek assistance for alcohol or drug abuse and other personal or emotional problems.

With these basic objectives in mind, the City has established the following with regard to use, possession or sale of alcohol or drugs. Compliance with the City's Substance Abuse Policy is a condition of employment and covers all City employees whether or not they are covered by the Federal Motor Carrier Safety Administration or the Federal Transit Administration drug testing requirements. This zero tolerance policy covers alcohol as well as any illegal substance as defined by Iowa and/or Federal Statutes or Regulations. The City intends to take serious disciplinary action, up to and including termination, against an employee who violates the City's Substance Abuse Policy.

### **SCOPE:**

All employees.

### **TESTING:**

### Pre-Employment Testing:

1. All potential new employees, full-time, part-time, seasonal, temporary, job training workers and work release workers and any other employees covered by the City's workers' compensation policy shall be tested as a part of the City's pre-employment physical.
2. Notice of testing will be part of all notices of advertisement soliciting applicants for employment and on the application form. All applicants shall be verbally informed of the requirement during the first interview.

### Federally Required:

The City is required to test employees who operate a commercial motor vehicle or employees who operate transit vehicles under the authority of the Federal Motor Carrier Safety Administration or the Federal Transit Authority. The City will comply with the requirements of the respective authority for the federal required test.

### Reasonable Suspicion:

The City may require a specific employee to submit to a drug test if all of the following conditions are met:

1. The employer has reasonable suspicion to believe that an employee's faculties are impaired on the job; and
2. The employee is in a position in which such impairment presents a danger to the safety of another employee, a member of the public or City property.

Reasonable suspicion may include direct observation of alcohol or drug use or abuse or of the physical symptoms of being impaired due to alcohol or drug use at work; abnormal conduct or erratic behavior while at work or a significant deterioration in work performance; report of alcohol or drug use provided by a reliable and credible source; or evidence that an employee has manufactured, sold, distributed, solicited, possessed, used or transferred drugs while working or while on City property or while operating City vehicles, machinery or equipment.

### Post Accident:

The City may require an employee not covered by DOT requirements to submit to a drug test if the employee has caused an accident while at work which resulted in injury which, if suffered by an employee, would require an OSHA report or which resulted in damage to property in an amount reasonably estimated to exceed \$1,000.00.

### **GENERAL PROVISIONS:**

Drug Test: Means any urine, saliva, breath or other legally allowed test conducted for the purpose of detecting the presence of a chemical substance in an individual.

List of Controlled Substances: This list includes all controlled substances including but not limited to the following: Amphetamines (including methamphetamines)

- Cocaine metabolite
- Opiates (Includes heroin)
- Phencyclidine (PCP)
- Marijuana (THC) metabolite

In addition, the City tests for Creatinine, Urinary, although this is not a controlled substance.

Time for Testing:

Tests will be conducted either during or immediately before or after an employee begins work. For employees subject to random testing under federal law, the employee will be tested during or immediately after performing these functions. Time for testing is considered work time and the employee will be compensated for the time it takes to provide a sample for testing. The City will either provide transportation for the employee to the collection site or pay for the transportation to the collection site.

Test Procedures:

Samples provided will be collected in reasonable and sanitary conditions with regard for the privacy of the individual providing the sample and for the validity of the test. Samples (other than breath samples) will be split in the presence of the individual to allow for confirmatory testing of any initial positive test result. The collection site and laboratory will follow standard chain-of-custody procedures for samples for the time of collection until the sample is no longer needed.

1. The test sample will be collected at Collaborative Laboratory Services, 1005 Pennsylvania Avenue, Ottumwa, Iowa, or such other site directed by law enforcement in the event the employee is involved in an accident requiring testing.
2. The test sample withdrawn from the employee will be analyzed by a laboratory or testing facility that has been approved under rules adopted by the Iowa Department of Public Health.
3. If an employee provides a sample that is dilute, the employee will be required to immediately report for another test. That test will be done under direct observation if required by DOT regulations.
4. If an initial test is conducted and the results indicate that the employee has tested positive for alcohol or controlled substances, a confirmatory test using an alternative method of analysis shall be conducted. The confirmatory test shall use a portion of the same sample withdrawn from the employee for use in the initial test.
5. An employee shall be accorded a reasonable opportunity to rebut or explain the results of the drug test and to provide information which he or she thinks is relevant to the test. Such



information may include identification of prescription or non-prescription drugs the individual is using or has recently used or any other relevant medical information.

6. The test result will first be reported to the City's MRO for review and interpretation. The MRO will then report the confirmed positive test result to the City's designated employer representative.
7. If an employee provides a sample that has been tampered with or substituted or is determined by the approved laboratory to have been tampered with or substituted, it will be treated the same as a positive test result.
8. The City will look to the rules and interpretations used by the United States Department of Transportation related to drug testing on any issues not specifically addressed in this policy and will follow the thresholds established by the approved laboratory for determination of whether the presence of a substance in a sample constitutes a positive test result.
9. Test results when reported to the City by its MRO will be maintained separate from the employee's other personnel records.

Refusal to Test: Refusal to test includes refusal to take the test, inability to provide adequate samples for testing without a valid medical explanation; tampering with or attempting to adulterate a sample; interfering with collection procedures; failing to immediately report to the collection site; failing to remain at the collection site until the collection process is complete; having a test result confirmed by the MRO as adulterated or substituted; or leaving the scene of an accident without a valid reason before a test has been conducted.

Designated Employer Representative: The City's Human Resources Officer shall be the City's designated employer representative for receipt of drug and alcohol test results.

Medical Review Officer: The City contracts with St. Luke's Iowa Health System for these services.

Supervisor Training: The City will comply with the DOT training requirements for supervisors which includes two hours of initial training, one hour of which will be related to controlled substances and one hour to alcohol misuse.

Testing Costs: The City will bear the costs of all testing required under this policy, including a second confirmatory test requested by an employee who has tested positive.

Prevention and Treatment:

The City encourages any employee with a drug or alcohol problem to voluntarily seek treatment. The City has established an Employee Assistance Program to provide counseling and referral services for employees with drug or alcohol abuse problems who voluntarily seek help. Conscientious efforts to seek and use such help will not jeopardize an employee's job.

Prohibited Conduct:

The City strictly prohibits unauthorized use, possession (including storage in a desk, locker, vehicle or other depository), manufacture, distribution, dispensing or sale of illegal drugs, drug paraphernalia, controlled substances or alcohol on City property, while on City business or in City supplied vehicles, or during working hours.

Any action taken against an employee shall be based only on the results of the drug and alcohol test. *Employees who violate any aspect of this policy may be subject to disciplinary action up to and including termination of employment. An employee's refusal to test will result in disciplinary action up to and including termination of employment.*

Departmental Policies:

Individual departments may adopt policies and procedures more stringent than these policies; but, in no event, shall they be less stringent.

Off-Duty Loss of Driving Privileges:

In addition to any other sanctions which may be invoked under this Policy, employees whose work with the City requires the employee to drive a City vehicle and who lose his/her driving privilege will be laid off from employment immediately. Reinstatement from such layoff will be dependent upon the City having an available position after the employee's driving privilege has been restored.

**ARTICLE 33. TRAVEL**

It is the policy of the City to define its position regarding travel of City employees for purposes of City business including attendance at conferences, workshops and seminars. The City encourages the advancement and enrichment of employees' professional expertise and technical skills. Necessary expenses incurred by City employees involved in the above mentioned activities will be paid by the City in those cases where the activity is a direct benefit to the City and where attendance by the City employee at such activity will increase the employee's job performances. Exceptions to this policy must be approved by the City Administrator.

1. All City employees may perform official travel after preparing an Out of Area Travel Form and upon authorization of the Department Head and the City Administrator. The procedures for elected officials will be the same as all other employees, except that travel approval will be made by the Mayor. All travel must be requested prior to the occurrence of the trip and must state justification for such travel.

2. Transportation costs for employees authorized to travel on official City business shall be paid by the City. The least expensive method of booking travel and lodging will be used with the bills going directly to the City if possible. The use of the City's credit card should be utilized by the department head to pay for the lodging when applicable.
  - a. Mileage will be paid to and from the appropriate destination and Ottumwa if the employee uses their personal vehicle. If air travel is involved, mileage will be paid to the appropriate airport. Google maps should be utilized to obtain the mileage. This does not need to be printed out. Finance will verify when the travel form is processed.
  - b. Costs for parking a city vehicle or privately owned vehicle will be reimbursed by the City upon presentation of appropriate receipts.
  - c. Taxicab/Uber type fares will be reimbursed as appropriate.
  - d. For in state travel, a city vehicle will be used when practical. The employee may get a gasoline credit card issued to the City from the Finance Department to be used for fuel and emergency auto repairs only. When travel is by personal vehicle, mileage will be paid at the rate established by the Internal Revenue Service.
3. The City will reimburse for meal expenses as follows:
  - a. The meal allowance shall be up to \$8.00 for breakfast, \$12.00 for lunch and \$22.00 for dinner in the State of Iowa. Detailed receipts will be required to receive reimbursement for meals. If a meal is provided as part of the conference, training or seminar registration, the employee will not be reimbursed for that meal. An employee will only be reimbursed for breakfast when the starting time of the trip is before 6:00 am. and for dinner if the return is after 8:00 p.m. Under no circumstances will alcohol be reimbursed as part of a meal allowance.
4. Also included as reimbursable costs are those incurred for registration and lodging.
  - a. All employees attending conferences and seminars will pre-register with the City paying the registration fee directly. A memo requesting payment should be prepared stating the reason for the individuals attending the conference, the names of the individuals attending and an original and copy (for submission) of the official registration.
  - b. Lodging costs shall be paid by the City at the single rate only when the spouse accompanies the employee. Telephone calls incidental to the performance of official business only shall be reimbursable.
  - c. If the starting time required is such that the Department Head deems necessary, the employee may begin the trip the day before and be reimbursed for the preceding night's lodging costs and any other incidental costs.
  - d. Employees on official City business may request a travel advance prior to the occurrence of the trip. Requests for advance travel funds shall be submitted at least



10 working days prior to the occurrence of the conference or meeting. Advances will be released to the employee the day before actual travel is to begin. Advances for less than \$50 will not be made.

- e. All travel receipts must accompany the Final Travel form before reimbursement. All forms and receipts must be turned into the Finance Department within five days of return to work.
- 5. City employees traveling on City business within the corporate city limits and using their personal vehicle will be required to document their travel using an In City Travel Form.
- 6. Employees traveling on behalf of the City shall be paid for all hours worked pursuant to the Fair Labor Standards and pursuant to any applicable collective bargaining agreement.

### **ARTICLE 34. SEPARATION FROM CITY SERVICE**

All employees voluntarily leaving employment with the City of Ottumwa must give at least two weeks written notice prior to the effective date. If an employee is retiring, written notice must have retirement date and address change if applicable. If an employee resigns, the notice must contain employee's name, forwarding address, effective date and the reason for resignation. Written notice must be accompanied with Personnel Action Sheet to the City Administrator or designee.

Employees leaving City service shall return all property belonging to the employer to his/her immediate supervisor. All uniforms, tools, keys, equipment and department manuals will be given to employee's immediate supervisor before receiving employee's last payroll check. Until City property is returned, the employee will not receive any payment for accrued leave the employee might otherwise be entitled to.

Employees leaving city services may be required to have an exit interview with The City Administrator or designee.

Employees leaving employment with the City shall not be allowed to take accrued leave after their last actual working day with the City. All accrued leave will be paid out thereafter the first pay period following the employee's final pay check for time actually worked. Accrued leave does not include sick leave.





GREATER  
OTTUMWA

[ PARTNERS IN PROGRESS ]

OTTUMWA CITY COUNCIL

JULY 19, 2022

# WHO IS GREATER OTTUMWA PARTNERS IN PROGRESS(GOPIP)



- Investor Businesses
  - Over 247 Ottumwa and Wapello County Businesses, Non-Profits, Education Institutions, Governmental Bodies, and Private Investors
- Economic Development Partners
- YOU!



## WHY WE ARE HERE

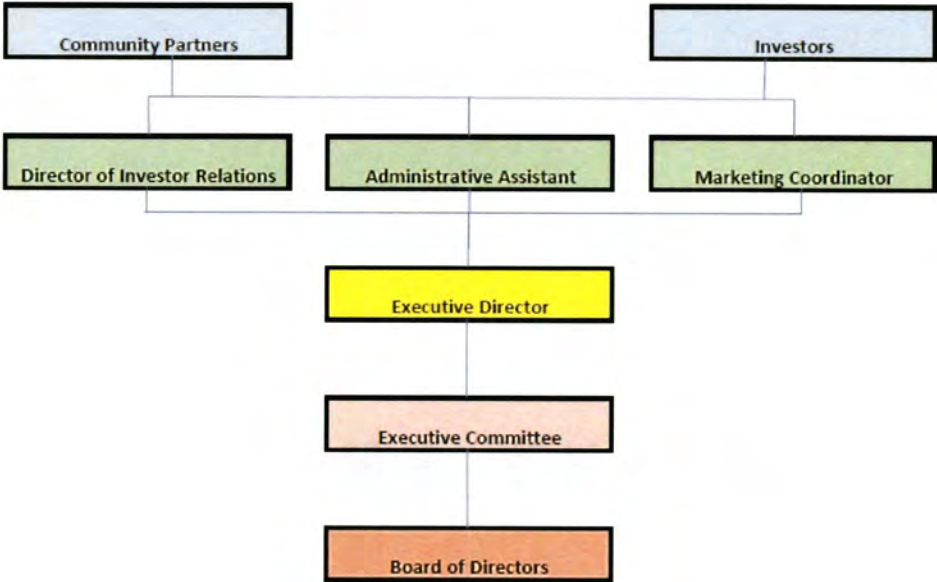
- Our investors
- Our economy
- Our community

- At every juncture, we will ask ourselves:

***“If we make our decisions from the perspective of our investors and community, are those decisions in their best interest?”***



# ORGANIZATION





## **VISION**

A Vibrant and Thriving Ottumwa Region

## **MISSION**

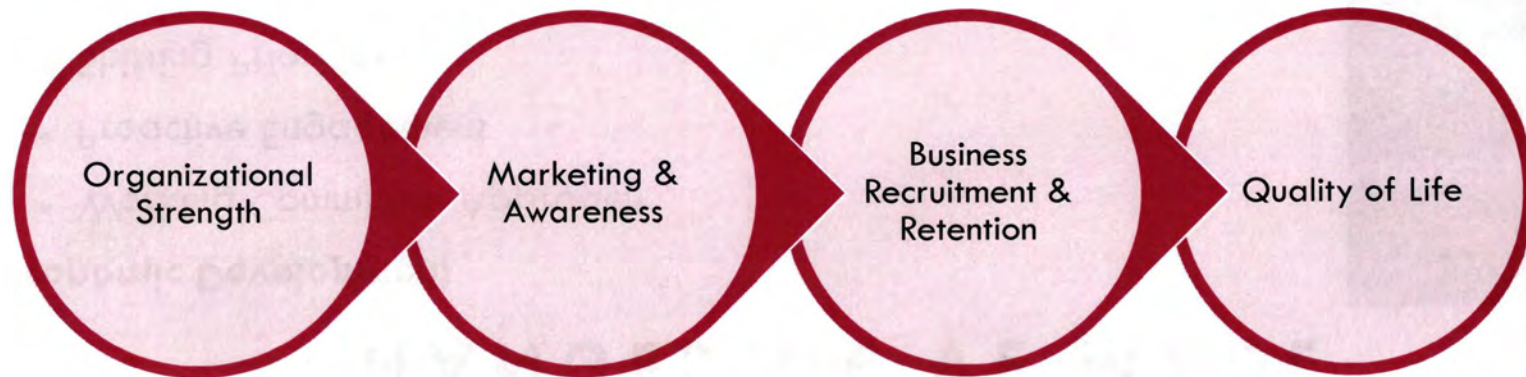
Greater Ottumwa Partners in Progress is an economic and community development organization collaboratively advancing the prosperity of the Ottumwa region.



## **VALUES**

- Collaboration
- Leadership
- Innovation
- Integrity
- Advocacy
- Communication

# OUR GOALS



## CHANGES WE'VE MADE

- **Economic Development**
  - Working Committee Approach
  - Proactive Engagement
  - Shifting Priorities
- **Investor Relations**
  - Reactivating Investor networking
  - Advocacy and Education opportunities
  - Communication and Engagement
  - Data Analysis


**iLearn!**  
Lunchtime  
Online  
Educational  
Series

Eggs and Issues



# CHANGES WE'VE MADE (CONT.)

## • Website Remapping

JOIN US!  641.682.3465

### INVESTORS

- Investor Directory
- Why Join
- Become a Member
- Sponsorship Opportunities
- Volunteer
- Committees
- GOPIP Partners
- GOPIP Bucks
- Newsletters
- Childcare Resources
- Find Talent
- Request Ribbon Cutting

### STARTING A BUSINESS

- Business Resources
- Find Talent
- Find a Building

### ECONOMIC DEVELOPMENT

- Why Ottumwa, IA?
- Initiatives
  - Educators in the Workplace
  - ONE Ottumwa
  - Talent Attraction
- Regionalism
- Relocate
- Site Selectors
  - Wapello County Profile
  - Target Industries
  - Infrastructure
  - Incentives
  - Laborshed Data
  - Utility Rates
  - Available Buildings
  - Available Land
  - Helgerson Flats
  - Due Diligence: Completed

- Zoning: I-1 Limited Industry

- Utilities

- Strongest Focus: Target Industries

- Why Iowa?

- Opportunity Zone Maps

- City of Ottumwa 2040 Comprehensive Plan

- Success Stories

- Housing

- Available for Rent

- Submit a Rental Listing

- Employment

- Post a Job

- Childcare Resources

- GOPIP Partners

### EVENTS

- Greater Ottumwa Rodeo
- Upcoming Ribbon Cuttings
- Request Ribbon Cutting

- Our Events

- Sponsorship Opportunities

- Volunteer

- Lemonade Day

### NEWS + MEDIA

- News

- Newsletters

- Podcasts

- Videos

### ABOUT

- Diversity, Equity & Inclusion

- Board of Directors

- Staff

- Strategic Priorities

- Annual Report

### CONTACT

# PUBLIC EDUCATION

- **GOPIP Informational Presentations**
  - **Social Organizations**
    - Kiwanis, Rotary
  - **Governmental Bodies**
    - Wapello County Supervisors, City of Eldon, City of Agency
  - **Civic Organizations**
    - IowaWorks, League of United Latin American Citizens, Ottumwa Leadership Academy



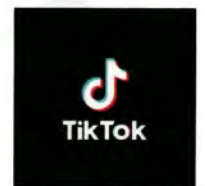
# INFORMING THROUGH TECHNOLOGY

- **Talk Ottumwa! (Podcast)**
  - **Economic Development**
    - Sports Plex, Mission 500, Workforce Development
    - Indian Hills Community College, Main St. Ottumwa
  - **Business Promotion**
    - Warehouse BBQ, Hopkins Development, 10-15 Transit
    - Re/Max Pride Real Estate



## ONLINE PRESENCE

- [www.gopip.org](http://www.gopip.org)
  - 11,000 page views April 1 – June 30
  - Top pages: LOIS, Ottumwa News
- Facebook
  - 12% Organic growth since 4-1-22
- Instagram
  - 7% Organic growth since 4-1-22
- Tiktok
  - Coming Soon!





# BECOMING COMMUNITY MINDED

- **Building Partnerships**
  - **Indian Hills Community College**
  - **Iowa Chamber Alliance/Professional Developers of Iowa**
  - **South Central Iowa Workforce Development Board**
  - **League of United Latin American Citizens**
  - **Dolly Parton Imagination Library**
- **Event Sponsorship**
  - **Ottumwa Pride**
  - **25 Men Who Can Cook**
  - **Be The Light**
  - **Viva International Festival**
  - **Seton Catholic School/First Resources/ImpactLife**

# ENGAGING

- **Committee Representation**
  - Mission 500
  - Parks Plan Visioning
  - Resilient Communities
  - Wapello County Children's Alliance
  - Wapello County Child Care Coalition
  - Diversity Committee



# CURRENT ECONOMIC INITIATIVES

- **Ottumwa Regional Airport Analysis**
- **Rail Expansion Project (Downtown)**
- **Childcare Initiative**
- **Retail Attraction**
- **Helgerson Flats Certified Site (82 acres)**

# ECONOMIC DEVELOPMENT ACTIVITY

- **Industrial Development**
  - 1 RFI, Major Manufacturer
- **Retail Development**
  - ICSC - Las Vegas
  - 1 RFI – Clothing Chain
  - 4 Cold Outreach – 2 Clothing, 1 Discount Retail, 1 Restaurant
- **Housing Development**
  - Facilitating Potential Housing Project





# QUALITY OF LIFE INITIATIVES

- **Community Active Positivity Campaign: August, 2022**
- **Regional Diversity, Equity and Inclusion event planning: March, 2023**
- **Regional Tourism, Health, and Business event: June, 2023**

# QUESTIONS?

- Greater Ottumwa is a 501(c)(3) non-profit organization.
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- Greater Ottumwa is a 501(c)(3) non-profit organization.

Greater Ottumwa is a 501(c)(3) non-profit organization.





## A Consideration of Franchise Fees



# Overview of Ottumwa Concerns

## Public Input

- Housing
- Roads
- Quality of Life
- City Finances
  - Poverty
  - Drugs
- High Tax Rate

## City Admin List

- Housing
- Roads / Public Infrastructure
  - Lack of Nightlife
  - Development Costs
  - Code Enforcement
  - Affordable Childcare
- Staffing – Public Safety & Parks
  - High Taxes (Rate)

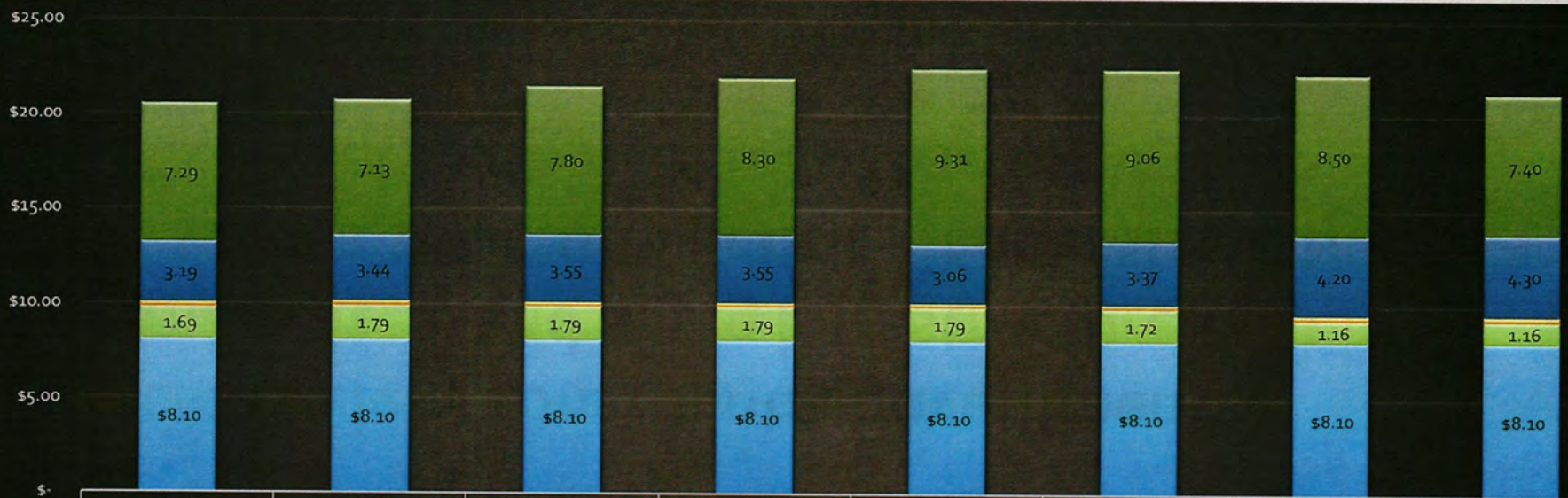


## How Did We Get Here?:

- **Due to levy constraints, governmental mandates, and aging infrastructure the City is facing a structural deficit - jeopardizing the financial sustainability of the community.**



# Historical & Proposed Tax Rate



	2016	2017	2018	2019	2020	2021	2022	2023
Trust & Agency	7.29	7.13	7.80	8.30	9.31	9.06	8.50	7.40
Debt Service	3.19	3.44	3.55	3.55	3.06	3.37	4.20	4.30
Emergency	0.27	0.27	0.21	0.21	0.21	0.21	0.27	0.27
Other GF Levy	1.69	1.79	1.79	1.79	1.79	1.72	1.16	1.16
General Fund	\$8.10	\$8.10	\$8.10	\$8.10	\$8.10	\$8.10	\$8.10	\$8.10

■ General Fund 
 ■ Other GF Levy 
 ■ Emergency 
 ■ Debt Service 
 ■ Trust & Agency

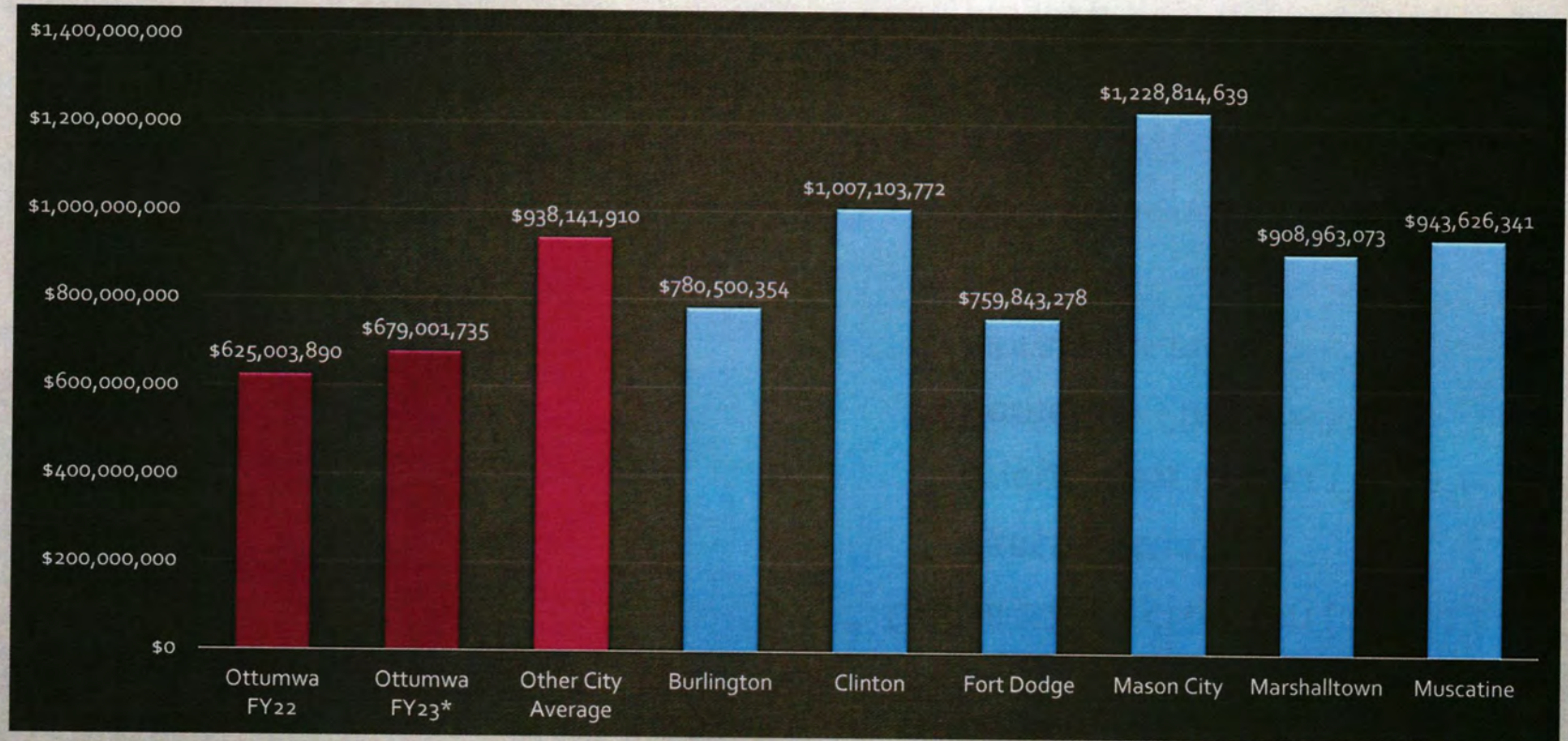


# Where Does the \$8.10 in the General Fund Go?

- Public Safety (68%)
  - Dispatch
  - Fire
  - Police
- Public Works (3%)
  - Engineering
- Community & Econ Dev (2%)
  - Planning
- Health & Social Services (5%)
  - Bldg / Code Enforcement
- Culture & Recreation (11%)
  - Beach Ottumwa
  - Bridge View Center (Transfer)
  - Cemetery (Transfer)
  - Library (Transfer)
  - Parks
- General Government (11%)
  - Administration
  - City Clerk
  - Finance
  - Human Resources



# Valuation Comp. (Sister Cities) - FY2022



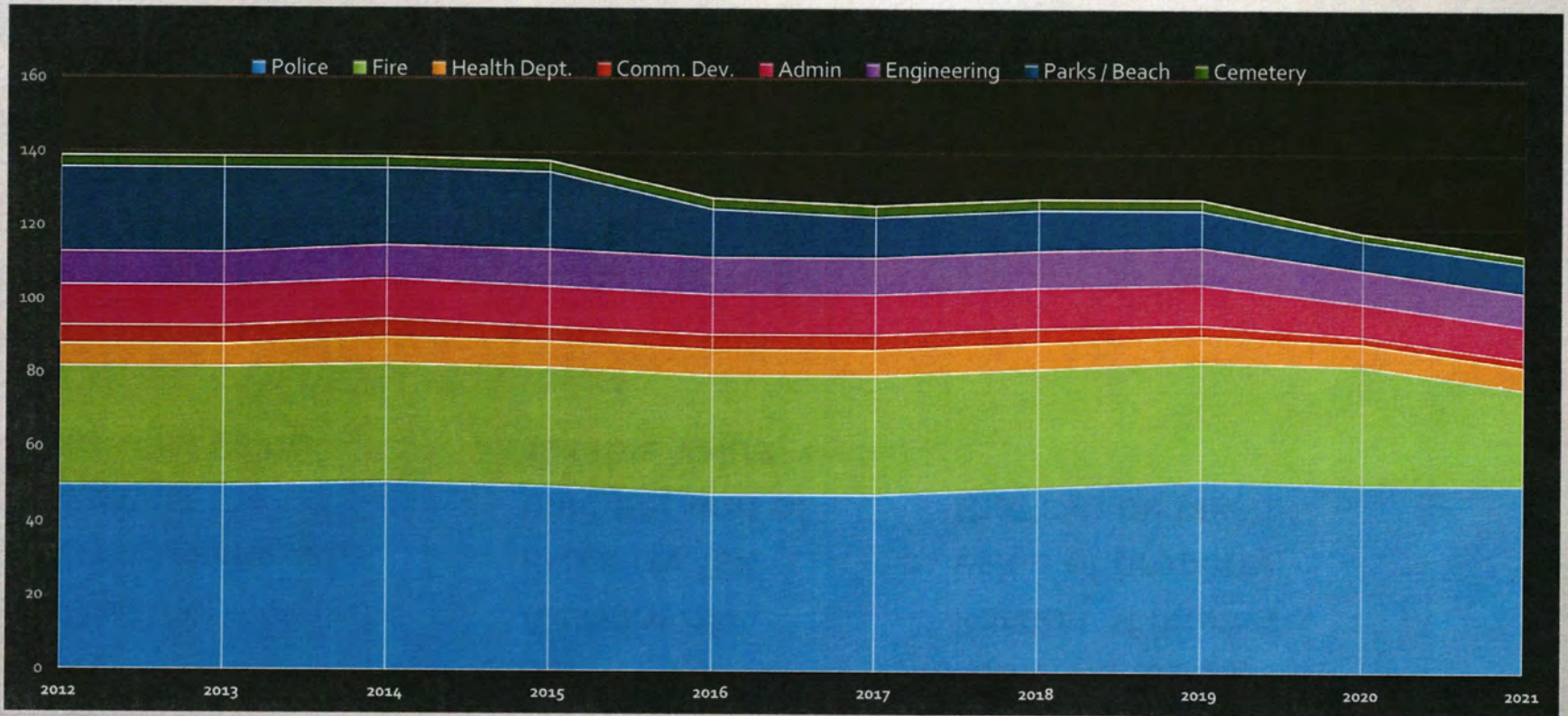


# Property Taxes - Formula

<b>Levy:</b>	=	<b>Rate:</b>	x	<b>Taxable Valuation:</b>
Dollars collected by applying rate against the taxable value		Amount of Property Tax paid per unit of Taxable Value		Portion of market value of property that can be taxed

$$\text{General Fund } \$\$\$ = \$8.10 \times (\text{Taxable Valuation}/1000)$$





FTE Employees by Function  
10-Yr History





Public Hearing – Annual Budget FY2021

02/18/2020



# What is a Franchise Fee?

- A “NEW” revenue source, which is provided for and Governed under Iowa Code 384.3A as a means to provide revenue to a municipality for specific purposes (Revenue Purpose Statement) – each percent is estimated to generate = \$537,000 of revenue.
- A franchise fee is a USER FEE assessed as a percentage of gross revenue upon the utility bill – up to a maximum of five percent
  - Replaces LOST for the affected utilities
  - Paid quarterly to the City
  - Placed into a segregated fund for expenses identified under RPS



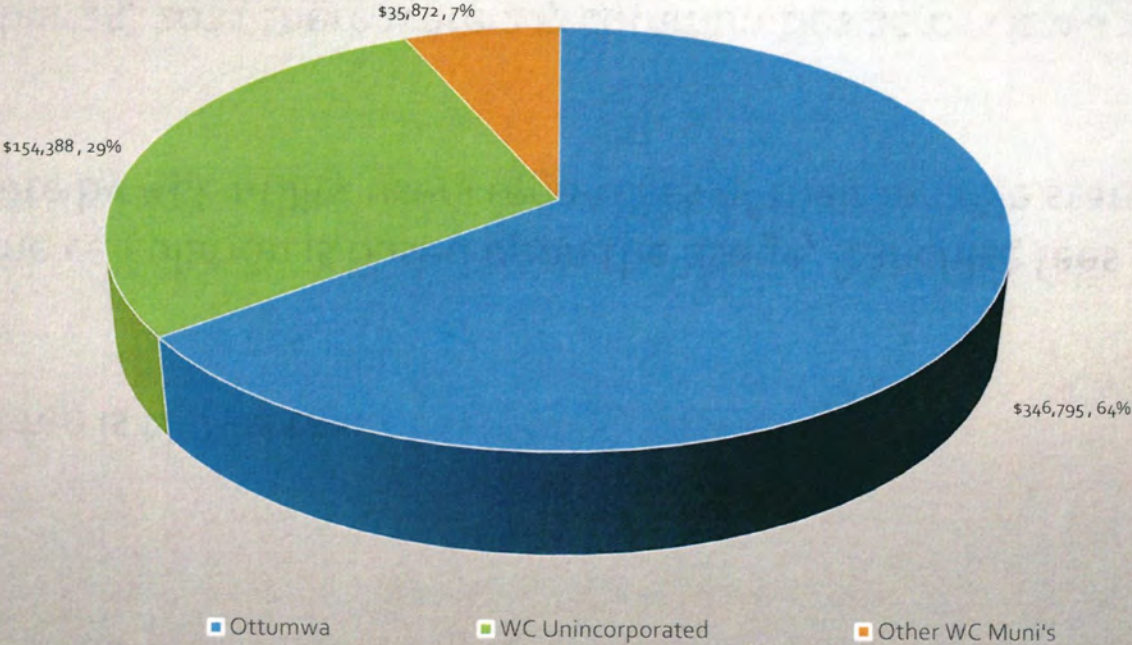
## What a Franchise Fee is NOT?

