

**CITY OF CASCADE, IOWA  
COUNCIL MEETING AGENDA & PUBLIC NOTICE  
MONDAY, AUGUST 22, 2022, 6:00 P.M.  
CITY HALL, 320 1<sup>ST</sup> AVE WEST**

NOTICE: Notice is hereby given that the Cascade City Council will hold a meeting at 6:00 PM on Monday, August 22, 2022, at City Hall. Any visually or hearing-impaired person with special accessibility needs should contact the City Clerk at 563-852-3114.

Meetings are live streamed at [www.cityofcascade.org](http://www.cityofcascade.org) under city of Cascade tab and on Local Access Channel 18

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Approve Agenda**
5. **Speakers from the Floor** (limit 2 minutes per person).
6. **Consent Agenda** – Review and approve the following:
  1. City Council Minutes 8/8/22, 8/10/22
  2. Board of Adjustment 8/9/22
  3. Utility Board 8/10/22
  4. Liquor License Renewals (a) Casey’s General Store #77 (b) Butch & Frankie’s Home Goods
7. **Open Public Hearing – Cascade Lumber Variance Request on 20% Green Space**
8. **Close Public Hearing**
9. **Consideration of Resolution #51-22 A Variance for Cascade Lumber**
10. **ECIA Building Permit Discussion-Type of Inspections and Prices**
11. **Consideration of Ordinance #02-22 on Building Inspections and Building Codes (Third and Final Reading)**
12. **Consideration of Ordinance #01-22 on Water and Sewer Connection and Service Fees Ordinance (Third and Final Reading)**
13. **Consideration of Resolution #53-22 Setting Water and Sewer Connection Fees**
14. **Consideration of Ordinance #03-22 ATV and UTV Regulations on State Highway 136**
15. **Consideration of Resolution #52-22 Hiring Cheryl Clark to Assist with Payroll and Payables Duties**
16. **Discussion on Renewal of Cable Franchise Agreement with Cascade Communications**
17. **Discussion on Food Truck Regulations**
18. **Reports – Police Chief and City Administrator**
19. **Adjournment**

August 8, 2022  
City Council Meeting Minutes

The August 8, 2022 Regular City Council meeting was called to order at 6:00PM by Mayor Steve Knepper. The Pledge of Allegiance was recited. Hosch, Kelchen, Oliphant, Rausch and Delaney answered roll call.

Motion Kelchen, second Rausch to approve the agenda. Motion carried.

Council reviewed the items in the consent agenda including City Council Minutes 7/25/22, Library Board Minutes 8/2/22 and Park Board Minutes 8/1/22, July 2022 Financial Reports and August 2022 claims. Motion Rausch, second Oliphant. Motion carried.

Motion Kelchen, second Oliphant to approve Resolution #41-22 Setting Date for Public Hearing on Designation of the Expanded Cascade Urban Renewal Area and an Urban Renewal Plan Amendment. Roll Call Vote, all ayes. Motion carried.

Motion Oliphant, second Delaney to approve the second reading of Ordinance #01-22 Water and Sewer Connection Fees and Water Service Fees. Roll call vote, all ayes, motion carried.

Motion Oliphant, second Delaney to approve the second reading of Ordinance #02-22 Building Inspections and Building Codes. Roll Call Vote, all ayes, motion carried.

Motion Hosch, second Kelchen to approve Resolution #42-22 A Five-Year Extension to the Garbage and Recycling Hauler Contract with Republic Services. Roll Call Vote, all ayes. Motion carried.

Motion Oliphant, second Rausch to approve Resolution #43-22 hiring Kammiller Tree Service to cut down four diseased, dying trees in Riverview Park for \$4,700. Roll call vote, all ayes Motion carried.

Motion Rausch, second Delaney to approve Resolution #44-22 hiring Gravel Grading and Excavating LLC to demolish the current Riverview Park Gazebo and construct all the flatwork for the new structure in the amount of \$35,072.10. Roll call vote, all ayes Motion carried.

Motion Kelchen, second Oliphant to approve Resolution #45-22 declaring two lawn mowers as surplus and directing staff to dispose of both in the best means possible. Roll Call Vote, 4 ayes, 1 nay (Hosch). Motion carried.