- A franchise fee is NOT a tax.
- Although the calculation is based upon the usage, franchise fees are paid at the same rate by ALL utility users regardless of their taxable status.
- As of October 25, 2021 there were 217 communities across Iowa with an identified franchise fee. That is about 1 out of every 4...



# Cost / Drawbacks of Franchise Fees

LOST Revenue (Alliant & MidAm) by Percentage



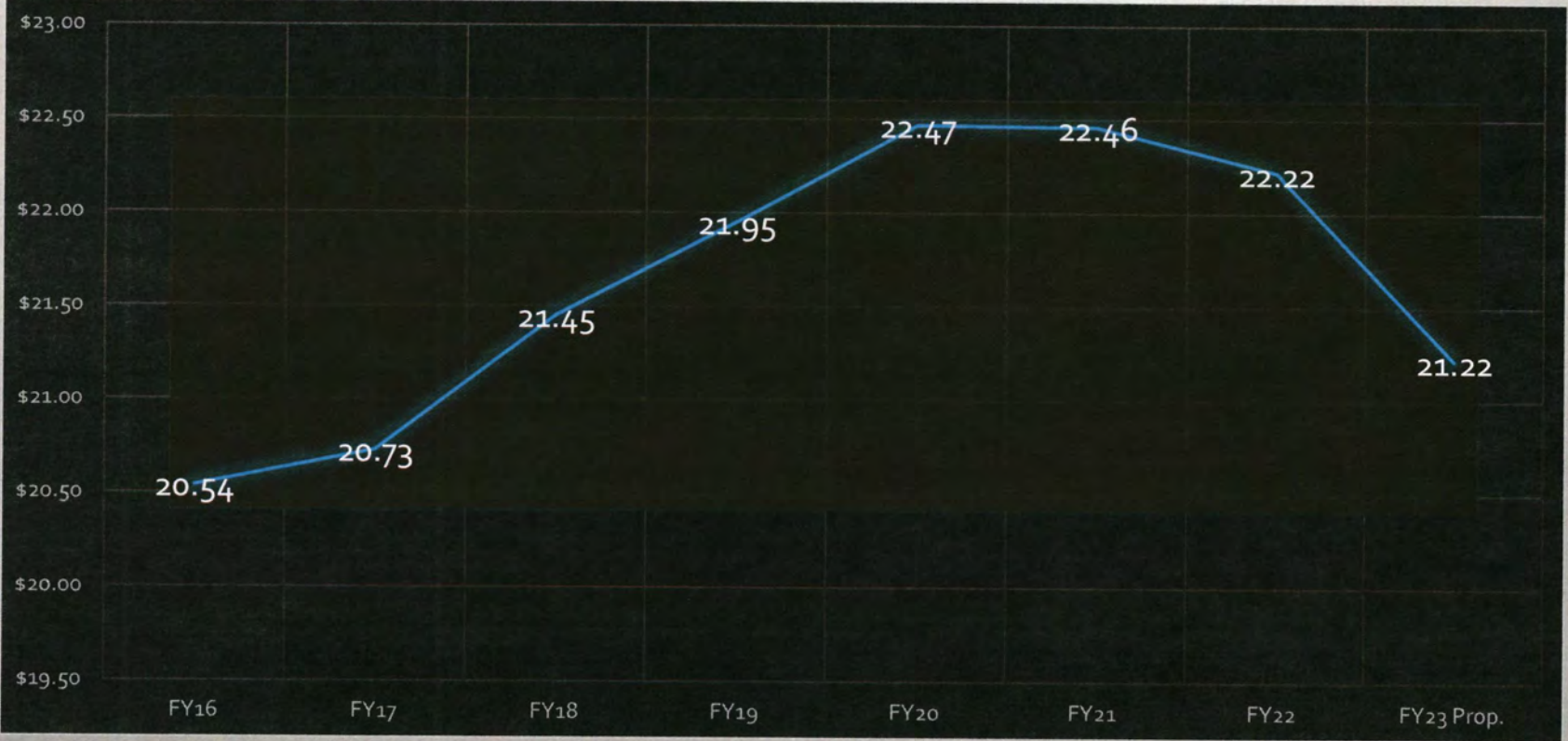


# Benefit of Franchise Fees – City of Ottumwa

- Revenue from Franchise fees may be used for the following:
  - The repair, remediation, restoration, cleanup, replacement, and improvement of existing public improvements and other publicly owned property, buildings, and facilities
  - Public safety, including the equipping of fire, police, emergency services, sanitation, street, and civil defense departments
  - The establishment, construction, reconstruction, repair, equipping, remodeling, and extension of public works, public utilities, and public transportation systems
  - The construction, reconstruction, or repair of streets, highways, bridges, sidewalks, pedestrian underpasses and overpasses, street lighting fixtures, and public grounds, and the acquisition of real estate needed for such purposes
  - Economic development activities and projects



# Municipal Levy Rate – Historic Trend





# Est. Impact of Implementing Franchise Fee

## Change in CoO Tax Rate

Assessed Valuation (Property)	Est. Property Tax – Reduction*
\$ 1,000	\$ 1.00
\$ 10,000	\$ 10.00
\$ 50,000	\$ 50.00
\$ 73,400	\$ 73.40
\$ 100,000	\$ 100.00
\$ 200,000	\$ 200.00
\$ 250,000	\$ 250.00
\$ 500,000	\$ 500.00

*\*Assuming same assessed valuation as prior year*

## Proposed Change in Utilities

Combined (Gas & Elec) Utility Charges	Add'l Inc. to Utilities (Mo / Yr)
\$ 100.00	\$ 2.00 / 24.00
\$ 150.00	\$ 3.00 / 36.00
\$ 200.00	\$ 4.00 / 48.00
\$ 215.00	\$ 4.30 / 51.60
\$ 250.00	\$ 5.00 / 60.00
\$ 300.00	\$ 6.00 / 72.00
\$ 400.00	\$ 8.00 / 96.00
\$ 500.00	\$ 10.00 / 120.00

**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

Park & Recreation  
Department

Gene Rathje  
Prepared By  
Gene Rathje  
Department Head

  
\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: **Beach Ottumwa Fee Increases**

\*\*\*\*\*  
 **\*\*Public hearing required if this box is checked.\*\***

RECOMMENDATION: **Approve the Fee Increases for the Beach Ottumwa**

DISCUSSION: Demand for birthday parties and private rentals has been very high at the Beach Ottumwa for the past 2 years. In addition, all part time and seasonal employees at the Beach received a \$2 per hour pay increase during the Winter months. These factors have created an opportunity to generate more revenue for the Beach by raising fees. The fees are listed below:

	Current	Proposed
Indoor Birthday Parties	\$100	\$110
Outdoor Birthday Parties	\$125	\$130
Indoor Private Party Rental	\$75 per hour	\$90 per hour
Summer Entire Facility Rental	\$400 per hour	\$450 per hour

These fee increases were approved by the Ottumwa Parks

Source of Funds:

Budgeted Item:  Budget Amendment Needed: **NO**



Advisory Board at their meeting on July 12, 2022.

**CITY OF OTTUMWA**  
Staff Summary

PM 230

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

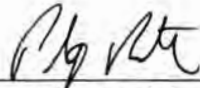
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Resolution 174-2022 - Resolution adopting Revenue Purpose Statement regarding use of revenues from proposed Electric Franchise Fee pursuant to Iowa Code § 364.2(4)(f)

\*\*\*\*\*



\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt Resolution 174-2022

DISCUSSION: Pursuant to Iowa Code section 364.2(4)(f) municipalities may impose a franchise fee when adopted by ordinance. A part of this process is adopting a Revenue Purpose Statement indicating how revenue received from these fees would be used. The attached Revenue Purpose Statement identifies the uses available to the city council going forward.

Source of Funds: N/A


Budgeted Item:  Budget Amendment Needed:

**NOTICE OF MEETING OF THE CITY COUNCIL OF THE  
CITY OF OTTUMWA, STATE OF IOWA, ON THE  
MATTER OF THE PROPOSED RESOLUTION ADOPTING  
REVENUE PURPOSE STATEMENT REGARDING USE OF  
REVENUES FROM PROPOSED ELECTRIC FRANCHISE  
FEES PURSUANT TO IOWA CODE SECTION 364.2(4)(f)**

PUBLIC NOTICE is hereby given that the City Council of the City of Ottumwa, State of Iowa, will meet on the 19th day of July, 2022, at 5:30 P.M. in the City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa, at which meeting the City Council proposes to consider the adoption of the attached Resolution Adopting Revenue Purpose Statement Regarding Revenues from Proposed Electric Franchise Fees Pursuant to Iowa Code § 364.2(4)(f).

This Notice is given by order of the Council of Ottumwa, Iowa, as provided by Sections 364.2(4)(f) and 362.3 of the Code of Iowa, as amended.

Dated this 5 day of July, 2022.

  
\_\_\_\_\_  
City Clerk, City of Ottumwa, State of Iowa

**RESOLUTION NO. 174-2022**

**RESOLUTION ADOPTING REVENUE PURPOSE STATEMENT REGARDING USE  
OF REVENUES FROM PROPOSED ELECTRIC FRANCHISE FEE PURSUANT TO  
IOWA CODE § 364.2(4)(f)**

WHEREAS, the City of Ottumwa, Iowa is considering amending its franchise with Interstate Power and Light Company for the purpose of imposing a franchise fee; and

WHEREAS, the City Council of the City of Ottumwa will hold a public hearing regarding the amendment of the franchise with Interstate Power and Light Company prior to amendment of any franchise; and

WHEREAS, Iowa Code § 364.2(4)(f) requires adoption of a “Revenue Purpose Statement” by a city council prior to the amendment of any franchise which will impose a franchise fee; and

WHEREAS, the “Revenue Purpose Statement” must specify the purpose or purposes for which any revenue generated by a franchise fee will be used; and



WHEREAS, as required by Iowa Code § 364.2(4)(f) a copy of the proposed "Revenue Purpose Statement" has been published in the manner provided by Iowa Code § 362.3.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Ottumwa:

Section 1: The following "Revenue Purpose Statement" is hereby adopted by the City Council of the City of Ottumwa, to wit:

**REVENUE PURPOSE STATEMENT REGARDING USE OF REVENUE FROM INTERSTATE POWER AND LIGHT COMPANY FRANCHISE FEES**

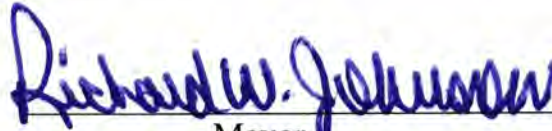
Pursuant to Iowa Code § 364.2(4)(f) the City of Ottumwa states that all revenue generated from franchise fees assessed on the sales of electricity within the city shall be deposited in the franchise fee account in the general fund and shall be used to reimburse the City for all costs associated with inspecting, supervising or otherwise regulating its franchises. Moneys in the franchise fee account in the general fund in excess of the amounts necessary for costs associated with inspecting, supervising or otherwise regulating its franchises shall be expended for any of the following:

- a) The repair, remediation, restoration, cleanup, replacement, and improvement of existing public improvements and other publicly owned property, buildings, and facilities.
- b) Projects designed to prevent or mitigate future disasters as defined in Iowa Code Section 29C.2.
- c) Energy conservation measures for low-income homeowners, low-income energy assistance programs, and weatherization programs.
- d) Public safety, including the equipping of fire, police, emergency services, sanitation, street, and civil defense departments.
- e) The establishment, construction, reconstruction, repair, equipping, remodeling, and extension of public works, public utilities, and public transportation systems.
- f) The construction, reconstruction, or repair of streets, highways, bridges, sidewalks, pedestrian underpasses and overpasses, street lighting fixtures, and public grounds, and the acquisition of real estate needed for such purposes.

- g) Property tax abatements, building permit fee abatements, and abatement of other fees for property damaged by a disaster as defined in section 29C.2.
- h) Economic development activities and projects.

Section 2: The City Clerk shall cause this "Revenue Purpose Statement Regarding Use of Revenue from Interstate Power and Light Company Franchise Fees" as adopted to be published in the manner required by Iowa Code § 362.3.

Adopted the 19 day of July, 2022.

  
\_\_\_\_\_  
Mayor



ATTEST:

  
\_\_\_\_\_  
City Clerk

# PROOF OF PUBLICATION

STATE OF IOWA  
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

Revenues from Proposed Electric Franchise Fee  
City of Ottumwa



hereto attached

was published in said newspaper for 1 consecutive week's to-wit: 7/14/22

Subscribed and sworn to before me, and in my presence, by the said 14th day of July, 2022



Notary Public

In and for Wapello County

Printer's fee \$15.73

## COPY OF ADVERTISEMENT

NOTICE OF MEETING OF THE CITY COUNCIL OF THE CITY OF OTTUMWA, STATE OF IOWA, ON THE MATTER OF THE PROPOSED RESOLUTION ADOPTING REVENUE PURPOSE STATEMENT REGARDING USE OF REVENUES FROM PROPOSED ELECTRIC FRANCHISE FEES PURSUANT TO IOWA CODE SECTION 364.2(4)(f) PUBLIC NOTICE is hereby given that the City Council of the City of Ottumwa, State of Iowa, will meet on the 19th day of July, 2022, at 5:30 P.M. in the City Hall - Council Chambers, 105 E. Third Street, Ottumwa, Iowa, at which meeting the City Council proposes to consider the adoption of the attached Resolution Adopting Revenue Purpose Statement Regarding Revenues from Proposed Electric Franchise Fees Pursuant to Iowa Code § 364.2(4)(f). This Notice is given by order of the Council of Ottumwa, Iowa, as provided by Sections 364.2(4)(f) and 362.3 of the Code of Iowa, as amended. Dated this 5th day of July, 2022. Christina Reinhard City Clerk, City of Ottumwa, State of Iowa

PH Notice  
cap Rev Purpose Stmt - Electric Franchise



**CITY OF OTTUMWA**  
Staff Summary

PM 3 56

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

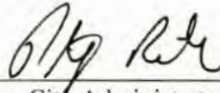
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Ordinance No. 3202-2022: An Ordinance amending Appendix D, Electricity Franchise, with Interstate Power and Light Company for the purpose of imposing a franchise fee

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt the first reading of Ordinance No. 3202-2022

**GALLOWAY MOVED, SECONDED BY HULL TO TABLE**

**ORDINANCE NO. 3202-2022 – VOTE ALL AYES**

DISCUSSION: Pursuant to Iowa Code section 364.2(4)(f) municipalities may impose a franchise fee when adopted by ordinance. Attached is an ordinance with the intent to impose a three percent franchise fee upon the electric utility as part of a franchise agreement with Interstate Power and Light Company. This fee would replace the current one percent charged for Local Option Sales Tax. Revenue received from this fee would be used to supplement the General Fund as outlined in the Revenue Purpose Statement adopted by Resolution 174-2022.

Source of Funds:

Budgeted Item:  Budget Amendment Needed:

**AN ORDINANCE AMENDING APPENDIX D, ELECTRICITY FRANCHISE, WITH INTERSTATE POWER AND LIGHT COMPANY FOR THE PURPOSE OF IMPOSING A FRANCHISE FEE**

BE IT ORDAINED BY THE City Council of the City of Ottumwa, Wapello County, Iowa, hereinafter referred to as the "City":

**Section 1.** Section 10 of Appendix D, Electricity Franchise, of the Code of Ordinances of the City of Ottumwa is hereby repealed and replaced as follows:

**Sec. 10. Assessment of franchise fee.** A franchise fee of three percent is imposed upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

**SECTION 2.** This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval, passage, and publication in accordance with Iowa law and the written acceptance by the Company. The City shall provide the Company with an original signed copy of this ordinance within ten (10) days of its final passage.

The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the City Clerk, its acceptance in writing of all the terms and provisions of this ordinance.

Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa.

In the event that the Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council, this ordinance shall be void and of no effect.

PASSED AND APPROVED by the Ottumwa City Council this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

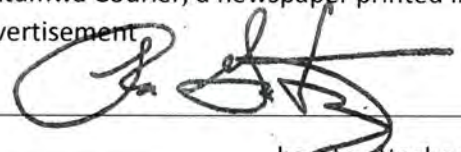


# PROOF OF PUBLICATION

STATE OF IOWA  
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

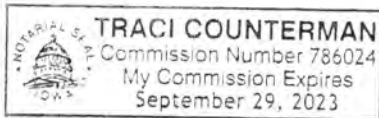
Notice of Hearing- Electric Franchise  
City of Ottumwa



hereto attached

was published in said newspaper for 1 consecutive week's to-wit: 7/5/22

Subscribed and sworn to before me, and in my presence, by the said 5th day of July, 2022



Notary Public

In and for Wapello County

Printer's fee \$23.16

## COPY OF ADVERTISEMENT

**NOTICE OF HEARING -  
ELECTRIC FRANCHISE**

Notice is hereby given that the City Council of Ottumwa, Iowa will conduct a public hearing on the 19th day of July, 2022, at 5:30 P.M. in the in the City Hall— Council Chambers, 105 E. Third Street, Ottumwa, Iowa to receive comments on the following item: An Ordinance Amending Appendix D, Electric Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee. Pursuant to Iowa Code section 364.2(4)(f), the proposed ordinance imposes a franchise fee. The franchise fee provision of the ordinance provides, "A franchise fee of three percent is imposed upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged." This is a summary of the proposed ordinance. The proposed ordinance is on file and available for public inspection in the office of the City Clerk. Any and all residents and interested property owners are invited and encouraged to attend this hearing at the time and place mentioned above and to submit comments either orally, in writing, or both. For further information, please contact City Hall. This Notice is given by order of the Council of Ottumwa, Iowa, as provided by Sections 380.7(3) and 362.3 of the Code of Iowa, as amended. Dated this 5th day of July 2022. Christina Reinhard City Clerk, City of Ottumwa, State of Iowa

*PH Notice - Electric Franchise*



**CITY OF OTTUMWA**  
Staff Summary

AM 230

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

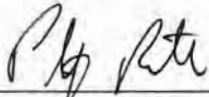
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Resolution 176-2022 - Resolution adopting Revenue Purpose Statement regarding use of revenues from proposed Gas Franchise Fee pursuant to Iowa Code § 364.2(4)(f)

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt Resolution 176-2022

DISCUSSION: Pursuant to Iowa Code section 364.2(4)(f) municipalities may impose a franchise fee when adopted by ordinance. A part of this process is adopting a Revenue Purpose Statement indicating how revenue received from these fees would be used. The attached Revenue Purpose Statement identifies the uses available to the city council going forward.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed:

**NOTICE OF MEETING OF THE CITY COUNCIL OF THE  
CITY OF OTTUMWA, STATE OF IOWA, ON THE  
MATTER OF THE PROPOSED RESOLUTION ADOPTING  
REVENUE PURPOSE STATEMENT REGARDING USE OF  
REVENUES FROM PROPOSED GAS FRANCHISE FEES  
PURSUANT TO IOWA CODE SECTION 364.2(4)(f)**

PUBLIC NOTICE is hereby given that the City Council of the City of Ottumwa, State of Iowa, will meet on the 19th day of July, 2022, at 5:30 P.M. in the City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa, at which meeting the City Council proposes to consider the adoption of the attached Resolution Adopting Revenue Purpose Statement Regarding Revenues from Proposed Gas Franchise Fees Pursuant to Iowa Code § 364.2(4)(f).

This Notice is given by order of the Council of Ottumwa, Iowa, as provided by Sections 364.2(4)(f) and 362.3 of the Code of Iowa, as amended.

Dated this 5 day of July, 2022.

  
\_\_\_\_\_  
City Clerk, City of Ottumwa, State of Iowa

**RESOLUTION NO. 176-2022**

**RESOLUTION ADOPTING REVENUE PURPOSE STATEMENT REGARDING USE  
OF REVENUES FROM PROPOSED GAS FRANCHISE FEE PURSUANT TO IOWA  
CODE § 364.2(4)(f)**

WHEREAS, the City of Ottumwa, Iowa is considering repealing and replacing its franchise with MidAmerican Energy Company for the purpose of imposing a franchise fee; and

WHEREAS, the City Council of the City of Ottumwa will hold a public hearing regarding the repeal and replacement of the franchise with MidAmerican Energy Company prior to amendment of any franchise; and

WHEREAS, Iowa Code § 364.2(4)(f) requires adoption of a “Revenue Purpose Statement” by a city council prior to the amendment of any franchise which will impose a franchise fee; and

WHEREAS, the “Revenue Purpose Statement” must specify the purpose or purposes for which any revenue generated by a franchise fee will be used; and

WHEREAS, as required by Iowa Code § 364.2(4)(f) a copy of the proposed "Revenue Purpose Statement" has been published in the manner provided by Iowa Code § 362.3.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Ottumwa:

Section 1: The following "Revenue Purpose Statement" is hereby adopted by the City Council of the City of Ottumwa, to wit:

**REVENUE PURPOSE STATEMENT REGARDING USE OF REVENUE FROM MIDAMERICAN ENERGY COMPANY FRANCHISE FEES**

Pursuant to Iowa Code § 364.2(4)(f) the City of Ottumwa states that all revenue generated from franchise fees assessed on the sales of natural gas within the city shall be deposited in the franchise fee account in the general fund and shall be used to reimburse the City for all costs associated with inspecting, supervising or otherwise regulating its franchises. Moneys in the franchise fee account in the general fund in excess of the amounts necessary for costs associated with inspecting, supervising or otherwise regulating its franchises shall be expended for any of the following:

- a) The repair, remediation, restoration, cleanup, replacement, and improvement of existing public improvements and other publicly owned property, buildings, and facilities.
- b) Projects designed to prevent or mitigate future disasters as defined in Iowa Code Section 29C.2.
- c) Energy conservation measures for low-income homeowners, low-income energy assistance programs, and weatherization programs.
- d) Public safety, including the equipping of fire, police, emergency services, sanitation, street, and civil defense departments.
- e) The establishment, construction, reconstruction, repair, equipping, remodeling, and extension of public works, public utilities, and public transportation systems.
- f) The construction, reconstruction, or repair of streets, highways, bridges, sidewalks, pedestrian underpasses and overpasses, street lighting fixtures, and public grounds, and the acquisition of real estate needed for such purposes.




- g) Property tax abatements, building permit fee abatements, and abatement of other fees for property damaged by a disaster as defined in section 29C.2.
- h) Economic development activities and projects.

Section 2: The City Clerk shall cause this "Revenue Purpose Statement Regarding Use of Revenue from MidAmerican Energy Company Franchise Fees" as adopted to be published in the manner required by Iowa Code § 362.3.

Adopted the 19 day of July, 2022.

  
\_\_\_\_\_  
Mayor

ATTEST:

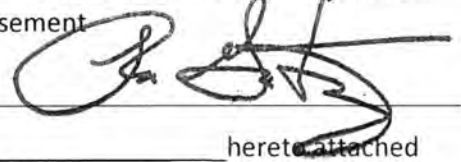
  
\_\_\_\_\_  
City Clerk

# PROOF OF PUBLICATION

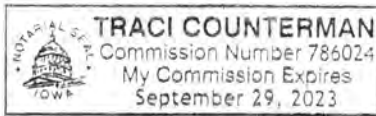
STATE OF IOWA  
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

Revenues from Proposed Gas Franchise Fees  
City of Ottumwa

  
hereto attached

was published in said newspaper for 1 consecutive week's to-wit: 7/14/22  
Subscribed and sworn to before me, and in my presence, by the said 14th day of July, 2022





Notary Public

In and for Wapello County

Printer's fee \$15.73

## COPY OF ADVERTISEMENT

NOTICE OF MEETING OF THE CITY COUNCIL OF THE CITY OF OTTUMWA, STATE OF IOWA, ON THE MATTER OF THE PROPOSED RESOLUTION ADOPTING REVENUE PURPOSE STATEMENT REGARDING USE OF REVENUES FROM PROPOSED GAS FRANCHISE FEES PURSUANT TO IOWA CODE SECTION 364.2(4)(f) PUBLIC NOTICE is hereby given that the City Council of the City of Ottumwa, State of Iowa, will meet on the 19th day of July, 2022, at 5:30 P.M. in the City Hall - Council Chambers, 105 E. Third Street, Ottumwa, Iowa, at which meeting the City Council proposes to consider the adoption of the attached Resolution Adopting Revenue Purpose Statement Regarding Revenues from Proposed Gas Franchise Fees Pursuant to Iowa Code § 364.2(4)(f). This Notice is given by order of the Council of Ottumwa, Iowa, as provided by Sections 364.2(4)(f) and 362.3 of the Code of Iowa, as amended. Dated this 5th day of July, 2022. Christina Reinhard City Clerk, City of Ottumwa, State of Iowa

PH Notice  
- App Rev Purpose Stmt - Gas Franchise

PM 356

# CITY OF OTTUMWA

## Staff Summary

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

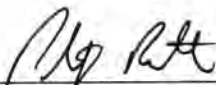
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Ordinance No. 3203-2022: An Ordinance repealing Ordinance No. 2888-2000 and granting to MidAmerican Energy company, its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the city of Ottumwa, Iowa, a Natural Gas System and to furnish and sell natural gas to the city and its inhabitants and authorizing the city to collect franchise fees for a period of 25 years.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt the first reading of Ordinance No. 3203-2022

**ROE MOVED, SECONDED BY POPE TO PASS FIRST CONSIDERATION OF ORDINANCE NO. 3203-2022 – VOTE: ALL NAYS MOTION FAILED**

DISCUSSION: Pursuant to Iowa Code section 364.2(4)(f) municipalities may impose a franchise fee when adopted by ordinance. Attached is an ordinance with the intent to impose a three percent franchise fee upon the gas utility as part of a franchise agreement with MidAmerican Energy Company. This fee would replace the current one percent charged for Local Option Sales Tax. Revenue received from this fee would be used to supplement the General Fund as outlined in the Revenue Purpose Statement adopted by Resolution 176-2022.

Source of Funds:

Budgeted Item:  Budget Amendment Needed:



ORDINANCE NO. 3203-2022

AN ORDINANCE REPEALING ORDINANCE NO. 2888-2000 AND GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF OTTUMWA, IOWA, A **NATURAL GAS SYSTEM** AND TO FURNISH AND SELL NATURAL GAS TO THE CITY AND ITS INHABITANTS AND AUTHORIZING THE CITY TO COLLECT FRANCHISE FEES FOR A PERIOD OF 25 YEARS.

BE IT ENACTED by the City Council of the City of Ottumwa, Iowa:

**Section 1.** Ordinance No. 2888-2000 is hereby repealed.

**Section 2.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called “Company,”) and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Ottumwa, Iowa, (hereinafter called the “City,”) a gas distribution system, to furnish natural gas along, under and upon the right-of-way, streets, avenues, alleys and public places (excluding parks) to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. The City Council reserves to itself the right to extend this franchise to parks at the request of the Company. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

**Section 3.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2021, or as subsequently amended or changed.

**Section 4.** Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed in accordance with this franchise and the City Code and regulations of the City of Ottumwa, regarding the placement of structures, facilities, or other objects in the right of way by utilities and other users of the right of way, including ordinances which assign corridors or other placements to users of the right of way and requirements which may be adopted regarding separations of structures, facilities, accessories or other objects.

**Section 5.** The Company shall, excluding facilities located in private easements (whether

titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff,") at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street, avenue, right of way or alley or any public improvement of, in or about any such street, avenue, right of way or alley or reasonably promoting the efficient operation of any such improvement.. If the City has a reasonable alternative route for the street, avenue, right of way or alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City and Company shall work together to consider said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree and vegetation removal must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree/vegetation removal does not coincide with the Company facilities relocation schedule and Company must remove trees/vegetation that are included in the City's portion of the project, the City shall either remove the material at its cost or reimburse the Company for the expenses incurred to remove said vegetation or trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

**Section 6.** In making excavations in any streets, avenues, alleys, rights of way and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefore and shall provide the City with 24 hours' notice prior to the actual commencement of the work, and shall comply with all provision and requirements of the City in its regulation of the use of City right of way in performing such work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or

obtaining the permit, provided, however, that the Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. To the extent not inconsistent with this ordinance, the Company shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work, including all city ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. The Company shall complete all repairs in a timely and prompt manner. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with city, state or federal rules, regulations or laws.

**Section 7.** The City's vacation of a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has facilities in the vicinity, the City shall provide Company with not less than sixty (60) days advance notice of the city's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for the existing Company facilities.

**Section 8.** The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City at any time during the previous ten (10) years.

**Section 9.** Pursuant to relocation of Company facilities as may be required here under, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly facilitate the project of a commercial or private developer or other non-public entity, City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.



**Section 10.** The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, including attorneys' fees, on account of injury or damage to any person or property, to the extent caused or occasioned in whole or in part by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

**Section 11.** Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in the public right of way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under state or federal law or both. Upon receipt of a request from a third party for information concerning information about the Company's facilities within the City, the City will promptly submit same to Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be protected from public disclosure by state or federal law, or otherwise exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within ten (10) days. In the event any action at law, in equity or administrative is brought against the City regarding disclosure of any document which the Company has designated as a trade secret or as otherwise protected from disclosure the Company shall assume, upon request of the City, the defense of said action. The Company shall reimburse the City any and all cost, including attorney fees and penalties to the extent allowed by law which may result from any said action.

**Section 12.** The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

**Section 13.** During the term of this franchise, the Company shall furnish natural gas in the

quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company's tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

**Section 14.** A franchise fee of three percent (3%) is imposed upon the gross revenue generated from the sales of natural gas by the Company within the corporate limits of the city. For purposes of this section gross revenue shall include in addition to revenue from direct sales of natural gas to customers, the gross revenue derived by the company from the transmission, transportation or distribution of natural gas sold to customers by suppliers other than the company through the company's distribution system within the City. In determining the amount of the fee, the Company may presume that the customer's cost of gas is the same as if the gas were sold by the Company, unless a different cost is provided.

**A.** The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

**B.** The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.

**C.** The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances or resolutions have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances or resolutions from the City.

**D.** The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or

information.

**Section 15.** Upon implementation of a franchise fee, the City shall not, pursuant to Section 480A.6 of the Code of Iowa, impose or charge the Company a fee for management costs attributable to the Company's requested use of the City's right-of-way.

**Section 16.** Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

**Section 17.** If any section, provision, or part of this ordinance shall be adjudged to be 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 18.** To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

**Section 19.** This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within ten (10) days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event that the Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council this



ordinance shall be void and of no effect.

**Section 20.** Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

Passed on its first consideration on the \_\_\_ day of \_\_\_\_\_, 2022.

Pass on its second consideration on the \_\_\_ day of \_\_\_\_\_, 2022.

Requirement of consideration and vote at two prior council meetings suspended on the \_\_\_ day of \_\_\_\_\_, 2022.

Final passage and adoption on the \_\_\_ day of \_\_\_\_\_, 2022.

CITY OF OTTUMWA, IOWA

By: \_\_\_\_\_  
Richard W. Johnson Mayor

\_\_\_ No action taken my Mayor.

\_\_\_ Vetoed this \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Richard W. Johnson, Mayor

\_\_\_ Repassed and adopted over the veto this \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_ Veto affirmed this \_\_\_ day of \_\_\_\_\_, 2022 by failure of vote taken to repass.

\_\_\_ Veto affirmed, no timely vote taken to repass over veto.

ATTEST:

\_\_\_\_\_  
Christina Reinhard, City Clerk

(OFFICIAL SEAL)

I, \_\_\_\_\_, City Clerk of the City of Ottumwa, Iowa, hereby certify that the above and foregoing is a true copy of Ordinance No. \_\_\_\_\_, passed by the City Council of said City at a meeting held \_\_\_\_\_, 2022, and signed by the mayor \_\_\_\_\_, 2022, and published as provided by law on \_\_\_\_\_, 2022.

\_\_\_\_\_

(OFFICIAL SEAL)

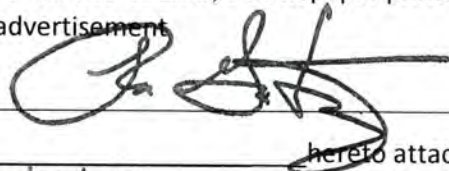
City Clerk

# PROOF OF PUBLICATION

STATE OF IOWA  
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

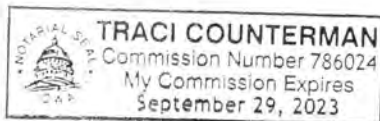
Notice of Hearing - Gas Franchise  
City of Ottumwa



hereto attached

was published in said newspaper for 1 consecutive week's to-wit: 7/5/22

Subscribed and sworn to before me, and in my presence, by the said 5th day of July, 2022



Notary Public

In and for Wapello County

Printer's fee \$31.46

## COPY OF ADVERTISEMENT

### NOTICE OF HEARING - GAS FRANCHISE

Notice is hereby given that the City Council of Ottumwa, Iowa will conduct a public hearing on the 19th day of July, 2022, at 5:30 P.M. in the in the City Hall - Council Chambers, 105 E. Third Street, Ottumwa, Iowa to receive comments on the following item: An ordinance repealing ordinance no. 2888-2000 and granting to MidAmerican Energy Company, its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Ottumwa, Iowa, a natural gas system and to furnish and sell natural gas to the City and its inhabitants and authorizing the City to collect franchise fees for a period of 25 years. Pursuant to Iowa Code section 364.2(4)(f), the proposed ordinance imposes a franchise fee. The franchise fee provision of the ordinance provides, "A franchise fee of three percent (3%) is imposed upon the gross revenue generated from the sales of natural gas by the Company within the corporate limits of the city. For purposes of this section gross revenue shall include in addition to revenue from direct sales of natural gas to customers, the gross revenue derived by the company from the transmission, transportation or distribution of natural gas sold to customers by suppliers other than the company through the company's distribution system within the City. In determining the amount of the fee, the Company may presume that the customer's cost of gas is the same as if the gas were sold by the Company, unless a different cost is provided." This is a summary of the proposed ordinance. The proposed ordinance is on file and available for public inspection in the office of the City Clerk. Any and all residents and interested property owners are invited and encouraged to attend this hearing at the time and place mentioned above and to submit comments either orally, in writing, or both. For further information, please contact City Hall. This Notice is given by order of the Council of Ottumwa, Iowa, as provided by Sections 380.7(3) and 362.3 of the Code of Iowa, as amended. Dated this 5th day of July 2022. Christina Reinhard City Clerk, City of Ottumwa, State of Iowa

PH Notice - Gas  
Franchise ord.



**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

Philip Rath

Prepared By

Administration

Department

Department Head

City Administrator Approval

AGENDA TITLE: Resolution 189-2022 - Approving a revised lease agreement between the City of Ottumwa and Musco Sports Lighting, LLC.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt Resolution 189-2022.

DISCUSSION: The City of Ottumwa renewed the Agreement with Musco Sport Lighting, LLC on or around March 2, 2021 for the lease of the South One-Half of Building #23 - a hangar at the Ottumwa Regional Airport. Since that time the Fixed Base Operator services, including hangar rental and fueling services have been assumed by the city. Musco has agreed to replace the current extension with a new five-year agreement to reflect these changes in airport personnel and service provision. The new agreement would be effective July 1, 2022 - June 30, 2027.

Source of Funds:

Budgeted Item:  Budget Amendment Needed:

**RESOLUTION NO. 189-2022**

**RESOLUTION APPROVING A REVISED LEASE AGREEMENT BETWEEN  
THE CITY OF OTTUMWA AND MUSCO SPORT LIGHTING, LLC.**

**WHEREAS**, the City of Ottumwa entered into an Agreement with Musco Sport Lighting, LLC on or around February 25, 2016 for the lease of the South One-Half of Building #23 - a hangar at the Ottumwa Regional Airport (ORA); and

**WHEREAS**, said Agreement provided for an automatic renewal clause of an additional five year period – March 1, 2021 through February 28, 2026 following action by each party, which was executed on March 2, 2021; and

**WHEREAS**, the City was in the process of adopting the Fixed Base Operator (FBO) services at ORA and both parties agreed to renegotiate the terms prior to the end of the renewed lease; and

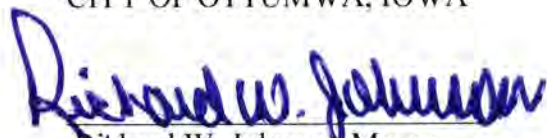
**WHEREAS**, the City has drafted the attached revised lease, which has been reviewed by the city attorney and Musco Sport Lighting, LLC.

**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA**, the revised lease agreement between the City of Ottumwa and Musco Sport Lighting, LLC is approved; and

**BE IT FURTHER RESOLVED**, by the Ottumwa City Council of the City of Ottumwa, Iowa, that the Mayor and City Clerk are hereby authorized and directed to execute said resolution.

APPROVED, PASSED AND ADOPTED, this 19<sup>th</sup> day of July, 2022.

CITY OF OTTUMWA, IOWA

  
Richard W. Johnson, Mayor

ATTEST:

  
Christina Reinhard, City Clerk

Publish July 12, 2022

## **NOTICE OF PUBLIC HEARING**

### **TO WHOM IT MAY CONCERN:**

Notice is hereby given that the City Council of the City of Ottumwa, Iowa, will hold a public hearing on Tuesday, July 19, 2022 at 5:30 P.M. at City Hall in the City of Ottumwa, Iowa on its intent to consider a five-year Lease Agreement with the Musco Sport Lighting, LLC for the lease of the South One-Half of Building No. 23 – a hangar at the Ottumwa Regional Airport. All persons interested in the intent to approve the five-year Lease Agreement are invited to be present at the above time and place on the date mentioned to present their objections to, or arguments for the approval of the five-year Lease Agreement. Statements can also be given to the City Clerk up to 4:30 P.M. on Tuesday, July 19, 2022.

FOR THE CITY OF OTTUMWA:  
Christina Reinhard, City Clerk



# PROOF OF PUBLICATION

STATE OF IOWA  
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

Notice of Public Hearing  
City of Ottumwa



hereto attached

was published in said newspaper for 1 consecutive week's to-wit: 7/12/22  
Subscribed and sworn to before me, and in my presence, by the said 12th day of July, 2022



Notary Public

In and for Wapello County

Printer's fee \$12.67

## COPY OF ADVERTISEMENT

**NOTICE OF PUBLIC HEARING TO WHOM IT MAY CONCERN:**  
Notice is hereby given that the City Council of the City of Ottumwa, Iowa, will hold a public hearing on Tuesday, July 19, 2022 at 5:30 P.M. at City Hall in the City of Ottumwa, Iowa on its intent to consider a five-year Lease Agreement with the Musco Sport Lighting, LLC for the lease of the South One-Half of Building No. 23 – a hangar at the Ottumwa Regional Airport. All persons interested in the intent to approve the five-year Lease Agreement are invited to be present at the above time and place on the date mentioned to present their objections to, or arguments for the approval of the five-year Lease Agreement. Statements can also be given to the City Clerk up to 4:30 P.M. on Tuesday, July 19, 2022. FOR THE CITY OF OTTUMWA: Christina Reinhard, City Clerk

PH Notice  
5 yr lease - Musco

**OTTUMWA REGIONAL AIRPORT  
LEASE AGREEMENT**

This Lease Agreement made and entered into this \_\_\_ day of \_\_\_\_\_, 2022 by and between the CITY OF OTTUMWA, IOWA, a municipal corporation, situated in Wapello County, Iowa, hereinafter referred to as LESSOR, and Musco Sports Lighting, LLC, hereinafter referred to as LESSEE.

WITNESSETH:

WHEREAS, the Ottumwa Regional Airport, hereinafter referred to as "Airport" is owned by the LESSOR, and subject to the management and control of the LESSOR; and

WHEREAS, LESSOR and LESSEE entered into a Lease Agreement for the South one-half (1/2) of Building #23, 14860 Terminal Street, located at the Ottumwa Regional Airport on February 15, 2016 ("Original Lease").

WHEREAS, LESSOR and LESSEE approved a five year extension to the Original Lease on March 2, 2021.

WHEREAS, LESSOR and LESSEE now desire to enter into a new five year lease agreement for the South one-half (1/2) of Building #23, 14860 Terminal Street, located at the Ottumwa Regional Airport.

NOW, THEREFORE, in consideration of the mutual terms, agreements, and covenants herein contained, and other valuable considerations, LESSOR does hereby lease unto LESSEE, and LESSEE does hereby take from LESSOR, certain premises and facilities, rights, services and privileges in connection with and at the Airport as follows:

**ARTICLE I – PREMISES**

A. The LESSOR, in consideration of the rents herein reserved and of the terms, covenants and conditions herein contained and expressed on the part of the LESSEE, to be kept and performed, leases and rents unto the LESSEE, and the LESSEE hereby leases and takes of and from the LESSOR, the following described premises to-wit:

The south one-half of the municipal hangar, known as Building #23, including the old engine repair area at the far South end of this hangar, located at 14860 Terminal Street, at the Ottumwa Regional Airport (the "leased premises").

B. That LESSEE will use the leased premises as a corporate hangar facility, and the leased premises shall be used by the LESSEE for that purpose only, except by written consent of the LESSOR. That LESSEE will not permit any person to use the same for any activity or purpose tending to injure the reputation of the City of Ottumwa, nor for any unlawful purpose, nor for any activity deemed extra-hazardous on account of fire, nor commit any act which will invalidate any policy of insurance on said premises or increase the cost thereof.

C. LESSEE will not, without the express written approval of the LESSOR, place any sign or decorations on the leased premises, either by attaching the same to the building or placing them on the adjacent grounds. The LESSEE will be allowed to erect a sign for the express purpose of business identification. The size and location will be determined by mutual consent of the LESSEE and LESSOR.

D. LESSOR reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent LESSEE from erecting or permitting to be erected, any building or other structure at the Airport which in the opinion of LESSOR would limit the usefulness of the Airport or constitute a hazard to aircraft.

E. LESSEE shall suffer no waste or injury to the premises nor obstruct the streets or sidewalks adjacent thereto.

## ARTICLE II – TERM

A. LESSEE shall have and hold all the privileges herein described for a term of five (5) years commencing on the 1<sup>st</sup> day of July, 2022 and ending on the 30th day of June, 2027.

B. Upon the mutual consent of both parties, LESSEE is granted the option to renew this lease at the end of the initial term for five (5) additional years with specific terms such as rent and fees being renegotiated prior to the start of the subsequent five-year term.

C. Each party has the right to terminate said Lease Agreement at any time with a ninety (90) day written notice to the other party.

## ARTICLE III – RENTAL AND FEES

A. LESSEE agrees to pay LESSOR the following monthly amounts as rent for the leased premises:

1.	From July 1, 2022 to December 31, 2022	\$500 per month
2.	From January 1, 2023 to December 31, 2023	\$850 per month
3.	From January 1, 2024 to December 31, 2024	\$1,200 per month
4.	From January 1, 2025 to December 31, 2025	\$1,550 per month
5.	From January 1, 2026 to June 30, 2027	\$1,870 per month

together with interest at the rate of 12% per annum on all delinquent installments. Rental fees shall be rounded to the next highest dollar increment.

B. LESSEE further agrees to pay LESSOR fuel charges for fuel usage at the leased premises consistent with the rates and charges adopted by LESSOR.



#### **ARTICLE IV – TERMINATION OF LEASE**

A. **TERMINATION UPON EXPIRATION OR UPON NOTICE OF DEFAULTS.** This lease shall terminate upon the expiration of the lease term, upon notice per Article II C above, upon default in payment of rent herein, or upon any other default by LESSEE in accordance with the terms and provisions of this lease.

B. In the event of default of any material term herein, this lease may, at the option of the LESSOR, be canceled and forfeited, provided however, before any such cancellation and forfeiture except as provided in (C) below, LESSOR shall give LESSEE a written notice specifying the default, or defaults, and stating that the lease will be canceled and forfeited thirty (30) days after the giving of such notice, unless such default, or defaults, are remedied within the thirty (30) day period.

C. **BANKRUPTCY OR INSOLVENCY OF LESSEE.** In the event LESSEE is adjudicated bankrupt, or in the event of a judicial sale or other transfer of LESSEE's leasehold interest by reason of any bankruptcy or insolvency proceedings or by other operation of law, but not by death, and such bankruptcy, judicial sale or transfer has not been vacated or set aside within ten (10) days written notice thereof by LESSOR to LESSEE, then and in any such events, LESSOR may, at its option, immediately terminate this lease and reenter said premises, upon giving of ten (10) days written notice by LESSOR to LESSEE all to the extent permitted by applicable law.

D. In (B) and (C) above, waiver as to any default shall not constitute a waiver of any subsequent default or defaults.

E. Acceptance of keys, advertising and re-renting by the LESSOR upon the LESSEE's default shall be construed as an effort to mitigate damages by the LESSOR and not as an agreement to terminate this lease.

F. **RIGHT OF EITHER PARTY TO MAKE GOOD ANY DEFAULT OF THE OTHER.** If default shall be made by either party in the performance of, or compliance with, any of the terms, covenants or conditions of this lease, and such default shall have continued for thirty (30) days after written notice thereof from one party to the other, the person aggrieved in addition to all other remedies now or hereafter provided by law may, but need not, perform such term, covenant or condition, or make good such default and any amount advanced shall be repaid forthwith on demand, together with interest at the rate of 12% per annum, from date of advance.

#### **ARTICLE V – MAINTENANCE OF PROPERTY AND UTILITIES**

A. LESSEE shall operate, maintain and keep in good repair, all appurtenances, facilities and services.

B. LESSEE will, at its own expense, make any repairs necessary to the leased premises that do not directly relate to the fundamental structure of the building including foundation, floor, walls, trusses, and roof; specific structural repairs will be the responsibility of LESSOR. LESSOR agrees to cooperate with any such repairs and to repair or replace any portions of the leased premises as

necessary. All building alterations require prior written approval of the LESSOR. Fixtures and other building alterations become and remain property of the LESSOR once they are made.

C. LESSEE shall furnish, at its own cost and expense, electric and gas utilities necessary and convenient for LESSEE's use of the leased premises. LESSOR shall pay for monthly usage of water and sewer. It shall be the duty of LESSEE to maintain and keep in good state of repair all utility services to the extent that the same are not kept and maintained by the particular utility company extending such service.

D. LESSEE will do nothing which will cause structural injury to the building. LESSEE will make no structural changes to the premises without prior written consent of LESSOR.

E. LESSEE will make no unlawful use of said premises and agrees to comply with all valid regulations of any applicable local law, the laws of the State of Iowa, and the Federal Government. However, this provision shall not be construed as creating any duty by LESSEE to members of the general public. LESSEE will not allow trash of any kind to accumulate on said premises and will remove the same from the premises at its own expense.

F. LESSEE agrees to use the premises leased to it hereunder in a proper manner, consistent with the purposes for which said premises are leased to it.

G. HAZARDOUS WASTE.

(1) LESSEE shall strictly comply with, and obey, all environmental laws, including but not limited to those laws, with respect to the creation, storage and disposal of hazardous materials. LESSEE is strictly prohibited from creating, utilizing, storing or disposing of any material or substance, which may be hazardous without prior notice to, and written consent from, the LESSOR except for those FDA approved substances reasonably related to LESSEE's business.

(2) LESSEE shall defend, hold harmless and indemnify LESSOR from and against all claims, losses, costs, damages, expenses or liabilities, including reasonable attorney's fees and costs of defense or any injury or such injury or damage as has been caused by the act, neglect, fault or omission of LESSEE or its agents, servants, employees or invitees, resulting from the creation, utilization, storage or disposal of any material or substance. This indemnification is intended to operate as indemnity under 42 U.S.C. 9607(e)(1). LESSOR shall defend, hold harmless and indemnify LESSEE from and against all claims, losses, costs, damages, expenses or liabilities, including reasonable attorney's fees and costs of defense or any injury or such injury or damage, caused by the act, neglect, fault or omission of LESSOR or its agents, predecessors, servants, employees, or invitees, resulting from the creation, utilization, storage, or disposal of any material or substance.

(3) These indemnifications are intended to survive the termination or expiration of this lease. Said indemnification shall operate as indemnity for any injury or damage set forth above, from and against all claims, losses, costs, damages, expenses or liabilities, including reasonable attorney's fees and costs of defense incurred after the termination or expiration

of the lease caused by the act, neglect, fault or omission of LESSEE or its agents, servants, employees or invitees, during the term of the lease.

H. LESSEE shall allow all Public Utility companies unrestricted access to the property for the maintenance of all Public Utility facilities which are on, over, above, or below the described property.

#### **ARTICLE VI – RULES AND REGULATIONS**

A. LESSEE agrees to observe and obey all reasonable rules and regulations which may from time to time during their term hereof be promulgated by LESSOR for the conduct and operation of the Airport, consistent with safety and with the rules, regulations and orders of the Federal Aviation Administration with respect to aircraft operations at the Airport; and provided further that such rules and regulations shall not be inconsistent with provisions of the Lease Agreement.

#### **ARTICLE VII – SURRENDER OF PREMISES AT END OF TERM**

A. LESSEE agrees that upon the termination of this lease, it will surrender, yield up and deliver the leased premises in a good and clean condition, except for the effects of ordinary wear and tear and depreciation arising from the lapse of time, or damage without fault or liability of LESSEE.

#### **ARTICLE VIII – INSURANCE**

A. LESSOR and LESSEE will each keep its respective property interests in the premises and its liability in regard thereto, and the personal property on the premises, reasonably insured against hazards and casualties, that is fire and those items usually covered by extended coverage. LESSEE will procure and deliver to the LESSOR a Certificate of Insurance to that effect. Any and all proceeds from the insurance policies shall be payable to the parties hereto, as their respective interests may appear. LESSOR will provide casualty insurance on the building. LESSEE will provide casualty insurance on the contents of said building.

B. LESSEE will not do or omit the doing of any act, which would vitiate any insurance or increase the insurance rates in force upon the real estate improvements on the premises or upon any personal property of the LESSEE upon which the LESSOR, by law or by the terms of this lease, has or shall have a lien.

C. LESSEE further agrees to comply with recommendation of Iowa Insurance Service Bureau and to be liable for and promptly pay, as if current rental, any increase in insurance rates on said premises due to increase risks or hazards resulting from LESSEE's use of the premises otherwise than as herein contemplated and agreed.

D. LESSOR shall settle and adjust any claim against any insurance company under its said policies of insurance for the premises and said insurance monies shall be paid to and held by the



LESSOR to be used in the payment for cost of repairs or restoration of damaged building, if the destruction is only partial.

E. It is understood and agreed that the City of Ottumwa, Iowa is named as "Additional Insured" in respect of the insured's occupancy of the premises and building at the Ottumwa Regional Airport and the use of any part of the Airport which this Lease Agreement permits, and such policy of insurance which shall bear the following endorsement in words or substance:

"It is understood and agreed that the City of Ottumwa is named as "Additional Insured" in respect to the insured's occupancy of the premises and building at the Ottumwa Regional Airport six (6) miles north of Ottumwa in Wapello County, Iowa."

F. The LESSEE further covenants and agrees that it will, at its own expense, procure and maintain casualty and liability insurance from a responsible insurance company or companies insuring against such claim, damages, costs, or expenses on account of injury to any person, or persons, including death, by reason of any property belonging to any person or persons, by reason of such casualty, accident or other happening on or about the demised premises during the term thereof. LESSEE shall provide to LESSOR a Certificate of Insurance for liability coverage with coverage limits in the amount of \$2,000,000, including an endorsement adding LESSOR as an additional insured. Certificates shall be provided to LESSOR prior to the signing of this lease or the beginning of the term of this lease. The minimum liability insurance requirements will be evaluated prior to each subsequent renewal option.

#### **ARTICLE IX – INDEMNITY**

A. LESSEE agrees to indemnify and hold LESSOR harmless from and against all liability for injuries to any person or persons, including death, or damage to property caused by LESSEE'S use or occupancy of the demised premises; provided, however, that LESSEE shall not be liable for any injury, damage or loss occasioned by the negligence of LESSOR, its agents or employees and provided further that LESSOR shall give LESSEE prompt and timely notice of any claim made or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect LESSEE. LESSEE shall have the right to compromise and defend the same to the extent of its own interest, only upon prior written consent of LESSOR.

B. Except as to any negligence of the LESSOR, arising out of roof and structural parts of the building, LESSEE will protect, indemnify and save harmless the LESSOR from and against any and all loss, costs, damage and expenses occasioned by, or arising out of, any accident or other occurrence causing or inflicting injury and/or damage to any personal property, happening or done in, upon or about the leased premises, or due indirectly to the tenancy, use or occupancy thereof, or any part thereof by the LESSEE or any person claiming through or under the LESSEE.

#### **ARTICLE X -PARTIAL DESTRUCTION OF PREMISES**

A. In the event of a partial destruction or damage of the leased premises, which is a business interference; that is, which prevents the conducting of a normal business operation and which damage is reasonably repairable within sixty (60) days after its occurrence, this lease shall not

terminate but the rent for the leased premises shall abate during the time of such business interference. In the event of partial destruction, LESSOR shall repair such damages within sixty (60) days of its occurrence unless prevented from doing so by act of God, the elements, the public enemy, strikes, riots, insurrection, government regulations, city ordinances, labor, material or transportation shortages, or other causes beyond LESSOR's reasonable control.

## **ARTICLE XI – TOTAL DESTRUCTION OF PREMISES**

A. In the event of a total destruction or damage of the leased premises so that LESSEE is not able to conduct its business on premises or the then current legal use for which the premises is being used and which damages cannot be repaired within sixty (60) days, this lease may be terminated at the option of either the LESSOR or LESSEE. Such termination in such event shall be effected by written notice of one party to the other within twenty (20) days after such destruction. LESSEE shall surrender possession with ten (10) days after such notice issues and each party shall be released from all further obligations hereunder, LESSEE paying rental pro rata only to the date of such destruction. In the event of such termination of this lease, LESSOR, at its option, may rebuild or not according to its own wishes and needs.

## **ARTICLE XII – FAA PROVISIONS**

### **A. General Civil Rights Provisions**

The LESSEE and any transferee agree to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision obligates the LESSEE or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program. In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

- (a) The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- (b) The period during which the airport sponsor or any transferee retains ownership or possession of the property.

### **B. Nondiscrimination**

A. The LESSEE, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Agreement, for a purpose for which a Department of Transportation

program or activity is extended or for another purpose involving the provision of similar services or benefits, LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

B. The LESSEE for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the LESSOR shall have the right to terminate the lease and to re-enter and as if said lease had never been made or issued.

### **C. Inclusion of Discrimination Provisions in LESSEE Agreements**

LESSEE agrees to include the above Sections (Nondiscrimination) and (General Civil Rights) in any subsequent agreements, relating to its operations at the Airport, that it enters into and cause those businesses to similarly include the statements in further agreements.

### **D. Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the LESSEE, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;



- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

#### **E. Airport Protection**

It shall be a condition of this lease, that the LESSOR reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property hereinafter described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the airport. LESSOR reserves the right to further develop or improve the

Airport as it sees fit, regardless of the desires or view of LESSEE, and without interference or hindrance.

That the LESSEE expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to such a height so as to comply with Federal Aviation Regulations, Part 77.

That the LESSEE expressly agrees for itself, its successors and assigns, to prevent any use of the hereinafter described real property which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

#### **F. Existing Rights Reserved**

This Agreement is subject and subordinate to the provisions of any existing or future agreements between the LESSOR and the United States or the State of Iowa relative to the operation, maintenance, development, or administration of the Airport, the execution of which is or has been required as a condition precedent to the transfer of Federal rights or property to the LESSOR for Airport purposes, or to the expenditure of Federal or State of Iowa funds or passenger facility charges for the improvement or development of the Airport, including the expenditure of Federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as the act may be amended from time to time. LESSEE shall abide by requirements of agreements entered into between the LESSOR and the United States, and shall consent to amendments and modifications of this Agreement if required by any such agreements or if required as a condition of the LESSOR's entry into such agreements.

#### **G. Exclusive Rights**

Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this agreement are non-exclusive and the LESSOR herein reserves the right to grant similar privileges to another LESSEE or other LESSEES on other parts of the airport.

#### **H. Compliance with Federal Aviation and Transportation Security Regulations**

A. LESSEE agrees to comply at all times with Federal Aviation Regulations (FAR) Part 139, and Transportation Security Regulations (TSR) Parts 1500, 1520, 1540 and 1542, LESSOR's policies, regulations and ordinances, LESSOR's Transportation Security Administration approved Airport Security Program, and any other applicable laws, regulations and rules as such currently exist and are amended from time to time. LESSEE further agrees that any fines levied upon LESSOR, its officers, employees, agents, and members of LESSOR's boards and commissions and employees, agents or officers of LESSOR's boards and commissions pursuant to enforcement of FAR Part 139 and TSR Parts 1500, 1520, 1540, and 1542 due to acts or omissions by LESSEE, LESSEE's agents, servants, officers, employees, independent contractors, or patrons shall be borne by LESSEE. LESSEE further agrees to indemnify and hold harmless LESSOR, its officers, employees, agents, and members of LESSOR's boards and commissions, and employees, agents, or officers of LESSOR's boards and commissions from any and all fines so levied and from any

and all claims, demands, liabilities, or expenses of every kind or nature related to such levy or defense to such levy (including, but not limited to, salary of attorneys employed by LESSOR) which LESSOR or any of its officers, employees, or other persons set out above shall or may at any time sustain or incur by reason of or in consequence of such acts or omissions by LESSEE. LESSEE further agrees to indemnify and hold harmless LESSOR, its officers, employees, agents, and members of LESSOR's boards and commissions, and employees, agents, or officers of LESSOR's boards and commissions from any and all claims, demands and or lawsuits arising out of LESSEE's or LESSEE's employees' failure to comply with FAR Part 139 and TSR Parts 1500, 1520, 1540 and 1542, the Airport Security Program or any other applicable law, regulation or rule.

B. LESSEE agrees to control all persons and vehicles entering any airport restricted area (including aircraft movement area) through its leased space in accordance with the Airport's Security Program and in compliance with TSR Parts 1500, 1520, 1540, and 1542 as such currently exist and are amended from time to time.

#### **I. War or National Emergency**

During the time of war or national emergency, LESSOR shall have the right to lease the landing area or any part thereof to the United States Government for military or naval use, and, if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.

#### **J. Americans with Disabilities Act (1990)**

LESSEE agrees to comply with the Americans with Disabilities Act (1990) and any amendments and regulations thereto with regard to LESSEE's operations on the Leased Premises.

#### **K. Right to Amend**

In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of Airport, LESSEE agrees to consent to such amendments, modifications, revisions, supplements or deletions or any of the terms, conditions, or requirements of this Agreement as may be reasonably required to obtain such funds; provided, however, that in no event will LESSEE be required, pursuant to this paragraph, to agree to an increase in the fees and charges provided for herein or to a change in the use, provided it is an authorized use, to which LESSEE has put the Leased Premises.

#### **L. Just Services**

LESSEE further covenants and agrees, with respect to any service furnished to the public at the Ottumwa Regional Airport, LESSEE will furnish the same on a fair, equal and not unjustly discriminatory basis to all users thereof and will charge a fair, reasonable and not unjustly discriminatory price for each unit or service, provided however, that LESSEE may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reduction to volume purchasers.



### **ARTICLE XIII– ASSIGNMENT**

A. LESSEE shall not, at any time, assign this Lease Agreement or any part thereof without the express written approval of the LESSOR. Provided; however, that this shall not prevent the assignment of this Lease Agreement to a corporation or limited liability company with which LESSEE owns, or may merge or consolidate with or which may succeed to the business or assets of LESSEE or a substantial part thereof. LESSEE shall not at any time sub-let space in any premises now or hereafter leased exclusively to LESSEE without the express written consent of the LESSOR in advance. LESSOR shall not unreasonably withhold consent.

### **ARTICLE XIV – NOTICES**

A. Notices to LESSOR provided for herein shall be sufficient if sent by registered mail, postage prepaid, addressed as follows:

City of Ottumwa  
c/o Phil Rath, City Administrator  
105 East Third Street  
Ottumwa, IA 52501

and notices to LESSEE, if sent by registered mail, postage prepaid, addressed as follows:

Musco Lighting  
c/o Chris Hyland, CFO  
100 First Avenue West  
PO Box 808  
Oskaloosa, IA 52577

Or such other respective addresses as the parties may designate to each in writing from time to time.

### **ARTICLE XV – GENERAL CONDITIONS**

A. That LESSEE and LESSOR are not relying on any statement or representations of each other or of any other party in entering into this lease and that all of the negotiations between the parties are merged into this agreement and that there are no understandings, terms or agreements of any kind or nature that are not set out herein and that this Lease Agreement and the provisions herein contained are the only agreements and understandings between the parties hereto.

B. All the covenants, stipulations and agreements in this Lease Agreement shall extend to and bind the legal representatives, successors and assigns of the respective parties hereto.

C. Neither the LESSEE nor anyone claiming by, through or under the LESSEE shall have the right to file or place any mechanic's lien or other lien of any kind or character whatsoever, upon said premises or upon any building or improvement hereon, or upon the leasehold interest of the

LESSEE therein, and notice is hereby given that no contractor, sub-contractor or anyone else may furnish any material, service or labor.

**ARTICLE XVI – SAVINGS CLAUSE**

Should any part or provision of the Lease Agreement be rendered invalid by reason of any existing or subsequently enacted legislation, such invalidation of any part or provision of the Lease Agreement shall not invalidate the remaining portions thereof and they shall remain in full force and effect.

**ARTICLE XVII – PRIOR LEASES TERMINATED**

This Lease Agreement repeals and replaces any existing Lease Agreements between LESSOR and LESSEE related to the leased premises.

IN WITNESS HEREOF, the parties hereto have caused this Lease Agreement to be executed by their proper officers.