Motion Oliphant, second Rausch to approve Resolution #46-22 approving Banking Signatures for Ohnward Bank. Roll Call Vote. Motion carried.

Motion Oliphant, second Kelchen to approve Resolution #47-22 hiring Delaney PC & Mac for IT services through December 31, 2025. Roll call vote, four ayes, one abstention (Delaney). Motion carried.

Motion Delaney, second Oliphant to direct staff to draft an ordinance eliminating the restriction on Hwy 136 for UTV/ATVs. Motion Carried.

Motion Rausch, second Oliphant to approve Resolution #49-22 Changing the Hours of City Hall to 8:30am to 4:30pm and to close to the public 8/19, 9/2, 9/9, 9/16, 9/23 and 9/30. Motion carried.

Motion Oliphant, second Delaney to approve Resolution #50-22 Appointing Lisa Kotter as Interim City Clerk. Motion carried.

Motion Kelchen, second Rausch to adjourn into closed session at 6:57pm pursuant to 21.5(i) to evaluate the competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requested a closed session. Motion carried.

Motion Rausch, Oliphant to return to open session.

The Mayor announced that no action would be taken as a result of the closed session but that the City Council will hold a special city council meeting on August 10, 2022.

Motion Hosch, second Kelchen to adjourn the meeting at 8:14p.m. Motion carried.

Lisa A. Kotter, Interim City Administrator

Steven J. Knepper, Mayor

August 10, 2022  
Special City Council Meeting Minutes

The August 10, 2022 Special City Council meeting was called to order at 8:00 AM by Mayor Steve Knepper. The Pledge of Allegiance was recited. Hosch, Kelchen, Oliphant, Rausch (via telephone) and Delaney answered roll call.

Motion Delaney, second Kelchen, to approve the agenda. Motion carried.

Motion Kelchen, second Oliphant to approve an event liquor license for the American Legion 528 for the August 19-20 Hometown Days. Motion carried.

Motion Kelchen, second Oliphant to adjourn into closed session at 8:05 am pursuant to 21.5(i) to evaluate the competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requested a closed session. Roll Call Vote. Motion carried.

Motion Oliphant, second Rausch to return to open session. Roll Call Vote. Motion Carried.

Motion Oliphant, second Delaney to approve an Employment Agreement with Lisa A. Kotter to be hired as the City Administrator. Roll Call Vote. Motion Carried.

Motion Hosch, second Kelchen to adjourn the meeting at 8:20 a.m. Motion carried.

Lisa A. Kotter, Interim City Administrator

Steven J. Knepper, Mayor

Zoning Board of Adjustment Minutes  
August 9, 2022

The August 9, 2022 Zoning Board of Adjustment meeting was called to order at 6:00 p.m. at the Cascade City Hall by Chairperson Hoffmann. Board members present were Linda Hoffmann, Merlin McDermott, Suzanne Otting, Clay Gavin and Ross Orr.

Motion McDermott, second Otting to approve the agenda as presented – all ayes.

Motion Orr, second by McDermott to approve the minutes from the June 22, 2021 meeting – all ayes.

Motion Orr, second by Otting to open the public hearing for the Vaske Meat Locker at 6:02pm – all ayes.

The Vaske project for a meat locket at 120 Industrial Street was explained. One objection was stated by the owner of Premium Plant Services based on the perceived amount of truck traffic and potential smell. City Administrator Kotter explained the need for a development agreement requiring wastewater to be hauled off site or pre-treated. There are also items in the Special Exception ordinance that requires a specific distance from certain types of properties, no foul smells, etc.

Motion McDermott, second Orr to close the public hearing. All ayes.

The Board discussed and all felt it was fine. Board member Otting had some questions concerning reflectivity and any radio frequency disruptions. Mr. Gavin said none of this will happen. Motion by McDermott, second by Otting to approve the special exception permit for the solar energy system for Clay Gavin – all ayes.

Motion to approve a special exception for the Vaske Meat Locker to be located at 120 Industrial Street with the inclusion that the County Health Department gives its approval, that retail sales are allowed, that all waste water containing BODs must be pre-treated or hauled off site, that no more than 50 animals may be slaughtered or processed per week without additional approval, and that the Board finds that there is justification for the approval based on City Code requirements.