Date

7/19/22

Richard W. Johnson  
Richard W. Johnson  
Mayor, City of Ottumwa

ATTEST:

Christina Reinhard  
Christina Reinhard  
City Clerk

Musco Sports Lighting, LLC

By \_\_\_\_\_

Date

\_\_\_\_\_

**CITY OF OTTUMWA**  
Staff Summary

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

Planning & Development  
Department

Zach Simonson  
Prepared By  
Zach Simonson  
Department Head

  
\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: ORDINANCE NO. 3200-2022: AN ORDINANCE ADOPTING THE STATE ELECTRICAL CODE BY AMENDING CHAPTER 13 OF THE CITY OF OTTUMWA MUNICIPAL CODE.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass first consideration of Ordinance 3200-2022.

DISCUSSION: The State Fire Marshal's Office and Electrical Examining Board has requested that Ottumwa enforce the Iowa Electrical Code. This ordinance treats the Electrical Code in the same manner as the Plumbing Code by adopting the state code in full by reference. As the state code changes, we would not be required to make changes to our ordinance.

Source of Funds:

Budgeted Item:  Budget Amendment Needed:



**ORDINANCE NO. 3200-2022**

**AN ORDINANCE ADOPTING THE STATE ELECTRICAL CODE BY AMENDING CHAPTER 13 OF THE CITY OF OTTUMWA MUNICIPAL CODE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA, THAT:**

**SECTION ONE.** Section 13-2 of the municipal code of the City of Ottumwa is hereby amended by repealing Section 13-2 in its entirety and enacting the following in lieu thereof:

**Sec. 13-2. – State electrical code adopted.**

The current National Electrical Code, published by the National Fire Protection Association, as amended and adopted by the State of Iowa in 661 Iowa Administrative Code Chapter 504, is hereby adopted in full. A copy of the National Electrical Code as adopted shall be on file in the Office of the City Clerk for public inspection.

**SECTION TWO.** Section 13-3 of the municipal code of the City of Ottumwa is hereby amended by repealing Section 13-3 in its entirety and enacting the following in lieu thereof:

**Sec. 13-3. – Fees.**

The fee for each electrical permit shall be as set forth by resolution of the city council.

**SECTION THREE.** Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

**SECTION FOUR.** Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION FIVE.** This ordinance shall be in full force and effect, from and after its passage, adoption, and approval and publication as required by law, unless a subsequent effective date is set out hereinabove.

**SECTION SIX.** When this ordinance is in effect, it shall automatically supplement, amend, and become a part of the said Code of Ordinance (Municipal Code) of the City of Ottumwa, Iowa.

PASSED on its first consideration the 19 day of July, 2022.

PASSED on its second consideration the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Requirement of consideration and vote at two (2) prior Council meetings suspended the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF OTTUMWA, IOWA

By: \_\_\_\_\_  
Richard W. Johnson, Mayor

\_\_\_\_\_ No action taken by Mayor.

\_\_\_\_\_ Vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Richard W. Johnson, Mayor

\_\_\_\_\_ Repassed and adopted over the veto this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_ Veto affirmed this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by failure of vote taken to repass.

\_\_\_\_\_ Veto affirmed no timely vote taken to repass over veto.

ATTEST:

\_\_\_\_\_  
Chris Reinhard, City Clerk

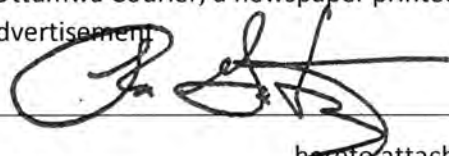
# PROOF OF PUBLICATION

STATE OF IOWA  
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

Ordinance No. 3200-2022

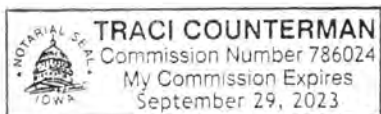
City of Ottumwa



hereto attached

was published in said newspaper for 1 consecutive week's to-wit: 7/7/22

Subscribed and sworn to before me, and in my presence, by the said 7th day of July, 2022



Notary Public

In and for Wapello County

Printer's fee \$17.92

## COPY OF ADVERTISEMENT

**Notice of Public Hearing**  
**NOTICE OF PUBLIC HEARING**  
**ON ORDINANCE NO. 3200-**  
**2022: AN ORDINANCE**  
**ADOPTING THE STATE ELEC-**  
**TRICAL CODE BY AMENDING**  
**CHAPTER 13 OF THE CITY OF**  
**OTTUMWA MUNICIPAL CODE**  
**TO WHOM IT MAY CONCERN:**  
Notice is hereby given that the City Council of the City of Ottumwa, Iowa will hold a public hearing on Tuesday July 19, 2022 at 5:30 P.M. at City Hall in the City of Ottumwa, Iowa on Ordinance No. 3200-2022: An Ordinance Adopting the State Electrical Code by Amending Chapter 13 of the City of Ottumwa Municipal Code in the City Hall building located at 105 East Third Street. A copy of the ordinance and state electrical code is available for review in the City Clerk's office. All persons interested in the Ordinance No. 3200-2022 are invited to be present at the above time and place on the date mentioned to present their objections to, or arguments for the ordinance. Statements can also be given to the City Clerk up to 4:30 P.M. on Tuesday May 3, 2022. FOR THE CITY OF OTTUMWA: Christina Reinhard, City Clerk Dated this 5th day of July, 2022 City Clerk, City of Ottumwa in the State of Iowa

PH Notice -  
Ora 3200-2022 State Elec. Code



**CITY OF OTTUMWA**  
Staff Summary

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

Planning & Development  
Department

Zach Simonson  
Prepared By  
Zach Simonson  
Department Head

  
\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: ORDINANCE NO. 3205-2022: AN ORDINANCE VACATING THE PUBLIC RIGHT-OF-WAY IN THE PORTION OF THE ALLEYWAY RUNNING NORTHWEST/SOUTHEAST FROM E MCPHERSON AVENUE TO PHILLIPS STREET BETWEEN WEST SECOND STREET AND THIRD STREET WEST IN THE CITY OF OTTUMWA

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Open public hearing,  
Receive public comments,  
Close public hearing,  
Pass first consideration of Ordinance No. 3205-2022.

DISCUSSION: This ordinance vacates a portion of alley between West Second and West Third Street. The section is between Phillips Street and East McPherson Avenue. The vacation will support the Elliott Oil fuel station project at this location. The vacated property will allow for the construction of the retaining wall for the project. The vacation is subject to utility easements, access easements for adjacent property owners and conditions of a

Source of Funds:

Budgeted Item:  Budget Amendment Needed:

purchase agreement to be reviewed by Council on August 2 or another date as determined by staff. The Plan and Zoning Commission recommended the vacation at the June 27, 2022 meeting.

**ORDINANCE NO. 3205**

**AN ORDINANCE VACATING THE PUBLIC RIGHT-OF-WAY IN THE  
PORTION OF THE ALLEYWAY RUNNING  
NORTHWEST/SOUTHEAST FROM E MCPHERSON AVENUE TO  
PHILLIPS STREET BETWEEN WEST SECOND STREET AND THIRD  
STREET WEST IN THE CITY OF OTTUMWA**

WHEREAS, Iowa Code Sections 306.11 and 364.12(2)(a) require that public ways be vacated by ordinance, after published notice and public hearing; and

WHEREAS, Iowa Code Section 306.12 requires that all adjoining property owners and affected utility companies be notified by certified mail regarding the proposed roadway vacation; and

WHEREAS, the City Council of the City of Ottumwa now wishes to proceed with the vacation of the public right-of-way described herein.

NOW, THEREFORE, be it ordained by the City Council of the City of Ottumwa, Iowa:

**SECTION 1:** No claim for damages was filed at or before the hearing and no person is entitled to damages from the vacation of the public right-of-way.

**SECTION 2:** That the public right-of-way in the portion of the alleyway running northwest/southeast from E McPherson Avenue to Phillips Street between West Second Street and Third Street West in the City of Ottumwa is hereby vacated. The portion of alleyway containing this now-vacated public right-of-way is legally described as:

THAT PORTION OF THE PLATTED 16.5 FOOT ALLEY LYING SOUTHWESTERLY AND ADJOINING LOT FIVE (5) AND LOT SIX (6) IN HIGHLAND PARK ADDITION TO THE CITY OF OTTUMWA AND LOT FIVE (5) AND THE NORTHWESTERLY EIGHT (8) FEET OF LOT SIX (6) IN HINSEY & HEDRICK'S ADDITION TO THE CITY OF OTTUMWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT FIVE (5) IN HIGHLAND PARK ADDITION; THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID ALLEY A DISTANCE OF 203 FEET TO THE SOUTHEAST CORNER OF THE NORTHWESTERLY EIGHT (8) FEET OF SAID LOT SIX (6) IN HINSEY & HEDRICK'S ADDITION; THENCE 16.5 FEET ALONG THE SOUTHWESTERLY EXTENSION OF THE SOUTHEASTERLY LINE OF SAID NORTHWESTERLY EIGHT (8) FEET OF LOT SIX (6) TO THE NORTHEASTERLY LINE OF LOT 14 IN SAID HINSEY & HEDRICK'S ADDITION, SAID POINT LYING ON THE SOUTHWESTERLY LINE OF SAID ALLEY; THENCE NORTHWESTERLY 203 FEET ALONG THE SOUTHWESTERLY LINE OF SAID ALLEY TO THE SOUTHWESTERLY EXTENSION OF THE NORTHWESTERLY LINE OF



SAID LOT 5 IN HIGHLAND PARK ADDITION; THENCE NORTHEASTERLY  
16.5 FEET ALONG SAID EXTENSION TO THE POINT OF BEGINNING.

**SECTION 3:** That all existing public and private utility easements are reserved for all existing utilities located within the alley.

**SECTION 4: REPEALER.** All ordinances or portions of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 5: 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 6: WHEN EFFECTIVE.** This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

First Reading: July 19, 2022

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Richard W. Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Christina Reinhard, City Clerk

I, Christina Reinhard, City Clerk of the City of Ottumwa, Iowa, do hereby certify that the foregoing ordinance was passed and approved by the City Council of the City of Ottumwa on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 and was published in the \_\_\_\_\_, a newspaper of general circulation in the said City of Ottumwa on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Christina Reinhard, City Clerk

PROOF OF PUBLICATION

STATE OF IOWA  
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

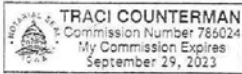
Notice of Intent

City of Ottumwa

was published in said newspaper for 1 consecutive week's to-wit: 7/5/22

hereto attached

Subscribed and sworn to before me, and in my presence, by the said 5th day of July, 2022



Notary Public

In and for Wapello County

Printer's fee \$41.95

COPY OF ADVERTISEMENT

NOTICE OF INTENT TO HOLD A PUBLIC HEARING REGARDING THE PROPOSED VACATION OF A PORTION OF THE ALLEYWAY RUNNING NORTHWEST/SOUTHEAST FROM E MCPHERSON AVENUE TO PHILLIPS STREET BETWEEN WEST SECOND STREET AND THIRD STREET WEST IN THE CITY OF OTTUMWA. The City of Ottumwa hereby gives notice that at the regular meeting of the City Council to be held at Council Chambers, second floor of City Hall, 105 East Third Street, Ottumwa, Iowa on the 19th day of July, 2022, at 5:30 P.M., the City Council will hold a public hearing and consider whether to approve by ordinance the vacation of the following alleyway, to-wit: THAT PORTION OF THE PLATTED 16.5 FOOT ALLEY LYING SOUTHWESTERLY AND ADJOINING LOT FIVE (5) AND LOT SIX (6) IN HIGHLAND PARK ADDITION TO THE CITY OF OTTUMWA AND LOT FIVE (5) AND THE NORTHWESTERLY EIGHT (8) FEET OF LOT SIX (6) IN HINSEY & HEDRICK'S ADDITION TO THE CITY OF OTTUMWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT FIVE (5) IN HIGHLAND PARK ADDITION; THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID ALLEY A DISTANCE OF 203 FEET TO THE SOUTHEAST CORNER OF THE NORTHWESTERLY EIGHT (8) FEET OF SAID LOT SIX (6) IN HINSEY & HEDRICK'S ADDITION; THENCE 16.5 FEET ALONG THE SOUTHWESTERLY EXTENSION OF THE SOUTHEASTERLY LINE OF SAID NORTHWESTERLY EIGHT (8) FEET OF LOT SIX (6) TO THE NORTHEASTERLY LINE OF LOT 14 IN SAID HINSEY & HEDRICK'S ADDITION, SAID POINT LYING ON THE SOUTHWESTERLY LINE OF SAID ALLEY; THENCE NORTHWESTERLY 203 FEET ALONG THE SOUTHWESTERLY LINE OF SAID ALLEY TO THE SOUTHWESTERLY EXTENSION OF THE NORTHWESTERLY LINE OF SAID LOT 5 IN HIGHLAND PARK ADDITION; THENCE NORTHEASTERLY 16.5 FEET ALONG SAID EXTENSION TO THE POINT OF BEGINNING. A property area map is available for public inspection in the office of the City Clerk. At the above meeting the Council shall receive oral or written objections from any resident or property owner of said City to the proposal to vacate the portion of the alleyway. After all objections have been received and considered, the Council will at this meeting or at any adjournment thereof, take additional action on the proposal or will abandon the proposal to vacate the portion of the alleyway. This Notice is given by authority of the City Council of the City of Ottumwa. Dated this 5th day of July 2022. Chris Reinhard City Clerk, City of Ottumwa, Iowa (End of Notice)

**CITY OF OTTUMWA** *PM 2 03*  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

Philip Rath

Prepared By

Administration

Department

Department Head

*PH Rath*

City Administrator Approval

AGENDA TITLE: Resolution No. 190-2022 - Resolution (i) approving and authorizing execution of an Assignment and Assumption of Lease Agreement with George Allen Construction Co from Wapello County Historical Society; (ii) approving and authorizing execution of an Assignment and Assumption of Lease Agreement with National Railroad Passenger Corporation from Wapello County Historical Society; and (iii) approving and authorizing execution of a Storage Lease Agreement between the City of Ottumwa and Wapello County Historical Society

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt Resolution 190-2022

DISCUSSION: On July 5, 2022 the City Council approved the acquisition of the depot and clubhouse properties. The previous owner (Iowa Heartland History Connection (IHHC) aka Wapello County Historical Society) had entered into two leases which would benefit the city in the transition of ownership. Additionally, the IHHC has requested a storage lease to allow them time to move exhibits and other possessions to their new location.

Source of Funds:

Budgeted Item:  Budget Amendment Needed:



## ITEM TO INCLUDE ON AGENDA

### CITY OF OTTUMWA, IOWA

July 19, 2022

5:30 p.m.

- Resolution (i) approving and authorizing execution of an Assignment and Assumption of Lease Agreement with George Allen Construction Co from Wapello County Historical Society; (ii) approving and authorizing execution of an Assignment and Assumption of Lease Agreement with National Railroad Passenger Corporation from Wapello County Historical Society; and (iii) approving and authorizing execution of a Storage Lease Agreement between the City of Ottumwa and Wapello County Historical Society

### IMPORTANT INFORMATION

1. The above agenda items should be included, along with any other agenda items, in the meeting agenda. The agenda should be posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting. If no such office exists, the notice must be posted at the building in which the meeting is to be held.
2. If you do not now have a bulletin board designated as above mentioned, designate one and establish a uniform policy of posting your notices of meeting and tentative agenda.
3. Notice and tentative agenda must be posted at least 24 hours prior to the commencement of the meeting.

NOTICE MUST BE GIVEN PURSUANT TO IOWA CODE  
CHAPTER 21 AND THE LOCAL RULES OF THE CITY.

RESOLUTION NO. 190-2022

RESOLUTION (i) APPROVING AND AUTHORIZING EXECUTION OF AN ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT WITH GEORGE ALLEN CONSTRUCTION CO FROM WAPELLO COUNTY HISTORICAL SOCIETY; (ii) APPROVING AND AUTHORIZING EXECUTION OF AN ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT WITH NATIONAL RAILROAD PASSENGER CORPORATION FROM WAPELLO COUNTY HISTORICAL SOCIETY; AND (iii) APPROVING AND AUTHORIZING EXECUTION OF A STORAGE LEASE AGREEMENT BETWEEN THE CITY OF OTTUMWA AND WAPELLO COUNTY HISTORICAL SOCIETY

WHEREAS, the City of Ottumwa, Iowa ("City") and Wapello County Historical Society ("Seller") have previously entered into a Real Estate Purchase Agreement dated July 5, 2022 ("Purchase Agreement"), pursuant to which Purchase Agreement the City would purchase certain real property from the Seller for \$480,000, and known locally as 210 W. Main Street and 160 River Drive (together, the "Property"); and

WHEREAS, the Seller currently leases a portion of the Property to George Allen Construction Co pursuant to an existing lease agreement dated May 24, 2022 by and between the Seller and George Allen Construction Co (the "GACC Lease"); and

WHEREAS, Seller intends to assign to the City all its rights, title, and interest in and to the GACC Lease pursuant to a proposed assignment and assumption of lease agreement (the "GACC Lease Assumption Agreement"); and

WHEREAS, the Seller currently leases a portion of the Property to National Railroad Passenger Corporation pursuant to an existing Amended and Substituted Lease Agreement dated April 9, 1997 by and between the Seller and National Railroad Passenger Corporation (the "Amtrak Lease"); and

WHEREAS, the Seller intends to assign to the City all its rights, title, and interest in and to the Amtrak Lease pursuant to a proposed assignment and assumption of lease agreement (the "Amtrak Lease Assumption Agreement"); and

WHEREAS, the City has received a request from the Seller to lease a portion of the Property back to the Seller following closing of the City's purchase of the Property, in the form of a Storage Lease Agreement (the "Storage Lease"), pursuant to which, until June 30, 2023, the Seller would have the continued use of the garage located at 210 W. Main Street, Ottumwa, Iowa, and the area adjoining the garage for temporary storage of personal property; and

WHEREAS, the City desires to approve the GACC Lease Assumption Agreement, the

Amtrak Lease Assumption Agreement, and the Storage Lease upon the condition that the City acquires title to the Property.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA IN THE STATE OF IOWA:

Section 1. That the form and content of the GACC Lease Assumption Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the GACC Lease Assumption Agreement for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the GACC Lease Assumption Agreement, but upon the condition that the City acquires title to the Property from Seller, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the GACC Lease Assumption Agreement and the GACC Lease.

Section 2. That the form and content of the Amtrak Lease Assumption Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the Amtrak Lease Assumption Agreement for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the Amtrak Lease Assumption Agreement, but upon the condition that the City acquires title to the Property from Seller, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Amtrak Lease Assumption Agreement and Amtrak Lease.

Section 3. That the form and content of the Storage Lease, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the Storage Lease for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the Storage Lease, but upon the condition that the City acquires title to the Property from Seller, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Storage Lease as executed.

PASSED AND APPROVED this 19<sup>th</sup> day of July, 2022.



Richard W. Johnson  
Mayor

ATTEST:

Christina Rushard  
City Clerk

02077636-1\10981-1022

## **ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT**

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **Wapello County Historical Society, Inc.**, an Iowa non-profit corporation (“Assignor”) does hereby sell, assign, and convey to the **City of Ottumwa, Iowa** (“Assignee”) all its right, title and interest in and into that certain Lease – Business Property agreement dated as of May 24, 2022 (the “Lease Agreement”) by and between Assignor and **George Allen Construction Co**, an Illinois corporation (“Tenant”), pursuant to which Assignor has agreed to lease certain real property to Lessee, as more particularly described in the Lease Agreement (the “Property”). In addition, the Lease Agreement are hereby amended as set forth below.

**WHEREAS**, Assignor intends to sell the Property to the Assignee, and desires to assign to Assignee its right, title and interest in and to the Lease Agreement; and

**WHEREAS**, Assignee desires to assume from Assignor the right, title and interest in and to the Lease Agreement; and

**WHEREAS**, the Assignor, Assignee, and Tenant desire to amend the terms of the Lease Agreement as set forth herein; and

**NOW, THEREFORE**, in consideration of the recitals and the mutual covenants set forth in this Assignment and Assumption of Lease Agreement, Assignor, Assignee, and Tenant agree as follows:

1. Assignor hereby sells, assigns, transfers and sets over unto Assignee all of Assignor’s right, title and interest in and under the Lease Agreement.
2. Assignor hereby represents to Assignee that there is no default by the Assignor under said Lease Agreement, that the Lease Agreement remain in full force and effect, and that Assignor has the right, power and authority to assign its interest therein, subject to consent of the Tenant as set forth below.
3. Assignee hereby assumes and accepts the assignment of all of Assignor’s right, title and interest in and under the Lease Agreement.
4. Rent payable under the Lease Agreement shall be paid to Assignee (Landlord) at the following address:

City of Ottumwa, Iowa  
Attn: City Clerk  
105 East Third Street  
Ottumwa, IA 52501

The Assignee (Landlord) and Tenant hereby agree and acknowledge that the current term of the Lease Agreement terminates on June 12, 2023 and that the rent due to be paid by Tenant for the remainder of such term is \$800.00 per month, due on or before the 12<sup>th</sup> day of each month.

5. The parties acknowledge that Assignor has permitted Tenant to use certain of Assignor's personal property within the leased building during the term of the Lease Agreement. Within fourteen (14) days following June 12, 2023 (being the last day of the term of the Lease Agreement), Assignor shall remove its personal property from the Property. Assignor shall cooperate with Assignee to determine a time that Assignor may access the building on the Property to remove its personal property. If Assignor fails to remove its personal property from the building on the Property by June 26, 2023, then Assignor shall be deemed to have abandoned such personal property and released any claim or right to such personal property. The personal property left by Assignor for Tenant's use in the building includes the following:
- a. Main Room
    - i. 10 – straight-back chairs
    - ii. 3 – 6-foot (approx.) tables with folding legs
    - iii. 1 – house vacuum cleaner
    - iv. 2 – pedestal fans
  - b. Kitchen Area
    - i. 1 – Sears Roebuck & Co. Refrigerator Model 253.74812400 Serial #BA43109305
    - ii. 1 – G.E. Electric Self-Cleaning Stove/Oven
    - iii. 1 – G.E. Microwave Model "Profile" PEB1590DM Serial #AD300273K
    - iv. 1 – Mr. Coffee 12 cup coffee maker
  - c. Basement
    - i. All shelving currently present
    - ii. Large wood table
    - iii. Fan
6. This Assignment and Assumption Agreement shall be made effective on or as of August 17, 2022 (the "Effective Date"), which is the anticipated closing date for the real estate transaction between Assignor and Assignee for the sale of the Property to Assignee; provided, however, that if the real estate transaction between Assignor and Assignee for the sale of the Property to Assignee does not close on or before August 17, 2022, then this Assignment and Assumption Agreement shall be null and void.

*[Remainder of page intentionally left blank; Signature pages follow]*



**ASSIGNOR: WAPELLO COUNTY HISTORICAL SOCIETY  
D/B/A IOWA HEARTLAND HISTORY CONNECTION**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF IOWA            )  
  ) SS  
CITY OF WAPELLO        )

This record was acknowledged before me on \_\_\_\_\_, 2022, by  
\_\_\_\_\_ as the \_\_\_\_\_ of the Wapello County  
Historical Society d/b/a Iowa Heartland History Connection.

\_\_\_\_\_  
Notary Public in and for said State

**ASSIGNEE: CITY OF OTTUMWA, IOWA**

By: Richard W. Johnson  
Mayor

Attest by: Christina Reinhard  
City Clerk

STATE OF IOWA            )  
  ) SS  
COUNTY OF WAPELLO    )

On this 20 day of July, 2022, before me a Notary Public in and for said State, personally appeared Richard W. Johnson and Christina Reinhard, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of City of Ottumwa, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Sherrie Jones  
Notary Public in and for the State of Iowa







## ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **Wapello County Historical Society, Inc.**, an Iowa non-profit corporation ("Assignor") does hereby sell, assign, and convey to the **City of Ottumwa, Iowa** ("Assignee") all its right, title and interest in and into that certain Amended and Substituted Lease dated as of April 9, 1997 by and between Assignor and **National Railroad Passenger Corporation**, a corporation organized under the Rail Passenger Service Act and operating as a District of Columbia corporation ("Lessee"), as previously amended three times (the "Lease Agreement"), pursuant to which Assignor has agreed to lease certain real property to Lessee, as more particularly described in the Lease Agreement (the "Property"). In addition, the Lease Agreement are hereby amended as set forth below.

**WHEREAS**, Assignor intends to sell the Property to the Assignee, and desires to assign to Assignee its right, title and interest in and to the Lease Agreement; and

**WHEREAS**, Assignee desires to assume from Assignor the right, title and interest in and to the Lease Agreement; and

**WHEREAS**, the Assignor, Assignee, and Lessee desire to amend the terms of the Lease Agreement as set forth herein; and

**NOW, THEREFORE**, in consideration of the recitals and the mutual covenants set forth in this Assignment and Assumption of Lease Agreement, Assignor, Assignee, and Lessee agree as follows:

1. Assignor hereby sells, assigns, transfers and sets over unto Assignee all of Assignor's right, title and interest in and under the Lease Agreement.
2. Assignor hereby represents to Assignee that there is no default by the Assignor under said Lease Agreement, that the Lease Agreement remain in full force and effect, and that Assignor has the right, power and authority to assign its interest therein, subject to consent of the Lessee as set forth below.
3. Assignee hereby assumes and accepts the assignment of all of Assignor's right, title and interest in and under the Lease Agreement.
4. For the purpose of notices under Paragraph 14 of the Lease Agreement, any notices to be delivered to the "Lessor" shall be delivered to Assignee as follows:

City of Ottumwa, Iowa  
Attn: City Clerk  
105 East Third Street  
Ottumwa, IA 52501

Further, any notices to be delivered to the "Lessee" shall be delivered as follows:

Amtrak  
2955 Market Street  
Philadelphia, PA 19104  
Attn: Senior Director, Real Estate

5. Rent payable under the Lease Agreement shall be paid to Assignee (Lessor) at the address for Assignee (Lessor) noted above. The Assignee (Lessor) and Lessee hereby acknowledge that the current term of the Lease Agreement terminates on April 5, 2027 and, subject to the terms and conditions of the lease, that the rent due to be paid by Lessee for the remainder of such term is \$1,950.00 per month, due on or before the 6<sup>th</sup> day of each month.
6. This Assignment and Assumption Agreement shall be made effective on or as of August 17, 2022 (the "Effective Date"), which is the anticipated closing date for the real estate transaction between Assignor and Assignee for the sale of the Property to Assignee; provided, however, that if the real estate transaction between Assignor and Assignee for the sale of the Property to Assignee does not close on or before August 17, 2022, then this Assignment and Assumption Agreement shall be null and void.

*[Remainder of page intentionally left blank; Signature pages follow]*

**ASSIGNOR: WAPELLO COUNTY HISTORICAL SOCIETY  
D/B/A IOWA HEARTLAND HISTORY CONNECTION**

By: Thomas J. Leinhauser

Print Name: Thomas J. Leinhauser

Its: president

STATE OF IOWA            )  
  ) SS  
CITY OF WAPELLO        )

This record was acknowledged before me on July 14<sup>th</sup>, 2022, by Thomas Leinhauser as the President of the Wapello County Historical Society d/b/a Iowa Heartland History Connection.

Sandra Renfrew  
Notary Public in and for said State





ASSIGNEE: CITY OF OTTUMWA, IOWA

By: Richard W. Johnson  
Mayor

Attest by: Christina Reinhard  
City Clerk



STATE OF IOWA            )  
  ) SS  
COUNTY OF WAPELLO    )

On this 20 day of July, 2022, before me a Notary Public in and for said State, personally appeared Richard W. Johnson and Christina Reinhard, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of City of Ottumwa, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Sherrie Jones  
Notary Public in and for the State of Iowa





## STORAGE LEASE AGREEMENT

This Storage Lease Agreement (“Lease” or “Agreement”) entered into as of August 17, 2022 (“Effective Date”), by and between the City of Ottumwa, Iowa (“Landlord”), and The Wapello County Historical Society, an Iowa non-profit corporation doing business as Iowa Heartland History Connection (“Tenant”). The Landlord and the Tenant are the parties to the Agreement.

WHEREAS, the Landlord has purchased the real property known locally as 210 W. Main Street, Ottumwa, Iowa from Tenant; and

WHEREAS, the Tenant has requested the continued use of the garage located at 210 W. Main Street, Ottumwa, Iowa, and the area adjoining the garage for temporary storage of personal property and the Tenant desires to lease storage space from Landlord under the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises made herein, the parties agree as follows:

**1. PREMISES.** The Landlord agrees to lease to Tenant the garage and the area adjoining the garage (the "Premises") for the sole purpose of storage of Tenant’s personal property (the “Tenant’s Property”). The Premises are generally depicted on Exhibit A attached hereto and made a part hereof.

**2. TERM.** The term of this Lease shall commence as of the Effective Date and shall end on July 30, 2023 (the “Term”).

**3. RENT.** The Tenant shall pay Landlord \$1.00 as rent under this Lease, in consideration also with Tenant’s other obligations under this Lease.

**4. USE OF PREMISES.** Tenant shall be entitled to possession of the Premises on the first day of the Term. Tenant shall use the Premises only for the purpose of storing the Tenant’s Property. By storing the Tenant’s Property in the Premises, the Tenant assumes all risks and responsibility for the care, condition, protection, and security of the Tenant’s Property. The parties agree and acknowledge that the Landlord shall have no obligation or liability for the care, condition, protection, or security of the Tenant’s Property during the Term of this Lease and continuing after the expiration or termination of this Agreement.

**5. CONDITION OF PREMISES.** Landlord makes no, and Tenant acknowledges that it has not relied upon any, representation as to the condition of the Premises or its suitability for Tenant’s intended use. Tenant has been provided the opportunity to inspect and evaluate the Premises, and by executing this Lease, accepts the Premises in its existing condition. Tenant acknowledges that the Premises is part of the Landlord’s property, and as such, Landlord cannot assure Tenant exclusive use of the Premises.

**6. UTILITIES AND SERVICES.** The parties agree that no utilities or additional services are being provided by Landlord as part of this lease. Landlord may pay for any utilities and services which may be used on the Premises. The parties agree the provision of any such



utilities does not entitle Tenant to the continued provision of such utilities.

**7. INSURANCE.**

A. Tenant agrees to insure its personal property stored in the Premises for the full insurable value. Such insurance shall cover losses included in the special form causes of loss (formerly all risks coverage). Tenant waives all rights of recovery against Landlord for damage to Tenant's Property stored in the Premises.

B. Tenant shall obtain commercial general liability insurance in the amounts of \$1,000,000 each occurrence and \$2,000,000 annual aggregate. This policy shall be endorsed to include Landlord as an additional insured.

**8. ASSIGNMENT AND SUBLETTING.** Tenant may not assign this Lease or sublet the Premises, in whole or in part, without Landlord's express written consent, which consent may be withheld in Landlord's sole and absolute discretion. Subject to the foregoing, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**9. SURRENDER.** Upon the termination or expiration of this Lease, Tenant shall remove the Tenant's Property from the Premises no later than the last date of the Term. If the Tenant's Property is not removed from the Premises within the specified timeframe, such property may be deemed abandoned and disposed of as determined by Landlord. Tenant agrees to be responsible for all costs of such disposal. The obligations in this section shall survive expiration or termination of this Agreement.

**10. INDEMNIFICATION OF LANDLORD.** Tenant agrees to defend, indemnify, and hold harmless the Landlord and its elected officials, officers, employees, and agents (the "Indemnified Parties") from and against any and all demands, claims, causes of action, liability, damages, losses, costs, and expenses (including reasonable attorney fees) occasioned by, or arising out of, any accident or other occurrence causing or inflicting injury or damage to any of Tenant's personal property stored in the Premises, regardless of the cause of such accident or other occurrence. The obligations in this section shall survive expiration or termination of this Agreement.

**11. DAMAGE.** In the event of damage to the Premises or to the Tenant's Property, the Tenant may terminate this Lease by written notice to the Landlord; provided however, that Tenant shall thereafter surrender the Premises under the terms of Section 9 of this Lease, including the removal of the Tenant's Property, within twenty (20) days of such notice.

**12. NOTICES AND DEMANDS.** All notices shall be given to the parties hereto at the addresses provided upon execution of this Lease unless either party notifies the other, in writing, of a different address. Such notice shall be considered given under the terms of this Lease when it is: (i) personally delivered to the party at its address, or (ii) deposited in the U.S. Mail, registered or certified, properly addressed, return receipt requested, and postage prepaid.

**13. INTERPRETATION.**

A. ENTIRE AGREEMENT. This Agreement and the exhibits hereto reflect the entire agreement between the parties regarding the subject matter hereof, and supersedes and replaces all prior agreements, negotiations, or discussions, whether oral or written. This Agreement may not be amended except by a subsequent writing signed by each party or an authorized representative of each party. Any titles of the several parts and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

B. GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

C. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

D. SUCCESSORS AND ASSIGNS. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

IN WITNESS WHEREOF, the Landlord has caused this Agreement to be duly executed in its name and behalf by its Mayor and City Clerk, and Tenant has caused this Agreement to be duly executed in its name and behalf by its authorized representative, all on or as of the day first above written.

**LANDLORD: CITY OF OTTUMWA, IOWA**

By: Richard W. Johnson  
Mayor Richard W. Johnson

Date: 7/20/22

By: Christina Reinhard  
Christina Reinhard, City Clerk

**TENANT: WAPELLO COUNTY HISTORICAL SOCIETY  
D/B/A IOWA HEARTLAND HISTORY CONNECTION**

By: Thomas J. Leinhausen Date: 7/12/2022

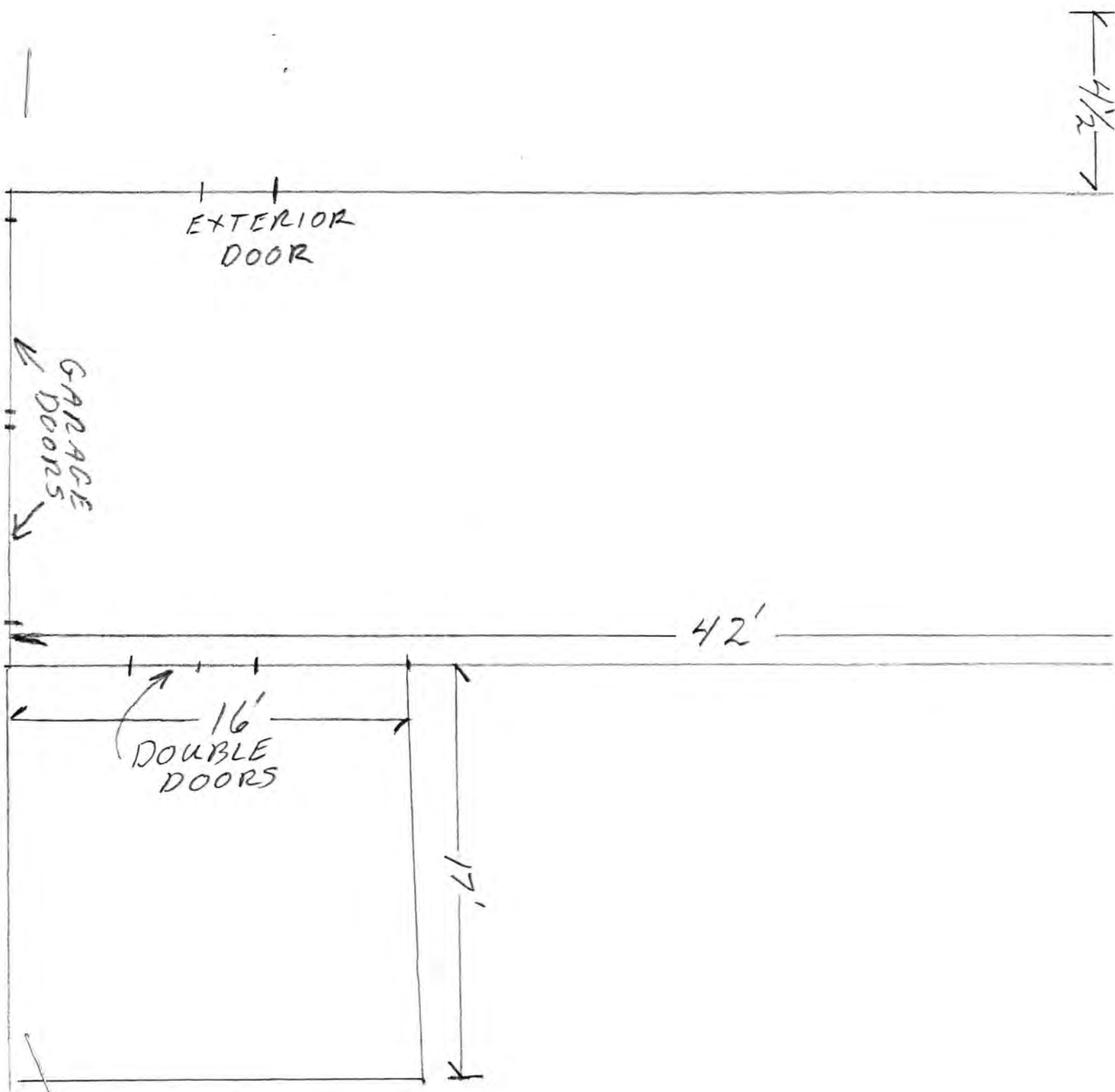
Print Name: Thomas J. Leinhausen

Its: president

EXHIBIT A  
DIAGRAM OF PREMISES

*[insert map or diagram]*





EXTERIOR  
DOOR

GARAGE  
DOORS

42'

16'  
DOUBLE  
DOORS

17'

4 1/2'

**CITY OF OTTUMWA**  
**Staff Summary**

PM 230

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

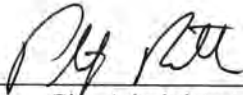
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Resolution No. 191-2022 - Resolution approving and authorizing the execution of a Real Estate Gift Agreement with Bridge View Center, Inc.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt Resolution 191-2022

DISCUSSION:

Along with the construction of the Cobblestone hotel near the Bridge View Center, the city has planned to improve the allotted parking. One area for this improved access is the gravel lot south of the current parking lot. This area is currently owned by BVC, Inc. who is offering to gift the property to the city for the creation of this improved parking area.

Source of Funds:

Budgeted Item:

Budget Amendment Needed:

## ITEM TO INCLUDE ON AGENDA

### CITY OF OTTUMWA, IOWA

July 19, 2022

5:30 p.m.

- Resolution approving and authorizing the execution of a Real Estate Gift Agreement with Bridge View Center, Inc.

### IMPORTANT INFORMATION

1. The above agenda items should be included, along with any other agenda items, in the meeting agenda. The agenda should be posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting. If no such office exists, the notice must be posted at the building in which the meeting is to be held.
2. If you do not now have a bulletin board designated as above mentioned, designate one and establish a uniform policy of posting your notices of meeting and tentative agenda.
3. Notice and tentative agenda must be posted at least 24 hours prior to the commencement of the meeting.

NOTICE MUST BE GIVEN PURSUANT TO IOWA CODE  
CHAPTER 21 AND THE LOCAL RULES OF THE CITY.



RESOLUTION NO. 191-2022

RESOLUTION APPROVING AND AUTHORIZING THE  
EXECUTION OF A REAL ESTATE GIFT AGREEMENT WITH  
BRIDGE VIEW CENTER, INC.

WHEREAS, the City Council of the City of Ottumwa (the "City") has received a proposal in the form of a proposed Real Estate Gift Agreement (the "Agreement") with Bridge View Center, Inc. (the "Seller"), pursuant to which Agreement the City would accept the gift of certain real property from Seller, in connection with development near the Bridge View Center; and

WHEREAS, the real property proposed to be gifted to the City under the Agreement is described as follows:

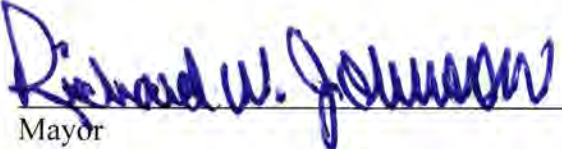
Wapello County Tax Parcel Nos. 007416410035010, 007416410036010,  
007416410007020 and 007416410037010

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF  
OTTUMWA IN THE STATE OF IOWA:


Section 1. That the City shall accept the gift of real property described herein, under the terms and conditions of the Agreement.

Section 2. That the form and content of the Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the Agreement for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the Agreement, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things as may be necessary to complete the above-described transaction, including execution of ancillary documents.

PASSED AND APPROVED this 19<sup>th</sup> day of July, 2022.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

## Real Estate Gift Agreement

This Real Estate Gift Agreement is dated July 18<sup>th</sup>, 2022 and is between Bridge View Center, Inc. (the "Seller") and the City of Ottumwa, Iowa (the "Buyer").

The parties agree as follows:

1. **Conveyance of Property.** The Seller shall convey to the Buyer the real property identified as Wapello County Tax Parcel Nos. 007416410035010, 007416410036010, 007416410007020 and 007416410037010 [*legal description to be determined by abstract*] (the "Property"). Title to the Property shall include any easements and servient estates appurtenant thereto and be subject only to (i) zoning restrictions, (ii) easements of record acceptable to the Buyer, and (iii) and restrictive covenants of record that are acceptable to the Buyer.

2. **Consideration.** The Seller shall donate the Property to the Buyer. No cash shall be paid by the Buyer to the Seller for the Property, but the Seller acknowledges receipt of valuable consideration resulting from the Buyer's intended use of the Property.

3. **Closing and Possession.** Closing shall occur on a date mutually agreed to between the parties on or before August 25, 2022 (the "Closing Date"). Seller shall give Buyer possession of the Property ("Possession") on the Closing Date. This transaction shall be considered closed upon the recording of all title transfer documents ("Closing").

4. **Real Estate Taxes.**

- a. Seller shall pay all real estate taxes that are due and payable as of the date of Possession and constitute a lien against the Property, including any unpaid real estate taxes for any prior years.
- b. Seller shall also pay the prorated share of real estate taxes, based upon the Closing Date, for the fiscal year in which Possession is given (due and payable in the subsequent fiscal year). Buyer shall be given a credit for such proration at Closing based upon the last known actual net real estate taxes payable according to public record.
- c. The Seller shall pay all special assessments which are a lien on the Property as of the Closing Date. The Buyer shall pay all other special assessments.
- d. Buyer shall pay all subsequent real estate taxes.

5. **Closing Costs.**

- a. Seller shall pay only the following costs associated with this transaction:
  - i. Seller's attorney's fees or other professional fees incurred by Seller in connection with this transaction.

- ii. Real estate taxes and assessments, if any, as described in section 4 of this agreement.
    - iii. Transfer taxes, if any.
    - iv. The cost to update the abstract under section 8 of this agreement.
  - b. Buyer shall pay all remaining costs associated with this transaction, including the following:
    - i. Buyer's attorney's fees.
    - ii. Buyer's expenses incurred during Buyer's Acquisition Study Period under section 7(b).
    - iii. The cost of recording the conveyance documents.
- 6. **Fixtures.** Included with the Property shall be all fixtures that integrally belong to, are specifically adapted to, or are a part of the real estate, whether attached or detached.

7. **Condition of Property.**

- a. The Property as of the date of this agreement, including buildings, grounds, and all improvements, will be preserved by the Seller in its present condition until possession, ordinary wear and tear excepted.
- b. At any time prior to the Closing Date ("Buyer Acquisition Study Period"), Buyer may, at Buyer's expense, perform an acquisition study to determine the suitability of the Property for Buyer's intended use, which study may include, but not be limited to, a physical inspection of the Property by persons of Buyer's choice; Buyer's evaluation of the area of the Property and availability to the Property of sufficient sanitary and storm sewer, gas, water, communication, and electrical utility services; Buyer's evaluation of parking availability, traffic flow, and ingress and egress to and from the Property; Buyer's evaluation of the zoning classification of the Property; Buyer's inspection and review of all agreements, leases, conveyances, encumbrances, restrictive covenants, contracts, or easements affecting the Property in any manner whatsoever; preparation, review, and approval of the Buyer's site and development plans for the Property, if any, by all governing agencies and necessary third parties; and other aspects of the Property pertaining to its use for Buyer's purposes. In the event Buyer is not satisfied for any reason whatsoever with the Property, then on or before the expiration of the Buyer Acquisition Study Period, Buyer may, in its sole discretion, terminate this agreement by providing written notice to Seller.
- c. Except as otherwise required by this agreement, the Seller shall sell and the Buyer



shall accept the Property "as is, where is, with all faults."

8. **Abstract and Title.** Seller, at Seller's expense, shall promptly obtain an abstract of title to the Property continued through the date of this agreement and deliver it to Buyer's attorney for examination. The abstract shall show marketable title in Seller in conformity with this agreement, Iowa law, and the title standards of the Iowa State Bar Association. Seller shall make every reasonable effort to promptly perfect title. If Closing is delayed due to Seller's inability to provide marketable title, either party may terminate this agreement by written notice to the other party. The abstract shall become the property of Buyer on the Closing Date.

9. **Deed.** Seller shall convey the Property to Buyer by warranty deed, free and clear of all liens, restrictions, and encumbrances except as permitted by this agreement.

10. **Lease Agreements.**

- a. Seller represents and warrants to Buyer that there are no lease or occupancy agreements concerning the Property, except as disclosed to Buyer in writing at least 60 calendar days prior to the Closing Date.
- b. At Closing, Seller shall assign, and Buyer shall assume, any lease or occupancy agreements concerning the Property acceptable to Buyer, in its sole and absolute discretion. Any lease or occupancy agreements not approved by Buyer shall be terminated by Seller prior to Closing.

11. **Use of Purchase Price.** Seller agrees that at time of settlement, funds of the Purchase Price may be used to pay taxes, other liens, and to acquire outstanding interests, if any, prior to the proceeds being paid to Seller.

12. **Remedies.**

- a. Seller's sole and exclusive remedy for Buyer's breach, repudiation, or other failure to timely perform this agreement shall be to terminate this agreement by written notice to Buyer.
- b. If Seller breaches, repudiates, or otherwise fails to timely perform this agreement, Buyer may elect either to (i) terminate this agreement by written notice to Seller, or (ii) to enforce this agreement by specific performance.
- c. The prevailing party in any dispute arising out of this agreement shall be entitled to obtain judgment for its reasonable costs and attorney fees.

13. **Notice.** For a notice under this agreement to be valid, it must be in writing and must be delivered either (i) in person, (ii) via certified mail to the address noted below, or (iii) via email if the receiving party consents to receiving notice via email. All notices shall be effective upon receipt.

**If to the Seller:**  
Bridge View Center, Inc.  
102 Church Street  
Ottumwa, IA 52501

**If to the Buyer:**  
City of Ottumwa  
ATTN: City Administrator  
105 E. Third Street  
Ottumwa, IA 52501

14. **Time of the Essence.** In the performance of each part of this agreement, time shall be of the essence.

15. **Choice of Law.** All claims relating to this agreement shall be governed by the laws of the State of Iowa without regard to principles of conflicts of law.

16. **Forum.** The sole and exclusive jurisdiction for any action arising from or relating to this agreement shall be in the state courts located in Wapello County, Iowa.

17. **Assignment.** Neither party may transfer to any other person (i) any discretion granted under this agreement, (ii) any right under this agreement, (iii) any remedy under this agreement, or (iv) any obligation imposed under this agreement.

18. **Survival.** This agreement shall survive the Closing.

19. **Entire Agreement.** This agreement constitutes the entire understanding between the parties with respect to the subject matter of this agreement and supersedes all other agreements, whether written or oral, between the parties.

20. **Modification and Waiver.** No amendment of this agreement will be effective unless it is in writing and signed by both parties. No waiver under this agreement will be effective unless it is in writing and signed by the party granting the waiver.

21. **Severability.** The parties agree that if a dispute between the parties arises out of this agreement, they would want the court to interpret this agreement as follows:

- a. With respect to any provision that it holds to be unenforceable, by modifying that provision to the minimum extent necessary to make it enforceable or, if that modification is not permitted by law, by disregarding that provision;
- b. If an unenforceable provision is modified or disregarded in accordance with this section, by holding that the rest of this agreement will remain in effect;
- c. By holding that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable; and
- d. If modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this agreement, by holding the entire agreement unenforceable.

22. **Certification.** Buyer and Seller each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to its breach of the foregoing certification.

23. **Inspection of Private Sewage Disposal System.** Seller represents and warrants to Buyer that the Property is not served by a private sewage disposal system, and there are no known private sewage disposal systems on the Property.

24. **Counterpart and Electronic Signatures.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile and PDF signatures are as effective as original signatures.

The parties are signing this agreement as of the date stated in the introductory clause.

**SELLER:**  
**BRIDGE VIEW CENTER, INC.**

By: Jamie L. Scott

Name: Jamie L Scott

Title: BVC Inc President

**BUYER:**  
**CITY OF OTTUMWA, IOWA**

By: Richard W. Johnson  
Richard W. Johnson, Mayor

ATTEST:

Christina Reinhard  
Christina Reinhard, City Clerk

**CITY OF OTTUMWA**  
Staff Summary

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

Administration  
Department

Barbara Codjoe  
Prepared By  
Barbara Codjoe  
Department Head

  
\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: Resolution #192-2022 - Approve Background Check Policy

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt resolution #192-2022

DISCUSSION: This policy clarifies our current process for background checks. It outlines what may be included as well as examples of forms that are used in the case of an adverse action.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed:



RESOLUTION NO. 192-2022

RESOLUTION APPROVE BACKGROUND CHECK POLICY

**WHEREAS**, the City of Ottumwa, Iowa had approved a revised Personnel Policies and Procedures manual on June 2, 2020, which incorporated the current background check guidelines and;

**WHEREAS**, staff for the City of Ottumwa has reviewed the current policies regarding the hiring process and determined the current Policy and Procedure manual does not meet the short and long term care for employees and operational needs for the employer, and;

**WHEREAS**, staff has drafted a Background Check Policy to meet the needs of both employee and employer and finds that approval of said policies and procedures, as revised, would be in the best interest of the City and the employees of the City, and;

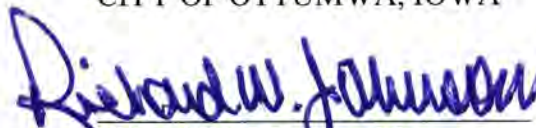
**WHEREAS**, the City Council of the City of Ottumwa, Iowa desires to approve the new Hiring Policy and Process in accordance with the Municipal Code of the City of Ottumwa, sections 2-144 and 2-145

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Ottumwa, Iowa, that the current Background Check Policy as part of the Personnel Policies and Procedures approved on June 2, 2020 and any supplements thereafter are hereby repealed and that the attached Background Check Policy are hereby adopted in their place with an effective date of July 20, 2022.

**BE IT FURTHER RESOLVED**, by the Ottumwa City Council of the City of Ottumwa, Iowa, that the Mayor and City Clerk are hereby authorized and directed to execute said resolution.

PASSED, ADOPTED and APPROVED this 19<sup>th</sup> day of July 2022.

CITY OF OTTUMWA, IOWA

  
Richard W. Johnson, Mayor

ATTEST:

  
Christina Reinhard, City Clerk

## PURPOSE

The purpose of the Background Check Policy is to ensure that individuals who join the City are well qualified and have a strong potential to be productive and successful employees. The City relies on the accuracy of information contained in employment applications, as well as the accuracy of other data presented throughout the hiring process and during employment.

## ELIGIBILITY

The City of Ottumwa Background Check Policy applies to all employees and anyone applying for employment for any position working for the City of Ottumwa. This applies to all open positions for employment within the city, with the exception of city council members and the mayor. In addition, the City may conduct background investigations when employees are being considered for promotions or transfers, or in furtherance of an internal investigation of alleged misconduct.

## PROCESS

All offers of employment at the City of Ottumwa are contingent upon clear results of a thorough background check. Any misrepresentations, falsifications, or material omissions in any of this information or these data may result in an applicant being excluded from further consideration for employment or, if an individual has already been hired, termination of employment.

Background checks will be conducted on all final candidates for a position and on all employees who are promoted, as deemed necessary. Employees who leave employment with the City of Ottumwa will be required to complete a background check if they choose to return to employment, no matter the time that has lapsed.

A third-party administrator may be used to conduct the background checks, and all background checks will be compliant with applicable federal and state laws, such as the Fair Credit Reporting Act. When completing the background check information electronically, applicants will receive and sign the release and disclosure electronically.

Background checks may include:

- 1) **Social Security Verification:** validates the applicant's Social Security number, date of birth and former addresses.
- 2) **Prior Employment Verification:** confirms applicant's employment with the listed companies, including dates of employment, position held and additional information available pertaining to performance rating, reason for departure and eligibility for rehire. This verification will be run on the past two employers or the previous five years, whichever comes first.
- 3) **Personal and Professional References:** calls will be placed to individuals listed as references by the applicant.
- 4) **Educational Verification:** confirms the applicant's claimed educational institution, including the years attended and the degree/diploma received.
- 5) **Criminal History:** includes review of criminal convictions and probation. The following factors will be considered for applicants with a criminal history:
  - a. The nature of the crime and its relationship to the position.
  - b. The time since the conviction.
  - c. The number (if more than one) of convictions.



- d. Whether hiring, transferring or promoting the applicant would pose an unreasonable risk to the business, its employees or its customers and vendors.

The following additional background searches will be required if applicable to the position:

- 6) **Motor Vehicle Records:** provides a report on an individual's driving history in the state requested. This search will be run when driving is an essential requirement of the position.
- 7) **Credit History:** confirms candidate's credit history. This search will be run for positions that involve management of City of Ottumwa funds and/or handling of cash or credit cards.

Internal HR staff will notify the third-party administrator once ready to conduct the checks. HR will notify the hiring manager regarding the results of the check. In instances where negative or incomplete information is obtained, the appropriate management and the Director of Human Resources will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired.

Background check information will be maintained in a file separate from employees' personnel files for the duration of their employment. Background checks will be kept confidential and will only be shared with individuals who have a business need to review the information to make employment decisions.

#### **Adverse Action**

If a decision not to hire or promote a candidate is made based on the results of a background check, there may be additional requirements under the Fair Credit Reporting Act (FCRA) that will be followed and handled by Human Resources in conjunction with the employment screening service (if applicable).

- An applicant or employee will be provided with a copy of the criminal record obtained from the City's third party vendor prior to the City questioning the individual about his or her criminal record.
- Prior to taking any adverse action in whole or in part on information in the background check, the applicant will be provided with a pre-adverse action notice along with a copy of their background check, a summary of rights under the FCRA, and any other applicable documents as required under the FCRA or state law.
- Applicants will be afforded an opportunity and an appropriate time period to provide information or data that explains any discrepancies or inaccuracies contained in the background report before an employment decision is made. If after that time period, adverse action is still deemed necessary, the applicant will be provided with an adverse action notice regarding that decision.
  - The Federal Trade Commission has opined that 5 business days is generally a reasonable period of time.

[Date]

[Applicant's Name]

[Applicant's Address]

Dear [Applicant Name],

Enclosed is a consumer report that we requested in connection with your application for employment with our company. In accordance with the federal Fair Credit Reporting Act (FCRA), also enclosed is a copy of your rights under the Act.

Due, in part, to the contents of this consumer report, a decision is pending regarding your application for employment. As required under the FCRA, we are notifying you in advance of any adverse action being taken.

You have the right to dispute the accuracy of the information in this report by contacting the consumer reporting agency listed below directly. The consumer reporting agency did not, however, make this employment decision and cannot provide specific reasons for the decision.

[Consumer Reporting Agency Name]

[Consumer Reporting Agency Address]

[Toll-free phone number of Consumer Reporting Agency]

Sincerely,

[HR Representative]

*Enclosures:*

*Copy of Consumer Agency Report*

*[A Summary of Your Rights Under the Fair Credit and Reporting Act](#)*



[Date]

[Applicant's Name]

[Applicant's Address]

Dear [Applicant Name],

Thank you for your application for employment with [Company Name]. Unfortunately, due, in part, to information received from the consumer report previously provided to you, we are not able to offer you employment at this time.

The consumer reporting agency that supplied the report did not make the decision to deny employment, and it cannot give specific reasons for the decision. You were previously provided with a summary of your rights under the FCRA, which includes the right to dispute the accuracy or completeness of any information the consumer reporting agency furnished by contacting the agency directly. You may also request an additional free report from the agency if done so within 60 days.

[Consumer Reporting Agency Name]

[Consumer Reporting Agency Address]

[Toll-free phone number of Consumer Reporting Agency]

Sincerely,

[HR Representative]

**CITY OF OTTUMWA**  
**Staff Summary**

PM 230

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

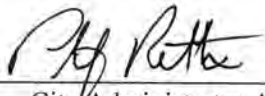
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Resolution 193-2022 - Resolution adopting Policy #73 related to process and procedures for requesting Honorary Street Name(s)

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt Resolution 193-2022

DISCUSSION: On May 24 the City Council passed Resolution 139-2022 which designated a section of 4th Street with an honorary street name recognizing Dr. Martin Luther King, Jr. Along with this designation the resolution directed staff to establish a process for consideration of any future requests. This resolution addressed that process and procedure.

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed:

**RESOLUTION NO. 193-2022**

**RESOLUTION ADOPTING POLICY 73 PROCESS AND PROCEDURE REGARDING  
HONORARY STREET NAME DESIGNATION**

**WHEREAS**, the city has received a request to designate the portions of streets with honorary names; and

**WHEREAS**, Resolution 139-2022 has directed staff to establish a process to address such requests into the future; and

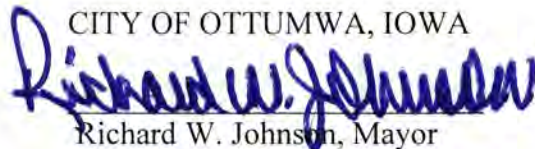
**WHEREAS**, city staff has reviewed the process utilized by other communities and has drafted the attached Policy 73 for consideration.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Ottumwa, Iowa, that Policy 73 Process and Procedure Regarding Honorary Street Name Designation be adopted; and

**BE IT FURTHER RESOLVED**, by the Ottumwa City Council of the City of Ottumwa, Iowa, that the Mayor and City Clerk are hereby authorized and directed to execute said resolution.

APPROVED, PASSED AND ADOPTED, this 19<sup>th</sup> day of July, 2022.

CITY OF OTTUMWA, IOWA

  
Richard W. Johnson, Mayor

ATTEST:

  
Christina Reinhard, City Clerk

## HONORARY STREET NAME DESIGNATION POLICY

### **PURPOSE**

To establish a policy to administer requests for honorary street name designations and provide application and approval criteria and procedures for honorary street name designations of city owned streets.

### **GENERAL POLICY**

The Honorary Street Name Designation Policy allows citizens and groups the opportunity to honor living or deceased individuals who have made significant contributions to the community, state or country subject to approval by the City Council. The program is facilitated by the Administration Department and the installations are administered by the Department of Public Works.

### **PROVISIONS**

#### **A. Definitions.**

1. *Honorary Street Name Signs* are those signs posted directly above or below standard street name signs that are intended to recognize and honor individuals or groups for a period without changing the official name of the street or the official addresses of residences and businesses on the street. The honorary signs will feature white legend on a red background to differentiate from standard signage.
2. *Honoree* means an individual or organization whom the application specifies for an honorary street name designation who has made a significant contribution to or upon the City of Ottumwa, state, nation, or world through civic involvement, cultural, humanitarian, historic, or military achievement. Said contributions do not have to be financial in nature.

#### **B. General Guidelines**

1. This policy applies to all public streets in the City of Ottumwa. It does not attempt to regulate honorary street names on private streets, driveways, or other roads outside of the city's jurisdiction.
2. Requests for honorary street name designation shall be made using the current application form and process outlined below.
3. Honorary street name designations shall reflect recognition of honorees on a case-by-case basis, solely as determined by the City Council by majority vote and approved Resolution. Only one honorary sign is allowed at an intersection.
4. The City Administrator shall review applications for completeness and present to City Council for consideration following review by the Public Works Director or their designee.



5. Honorary street name designations will be temporarily displayed for a period of five years. Upon request at any time, the honorary street name sign may be returned to the applicant or applicant's representative with City Council's concurrence. In any event, at the end of the five-year period, the City will remove the honorary street name sign and make it available to the applicant or applicant's representative.
6. If, at the end of the five-year period, the applicant or applicant's representative desires to apply for another five-year term, a renewed application and current fee must be submitted and undergo the same City Council review and approval process as initially taken.
7. The City reserves the right to remove any honorary street name sign prior to the end of the five-year period as directed by Council by majority vote.
8. Only one honorary street name designation sign shall be allowed at an intersection, and the portion of a street so designated shall not exceed six City blocks long and limited to no more than two signs per block (one at each end of the designated block).
9. No honorary street name designation sign shall be used that will duplicate or could be confused with the name of an existing City street.
10. **Cost:** Each approved sign shall be charged a fee as outlined on the application form. This fee is reviewed and revised as necessary to cover the cost of design, fabrication, installation, materials, and maintenance over the five-year life of the program. If multiple sign locations are requested AND approved, each individual sign location shall be charged the fee outlined upon the current application form. If the application is not approved, the fee or portion thereof will be refunded.

**C. Qualification Criteria for Approving Honorary Street Designations.**

1. Only individual honorees as defined above who are deceased or have attained the age of seventy years are eligible for honorary street name designation consideration.
2. This method of honoring individuals or groups is reserved for those having a city-wide impact or fame.
3. Applications shall receive the endorsement of a city council member. Each city council member may endorse one application per calendar year.
4. Proposals will not be considered for names that could be considered derogatory, pejorative, obscene, or blasphemous.

**D. Procedure for Filing and Approving Applications.**

1. The applicant shall submit a completed honorary street name designation application and submit the required fee to the Office of the City Administrator located at 105 E 3<sup>rd</sup> Street, Ottumwa, Iowa 52501.
2. Upon receipt of the application and fee, the Administration Department shall submit the application to the Public Works Department for their review and recommendation prior to City Council's consideration.
3. These departments will review the application to ensure sufficient documentation exists to substantiate the applicant's request, and that the location desired for the honorary street name designation is feasible.
4. If the application satisfies the criteria established, the City Administrator shall present the application along with an adopting resolution to City Council for consideration.
5. The honorary street name designation application will be reviewed by City Council during a public meeting in which public comments are taken. The application is approved if the City Council by majority vote adopts the resolution.
6. The Administration Department will notify the Public Works Department of the approval and to identify a date for the fabrication and installation of the sign(s). The Administration Department will notify the applicant of the City Council's decision and proposed date of installation (if approved).
7. Applications which are denied may not be submitted again for at least a year from the date of consideration and denial.

## HONORARY STREET NAME APPLICATION CITY OF OTTUMWA, IOWA

### **Applicant Information:**

Applicant's Name: \_\_\_\_\_

Organization/Company: \_\_\_\_\_

Street Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

### **Honorary Street Name Request:**

Name of Honoree: \_\_\_\_\_ Circle One: *Alive / Deceased*

Honorary Location Requested (For Example E. 4<sup>th</sup> Street between Jefferson Street and N. Clinton Street): \_\_\_\_\_

City Council Endorsement (*Print and Sign*): \_\_\_\_\_

### **Honoree Criteria:**

Please submit the following items along with your request:

- ✓ A map reflecting the area requested for designation for honorary street signs.
- ✓ A *typed statement* containing no fewer than **500 words** describing the significance of the person, being honored. The statement should indicate why a particular section of street has been requested for the honorary designation.
- ✓ The appropriate fee based upon the number of signs being requested.

My application consists of the following items necessary for a complete application. Please check:

- Completed Application Form, including signed endorsement by current member of City Council
- Map reflecting the area requested for designation
- Typed statement regarding the person, place or event being honored
- \$75 per sign fee** (make checks payable to "City Treasurer")

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

*Upon submission of this application, please allow four to six weeks for staff to review your request with the City Council.*

UPDATED July 2022



**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of: Jul 19, 2022

Administration  
Department

Barbara Codjoe  
Prepared By  
Barbara Codjoe  
Department Head

  
\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: Resolution #194-2022 - Approve Hiring Policy and Process

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt resolution #194-2022

DISCUSSION: See Attached

Source of Funds: N/A

Budgeted Item:  Budget Amendment Needed:

This policy will take our hiring practice and put it in policy. This will help to provide a structured process for all to be able to follow.

We currently do not have an internal process to follow for positions not covered under civil service. This policy creates that process and will be similar to our civil service positions and also defines that process.

This policy also creates checks for the Department Heads, HR and City Administer for approving appointments to positions. There are a few new forms that are required to be filled out, signed and maintained for each open position.

RESOLUTION NO. 194-2022

RESOLUTION APPROVE HIRING POLICY AND PROCESS

**WHEREAS**, the City of Ottumwa, Iowa had approved a revised Personnel Policies and Procedures manual on June 2, 2020, which did not contain a hiring policy and process and;

**WHEREAS**, staff for the City of Ottumwa has reviewed the current policies regarding the hiring process and determined the current Policy and Procedure manual does not meet the short and long term care for employees and operational needs for the employer, and;

**WHEREAS**, staff has drafted a Hiring Policy and Process to meet the needs of both employee and employer and finds that approval of said policies and procedures, as revised, would be in the best interest of the City and the employees of the City, and;

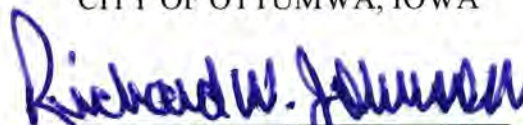
**WHEREAS**, the City Council of the City of Ottumwa, Iowa desires to approve the new Hiring Policy and Process in accordance with the Municipal Code of the City of Ottumwa, sections 2-144 and 2-145

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Ottumwa, Iowa, that the current Hiring Policy and Process as part of the Personnel Policies and Procedures approved on June 2, 2020 and any supplements thereafter are hereby repealed and that the attached Hiring Policy and Process are hereby adopted in their place with an effective date of July 20, 2022.