Motion Orr, second by Otting to open the public hearing for the Maberry-Lawrence Solar System at 6:20 pm – all ayes.

The solar project is to be placed on the roof of the home at 417 Second Avenue NW. Sunergy is completing the installation.

Motion McDermott, second Orr to close the public hearing.

Motion Gavin, second Hoffmann to approve the solar energy system at 417 Second Ave NW and include approval of the variance to the side setback from the edge of the roof to allow for the installation based on the two formations presented in the packet. All ayes.

Motion by McDermott, 2<sup>nd</sup> by Otting to adjourn the meeting at 6:40 p.m. – all ayes.

Meeting Minutes August 10, 2022  
Cascade Municipal Utilities Board

Chairman Gross called the August 2022 regular meeting of the Cascade Municipal Board of Trustees to order on Wednesday August 10, 2022 at 5:15pm. Present were Trustees Barb Gross, Greg VanderLugt via telephone & Utility Manager Shontele Orr. Herb Manternach was absent due to illness.

Motion VanderLugt, 2<sup>nd</sup> Gross to approve the meeting agenda. Motion carried 2-0.

Motion Gross, 2<sup>nd</sup> VanderLugt to table the first agenda item (Citizen Request to discuss solar) to the next meeting (due to an email from the citizen asking to move item to the September meeting). Motion carried 2-0.

The board discussed city council approved resolution #49-22 Changing the Hours of City Hall to 8:30am to 4:30pm and to close to the public 8/19, 9/2, 9/9, 9/16, 9/23 and 9/30. Motion VanderLugt, 2<sup>nd</sup> Gross to approve the change in hours/days. Motion carried 2-0.

The board discussed the bids for IT services. Bids were sent out with one bid coming back and that bid was approved via city council. Motion Gross, 2<sup>nd</sup> VanderLugt to approve hiring Delaney PC & Mac for IT services through December 31, 2025. Motion carried 2-0.

The board discussed Resolution 168-22 Boot Allowance (that was discussed in last months meeting). One change was made to this to add needing a receipt. Motion VanderLugt, 2<sup>nd</sup> Gross to approve resolution 168-22. Roll call vote all ayes. Motion carried.

The board discussed Resolution 167-22 Revised Wage scale (that was discussed in last months meeting). Motion Gross, 2<sup>nd</sup> VanderLugt to approve resolution 167-22. Roll call vote all ayes. Motion carried.

There was a motion by Gross, 2<sup>nd</sup> by VanderLugt to approve the July 13th meeting minutes, July Financial Statements and Fund Balances, and the August bill list & claims for payment. Motion carried 2-0.