**BE IT FURTHER RESOLVED**, by the Ottumwa City Council of the City of Ottumwa, Iowa, that the Mayor and City Clerk are hereby authorized and directed to execute said resolution.

PASSED, ADOPTED and APPROVED this 19<sup>th</sup> day of July 2022.

CITY OF OTTUMWA, IOWA

  
Richard W. Johnson, Mayor

ATTEST:

  
Christina Reinhard, City Clerk



The City of Ottumwa believes that hiring qualified individuals to fill positions contributes to the overall success of the City. Each employee is hired to make significant contributions to the City of Ottumwa. The City of Ottumwa also strives to retain employees through an environment that creates opportunity and encourages advancement.

## **PURPOSE**

The purpose of the Hiring Process Policy and Procedure is to provide a structured process to find candidates who are the best fit for each role within the City of Ottumwa. The City of Ottumwa believes in promoting from within when possible, and is committed to employing the best candidates for approved positions and engaging in effective recruitment and selection practices in compliance with all applicable employment laws. We provide equal employment opportunity to all applicants and employees.

## **ELIGIBILITY**

The City of Ottumwa Hiring Process Policy and Procedure applies to all employees and anyone applying for employment for any position working for the City of Ottumwa. This applies to all open positions for employment within the city, with the exception of city council members and the mayor.

## **PROCESS**

Once a position comes open or is known to be coming open, the Department Head and HR will perform a review of the position. This review will include:

- **Organizational Chart** - Each position will be reviewed to ensure that the position is part of the current staffing plan for the City of Ottumwa. There may be times that a position may be reclassified, reorganized, or eliminated based upon the current staffing needs of the City of Ottumwa.
- **Job Description** - Every position will have a written job description that sets forth the duties, qualifications, essential functions, detailed physical demands, reporting relationship and other key elements of the position. Any changes other than minor changes to the duties and responsibilities or certifications / licenses, will be reviewed and signed off on by the City Administrator.
  - Any position eliminations / creations must be approved by the City Administrator using the "Position Change Request" form included.
- **Salary** – Each position will be reviewed to ensure it is in the proper pay grade. This will include market data that may be local or national. Any salary adjustments or reclassifications must be approved by City Council. The process must be started by using the "Position Change Request" form included.
- **Method for Filling Vacancy** – A survey of the skill level and interest of current employees may be considered in determining if the internal posting process will run concurrently with an external recruitment process.
  - ***Civil Service Positions*** – *all positions classified as Civil Service will follow the internal posting process first*

Once an open position has been through the review process, HR will generate job announcements that briefly describe the job opening and post the announcements electronically and in designated areas within all city facilities.



If the Department Head believes they were unnecessarily denied their request to fill a position, they may appeal the decision to the City Administrator.

### Internal Postings

All open positions will be posted internally for ten (10) calendar days, during which time eligible employees may apply ahead of external candidates. All positions will be posted on designated employee communication boards at each location along with electronically in UKG (the City's Human Resources Information System). An announcement will be posted for all employees to view when logging into UKG. Each job posting will have a closing date by which time applications must be received to be considered for the position. Any application received after that date will not be considered.

To be considered for an open position, you must:

- Have worked for the City of Ottumwa for at least 12 months and have been in your current position for at least six months.
  - The consents of the employee's Department Head and the HR department may be necessary for employees with less than one year of service with the City of Ottumwa.
- Have received a rating no lower than "Satisfactory" on your most recent performance review and must not currently be on a performance improvement plan
  - A status determined by the most recent employee performance evaluation. The overall rating on this evaluation would be required to be Excellent, Good, or Satisfactory.
- Meet the minimum requirements for the job and be able to perform the essential functions of the position, with or without reasonable accommodation
  - **Civil Service Positions** – *Employee must be on the Civil Service Seniority List or be on a current Civil Service Eligibility List.*
- Submit an application to HR by the closing date as stated in the posting

All internal applicants will receive notice from HR as to whether they will be interviewed for the position. Although you are not required to notify your supervisor that you have applied for a position, the supervisor will be notified should you become a final candidate. If hired for the position, the current and the new supervisor will work together to determine an appropriate transfer date.

### External Postings

If it is determined during the "method for filling vacancy", and/or once the search for an internal candidate has been exhausted, the position will be posted externally. All external job postings will be posted for a minimum of ten (10) calendar days in accordance with Iowa Code 35C.1.3. These ten (10) days may run concurrently with the ten (10) calendar days for internal posting.

### Applications

Employment applications normally will be submitted electronically through the City website using an approved process.

### Interview process

The HR department and the Department Head and/or hiring manager will screen applications and resumes prior to scheduling interviews. A standard interview form with position specific questions will be agreed upon by all parties prior to scheduling interviews. Initial interviews are



generally conducted by the HR department and the hiring manager(s) using behavior-based interview questions and a structured interview process. Candidate evaluation forms will be completed after each interview and retained with the application.

During the interview, the candidate will be reminded about all pre-employment checks from the initial application. Permission to contact all references will also be requested during the interview.

### **Job offers**

Once all interviews have been completed, the HR Department and/or Department Head will conduct all reference checks. The candidate with the best qualifications as determined by the HR department and the Department Head and/or hiring manager along with the results of the candidate evaluation will be offered the position. After a decision has been made to hire a candidate (internal or external), a completed "Open Position Appointment Request" form will be presented to the City Administrator for approval.

When approval has been obtained, the Department Head and/or hiring manager will make an offer contingent on the satisfactory completion of required pre-employment checks. Each candidate will be provided a job offer letter outlining the specifics of each offer of employment. This job offer letter must be signed and returned to the HR department within five (5) calendar days of offer. Once that signed letter is received, pre-employment checks will begin. If the offer is rejected, the Department Head and/or hiring manager may consider a counter-offer (if applicable) or proceed to another qualified applicant on the list and make an offer of employment.

The HR department will notify applicants who are not selected for positions at the City of Ottumwa.

If a current employee declines an offer, their decision will not affect their current job.

### **Pre-employment checks**

Notice of testing will be part of all notices soliciting applicants for employment and on the application form. All applicants shall be verbally informed of the requirement during the first interview.

- 1) **Background checks** - applies to all employees and anyone applying for employment for any position working for the City of Ottumwa. This applies to all open positions for employment within the city, no matter the employment classification. In addition, the City may conduct background investigations when employees are being considered for promotions or transfers, or in furtherance of an internal investigation of alleged misconduct.
- 2) **Drug Screen** – Any individual not currently employed by the City who is applying for a position, shall be required to pass a post offer drug test prior to employment. All drug screens are currently conducted by Occupational Health at the Ottumwa Regional Health Center.
  - a. Any applicant for a position who refuses to undergo drug testing or fails the drug test will be disqualified from further consideration for the vacancy.
- 3) **Physical** – All applicants for employment may be required, as a condition of employment, to take a medical examination to establish their fitness to perform the jobs for which they have applied without endangering the health and safety of themselves or others.

- a. Police and Fire applicants will be required to submit to specific medical entrance protocol examinations as determined by the Municipal Fire & Police Retirement System of Iowa (MFPRSI).

Background checks and required medical examinations will be paid for by the City of Ottumwa and will be performed by a physician or licensed medical facility designated or approved by the City. Medical examinations paid for by City of Ottumwa are the property of the City, and the examination records will be treated as confidential and kept in separate medical files. However, records of specific examinations, if required by law or regulation, will be made available to the employee, persons designated and authorized by the employee, public agencies, relevant insurance companies, or the employee's doctor.

Once all checks have been satisfactorily completed, the HR Department will work with the Department Head(s) and the candidate to identify a confirmed start date.



**Position Information**

Position Name	
Department Name	
Department Number	
Position Open Date	
Reason Position Open	
Civil Service Position (Yes or No)	

**Change Requested**

*Pay Grade - \*Once City Administrator approves, this change must be approved by City Council.*

Current Pay Grade	
Proposed Pay Grade	
Supporting Information	
Budget Amendment Needed – Yes or No	

**Reporting Structure**

Current Direct Supervisor Title	
Proposed Direct Supervisor	
Supporting Information	
Budget Amendment Needed – Yes or No	

**Position Elimination – Provide Reason**

--

*Position Creation*

Supporting Information	
Budget Amendment Needed – Yes or No	

\_\_\_\_\_  
Department Head\_\_\_\_\_  
Date\_\_\_\_\_  
HR Department\_\_\_\_\_  
Date\_\_\_\_\_  
City Administrator\_\_\_\_\_  
Date

**Position Information**

Position Name	
Department Name	
Department Number	
Position Open Date	
Reason Position Open	
Civil Service Position (Yes or No)	
Date of Job Description Review	

**Posting Information**

*Internal*

Date Posted Internally	
Number of Applications	
Number of Interviews Completed	

*External – only needed if no internal candidate identified*

Date Posted Externally	
Number of Applications	
Number of Interviews Completed	

**Job Offer**

*Offer Made*

Date offer made	
Name of candidate	
Qualifications of candidate <ul style="list-style-type: none"> <li>• Background / Experience</li> <li>• Certifications / License</li> </ul>	
Pay Grade offered	
Step of pay grade offered (Starting Salary)	



Any additional total compensation considerations offered	
--	--

*Offer Accepted*

Date offer accepted / offer letter returned	
Step of pay grade accepted (Starting Salary)	
Any additional total compensation considerations accepted	

**Pre-employment checks**

Background check completed	
Drug Screen Completed	
Pre-employment Physical Completed	

\_\_\_\_\_  
Department Head

\_\_\_\_\_  
Date

\_\_\_\_\_  
HR Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Date

*Completed form shall be filed electronically with job posting information. Signed form shall be placed in employee's personnel file in HR office.*

Date in position: \_\_\_\_\_

**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

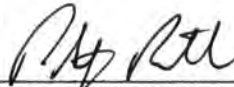
Park & Recreation  
Department

Gene Rathje

Prepared By

Gene Rathje

Department Head



City Administrator Approval

AGENDA TITLE: **Resolution #196-2022. Approve Change Order #1 for the Campground Shower House and Office Project.**

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: **Pass and adopt Resolution #196-2022.**

DISCUSSION: **Change Order # 1 will involve the contractor providing and installing a vapor barrier under the concrete floor slab before the concrete is poured as advised by the architect from Willett-Hofmann. The original contract with RG Construction was for \$573,872. Change order #1 is for \$595. The new contract amount is \$574,467.**

**RESOLUTION #196 -2022**

**A RESOLUTION APPROVING CHANGE ORDER #1 FOR THE OTTUMWA PARK CAMPGROUND SHOWER HOUSE AND OFFICE PROJECT**

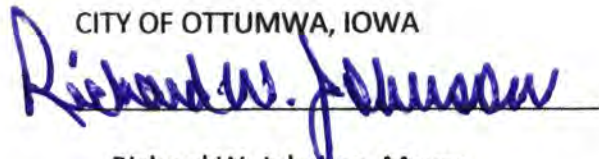
WHEREAS, The City Council of the City of Ottumwa, Iowa entered into a contract with RG Construction of Ottumwa, Iowa on June 21, 2022; and

WHEREAS, Change order #1 increases the contract amount by \$595, resulting in a new contract sum of \$574,467.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA THAT: The above mentioned change order for this project is hereby approved.

APPROVED, PASSED, AND ADOPTED, this 19TH day of July, 2022.

CITY OF OTTUMWA, IOWA



Richard W. Johnson, Mayor

ATTEST:



Christina Reinhard, City Clerk



## Gene Rathje

---

**From:** Allen Varney <avarney@willetthofmann.com>  
**Sent:** Wednesday, July 13, 2022 2:23 PM  
**To:** Gene Rathje  
**Cc:** Paul Newman; Thomas Houck  
**Subject:** FW: [EXTERNAL]COR #1  
**Attachments:** Change Order Request #1.pdf

Gene,

I requested this from RG after they had asked if we didn't need a vapor barrier at the shower house. Our details, copied from the restrooms we did up here, didn't have one since the CR Parks dept would close those restrooms down over the winter time (for a longer closed time than you anticipate with the shower house), and they didn't have nearly as much moisture present in them like the shower house would. Therefore, I think it would be prudent to add this.

Let me know if you have any questions on this. Sorry for our oversight.

Thanks. Al

Allen Varney, AIA

Architect



Willetthofmann.com

*Serving Our Clients Since 1935*

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**From:** Rod Grooms <rod@rgconstructioncompany.com>  
**Sent:** Wednesday, July 13, 2022 11:04 AM  
**To:** Allen Varney <avarney@willetthofmann.com>  
**Cc:** Becca Stockton <becca@rgconstructioncompany.com>; Rayven Smith <rayven@rgconstructioncompany.com>  
**Subject:** [EXTERNAL]COR #1

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Al,  
Please see attached change order request #1 for the under slab vapor barrier.

Thanks, Rod



Rod Grooms – Owner  
RG Construction, INC.



215 E. FOURTH STREET  
OTTUMWA, IA 52501  
WWW.RGCONSTRUCTIONCOMPANY.COM  
PHONE: 641.954.9898  
FAX: 641.316.8181

## CHANGE ORDER REQUEST

To: Willet Hofmann  
Attention: Allen Varney  
Address: 625 32<sup>nd</sup> Ave. SW  
Cedar Rapids, IA 52404

Date: 07/13/2022  
Office: 319-378-1401

JOB NAME	JOB NUMBER	JOB ADDRESS
Ottumwa Shower House		

PROPOSAL SUMMARY	AMOUNT
<b>Slab Vapor Barrier</b>	<b>\$595.00</b>

- Provide and install 15 mill vapor barrier under the slab before the pour.

# Item No. H.-7.

## CITY OF OTTUMWA

### Staff Summary

**\*\* ACTION ITEM \*\***

Council Meeting of: July 19, 2022

Engineering Department  
Department

Larry Seals  
Prepared By  
*Larry Seals*  
Department Head

*[Signature]*  
City Administrator Approval

AGENDA TITLE: Approve Resolution #197-2022 to approve the Agreement between the City of Ottumwa and the Iowa Department of Transportation through the TSIP (Traffic Safety Improvement Program) CS-TSF-5825(649)- -85-90 funding to construct the Albia Road and North Quincy Avenue Roundabout Project and to authorize the Mayor to sign all pertaining documents.

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Adopt and pass Resolution #197-2022 to approve the above described agreement and authorize the Mayor to sign documents pertaining to this agreement.

DISCUSSION: On July 20, 2021 Council approved submission of a grant application for safety improvements at the intersection of Albia Road and Quincy Avenue. This action will approve the formal agreement with IDOT (CS-TSF-5825(649)- -85-90) for funding up to \$500,000 of eligible project activities.

We will be presenting a design contract at a future council meeting. The design contract and construction cost that exceed the grant amount will be funded from RU and LOST funds.

Key points:

- Each intersection is a standalone project with a max cap of \$500,000. Traffic Safety Improvement Program - Also known as "TSIP," "Traffic Safety Funds," "TSF"
- Albia and Quincy Avenue - estimated at \$520,000 -TSF \$500,000
- Current System needs include upgraded controller and detection system. Pavement improvement estimated at \$483,000 for Albia Road.

Source of Funds: TSIP Grant /RU-LOST

Budgeted Item: Yes

Budget Amendment Needed: No



The proposed intersection improvements include construction of a 115' roundabout which will serve as a traffic calming measure. Splitter islands will be installed to reduce the intersection speeds and notify motorists of the intersection. Improvements will also provide for accommodations for pedestrians and bicyclists and will aid in providing acceptable gaps. The proposed improvements are expected to result in safer intersections and reduce the number of injury crashes per year.

Source of Funds: TSIP Grant /RU-LOST

Budgeted Item: Yes

Budget Amendment Needed: No

RESOLUTION #197-2022

A RESOLUTION APPROVING THE AGREEMENT BETWEEN THE CITY OF OTTUMWA AND THE IOWA DOT FOR THE CONSTRUCTION OF THE ALBIA ROAD AND NORTH QUINCY AVENUE ROUNDABOUT PROJECT

WHEREAS, The City Council of the City of Ottumwa, Iowa did seek approval to use TSIP funds from the Iowa Department of Transportation, and

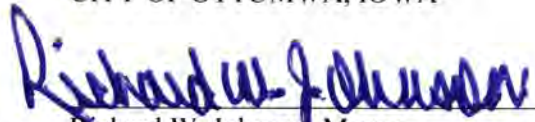
WHEREAS, The City of Ottumwa was awarded \$500,000 in TSIP funds; and

WHEREAS, the IDOT Agreement (CS-TSF-5825(649)- -85-90 is on file with the City Clerk.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA THAT: the Agreement with Iowa Department of Transportation for use of TSIP funds to construct the Albia Road and North Quincy Avenue Roundabout Project is hereby approved and the Mayor is hereby authorized to sign said Agreement and pertaining documents for the City of Ottumwa.

APPROVED, PASSED, AND ADOPTED, this 19<sup>th</sup> day of July 2022.

CITY OF OTTUMWA, IOWA

  
Richard W. Johnson, Mayor

ATTEST:

  
Christina Reinhard, City Clerk

March 2022

**IOWA DEPARTMENT OF TRANSPORTATION  
AGREEMENT FOR TRAFFIC SAFETY IMPROVEMENT PROGRAM FUNDING  
(Site-Specific Improvement)**

County	<u>Wapello</u>
Recipient	<u>Ottumwa</u>
Project No.	<u>CS-TSF-5825(649)--85-90</u>
Iowa DOT	
Agreement No.	<u>2023-TS-012</u>

This agreement is entered into by and between the Iowa Department of Transportation, hereinafter designated the "DOT", and the city of Ottumwa, Iowa, hereinafter designated the "Recipient". The Recipient submitted an application to the DOT for funding through the Traffic Safety Improvement Program (TSIP) under Iowa Code Section 312.2(11), and the application was approved by Transportation Commission Order No. SO-2022-45 on December 14, 2021.

Pursuant to the terms of this agreement, and applicable statutes and administrative rules, the DOT agrees to provide funding to the Recipient to aid in the development of a certain traffic safety improvement project.

In consideration of the foregoing and the mutual promises contained in this agreement, the parties agree as follows:

**1. Project Information**

- a. The Recipient shall be the lead local governmental agency for carrying out the provisions of this agreement.
- b. All notices required under this agreement shall be made in writing to the DOT's and/or the Recipient's contact person. The DOT's contact person shall be the Local Systems Project Development Engineer and Eastern Region Local Systems Field Engineer. The Recipient's contact person shall be Larry Seals, Public Works Director.
- c. The Recipient shall be responsible for the development and completion of the following described project located in the city of Ottumwa:
9. The construction of a roundabout at Albia Road and North Quincy Avenue. See Exhibit A-1 for the location of the project and Exhibit A-2 for the estimated project cost.
- d. Project-specific funding stipulations in order for the project to be considered eligible to receive TSIP funds include:

None.

**2. Project Costs**

- a. Eligible project costs for the project described in Section 1 of this agreement which are incurred after the effective date of commission approval shall be paid from TSIP funds and other funds as listed below, subject to the execution of a signed agreement:

TSIP funds:     \$500,000

- b. The portion of the total project costs paid by TSIP shall not exceed the amount stated above or the actual cost of the TSIP eligible items, whichever is the lesser amount.



March 2022

- c. If a letting is required, the project shall be let to contract before July 1, 2024, but no earlier than July 1, 2022. If a letting is not required, project activities shall be initiated prior to July 1, 2024. If any of these conditions are not met, the Recipient may be in default, for which the Department may revoke funding commitments. This agreement may be extended for a period of 12 months upon receipt of a written request from the Recipient at least 30 days prior to the deadline.
- d. Project activities or costs considered eligible for TSIP funds are those required by, or integral to, the safety aspects of the project. Eligible activities include the following: (a) road modernization, upgrading or reconstruction; (b) intersection improvements; (c) right-of-way purchases; (d) drainage and erosion control measures; (e) traffic control devices; (f) traffic barriers and other roadside safety devices; and (g) removal of trees and other fixed objects.
- e. Project activities or costs considered ineligible for TSIP funds include, but are not limited to, the following: (a) any and all costs incurred prior to commission approval of funding; (b) routine maintenance of a road, street, bridge, culvert or traffic control device; (c) contract administration costs; (d) design and construction engineering and inspection, including construction survey; (e) utility construction, reconstruction, or adjustment, except as an integral part of a project; (f) sidewalks, shared-use paths or railroad-highway crossings, except as an integral part of a project; (g) maintenance or energy costs for traffic control devices or lighting; (h) aesthetic items such as brick pavers or decorative lighting/signal poles; and (i) expenditures for items not related to the roadway. For the purposes of this agreement, pavement patching is considered maintenance.
- f. If Federal highway funds, Farm-to-Market funds, or other Federal funds are used in combination with TSIP Funds, the Recipient shall also follow all administrative and contracting procedures which would normally be used when such funds are used on a non-TSIP project. The Recipient shall comply with all requirements for the use of said funds.

### **3. Right of Way and Permits**

- a. In the event that right-of-way is required for the project, said right-of-way shall be acquired in accordance with 761 Iowa Administrative Code Chapter 111, Real Property Acquisition and Relocation Assistance. If the project impacts the Primary Road System, the Recipient shall submit preliminary right-of-way plans to the DOT's Right of Way Bureau for review and approval prior to the commencement of any acquisition. Additionally, if said right-of-way is for an improvement to the Primary Road System, it shall be acquired in the name of the State of Iowa.
- b. The Recipient shall be responsible for obtaining any permits, such as the Work Within the Right-of-Way Permit, Access Connection/Entrance Permit, Utility Accommodation Permit, Application for Approval of a Traffic Control Device, and/or other construction permits required for the project prior to the start of construction. Neither the approval of the TSIP application for funding nor the signing of this agreement shall be construed as approval of any required permit from the DOT.
- c. The Recipient shall be responsible for obtaining any environmental permits and approvals, when necessary, to comply with all environmental regulations.

### **4. Project Design**

- a. The Recipient shall develop all project improvements using good engineering judgment. The Recipient shall use the DOT "Design Manual" on projects involving the Primary Road System and/or routes located on the National Highway System. Projects not on the Primary Road system shall use "A Policy on Geometric Design of Highways and Streets", (latest edition), by the American Association of State Highway and Transportation Officials. In all cases the "The Manual on Uniform Traffic Control Devices for Streets and Highways" (MUTCD), as adopted pursuant to 761 Iowa Administrative Code, Chapter 130 shall apply.

## **5. Bid Letting**

- a. If the project must be let for bids, then project plans, specifications and engineer's cost estimate for site specific improvements and/or traffic control devices shall be prepared and certified by a professional engineer licensed to practice in the State of Iowa. The Recipient shall submit the plans, specifications and other contract documents to the DOT for review. This submittal may be in divisions and in the order of preference as determined by the Recipient.
  - i. If the Recipient lets the project, the plans, specifications and other contract documents for each division must be submitted at least ten weeks (traffic control devices) or fourteen weeks (site specific project) prior to the project letting of each division.
  - ii. If the project will be let through the Iowa DOT, project development submittals shall follow Local Systems I.M. 3.010. The DOT shall review said submittal(s) recognizing the Recipient's development schedule and shall, after satisfactory review, authorize in writing the Recipient to proceed with implementation of the project. The work on this project shall be in accordance with the survey, plans, and specifications on file. Any substantial modification of these plans and specifications must be approved by the DOT prior to the modification being put into effect.
- b. If the Recipient lets the project, as described herein, the Recipient shall include in their Notice to Bidders that Sales Tax Exemption Certificates will be issued, as provided for by Iowa Code section 423.3, subsection 80. The Recipient shall be responsible for obtaining the sales tax exemption certificates through the Iowa Department of Revenue and Finance. The Recipient shall issue these certificates to the successful bidder and any subcontractors to enable them to purchase qualifying materials for the project free of sales tax.
- c. If the Recipient lets the project, then the Recipient shall use positive efforts to solicit bids from and to utilize Targeted Small Business (TSB) enterprises as contractors and ensure that the contractors make positive efforts to utilize these enterprises as subcontractors, suppliers or participants in the work covered by this agreement. Efforts shall be made and documented in accordance with Exhibit B which is attached hereto and by this reference incorporated into this agreement.
- d. If the Recipient lets the project, then for portions of the project let to bid, the Recipient shall advertise for bidders, make a good faith effort to get at least three (3) bidders, hold a public letting and award contracts for the project work. DOT concurrence in the award must be obtained prior to the award. The Recipient shall provide the DOT file copies of project letting documents within five (5) days after letting.
- e. The Recipient shall be the contracting authority for the project.

## **6. Construction and Maintenance**

- a. The Recipient shall conduct the project development and implementation in compliance with applicable laws, ordinances and administrative rules.
- b. The Recipient shall be responsible for the daily inspection of the project, and the compilation of a daily log of materials, equipment and labor on the project.
- c. The Recipient shall maintain records, documents, and other evidence in support of work performed under the terms of this contract. All accounting practices applied and all records maintained will be in accordance with generally accepted accounting principles and procedures. Documentation shall be made available for inspection and audit by authorized representatives of the DOT or its designee at all reasonable times during the period of the contract and for three (3) years after the date of final payment. Reimbursement shall be based on eligible actual and indirect costs associated with performance of contract service work. The Recipient shall provide copies of said records and documents to the DOT upon request.

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- d. The Recipient shall notify the DOT's contact person of the date that construction begins and the date that the project is substantially complete (i.e., when the road is re-opened to traffic).
- e. The Recipient shall require its contractors to permit the DOT authorized representative to inspect all work materials, records, and any other data with regard to agreement related costs, revenues and operating sources.
- f. Upon project completion and prior to final reimbursement for the project, the Recipient shall furnish three sets of "as-built" plans for any portion of the project which is on or intersects any primary road or primary road extension to the DOT's contact person for future maintenance and road design purposes.
- g. If this project requires the installation of or modification to a traffic control signal system, the Recipient shall be responsible for all future ownership, maintenance, operation and energy costs of said installation or modification.
- h. The Recipient hereby certifies that, for a period of five (5) years following completion of the project and receipt of final payment from the DOT, there shall be no modifications in the geometric features, the construction features, or the access management features (including driveway design and location) of the project, nor shall there be any fixed objects or obstructions placed in any clear zone established in conjunction with this project without the prior written approval of the Traffic and Safety Bureau. Failure to comply shall be considered a default under the terms of this agreement.

#### **7. Payments and Reimbursements**

- a. The Recipient may submit to the DOT periodic itemized claims for reimbursement for eligible project activities. Eligible and ineligible costs are outlined in Iowa Administrative Code (IAC) 761 Chapter 164, Traffic Safety Improvement Program (see IAC 761-164.6(312) and IAC 761-164.7(312)). Reimbursement claims shall include certification by a professional engineer licensed to practice in the State of Iowa that all eligible project activities for which reimbursement is requested have been completed in substantial compliance with the terms of this agreement. Reimbursement claims shall not be submitted until after July 1, 2022.
- b. The Department will reimburse the Recipient for properly documented and certified claims for eligible project costs. The Department may withhold up to 5% of the construction costs or 5% of the TSIP funds available for the project, whichever is less. Reimbursement will be made either by State warrant or by crediting other accounts from which payment was initially made. If, upon final audit or review, the Department determines the Recipient has been overpaid, the Recipient shall reimburse the overpaid amount to the Department. After the final audit or review is complete and after the Recipient has provided all required paperwork, the Department will release the funds withheld, if any.
- c. Upon completion of the project described in this agreement, a professional engineer licensed to practice in the State of Iowa shall certify in writing to the DOT that the project activities were completed in substantial compliance with the terms of this agreement. Final reimbursement of TSIP Funds shall be made only after the DOT accepts the project as complete.
- d. The Recipient shall request reimbursement and final payment from the DOT within one year of field completion of the work. If this condition is not met, the Recipient may be in default, for which the Department may revoke funding commitments.
- e. If the Recipient fails to perform any obligation under this agreement, the DOT shall have the right, after first giving thirty (30) days written notice to Recipient by certified mail return receipt requested, to declare this agreement in default. The Recipient shall have thirty (30) days from date of mailing of notice to cure the default. If the Recipient cures the default, the Recipient shall notify DOT no later than five (5) days after cure or before the end of said thirty (30) day period to cure default. Within ten



March 2022

(10) working days of receipt of Recipient's notice of cure, the DOT shall issue either a notice of acceptance of cure or notice of continued default.

- f. In the event a default is not cured the DOT may revoke funding commitments and/or seek repayment of TSIP Funds granted by this agreement through charges against the Recipient's road use tax funds.

## **8. General Provisions**

- a. This agreement shall be considered to be in default if the DOT determines that the Recipient's application for funding contained inaccuracies, omissions, errors or misrepresentations.
- b. To the extent allowed by law, the Recipient agrees to indemnify, defend and hold the DOT harmless from any action or liability arising out of the design, construction, maintenance, placement of traffic control devices, or inspection of this project. To the extent allowed by law, this agreement to indemnify, defend and hold harmless applies to all aspects of the DOT's application review and approval process, plan and construction reviews, and funding participation.
- c. In accordance with Iowa Code Chapter 216, the Recipient shall not discriminate against any person on the basis of race, color, creed, age, sex, sexual orientation, gender identity, national origin, religion, pregnancy, or disability.
- d. The Recipient shall comply with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the associated Federal regulations that implement these laws.
- e. If any part of this agreement is found to be void and unenforceable then the remaining provisions of this agreement shall remain in effect.
- f. This agreement is not assignable without the prior written consent of the DOT.
- g. It is the intent of both parties that no third-party beneficiaries be created by this agreement.
- h. In case of dispute concerning the terms of this agreement, the parties shall submit the matter to arbitration pursuant to Iowa Code Chapter 679A. Either party has the right to submit the matter to arbitration after ten (10) days' notice to the other party of their intent to seek arbitration. The written notice must include a precise statement of the disputed question. DOT and the Recipient agree to be bound by the decision of the appointed arbitrator. Neither party may seek any remedy with the state or federal courts absent exhaustion of the provisions of this paragraph for arbitration.
- i. This agreement shall be executed and delivered in two or more copies, each of which so executed and delivered shall be deemed to be an original and shall constitute but one and the same instrument.
- j. This agreement, including referenced exhibits, constitutes the entire agreement between the DOT and the Recipient concerning this project. Representations made before the signing of this agreement are not binding, and neither party has relied upon conflicting representations in entering into this agreement. Any change or alteration to the terms of this agreement must be made in the form of an addendum to this agreement. Said addendum shall become effective only upon written approval of the DOT and Recipient.

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IN WITNESS WHEREOF, each of the parties hereto has executed Agreement No. 2023-TS-012 as of the date shown opposite its signature below.

**City of Ottumwa, Iowa:**

By Richard W. Johnson Date July 19, 20 22  
Title: Mayor

I, Christina Reinhard, certify that I am the Clerk of the City, and that Richard W. Johnson, who signed said Agreement for and on behalf of the City was duly authorized to execute the same by virtue of a formal Resolution duly passed and adopted by the City, on the 19 day of July, 20 22.