Vendor Name	Check Amount	Vendor Name	Check Amount
ADVANTAGE ADMINS (BUYDOWN)	3,820.83	ROBERT & LANA THOMAS	33.54
AT&T	27.92	ALANDA HOLZ	87.70
BUSINESS FORMS DIVERSIFIED	1,006.50	MORGAN MAHOOD	119.73
C J COOPER & ASSOCIATES	35.00	JEDIDIAH MCCUSKER	70.42
CASCADE COMMUNICATIONS COMPANY	102.06	DIANA MYERS	645.00
CASCADE LUMBER CO	295.61	ABBAGAIL MABERRY	520.00
CASCADE MUNICIPAL UTILITIES	1,560.16	MIKE GEHL LAWN SERVICE	150.00
CASCADE MUNICIPAL UTILITIES	333.82	MISSION SQUARE RETIREMENT	185.00
CIPCO	11,738.00	MISSION SQUARE RETIREMENT	185.00
CITY OF CASCADE	1,101.71	NICUSA - IOWA DIVISION	906.08
CLAYTON ENERGY CORPORATION	41,488.92	NORTHERN MUNICIPAL	528.98
CLH REPAIR	2,438.03	PARTS AUTHORITY	133.69
COMTEC INTERNET SERVICES	90.00	PAYROLL	8,431.14
EFTPS-DIRECT PAYMENT	2,461.68	PAYROLL	8,669.35
EFTPS-DIRECT PAYMENT	2,408.11	POSTMASTER	275.00
EFTPS-DIRECT PAYMENT	13.95	NICOLAS SCHULTZ	29.89
GASSER FARM & HARDWARE LLC	36.14	GARRETT ROE	65.00
GORDON FLESCH COMPANY	93.03	JACQUIE MANTERNACH	20.00
GROEBNER & ASSOCIATES INC	1,300.77	JOAN KAUDER	360.00
I.A.M.U.	2,391.69	DAVID AHMANN	350.00
INFRASTRUCTURE TECHNOLOGY SOLUTIONS	207.50	JESSE LOEWEN	100.00
IOWA DEPARTMENT OF PUBLIC SAFETY	40.00	BRIDGET GERKEN	405.49
IOWA ONE CALL	37.80	REPUBLIC SERVICES	784.90
IOWA WATER MANAGEMENT CORP	150.00	SIMECA	105,778.00
IPERS	3,669.19	STUART C IRBY CO	4,062.37
MADISON NATIONAL LIFE INS CO	213.30	TREASURER STATE OF IOWA	950.00
MCDERMOTT OIL CO.	418.36	TREASURER STATE OF IOWA	5,723.32
MEDICAL ASSOCIATES CLINIC	25.00	USDI	7,234.34
JILLIAN WEBER	270.00	VISA	1,526.88
JAYDA REAMS	75.12	WELLMARK BLUE CROSS & BLUE SHIELD	3,670.41
OLLIE & KAREN WARDEN	258.73	WESCO RECEIVABLES CORP.	2,539.66
NATHAN HOUTAKKER	274.60	WOODWARD COMMUNITY MEDIA	235.43
			233,149.75

**ELECTRIC REVENUE**

**\$177,472.90**

**GAS REVENUE**

**\$44,956.34**

Under correspondence the board discussed the July plant summary and metrics and energy efficiency reports. Motion Gross, 2<sup>nd</sup> VanderLugt to approve the correspondence. Motion carried 2-0.

Under manager report: A discussion was held regarding the emission testing required by the DNR. While running the 2<sup>nd</sup> engine for testing we experienced a mechanical failure and the test had to be stopped until this can be fixed. Repairs are being made in house and this test will be re-set up. In addition, urge testing needs to be completed by August 30<sup>th</sup> with this same engine. There was a discussion regarding a mechanical failure with the gas odorizing system. We have one on loan until a part can come in. A new one will be priced out as parts for this system are becoming obsolete as this item is over 20 years old. There was a discussion regarding gas load and next steps.

Gross adjourned the meeting at 5:46 PM on a motion from Gross, 2<sup>nd</sup> by VanderLugt. Motion carried 2-0.

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Secretary, Shontele Orr

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Chairman, Barb Gross



# State of Iowa

Alcoholic Beverages Division

## Applicant

NAME OF LEGAL ENTITY	NAME OF BUSINESS(DBA)	BUSINESS		
Casey's Marketing Company	Casey's General Store #77	(563) 852-7347		
ADDRESS OF PREMISES	PREMISES SUITE/APT NUMBER	CITY	COUNTY	ZIP
717 1st Avenue East		Cascade	Dubuque	52033
MAILING ADDRESS	CITY	STATE	ZIP	
PO Box 3001	Ankeny	Iowa	50021	

## Contact Person

NAME	PHONE	EMAIL
Madison Paulson	(515) 381-5974	madi.paulson@caseys.com

## License Information

LICENSE NUMBER	LICENSE/PERMIT TYPE	TERM	STATUS
LE0002646	Class E Liquor License	12 Month	Submitted to Local Authority
TENTATIVE EFFECTIVE DATE	TENTATIVE EXPIRATION DATE	LAST DAY OF BUSINESS	
Oct 8, 2022	Oct 7, 2023		