Signed Christina Reinhard Date July 19, 20 22  
City Clerk of Ottumwa, Iowa

**Iowa Department of Transportation:**

By: \_\_\_\_\_ Date \_\_\_\_\_, 20\_\_\_\_\_  
Steve J. Gent  
Director,  
Traffic and Safety Bureau



**Proposed Public Improvements - Albia Road and  
N. Quincy Avenue**

Ottumwa, Iowa

**Engineer's Rough Order Magnitude of Cost  
Estimate of Quantities - February 5, 2021**

Item No	Description	Unit	Unit Price	TSIP Eligible Quantity	Total Cost
1	Excavation, Class 10	CY	\$ 5	1,250	\$ 6,250.00
2	Subgrade Preparation	SY	\$ 3	2,185	\$ 6,555.00
3	Modified Subbase	CY	\$ 7	2,185	\$ 15,295.00
4	Topsoil, Strip, Salvage and Respread	CY	\$ 8	600	\$ 4,800.00
5	Remove Existing Intake	EA	\$ 900	4	\$ 3,600.00
6	Remove Existing Manhole	EA	\$ 900	1	\$ 900.00
7	Remove Storm Sewer	LF	\$ 25	250	\$ 6,250.00
8	Storm Sewer RCP	LF	\$ 90	450	\$ 40,500.00
9	Storm Sewer Intake, SW-510	EA	\$ 6,500	4	\$ 26,000.00
10	Storm Sewer Manhole, SW-501	EA	\$ 4,000	2	\$ 8,000.00
11	Removal of Pavement	SY	\$ 8	2,355	\$ 18,840.00
12	PCC Pavement, 8"	SY	\$ 65	1,986	\$ 129,090.00
13	Truck Apron, Colored	SY	\$ 90	288	\$ 25,920.00
14	Pavement Markings	LS	\$ 7,500	1	\$ 7,500.00
15	Removal of Sidewalk	SY	\$ 10	438	\$ 4,380.00
16	PCC Sidewalk, 5"	SY	\$ 45	508	\$ 22,860.00
17	Detectable Warnings	SF	\$ 45	80	\$ 3,600.00
18	Mobilization	LS	\$ 40,000	1	\$ 40,000.00
19	Traffic Control	LS	\$ 20,000	1	\$ 20,000.00
20	Traffic Signal Removal	LF	\$ 20,000	1	\$ 20,000.00
21	Lighting	LS	\$ 60,000	1	\$ 60,000.00
22	Landscaping / Restoration	LS	\$ 20,000	1	\$ 20,000.00
23	Erosion Control	LS	\$ 10,000	1	\$ 10,000.00

SubTotal

Rough Order of Magnitude Construction Cost

\$ 500,340.00



**EXHIBIT B**  
**UTILIZATION OF TARGETED SMALL BUSINESS (TSB) ENTERPRISES**  
**ON NON-FEDERAL AID PROJECTS**  
**(THIRD-PARTY STATE-ASSISTED PROJECTS)**

In accordance with Iowa Code Section 19B.7, it is the policy of the Iowa Department of Transportation (Iowa DOT) that Targeted Small Business (TSB) enterprises shall have the maximum practicable opportunity to participate in the performance of contracts financed in whole or part with State funds.

Under this policy the Recipient shall be responsible to make a positive effort to solicit bids or proposals from TSB firms and to utilize TSB firms as contractors or consultants. The Recipient shall also ensure that the contractors or consultants make positive efforts to utilize TSB firms as subcontractors, subconsultants, suppliers, or participants in the work covered by this agreement.

The Recipient's "positive efforts" shall include, but not be limited to:

1. Obtaining the names of qualified TSB firms from the Iowa Economic Development Authority (515-348-6159) or from its website at: <https://www.iowaeda.com/small-business/targeted-small-business/>.
2. Notifying qualified TSB firms of proposed projects involving State funding. Notification should be made in sufficient time to allow the TSB firms to participate effectively in the bidding or request for proposal (RFP) process.
3. Soliciting bids or proposals from qualified TSB firms on each project, and identifying for TSB firms the availability of subcontract work.
4. Considering establishment of a percentage goal for TSB participation in each contract that is a part of this project and for which State funds will be used. Contract goals may vary depending on the type of project, the subcontracting opportunities available, the type of service or supplies needed for the project, and the availability of qualified TSB firms in the area.
5. For construction contracts:
  - a) Including in the bid proposals a contract provision titled "TSB Affirmative Action Responsibilities on Non-Federal Aid Projects (Third-Party State-Assisted Projects)" or a similar document developed by the Recipient. This contract provision is available on-line at:  
  
[https://www.iowadot.gov/local\\_systems/publications/tsb\\_contract\\_provision.pdf](https://www.iowadot.gov/local_systems/publications/tsb_contract_provision.pdf)
  - b) Ensuring that the awarded contractor has and shall follow the contract provisions.
6. For consultant contracts:
  - a) Identifying the TSB goal in the Request for Proposal (RFP), if one has been set.
  - b) Ensuring that the selected consultant made a positive effort to meet the established TSB goal, if any. This should include obtaining documentation from the consultant that includes a list of TSB firms contacted; a list of TSB firms that responded with a subcontract proposal; and, if the consultant does not propose to use a TSB firm that submitted a subcontract proposal, an explanation why such a TSB firm will not be used.

The Recipient shall provide the Iowa DOT the following documentation:

1. Copies of correspondence and replies, and written notes of personal and/or telephone contacts with any TSB firms. Such documentation can be used to demonstrate the Recipient's positive efforts and it should be placed in the general project file.
2. Bidding proposals or RFPs noting established TSB goals, if any.
3. The attached "Checklist and Certification." This form shall be filled out upon completion of each project and forwarded to: Iowa Department of Transportation, Civil Rights Bureau, 800 Lincoln Way, Ames, IA 50010.

**CHECKLIST AND CERTIFICATION**  
**For the Utilization of Targeted Small Businesses (TSB)**  
**On Non-Federal-aid Projects (Third-Party State-Assisted Projects)**

Recipient: \_\_\_\_\_ Project Number: \_\_\_\_\_

County: \_\_\_\_\_ Agreement Number: \_\_\_\_\_

1. Were the names of qualified TSB firms obtained from the Iowa Economic Development Authority? YES NO

If no, explain \_\_\_\_\_

2. Were qualified TSB firms notified of project? YES NO

If yes, by letter, telephone, personal contact, or other (specify) \_\_\_\_\_

If no, explain \_\_\_\_\_

3. Were bids or proposals solicited from qualified TSB firms? YES NO

If no, explain \_\_\_\_\_

4. Was a goal or percentage established for TSB participation? YES NO

If yes, what was the goal or percentage? \_\_\_\_\_

If no, explain why not: \_\_\_\_\_

5. Did the prime contractor or consultant use positive efforts to utilize TSB firms on subcontracts? YES NO

If no, what action was taken by Recipient? \_\_\_\_\_

Is documentation in files? YES NO

6. What was the dollar amount reimbursed to the Recipient from the Iowa Department of Transportation?

What was the final project cost? \$ \_\_\_\_\_

What was the dollar amount performed by TSB firms? \$ \_\_\_\_\_

Name(s) and address(es) of the TSB firm(s) \_\_\_\_\_

(Use additional sheets if necessary)

Was the goal or percentage achieved? YES NO

If no, explain \_\_\_\_\_

As the duly authorized representative of the Recipient, I hereby certify that the Recipient used positive efforts to utilize TSB firms as participants in the State-assisted contracts associated with this project.

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of : Jul 19, 2022

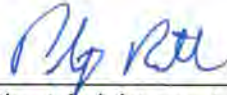
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Ordinance No. 3198-2022: Proposed Ordinance to Repeal and Replace Chapter 7 of the City Code

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt the third and final reading of Ordinance No. 3198-2022

DISCUSSION:

On January 18, 2022 the City Council held a public hearing to gather input from the community regarding a potential revision to the animal ordinance as requested by a previous petition calling for the end of breed specific legislation. Since that meeting staff and council members have continued to receive input and feedback from the community and the coalition. Although there is dissent regarding breed specific language in the revised ordinance, there is general consensus the revision improves the environment for animals. The first and second readings passed 4-1 and has been moved to the third and final reading.

Source of Funds:

Budgeted Item:

Budget Amendment Needed:



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**ORDINANCE NO. 3198-2022**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 7,  
ANIMALS AND FOWL, OF THE MUNICIPAL CODE OF THE CITY OF  
OTTUMWA.**

WHEREAS, the Ottumwa City Code defines pit bull terriers as dangerous animals and prohibits their keeping within the city limits; and

WHEREAS, the City of Ottumwa has not allowed pit bull terriers within the city limits since 2003; and

WHEREAS, petitions were presented to the City in 2010 and 2012 requesting removal of the ban on pit bull terriers from the City Code, and the City Council chose not to amend the ordinance at the time; and

WHEREAS, a petition was presented to the City in 2021 again requesting removal of the ban on pit bull terriers from the City Code; and

WHEREAS, the City Council has received public comment both in support and opposition of the pit bull terrier ban, the Council has held a work session on revisions to Chapter 7 of the City Code, and has carefully considered all information presented related to this item; and

WHEREAS, the City Council of the City of Ottumwa FINDS that the current ban on pit bull terriers within the City of Ottumwa should remain in place due to the following:

1. There are pit bull terriers being kept within the city limits in spite of the ban, and the City Council does not want to encourage or reward this unlawful behavior; and
2. The concerns and fears surrounding the danger that pit bull terriers pose to the community at large have not significantly changed since the ban was originally put in place; and
3. The community service officer has reported that there have been 16 pit bull terrier related charges issued in the first five months of 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA, THAT:

SECTION ONE. Chapter 7, Animals and Fowl, of the municipal code of the City of Ottumwa is hereby amended by repealing Chapter 7 in its entirety and enacting the following in lieu thereof:

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## Chapter 7 ANIMALS AND FOWL

### ARTICLE I. IN GENERAL

#### Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandon* means the voluntary relinquishment of possession of an animal by the owner, with the intention of terminating ownership without vesting it in any other person. To abandon shall include any of the following:

- (a) For the owner or keeper to leave any animal without demonstrated or apparent intent to recover or to resume custody.
- (b) To leave an animal for more than twelve (12) hours without providing adequate food, water, and shelter for the duration of the absence.
- (c) To turn out or release an animal.

*Adequate food* means fresh, nutritious food suitable for the species provided continuously or at suitable intervals in a sanitary manner in quantities sufficient to allow for normal growth or maintain good health and body weight in an animal considering its age and condition.

*Adequate protection from the elements* means a protected area, in addition to a doghouse or similar structure, that provides shade from the sun and protection from wind, rain, snow, and extremes of hot and cold.

*Adequate shelter* means a dog house or similar structure, for each animal chained, tethered, penned or otherwise restrained or confined outdoors, suitable for the species, age, condition and size of the animal; that has solid sides, floor and top that do not leak air or moisture and a cover over the doorway which keeps the doghouse or structure dry and allows the animal unlimited access and egress from the doghouse or structure; is clean, safe, enables the animal to be clean and dry and protects the animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is large enough for the animal to stand up, lie down and stretch comfortably and make all other normal bodily movements in a comfortable, normal position for the animal. A carrier or crate is not adequate shelter.

*Animal* means any live (or dead where applicable) domestic vertebrate creature, male or female, and including dogs and cats, fowl and reptiles kept as pets except wild or dangerous animals as hereinafter defined.

*Animal control shelter* means a facility which is used, but is not limited to, housing or containing dogs or cats, or both and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

*At heel* means under the voice control and within fifteen (15) feet of the owner or person in custody of the animal.

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*At-large* means any licensed or unlicensed animal found off the premises of its owner and not under the control of a person physically capable of controlling the animal, and not on a leash sixteen (16) feet or less in length.

*Behavior consultation* means a consultation with a professional that has expertise in dog behavior with the intent to help the owner and the dog address the aggressive behavior displayed by the dog.

*Bite* means any puncture, laceration, abrasion, scratch or other break in the skin of a human being, or other animal where applicable.

*Cat* means any male or female animal of the family Felidae, genus Felis, species catus, whether neutered or not.

*Chicken (Gallus domesticus)* means a domesticated fowl.

*City pound or dog pound* means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

*Community service officer* means a person appointed by and under the direction of the chief of police to enforce the provisions of this chapter.

*Dangerous animal* means and includes any animal which is not naturally tamed or gentle; or which is of a wild nature or disposition; or which is capable of killing or inflicting serious injury upon human beings and having known tendencies, individually or as a species, to do so; or which, because of its size or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters, including, but not limited to, the following animals, which shall be deemed as dangerous per se:

Bears, wolves, wolf hybrid dogs, foxes, coyotes, lions, tigers, jaguars, leopards, cougars, panthers, lynxes, cheetahs, bobcats, elephants, bison, badgers, wolverines, weasels, skunks, raccoons, members of the primate family, scorpions, poisonous or venomous snakes, poisonous or venomous spiders, poisonous or venomous reptiles, and other poisonous or venomous animals, alligators, crocodiles, anacondas, pythons, boa constrictors, piranhas, sharks, pit bull terriers, any crossbreed of such animals which have similar characteristics to the animals specified herein.

*Dart* means the process whereby a drug of a sedative nature is delivered to and injected into an animal by means of a projectile shot from a rifle or gun, for the purpose of subduing or rendering an animal unconscious for capture.

*Department* shall mean the Administrative Services Department

*Dog* means any member of the canine species.

*Domestic animal* means any animal of a species that normally is bred, raised, and is accustomed to live in or about human habitation. Domesticated animals include, but are not limited to, pets such as dogs or cats. The term shall not include animals owned by the police department, animals in a zoo, or livestock.

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*Fowl* means any of various birds of the order Galliformes, including but not limited to domesticated chickens, ducks, geese, turkeys, or pheasants.

*Hearing Ear dog* means any dog owned by a deaf or partially deaf person, and which has been properly trained to aid its owner.

*High risk animal* means any animal that satisfies one or more of the following:

- (a) Chases or approaches a person, domestic animal, fowl, or livestock in an apparent attitude of attack, or
- (b) Attacks a person, domestic animal, fowl, or livestock, or
- (c) Bites, harms, or attempts to bite or harm a person, domestic fowl, or livestock; and
- (d) Has been trained to fight other domestic animals; or
- (e) Has been trained as a guard dog for people or property.
- (f) This definition shall not apply to law enforcement canines.

An animal provoked to an attitude of self-defense, or assumes a defensive attitude in protection of its owner's property shall not summarily be proposed to be a high risk animal. The city administrator or their designee may take various factors into consideration when determining whether an animal meets this definition. These factors include, but are not limited to, whether the animal was provoked, or whether the animal was acting to protect itself, its owner, or its owner's property.

*Hybrid* means any offspring produced by breeding a domestic cat or domestic dog to an animal listed as a dangerous animal per se.

*Identification tag* means a rabies vaccination tag for cats and dogs and a city license tag for dogs.

*In heat* means a female animal during the active state of estrus.

*Injury* means any visible or documented bodily injury not constituting "Serious Injury" as defined herein.

*Irresponsible animal owner* means any animal owner that has:

- (a) Been convicted or pled guilty three times or more for separate incidents that occurred in any twelve (12) month period concerning:
  - (1) An animal at large;
  - (2) An animal disturbing the peace;
  - (3) An unlicensed animal;
  - (4) An excessive number of animals; or
  - (5) Unsanitary premises due to animals.
- (b) Been convicted or pled guilty two times or more for separate incidents concerning:
  - (1) Animal neglect;
  - (2) Keeping animals covered by section 7-27 without obtaining a license; or



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(3) An animal declared a vicious animal.

(c) Or, been convicted of or pled guilty to:

(1) Animal abuse; or

(2) Animal torture.

*Kennel* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire or training of dogs or cats and which is required to be licensed by the state for such purpose.

*Licensed kennel cat and/or dog* means cats and/or dogs kept or raised in a state or federal licensed kennel solely for the purpose of show, breeding, boarding or sale and kept under constant restraint.

*Livestock* means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus, farm deer or poultry.

*Neutered* shall mean the same as “neutered,” “altered,” and “spayed,” and refers to a procedure that has been performed by a veterinarian on an animal, male or female, that renders it incapable of bearing offspring.

*Owner* means any person who owns, keeps, harbors, feeds or knowingly permits an animal to remain on or about any premises owned or occupied by that person. If such person is a minor, then “owner” means the parents or custodial parent or guardian of such person.

*Pit bull terrier* means (1) an American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Bull Terrier breed of dog; (2) any dog displaying the majority of physical traits of any one or more of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Bull Terrier (more so than any other breed), or (3) a dog which conforms to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the administrative authority.

*Proper enclosure of a potentially dangerous animal* means, while on the owner's property, a potentially dangerous animal is securely confined indoors, or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and secure top to prevent the animal from escaping over, under, or through the structure, and shall also provide adequate food, adequate water, adequate shelter and adequate protection from the elements.

*Provocation; without provocation.* See section 7-21(b) and (c).

*Seeing Eye dog* means any dog owned by a blind or partially blind person and which has been trained to aid its owner.

*Serious injury* means a bodily injury that does any of the following:

(a) Creates a substantial risk of death;

(b) Causes serious permanent disfigurement;

(c) Causes protracted loss or impairment of the function of any bodily member or organ.

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*Service animal* means a dog that is a working animal, not a pet, which is individually trained to do work or perform tasks for people with disabilities. The work or tasks a dog has been trained to provide must be directly related to the person's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being or companionship do not constitute work or tasks for the purposes of this definition.

*Stray* means any animal at-large.

*Threatened animal* means an animal that is abused as provided in section 7-4.

*Vicious animal* means and includes any animal which bites or harms:

- (a) A person or persons and the bite or harm causes bleeding or noticeable and documented injury to the person; or
- (b) A domestic animal, fowl, or livestock such that the domestic animal, fowl, or livestock is significantly injured, requires medical attention, is maimed, or killed.

An animal provoked to an attitude of self-defense, or assumes a defensive attitude in protection of its owner's property shall not summarily be proposed to be a vicious animal. The city administrator or their designee may take various factors into consideration when determining whether an animal meets this definition. These factors include, but are not limited to, whether the animal was provoked, or whether the animal was acting to protect itself, its owner, or its owner's property.

*Wild animal* means any live (or dead where applicable) vertebrate creature, male or female, not defined as an "animal" above or "dangerous animal" above.

### **Sec. 7-2. Enforcement of chapter.**

The chief of police shall be responsible for the enforcement of the provisions of this chapter. However:

- (a) The city council may contract with another governmental entity or a nonprofit or not for pecuniary profit organization to operate the city pound for the purpose of impounding animals as required by this chapter, which said contract may provide for the delegation of such of the powers and duties herein granted to the chief of police as the city council deems necessary to carry out the purposes of this chapter.
- (b) The chief of police may appoint community service officers who shall assist in enforcing the provisions of this chapter and perform such other duties as is required. A community service officer shall have police powers necessary to discharge the duties of this chapter and to enforce its provisions.

### **Sec. 7-3. Interference while performing duties.**

No person shall knowingly interfere with, hinder or obstruct the chief of police, a peace officer, a community service officer, or any other person authorized to perform duties under this chapter while engaged in the performance of their duties under this chapter. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

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**Sec. 7-4. Cruelty to animals.**

The following acts shall constitute abuse of animals, and shall subject the owner or other person in control of the animal to the penalty provisions of state law and this Code:

- (a) Failure to provide the animal unlimited access to adequate food, adequate water and easy access to adequate shelter and adequate protection from the elements.
- (b) Beating, tormenting, overloading or overworking an animal.
- (c) Permitting or encouraging any combat between animals, or between animals and humans.
- (d) Abandoning any animal, unless to an animal control shelter as defined herein.
- (e) Exposing any known poisonous material, drug, legal or illegal, with the intent of allowing or encouraging the material to be eaten by any bird, fowl or domesticated animal.
- (f) Failure to maintain sanitary conditions where animals are kept.
- (g) Harboring or owning any sick, diseased or injured animal without procuring veterinary care for said animal.
- (h) Maintaining an animal in such conditions and hygiene that the animal is unable to walk or move normally, conduct routine bodily functions, or stay clean, and free of disease and parasites.
- (i) Leaving any animal in a standing or parked vehicle, on a vehicle, tethered or confined for a length of time that could result in danger to or death of an animal. If the community service officer determines that such an animal is in immediate danger, the community service officer or designee may remove the animal by whatever reasonable means is necessary without liability, for the purpose of taking the animal into protective custody.
- (j) Intentionally injuring, maiming, disfiguring, mutilating or destroying an animal by any means that causes pain or suffering.
- (k) Overload or overwork a domestic animal or fowl or any other animal under the person's care, custody, and/or control.

State law reference(s)—Livestock neglect, I.C.A. § 717.2; animal neglect, I.C.A. § 717B.3; animal torture, I.C.A. § 717B.3A.

**Sec. 7-5. Sanitation of premises.**

All structures, pens, coops or yards wherein animals, domestic or wild, are confined shall be maintained in a clean and sanitary condition at all times, devoid of vermin and free from offensive odors. The chief of police or designee may, at any time, inspect or cause to be inspected any structure or premises, and issue any such order as may be necessary to enforce the provisions of this section, and any other relevant or pertinent rule, regulation of the board of health of the city, or any health provisions of this Code. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

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**Sec. 7-6. Animal traps.**

No person may set traps in the city for the purpose of apprehending wild or domesticated animals. This section does not prohibit:

- (a) Trapping mice, rats or other household vermin;
- (b) The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or
- (c) The setting of traps in the line of duty by a community service officer, or with written permission from and supervision by a community service officer, or licensed pest control operators.

**Sec. 7-7. Abandonment of animals.**

No owner of an animal shall abandon such animal, unless transferred to another person, entity, or surrendered to a licensed animal control shelter.

State law reference(s)—Abandonment of cats and dogs - penalties, I.C.A. § 717B.8.

**Sec. 7-8. Injury to animals.**

- (a) The operator of any vehicle which strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained or located, the report shall be made to the police department.
- (b) All employees within the departments of public works, building and code enforcement, water pollution control, parks, fire and police are responsible for picking up dead animals, whether domestic or wild, found by that employee on streets, on public rights-of-way, and found at large in parks or on other public property. The police department will be notified of any injured animals found and will be responsible for taking such action as deemed necessary to protect or dispose of said animal. In the event a dead animal found on city property is wearing any type of identifying tag, the police department will be notified to attempt contact with the owner. City employees are not responsible for picking up dead animals on private property.

**Sec. 7-9. Domesticated farm animals prohibited.**

- (a) No horse, jack, mule, donkey, burro, pony, cow, bull, calf, steer, goat, sheep, lama, swine, turkey, ducks, geese, roosters or other livestock shall be kept on any city lot or in any dwelling or part thereof, or pastured or enclosed on the same lot or premises with a dwelling. However, no more than six adult rabbits and six adult female chickens (hens) may be kept within the city limits pursuant to all permit rules and regulations which shall be approved by resolution of the city council and/or by city ordinance.
- (b) Subsection (a) of this section shall not apply to property annexed to the city, if said conditions contrary to subsection (a) of this section existed on said property at that time, except that said prohibited conditions may not be expanded and when they cease to exist



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they shall not be renewed. Said subsection (a) of this section shall not apply to property meeting the definition of "farm" as set out in the city's zoning regulations.

- (c) Furthermore, if the conditions on the property as a result of animals being kept are declared a nuisance by a court, they shall cease to exist and be removed. Subsection (a) of this section shall also not apply to dogs, cats, and household pets.
- (d) Urban chicken and rabbit permits.
  - (1) No person shall raise, harbor or keep chickens or rabbits without an urban chicken or rabbit permit, issued by the city.
  - (2) The term "chicken" means a member of the subspecies of Gallus domesticus, a domesticated chicken.
  - (3) The term "rabbit" means a member of the subspecies of lagomorpha leporidae, a domesticated rabbit.
  - (4) To obtain an urban chicken or rabbit permit, an applicant must submit a completed application on a form provided by the city accompanied by the permit fee.
  - (5) Within 30 days of submission of the application, the police chief or designee shall issue the urban chicken or rabbit permit if the applicant meets the requirements of this provision and the policy adopted by city council resolution or deny the application. If the application is denied, the police chief or designee shall state the reasons in writing.
  - (6) The urban chicken or rabbit permit shall be valid for three years and may not be sold, transferred or assigned.
  - (7) The police chief or designee may revoke a chicken or rabbit permit as provided in the policy adopted by council resolution.
  - (8) Appeals of the decision to deny or revoke a permit under this section are to the city administrator or designee and must be filed within ten days of the decision.
  - (9) Additional requirements, including permit fees, shall be adopted by resolution.
  - (10) Violation of this subsection or the terms of the urban chicken or rabbit permit are punishable by a municipal infraction with a civil penalty of \$250.00 for first violation, \$500.00 for the second violation and \$750.00 for third and subsequent violations.

**Sec. 7-10. Hogpens.**

- (a) No person shall keep or maintain within the city any hogpen or enclosures wherein swine are kept and fed by the owner, lessee or occupant of any property therein, save and except such pens as may be used for the purpose of commerce only. All such pens shall be kept clean; and the owner, lessee, or manager thereof shall see that the same do not become a nuisance in any respect.
- (b) Subsection (a) of this section shall not apply to property annexed to the city on February 13, 1975, if said conditions contrary to subsection (a) of this section existed on said property at that time, except that said prohibited conditions may not be expanded and when they cease to exist they shall not be renewed. Furthermore, if said prohibited conditions are declared a nuisance by a court, they shall cease to exist and be removed.

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**Sec. 7-11. Restraint of animals.**

All animals shall be kept at heel or restrained by the owners thereof from running at-large. Dogs shall be restrained in city park ground, in cemeteries, on city rights-of-way, city levee ground and on any public property.

**Sec. 7-12. Enabling animals to leave premises of owner.**

It shall be unlawful for any person, except the owner or his agent, employee or immediate family to open any gate or door on any premises or otherwise entice or enable any animal to leave said premises.

**Sec. 7-13. Hitching animals.**

(a) It shall be unlawful for any person, without the consent of the owner or occupant of the premises, to fasten any horse or other animal to any fence or tree or to any boxing placed around any tree or to any fire hydrant, lamppost, fence, parking meter or sign within the city.

(b) It shall be unlawful for any person to tether an animal in the following manner:

(1) Using a tether that is less than ten feet (10') or more than fifty (50') feet in length;

(2) Using a tether that does not have swivels on both ends as to prevent twisting and tangling;

(3) Using a tether that contains chain links more than one-quarter of an inch thick or that has weights attached;

(4) Using a tether that exceeds one-eighth (1/8) of the dog's weight; or with a collar made of metal or chain, excluding the buckle, or using a collar, even if made of cloth, designed to continue to tighten, such as a slip lead or noose, when pulled tightly.

(5) No person shall allow an animal to be tethered between the hours of 10 p.m. and 6 a.m.

(6) No person shall allow an animal to have access to a public sidewalk or street while tethered.

(7) No person shall allow an animal to be tethered to a utility pole, parking meter, building, structure, fence, sign, tree, bush, bench, newspaper or advertising rack or other object on public property.

(8) No person shall allow an animal to be tethered in extreme weather or in an unsafe location. An unsafe location includes, but is not limited to, near a fence whereby the animal could asphyxiate itself if it jumped over the fence or on a deck whereby the animal could asphyxiate itself if it jumped off of the deck.

(9) No person shall allow an animal to be tethered in a manner that allows it to become entangled with another tethered animal.

**Sec. 7-14. Animals on sidewalks, grassed areas.**

No person shall, while leading, riding or driving any animal, including but not limited to horses, any team or any beast of any kind through the city, permit the same to go upon private property without the owner or occupant's permission or upon any sidewalk or parked margin (commonly called "the parking") of any street or upon any public improved ground, park or grassplot, upon the city trail system, the city park pedestrian and bicycle trail system, the levee

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system, city cemeteries or any pedestrian bridge without the express permission of the city. This section shall not apply to dogs and cats.

**Sec. 7-15. Animals in food establishment.**

No owner shall permit or allow his animal to be in any building, store, restaurant or tavern where food or food products are sold, prepared or dispensed to people other than the owners of said establishments.

**Sec. 7-16. Exceptions to sections 7-14, and 7-15.**

The provisions of sections 7-14 and 7-15 shall not apply to Seeing Eye dogs, Hearing Ear dogs or service animals as defined by section 7-1, and as required by state and federal law.

**Sec. 7-17. Animals not permitted to damage or defile premises.**

No owner shall allow or permit his animal to damage or defile public property or the private property of another. Solid waste deposited by an animal on the surfaced portion of public streets and on sidewalks, or other public grounds, and private property shall be immediately removed by the owner of the animal.

**Sec. 7-18. Noisy animals.**

- (a) No owner shall permit or allow his animal to annoy or disturb reasonable persons by excessive or continuous barking, whining, howling, yelping, braying or the emitting of other loud noises. For purposes of this section, "continuous" shall mean a period of twenty minutes or longer.
- (b) The burden is upon the owner of such animal to maintain quiet.
- (c) Exceptions to this section are farm animals in permitted zones, commercial pet facilities, animal welfare facilities, veterinary hospitals, or grooming parlors otherwise in compliance with this Code, including, but not limited to those who can substantiate that such animal noise was caused by an injury or illness of the animal or by willful trespass, torment, or abuse of the animal on its property by others.

**Sec. 7-19. Number of animals restricted.**

No person shall keep dogs, cats or other animals in such numbers or in such a manner that their presence shall disturb the peace and comfort of any reasonable person or cause a nuisance, unsanitary premises, a menace or detriment to public health; or the owner is unable or unwilling to provide proper care for the animals as required by this chapter.

**Sec. 7-20. Chasing of vehicles.**

No owner shall allow or permit his animal to run after or chase persons, bicycles, automobiles or other vehicles.

**Sec. 7-21. Animals which bite.**

- (a) No animal shall attack, bite, attempt to bite or belligerently pursue any person or other animal without provocation.

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- (b) Provocation shall include the:
- (1) Defense of the property of the owner.
  - (2) Defense of the person of the owner or his immediate family.
  - (3) Defense of the animal itself where subjected to attacks, torture, torment, mishandling or other actions that could reasonably cause such a violent reaction by the animal.
- (c) Provocation shall not include:
- (1) The mere act of entering the premises or dwelling, other buildings or other property of the owner or occupant thereof with either actual or implied consent of the owner or occupant thereof to so enter.
  - (2) Any other action by a person or animal that would not be reasonably deemed to cause such a violent reaction.
- (d) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

**Sec. 7-22. Confining dogs.**

- (a) *Shelter.*
- (1) All dogs shall have continuous access to a structurally sound, moisture-proof and windproof shelter large enough to keep the dog reasonably clean and dry.
  - (2) A shelter which does not protect the dog from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, shall not comply with this section.
  - (3) A dog's shelter and bedding and other accessible space shall be maintained in a manner which minimizes the risk of the dog contracting disease, being injured or becoming infested with parasites.
  - (4) No animal, excluding livestock, shall be kept or confined on property that does not have on it an occupied dwelling or structure, except a person may keep an animal on property contiguous to property having on it an occupied dwelling or structure if such properties are owned or controlled by the same person; however, a person may keep an animal on the premises of an unoccupied business for safety and security purposes.
  - (5) No animal shall be kept or confined in or at a placarded property as defined by section 20-3 of this Code.
- (b) *Nutrition.*
- (1) It shall be unlawful for any person keeping or harboring any dog to fail, refuse or neglect to provide such dog with clean, fresh, potable water adequate for the dog's size, age, and physical condition. This water supply shall be either free flowing or provided in a removable receptacle that is weighted or secured to prevent tipping.
  - (2) It shall be unlawful for any person keeping or harboring any dog to fail, refuse or neglect to provide such dog with wholesome foodstuff suitable for the dog's physical condition and age and in sufficient quantities to maintain an adequate level of nutrition for the dog.



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(c) *Exercise.*

- (1) The enclosure or confinement area for dog shall encompass sufficient usable space to keep the animal in good condition.
- (2) When a dog is confined by means of a tether and cable run, the trolley system shall be configured to allow access to the maximum available exercise area; however, no tether and cable run shall be placed in such a location as will permit the dog to pass onto, over or across any of the public sidewalks, streets or alleys within the incorporated limits of the city.
- (3) When a dog is confined outside by means of an enclosure or an electronic containment device, the following minimum space requirement shall be met:
  - a. *Large dog.* For a dog that is larger than 20 inches at the withers or that weighs more than 50 pounds, the minimum confinement area per dog is 100 square feet.
  - b. *Medium dog.* For a dog that is larger than 12 inches at the withers and up to 20 inches at the withers or that weighs over 20 pounds and up to 50 pounds, the minimum confinement area per dog is 80 square feet.
  - c. *Small dog.* For a dog that is 12 inches or less at the withers or that weighs 20 pounds or less, the minimum confinement area is 50 square feet.

(d) *Penalty.*

- (1) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

## ***ARTICLE II. IMPOUNDMENT AND DISTRAINT***

### **Sec. 7-23. Persons finding animals at-large.**

It shall be lawful for any person who finds an animal at-large on public or private property to seize and hold the animal. Any persons so seizing and holding an animal may restrain the animal on their premises by an adequate protective fence or by leash, cord or chain that does not allow the animal to go beyond their real property line. The person seizing and holding the animal shall immediately notify the police department and shall be responsible for the humane treatment of the animal while it is under that person's custody until picked up by the community service officer. If the animal is unclaimed by its owner after five days, the person who found the animal may claim the animal after paying the appropriate fees.

### **Sec. 7-24. Impoundment generally.**

- (a) The chief of police or community service officer, in their stead, will impound animals found running at-large.
- (b) Any dog or cat or other animal at-large in the city shall be taken by the community service officer and impounded at the animal control shelter and there confined in a humane manner.

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- (c) Upon the impounding of any animal, the owner, if known, shall be notified of such impoundment by telephone or by a door tag or by a letter mailed to the known owner at his last known address. Registry of impounded dogs shall be available for inspection during reasonable hours by the public, which said registry shall show date and manner of notice, if any. Notice shall be deemed given upon telephone contact with owner or attaching a door tag to the owner's residence or by depositing the notice in the U.S. mail.
- (d) With proper identification, the owner, their agent, employee or member of their immediate family, of an impounded animal shall be entitled to resume possession of such animal, before the lapse of the five-day time limit set out in subsection (e) of this section unless the animal is required to be kept for the ten-day period as set out in section 7-25(e), on the following conditions:
- (1) The owner shall present proof of purchase of current city dog license tag if reclaiming a dog and show proof of current rabies vaccination if reclaiming a dog or cat, or the owner must obtain such vaccination; and
  - (2) The owner must pay the impoundment fee and all veterinary fees reasonably incurred by the city for the care of his animal. Fees for impoundment and care of an impounded animal shall be set by city council resolution and may be revised as necessary.
- (e) It shall be the duty of the animal control shelter to keep all such animals so impounded for a period of five days after the owner has been notified as provided in subsection (c) of this section unless the owner redeems and reclaims said animal before the lapse of five days. If after five days following notice to the owner of the impounding of the owner's animal, or if the owner is unknown, then five days after the impoundment of such animal, the animal has not been claimed and redeemed as provided in this section, the animal control shelter shall update the city of the status of the animal. Following this period, said unclaimed animal shall become the property of the city and may be given by the city to an organization or governmental entity operating an animal control shelter, if the city is not operating the shelter, and may be humanely destroyed or placed for adoption.
- (f) Any animal which appears to be suffering from rabies or other disease communicable to humans when impounded shall be confined in the animal control shelter or a veterinary hospital or clinic for a period of not less than ten days from impoundment, and said animal, or its carcass if it dies, shall be subject to such reasonable medical or pathological tests as the veterinarian or community service officer shall recommend, which tests, if any, shall be conducted at the expense of the owner. If an animal is determined to be infected with rabies, it shall be destroyed or disposed of as directed by the chief of police or the community service officer; if not so infected with rabies, it may be reclaimed by the owner and if not shall become city property and said organization or governmental entity operating the animal control shelter may place it for adoption, or it may be disposed of by humane means.
- (g) No person may claim or redeem any animal as provided in subsection (d) of this section or section 7-25 until the fees and charges as required by subsection (d)(2) of this section are paid and the animal is currently licensed and vaccinated as required herein.
- (h) From time to time there may be established by resolution of the city council, a schedule of fees to defray the costs of caring for impounded animals. Failure or refusal by the owner of an impounded animal to pay such fees shall constitute a violation of this section.

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- (i) This section shall not apply to high risk, dangerous, or vicious animals as provided in this chapter.

**Sec. 7-25. Impoundment of infected animals.**

- (a) It shall be the duty of the owner of any animal or any person having knowledge of such animal having rabies or attacking, belligerently pursuing, or biting any person in the city to promptly report such fact to the community service officer.
- (b) It shall be the duty of every veterinarian in the city to report to the community service officer any diagnosis of rabies in an animal made by the community service officer or under their supervision.
- (c) It shall be the duty of every physician or nurse to immediately inform the community service officer of the name and address of any person treated for bites inflicted by an animal, together with such other information as will assist in the prevention of rabies or other disease, and the identification and apprehension of the biting animal.
- (d) The community service officer shall report all instances reported to them pursuant to the requirements of subsections (a) and (b) of this section to the chief of police of the city.
- (e) Upon demand by a peace officer or the community service officer, the owner shall forthwith surrender any animal which has bitten, attacked or belligerently pursued any person for supervised quarantine in the animal control shelter or veterinary hospital or clinic at the expense of the owner. The animal shall remain confined for a minimum period of ten days under the observation of a licensed veterinarian.
- (f) When evidence is presented that such animal is currently inoculated against rabies, the community service officer, at their discretion, may give written order to confine the animal in the home of its owner, or in such a manner so as to prohibit the animal from coming into contact with or biting any other person or animal, for a minimum of ten days; provided, however, that the owner is willing to comply with the terms of the order, and the owner has the means to adequately confine said animal. The owner shall comply with said order until written release from the required quarantine is obtained from the community service officer.
- (g) Any animal which has bitten, attacked or belligerently pursued any person if deemed necessary by a peace officer or the community service officer shall be examined by a licensed veterinarian, and a written report of the animal's clinical condition shall be forwarded to the community service officer within 24 hours.
- (h) At the end of the confinement period, the veterinarian shall reexamine the animal and submit to the community service officer a written report of the animal's final clinical condition, recommending whether or not the quarantine should be terminated.
- (i) No owner of any animal known to have bitten or caused a skin abrasion upon any person shall euthanize, sell, give away, or transport from this city or otherwise dispose of such animal, until written release from the required quarantine for such animal is obtained from the community service officer.

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**Sec. 7-26. Control of disease outbreak.**

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia or rabies, the mayor, if they deem it necessary, shall issue a proclamation ordering every owner of an animal to confine the same securely on the owner's premises at all times, for such period as deemed necessary.

State law reference(s)—City may provide additional measures for restriction of dogs for control of rabies, I.C.A. § 351.41.

***ARTICLE III. LICENSING AND VACCINATION***

**Sec. 7-27. License required.**

The owner of any dog four months old or over, except dogs kept in kennels for the purpose of breeding and sale or in shelter care facilities licensed by the state, shall be responsible for applying for and acquiring a license for such dog as of January 1 of each year.

**Sec. 7-28. Application.**

- (a) The owner of any dog for which a license is required shall, on or before January 31 of each year, apply in writing on forms provided by the city clerk for a license for each dog owned by the applicant, which application form shall be signed by the owner. The application shall show the breed, sex, age, color, approximate weight, markings, whether the dog is spayed or neutered, and name of the dog and the address and telephone number of the owner.
- (b) Applications for a license for dogs over which ownership is acquired after January 31 or which dog has reached the age of four months shall be made within one month from the date of acquisition, or within one month after the dog reaches the age of four months.
- (c) No dog shall be licensed hereunder unless there is submitted by the owner evidence that the dog has a current rabies vaccination certificate as required by section 7-34 and the certificate of vaccination has been signed by a licensed veterinarian.

**Sec. 7-29. Exemptions.**

- (a) The license fees hereinafter provided shall not apply to dogs owned by nonresidents temporarily within the city for a period of not more than 30 days, but shall apply to the dogs of any owner becoming a resident of the city within 30 days after establishing such residence.

**Sec. 7-30. License fee.**

An individual dog license fee per calendar year or fraction thereof shall be adopted by council resolution. The head of the family shall be liable for payment of the license fee on any dog owned, harbored or kept by any member of the family. A penalty, as set by council resolution, shall be added to the license fee if not paid prior to February.



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**Sec. 7-31. Issuance of tags.**

When a dog is registered for licensing, a record of the breed, color, name of dog and name of owner, together with the number of the license issued, shall be made of record in the city clerk's office. The city clerk, police department, animal control shelter, or veterinarians shall issue a license tag for each dog licensed, and such license tag shall be securely fixed to a suitable collar or harness on each dog licensed and worn by such dog at all times. A list of issued licenses shall be turned into the city clerk monthly to be compiled into an inclusive list of licensed dogs.

**Sec. 7-32. Tag not transferable.**

The dog tags required by this article shall not be transferable from one dog to another, and no refund shall be made on any dog license fee because of the death of the dog or by reason of the owner leaving the city before the expiration of the license period.

**Sec. 7-33. Duplicate tag.**

Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of \$1.00. The city clerk shall keep a proper record of the issuance of duplicate tags.

**Sec. 7-34. Rabies vaccination required for dogs and cats.**

The owner of all dogs and cats four months old or older shall obtain a current rabies vaccination for such animal from a licensed veterinarian and obtain a tag evidencing the same. Said vaccination tag shall be attached to a substantial collar or harness on the animal by the owner and shall at all times be kept on the animal for which the vaccination was given.

**Sec. 7-35. Revocation of License.**

Every license shall be subject to revocation for any violation of the provisions of this chapter or of any other pertinent ordinance of the city, or of any statute or regulation of the state of Iowa pertaining hereto. Notice of such revocation shall be given in writing, delivered personally or by regular mail to the holder of such permit.

**Sec. 7-36. Appeal.**

The city administrator may hear and determine any matter pertaining to the issuance or revocation of a license, as herein provided, upon application or request to so do by the applicant or license holder. An appeal under this article shall be filed with the city clerk in writing within twenty days of the denial or revocation of a license.

**Sec. 7-37. Removal of Animals.**

If animals or fowl are found being kept without a permit or license having been issued, the community service officer shall be authorized to immediately impound the animals or fowl. The owner of the impounded animals or fowl shall be responsible for all impound and boarding fees. In the event of the revocation of any permit or license, as herein provided, the holder of

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such permit shall remove all animals or fowl from the premises concerned within fifteen days after receipt of notice or revocation, as by this chapter provided; subject to the condition, however; that in the event application shall be made to the city administrator for determination as to the matter of revocation of any such permit, the period of time for removal of such animals or fowl shall be extended until ten days after affirmation of the revocation by the city administrator if such affirmation be granted.

#### ***ARTICLE IV. ANIMAL CONTROL***

##### **Sec. 7-38. Disposition of Vicious or High Risk Animals.**

- (a) Any animal suspected of being or previously determined to be vicious or high risk shall be seized by a community service officer and impounded in the animal shelter. In the event the animal cannot be caught by a community service officer without exposing the officer or citizens to danger or personal injury, a peace officer or community service officer is authorized to humanely destroy the animal. This section shall not apply to a vicious animal which is housed or otherwise kept outside the limits of the city, which is brought into the city for the sole purpose of receiving medical care in a bona fide, licensed veterinarian hospital or clinic for treatment.
- (b) An animal suspected of being high risk may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presentation of proof to the chief of police or their designee of compliance with the requirements of this article, with the exception of the spay and neuter requirement.
- (c) An animal suspected of being vicious may be reclaimed by the owner of the animal upon:
  - (1) Payment of impounding fees,
  - (2) Presenting proof to the chief of police that the animal shall be relocated outside the corporate limits of Ottumwa, and
  - (3) Signing an agreement with the city that authorizes seizure and immediate disposition of the animal in accordance with law and without further notice, in the event the animal, while considered vicious, is subsequently returned to any place within the corporate limits of Ottumwa.
- (d) If an owner refuses the community service officer entry upon property to view or seize an animal suspected of being vicious or high risk, the officer may request a search warrant through the city attorney or their designee from a judge or magistrate. Such requests shall detail the reason why the warrant is necessary and why the community service officer has reason to believe a violation of this article exists.
- (e) Any animal previously determined to be a vicious animal which is seized or impounded within the city shall be disposed of in accordance with law without any further notice to the owner, if any.

##### **Sec. 7-39. Determination of a High Risk or Vicious Animal.**

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The determination of a high risk or vicious animal shall be in accordance with the following procedures:

- (a) The community service officer or peace officer, upon investigation of an incident alleging a bite or attack in violation of Section 7-21 may deem the animal(s) involved in the violation high risk or vicious. The chief of police or their designee shall issue a written notice to the owner that the owner's animal has been deemed high risk or vicious, as applicable. The owner of the animal deemed high risk or vicious may appeal the decision within ten days, as provided below.
- (b) The owner of the animal may redeem the animal as provided in this chapter, as applicable. The animal shall be considered high risk or vicious (as applicable), pending the outcome of an administrative appeal as provided herein.
- (c) Appeal. The owner whose animal is deemed to be high risk or vicious may appeal the determination to the city administrator within ten days from the date of the decision. The city administrator shall schedule a hearing within seven days from the receipt of the notice. The appeal shall stay the decision of the chief of police or their designee unless the city administrator directs otherwise. At the public hearing, the city administrator or their designee shall serve as hearing officer. The applicant shall have the opportunity to present evidence or arguments the applicant may have as to why the decision of chief of police or their designee appealed from should not be approved by the city administrator. The city administrator shall render a written decision on the appeal within seven days after the hearing. The findings of the city administrator or the city administrator's designee as hearing officer shall be conclusive. The parties may extend the time limits set forth herein by mutual agreement.
- (d) The determination of an animal to be high risk or vicious shall become permanent if no administrative appeal is sought, or if administrative appeal proceeding results in affirming the high risk or viscous determination.

#### **Sec. 7-40. High Risk Animals.**

It shall be unlawful for any person to own, keep, or harbor a high risk animal within the city limits unless the high risk animal is kept in accordance with this article. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

#### **Sec. 7-41. Regulation of Keeping High Risk Animals.**

- (a) All owners of high risk animals, as defined in subsection 7-1, whether licensed or unlicensed, are required to keep such animal:
  - (1) From running at large;
  - (2) From going into the streets and other public or private place within the city unless muzzled, on a leash six (6) feet or less in length, and under the control of an individual eighteen (18) years of age or older;
  - (3) From being leashed to an inanimate object such as trees, posts, and buildings;

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- (4) Under control as to prevent such animal from attacking or injuring persons, domestic animals, fowl, or livestock lawfully on the premises of the owner.
- (b) While on the owner's property a high risk animal must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the high risk animal from escaping. Such pen or structure must have minimum dimensions of five feet by ten feet (5' x 10') with height of six feet (6'), and must have secure sides and be capped if need be. The enclosure must also provide the high risk animal protection from the elements. Warning signs must be placed on all sides of the property and at least two feet (2') from any entrance to the property. The warning signs must say "Dangerous Dog" or similar language adequate to warn those approaching.
- (c) If the high risk animal owner lives in rental property, the high risk animal owner must obtain the landlord's written permission to keep a high risk animal on the premises.
- (d) A community service officer or peace officer may, in his or her discretion, prior to the high risk animal's authorized use, inspect the securely enclosed locked pens, signage, and structures.
- (e) A high risk animal's owner must receive an annual certificate of registration or license from the Police Department of the City of Ottumwa. The certificate or license will be issued upon the owner establishing to the satisfaction of the Department that it has met the following criteria:
- (1) The owner or caretaker of the high risk animal must be eighteen (18) years of age or older and has the physical ability to control the animal.
  - (2) The owner presents a certificate of insurance issued by an insurance company licensed to do business in the State of Iowa providing personal liability insurance as in a homeowner's policy, with a minimum liability amount of \$100,000.00 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or his or her agents. The certificate shall require notice to the city, in conformity with general city standards for certificates of insurance, if the underlying policy of insurance is cancelled for any reason. In lieu of such a certificate, a copy of a current homeowner's policy designating these requirements shall be sufficient proof of insurance for purposes of this subsection. If a certificate of insurance or policy is not immediately available, a binder indicating the coverage may be accepted for up to thirty (30) days subsequent to the determination that a dog is high risk; however, if after thirty (30) days a certificate of insurance or a policy has not been submitted or the insurance coverage is cancelled, the animal shall be deemed unregistered or unlicensed and subject to immediate impoundment or removal from the corporate limits of the city.
  - (3) The high risk animal has a current rabies vaccination at the owner's expense.
  - (4) The high risk animal has been spayed or neutered by a veterinarian at the owner's expense.
  - (5) The high risk animal has been microchipped by a veterinarian at the owner's expense. The data attached to the microchip must be kept current.



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- (6) The high risk animal has been photographed for identification purposes.
  - (7) If the high risk animal is a dog, a current license issued through the city.
  - (8) The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said high risk animal.
- (f) The owner of a high risk animal, as defined in subsection 7-1, shall have ten (10) days to comply with the provisions of this section once said animal satisfies the elements of subsection 7-1.
  - (g) The owner or caretaker of a high risk dog shall immediately notify the Police Department if the dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, has died or has been sold or given away. If a high risk dog has been sold or given away, the former owner or caretaker shall immediately notify the Police Department of the identity and address of the new owner or caretaker.
  - (h) The owner of the high risk dog shall be required to successfully complete a Behavior Consultation at the owner's expense within sixty (60) days after receiving notification declaring the dog "high risk." The owner shall be required to provide written documentation proving successful completion of the Behavior Consultation to the Police Department including a certification or receipt bearing the name of the consultant and the dates of the consultation.
  - (i) An owner or caretaker of any dog declared high risk found to be in violation of this code, is willfully in violation or is unable to meet the requirements of this chapter, shall be automatically escalated to a classification of a dangerous dog and ordered to confine the animal according to the provisions of 7-43. Failure to abide by this section shall result in an additional order in writing to safely remove the dog from the city or humanely destroy the animal within ten (10) days.
  - (j) The owner of a high risk dog shall be denied a permit for the dog to enter any public park or park designated as a dog park in the City of Ottumwa.
  - (k) The owner of a high risk dog may request to have the declaration reconsidered by the city administrator and police chief after a minimum of one year. If it is determined that there have been no further violations of this chapter, confinement precautions have been taken, and proper training has occurred, the declaration of high risk may be removed.

**Sec. 7-42. Impoundment of High Risk Animals.**

- (a) The community service officer or their designee shall immediately seize and impound any high risk animal if:
  - (1) The animal is not licensed as required by section 7-41; or
  - (2) The owner does not secure the animal in a proper enclosure; or
  - (3) The animal is outside the proper enclosure and not under physical restraint of a responsible person eighteen (18) years or older by a leash no longer than six (6) feet or not muzzled.
- (b) Impoundment and Disposition

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First Offense: The first time a high risk animal is seized under this section it may be reclaimed by the owner of the animal upon payment of impoundment and boarding fees, and presentation of proof to the community service officer that the requirements of this chapter have been met. An animal not reclaimed within five (5) days may be disposed of as provided under section 7-24, and the owner is liable to the city for costs incurred in confining and disposing of the animal.

Second Offense: The second time a high risk animal is seized under this section it may be reclaimed by the owner upon payment of impounding and boarding fees, and presentation of proof, which shall include a signed affidavit from the person taking custody of the animal, to the community service officer that the animal will be removed from the City. An animal not reclaimed within five (5) days may be disposed of as provided under section 7-24, and the owner is liable to the city for costs incurred in confining and disposing of the animal.

Third Offense: The third time a high risk animal is seized under this section it shall be euthanized and the owner shall be liable to the city for the costs incurred in confining and disposing of the animal.

- (c) Any animal believed by the police chief, the chief's designee, or the community service officer to be a high risk animal shall be impounded, at the owner's expense, until such time as a final resolution is reached or until such time the animal is reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presentation of proof to the community service officer that the requirements of this chapter will have been met.

**Sec. 7-43. Keeping of Dangerous Animals Prohibited – Exceptions and Regulations.**

- (a) It shall be unlawful for any person to keep, shelter, or harbor for any purpose within the city a dangerous animal or dangerous animal hybrid, as defined in section 7-1, except for the following:
- (1) Service animals as defined by section 7-1, and as required by state and federal law.
  - (2) in a public zoo, bona fide educational or medical institution, museum, or other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
  - (3) for exhibition to the public by circus, carnival, exhibit, show or pet shop;
  - (4) in a bona fide, licensed veterinarian hospital for treatment;
  - (5) at an animal control center where such animals have been impounded and until such animals may be removed from the city limits in a safe manner or humanely disposed of in accordance with any applicable law.
- (b) Every person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal in accordance with this section shall report such fact to the Ottumwa Police Department and to the community service officer, along with the following information:
- (1) The name of the species of any such animal;

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- (2) The number of any such animals kept on the premises.
  - (3) A physical description of any such animal, including any pet name to which it might respond;
  - (4) The location of any such animal or animals within the city, including the location of the cage or place of confinement upon in said premises wherein said animal or animals are kept;
  - (5) In the case of dangerous animals that are poisonous or venomous, the location of the nearest source of anti-venom for that species.
- (c) Every person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal shall at all times keep such animals securely confined within a cage or other enclosure as defined in Section 7-41(b).
  - (d) No person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way, or the property of another, except when such animal is being transported while caged or confined.
  - (e) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, such animal may, in the discretion of the city administrator or the city administrator's designee, or the chief of police, be destroyed if it cannot be confined or captured, thereby creating a hazard to life or property. The City, its officers and employees shall be under no duty to attempt to confine or capture a dangerous animal found at large, no shall it have the duty to notify the owner of such animal prior to its destruction.
  - (f) Any animal believed by the police chief, their designee, or the community service officer to be a dangerous animal shall be impounded, at the owner's expense, until the dangerous determination becomes final resulting from administrative procedures as provided herein or until the animal is reclaimed by the owner of the animal in accordance with the provisions of this chapter.
  - (g) Appeal. The owner whose animal is deemed to be dangerous may appeal the determination to the city administrator within ten days from the date of the decision. The city administrator shall schedule a hearing within seven days from the receipt of the notice. The appeal shall stay the decision of the city employee unless the city administrator directs otherwise. At the public hearing, the applicant shall have the opportunity to present evidence or arguments the applicant may have as to why the action of employee appealed from should not be approved by the city administrator. The city administrator shall render a written decision on the appeal within seven days after the hearing. The findings of the city administrator or the city administrator's designee as hearing officer shall be conclusive. The parties may extend the time limits set forth herein by mutual agreement.
  - (h) The determination of an animal to be dangerous shall become permanent if no administrative appeal is sought, or if administrative appeal proceeding results in affirming the dangerous determination.

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- (i) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

**Sec. 7-44. Vicious Animals - Duty of Owner.**

- (a) It shall be unlawful for any person to own, keep, or harbor a vicious animal within the city. All owners of vicious animals, whether licensed or unlicensed, as defined in subsection 7-1 are required to microchip and remove the animal from the city limits within ten (10) days of the determination of the community service officer or community service officer's designee that the animal is vicious. Alternatively, the owner may authorize the euthanasia of the animal. If the owner refuses to remove the animal from the city or authorize the euthanasia of the animal, the City shall euthanize the animal at the owner's expense. This chapter shall not apply to dogs owned by a law enforcement agency or other federal, state, or local government agencies.
- (b) The police chief, their designee, or the community service officer, may cause the animal to be impounded and destroyed without notice to the owner if the animal has previously been removed from the city as a vicious animal and is found within the city. If the animal has actually bitten or attacked a person, a domestic animal, fowl, or livestock the community service officer may send the head of the animal to an appropriate facility for the purpose of determining if it was rabid. The cost of the transportation and the report shall become an obligation of the owner and the City may seek reimbursement in any lawful manner.
- (c) Subsequent to the summary destruction of any animal, the community service officer shall make a reasonable effort to determine whether persons have had any contact with the destroyed animal and, where appropriate, advise them of any unfavorable report concerning the animal's condition.
- (d) Any animal believed by the police chief, their designee, or the community service officer to be a vicious animal shall be impounded, at the owner's expense, until the vicious determination becomes the final resulting from administrative procedures as provided herein or until the animal is reclaimed by the owner of the animal in accordance with the provisions of this chapter.
- (e) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

**Sec. 7-45. Community Service Officer Notification.**

- (a) Owners or caretakers of high risk or vicious animals shall notify the Ottumwa Police Department, and the community service officer of the following:
  - (1) Immediate notification upon the escape of a high-risk or vicious animal, if the animal is on the loose, or if the animal is unconfined;
  - (2) Immediate notification if a high risk or vicious animal has attacked a human being, domestic animal, fowl, or livestock.



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- (3) Notification within twenty-four (24) hours if the animal has been sold or has been given away and the owner or caretaker shall also provide the community service officer of the community service officer's designee with the name, address, and telephone number of the new owner or caretaker of the high risk or vicious animal;
  - (4) Notification within five (5) business days if the animal has died or been euthanized.
- (b) Failure to comply with the provisions of this section shall be unlawful. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

**Sec. 7-46. Irresponsible Animal Owners.**

- (a) The determination of an "irresponsible animal owner" shall be in accordance with the following procedures:
- (1) The police chief, their designee, or the community service officer, upon being satisfied that an owner is an irresponsible animal owner, shall cause to be served upon the owner a written notice of said determination.
  - (2) The written notice shall contain:
    - a. A finding that the owner is an irresponsible animal owner;
    - b. A description of the acts relied upon in determining the owner is an irresponsible animal owner;
    - c. A copy of this section of the municipal code and the definition of "irresponsible animal owner" under section 7-1; and
    - d. A statement advising the owner of the right to request a hearing as provided by subsection (4) within a stated time which shall be reasonable under the circumstances.
  - (3) Notice. Notice shall be by personal service or by certified mail to the owner.
  - (4) Request for hearing and appeal. Any owner advised that the owner is declared an irresponsible animal owner may have, upon request, a hearing before the city administrator and with the officials making said determination as to whether the owner is an irresponsible animal owner. A request for a hearing must be made in writing and delivered to the office of the city administrator or the city administrator's designee within the time stated in the notice or it will be conclusively presumed that the owner is an irresponsible animal owner.
- (b) The city administrator or the city administrator's designee will act as the hearing officer. At the conclusion of the hearing or within three (3) days thereafter, the hearing officer shall render a written decision as to whether the owner is an irresponsible animal owner. An appeal from this decision may be had by filing a written notice with the hearing officer. This appeal will be heard before the city council at a time and place fixed by the council. The findings of the council shall be conclusive.

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- (c) If an owner is declared to be an irresponsible animal owner the owner shall be banned from having animals within the city limits of the City of Ottumwa. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.
  - (d) The police chief, their designee, or the community service officer shall cause any animal to be impounded if an owner has been declared an irresponsible animal owner and is found to have an animal within the city.
  - (e) The police chief or the community service officer may order the destruction or adoption of any animals impounded under this section.
  - (f) A person who has been declared to be an irresponsible animal owner may request to have the declaration reconsidered by the city administrator and police chief after a minimum of five years. If the person can demonstrate that they are able to appropriately care for an animal, the declaration of irresponsible animal owner may be removed.

## ***ARTICLE V. ENFORCEMENT***

### **Sec. 7-47. Failure to license or vaccinate.**

Any person who fails to license or vaccinate any animal as required by this chapter shall be guilty of a municipal infraction and shall be subject to a fine not to exceed that amount allowed by section 1-53.

### **Sec. 7-48. Penalties.**

Except where hereinabove provided otherwise, the violation of any provision of this chapter shall be charged as a municipal infraction with a civil penalty of \$250.00 for first violation, \$500.00 for the second violation and \$750.00 for third and subsequent violations. Each day any violation of any provision of this chapter shall continue shall be considered a separate offense.

### **Sec. 7-49. Duty to Investigate.**

The community service officer or their designee shall promptly investigate all reported cases of neglect, injury, or cruelty and shall take action as necessary, provided a violation of the Ottumwa City Municipal Code or state law is present.

### **Sec. 7-50. Entry onto Property.**

The following steps may be taken to make entry onto or gain entry into private property for the purposes of enforcement of this code:

- (a) If the animal is located outside the residence, the animal shall be removed and impounded if the animal is in imminent danger or further injury may occur. A search warrant shall be obtained pursuant to 7-38 unless exigent circumstances exist including but not limited to the degree of imminent danger to the animal, i.e. whether in the opinion of the veterinarian the animal will suffer serious injury or death if care or

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treatment are delayed and there is insufficient time to secure consent from the owner or caretaker or to obtain a search warrant. Notification of impoundment shall be given to the owner or caretaker in person or in writing upon removal of the animal.

- (b) If the animal is located outside the residence, but is not in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the owner or caretaker. Failure to comply with the corrective measures shall result in the animal being removed from the residence and impounded at the animal shelter or veterinarian. Notification of impoundment shall be given to the caretaker in person or in writing upon removing the animal.
- (c) If the animal is located within the residence, a search warrant shall be obtained to gain legal entry into the residence and the animal shall be removed and impounded at the animal shelter or veterinarian if the animal is in imminent danger or further injury may occur. Notification of impoundment shall be given to the owner or caretaker in person or in writing upon removal of the animal.
- (d) If the animal is located within the residence, a search warrant shall be obtained to gain legal entry into the residence. If said animal is found not to be in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the owner or caretaker. Failure to comply with said corrective measures shall result in the animal being removed from the residence and impounded at the animal shelter or veterinarian upon service of an additional search warrant. Notification or impoundment shall be given to the owner or caretaker in person or in writing upon removing said animal.

**SECTION TWO.** Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

**SECTION THREE.** Repealer. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION FOUR.** Effective. This Ordinance shall be in full force and effect, from and after its passage, adoption, and approval and publication as required by law, unless a subsequent effective date is set out hereinabove.

**SECTION FIVE.** When this ordinance is in effect, it shall automatically supplement, amend, and become a part of the said Code of Ordinance (Municipal Code) of the City of Ottumwa, Iowa.

PASSED on its first consideration the 21 day of June, 2022.

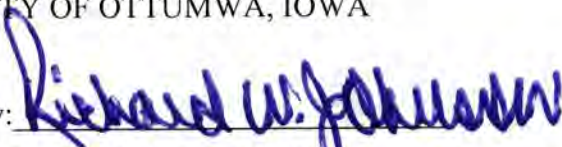
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PASSED on its second consideration the 5th day of July, 2022.

Requirement of consideration and vote at two (2) prior Council meetings suspended the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED this 19 day of July, 2022.

CITY OF OTTUMWA, IOWA

By:   
Richard W. Johnson, Mayor

\_\_\_\_\_ No action taken by Mayor.

\_\_\_\_\_ Vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Richard W. Johnson, Mayor

\_\_\_\_\_ Repassed and adopted over the veto this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_ Veto affirmed this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by failure of vote taken to repass.

\_\_\_\_\_ Veto affirmed no timely vote taken to repass over veto.



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ATTEST:



*Chris Reinhard*

Chris Reinhard, City Clerk



CITY OF  
OTTUMWA



**Citizen Input Request Form**

7.19.2022

Council Meeting Date

Name: Brian Morgan

Address: 2633 Nearburdale

Item No. to Address: Franchise Fee under Admin Reports  
(Agenda will be provided to complete this section)

If you are addressing the Council on an item not listed on the agenda, briefly explain the item you wish to speak on:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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The Mayor will invite you to address the City Council at the appropriate time. When called upon by the Mayor, step to the microphone and please state your name for the record. Comments are to be directly germane to City business, operations, or an item listed on this agenda. Remarks shall not be personalized and will be limited to three minutes or less. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments not directly germane to City business, operations, or an item listed on the agenda, as determined by the Mayor, will be ruled out of order. If you are addressing an item not listed on the agenda the Council will not take any action on the item due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department for response, if relevant.



**Citizen Input Request Form**

7/19/2022  
Council Meeting Date

Name: Keith Caviness

Address: 2851 Oakman

Item No. to Address: Ottumwa  
(Agenda will be provided to complete this section)

If you are addressing the Council on an item not listed on the agenda, briefly explain the item you wish to speak on:

Opposed to  
Frach's Fees

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The Mayor will invite you to address the City Council at the appropriate time. When called upon by the Mayor, step to the microphone and please state your name for the record. Comments are to be directly germane to City business, operations, or an item listed on this agenda. Remarks shall not be personalized and will be limited to three minutes or less. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments not directly germane to City business, operations, or an item listed on the agenda, as determined by the Mayor, will be ruled out of order. If you are addressing an item not listed on the agenda the Council will not take any action on the item due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department for response, if relevant.



**Citizen Input Request Form**

7/19/22  
Council Meeting Date

Name: KATIE HOWARD

Address: 901 N. WAPELLO ST.

Item No. to Address: D2 FRANCHISE FEES  
(Agenda will be provided to complete this section)

If you are addressing the Council on an item not listed on the agenda, briefly explain the item you wish to speak on:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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The Mayor will invite you to address the City Council at the appropriate time. When called upon by the Mayor, step to the microphone and please state your name for the record. Comments are to be directly germane to City business, operations, or an item listed on this agenda. Remarks shall not be personalized and will be limited to three minutes or less. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments not directly germane to City business, operations, or an item listed on the agenda, as determined by the Mayor, will be ruled out of order. If you are addressing an item not listed on the agenda the Council will not take any action on the item due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department for response, if relevant.





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**Citizen Input Request Form**

7-19-2022

Council Meeting Date

Name: Shannon Murphy

Address: 1131 Monroe

Item No. to Address: Pitbull Ban  
(Agenda will be provided to complete this section)

If you are addressing the Council on an item not listed on the agenda, briefly explain the item you wish to speak on:

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\_\_\_\_\_  
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The Mayor will invite you to address the City Council at the appropriate time. When called upon by the Mayor, step to the microphone and please state your name for the record. Comments are to be directly germane to City business, operations, or an item listed on this agenda. Remarks shall not be personalized and will be limited to three minutes or less. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments not directly germane to City business, operations, or an item listed on the agenda, as determined by the Mayor, will be ruled out of order. If you are addressing an item not listed on the agenda the Council will not take any action on the item due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department for response, if relevant.