### SUB-PERMITS

Class E Liquor License, Class C Beer Permit, Class B Wine Permit





# State of Iowa

Alcoholic Beverages Division

## PRIVILEGES

Sunday Service

## Status of Business

### BUSINESS TYPE

Publicly Traded Corporation

## Ownership

### • Individual Owners

NAME	CITY	STATE	ZIP	POSITION	% OF OWNERSHIP	U.S. CITIZEN
42-0935283 Casey's General Stores, Inc.	Ankeny	Iowa	50021	Owner	100.00	Yes
SAMUEL JAMES	Ankeny	Iowa	50021	PRESIDENT	0.00	Yes
BRIAN JOHNSON	Johnston	Iowa	50131	VICE PRESIDENT	0.00	Yes
SCOTT FABER	Johnston	Iowa	50131	SECRETARY	0.00	Yes
ERIC LARSEN	Ankeny	Iowa	50023	TREASURER	0.00	Yes
DOUGLAS BEECH	Ankeny	Iowa	50021	ASSISTANT SECRETARY	0.00	Yes

## Insurance Company Information



# State of Iowa

Alcoholic Beverages Division

INSURANCE COMPANY

POLICY EFFECTIVE DATE

POLICY EXPIRATION DATE

DRAM CANCEL DATE

OUTDOOR SERVICE EFFECTIVE  
DATE

OUTDOOR SERVICE EXPIRATION  
DATE

BOND EFFECTIVE DATE

TEMP TRANSFER EFFECTIVE  
DATE

TEMP TRANSFER EXPIRATION  
DATE



# State of Iowa

## Alcoholic Beverages Division

### Applicant

NAME OF LEGAL ENTITY	NAME OF BUSINESS(DBA)	BUSINESS		
BUTCH & FRANKIE'S HOME GOODS LLC	Butch & Frankie's Home Goods	(816) 277-7007		
ADDRESS OF PREMISES	PREMISES SUITE/APT NUMBER	CITY	COUNTY	ZIP
109 1st Ave West		Cascade	Jones	52033
MAILING ADDRESS	CITY	STATE	ZIP	
109 1st Ave West	Cascade	Iowa	52033	

### Contact Person

NAME	PHONE	EMAIL
Mary Kay Gilvin	(816) 277-7007	butchandfrankiehg@gmail.com

### License Information

LICENSE NUMBER	LICENSE/PERMIT TYPE	TERM	STATUS
WBN001319	Class B Native Wine Permit	12 Month	Submitted to Local Authority

TENTATIVE EFFECTIVE DATE	TENTATIVE EXPIRATION DATE	LAST DAY OF BUSINESS
Aug 16, 2022	Aug 15, 2023	

#### SUB-PERMITS

Class B Native Wine Permit



# State of Iowa

Alcoholic Beverages Division

## PRIVILEGES

Sunday Service

## Status of Business

### BUSINESS TYPE

Limited Liability Company

## Ownership

### • Individual Owners

NAME	CITY	STATE	ZIP	POSITION	% OF OWNERSHIP	U.S. CITIZEN
Mary Kay Gilvin	Cascade	Iowa	52033	owner	100.00	Yes

## Insurance Company Information

INSURANCE COMPANY

POLICY EFFECTIVE DATE

POLICY EXPIRATION DATE

DRAM CANCEL DATE

OUTDOOR SERVICE EFFECTIVE DATE

OUTDOOR SERVICE EXPIRATION DATE

BOND EFFECTIVE DATE

TEMP TRANSFER EFFECTIVE DATE

TEMP TRANSFER EXPIRATION DATE



## **August 22, 2022 Agenda**

**To: Mayor, City Council and Staff**

**From: Lisa Kotter, Interim City Administrator**

**Date: August 18, 2022**

**Re: Cascade Lumber Variance**

We have been working with the staff at Cascade Lumber as they want to pave the gravel parking lot along Madison by their manufacturing facility. The ordinance, as you know, has regulations about 20% green space. Some interpret this to mean only for brand new developments, but it is not worded in the most clear way so as to exempt a project like this. I had asked the company to have an engineer design and prepare calculations for storm water on the site. They have done that and I still think because of the somewhat unclear language in the ordinance that we should consider issuing them a variance. If the City Council is willing to do this, it will be more clear since they are addressing the runoff. I have prepared a Variance Resolution for Council's consideration. In the packet is their application, storm plans and the storm water ordinance.

**RESOLUTION #51-22**

**A RESOLUTION TO ISSUE A VARIANCE FOR THE TWENTY PERCENT GREEN SPACE REQUIREMENT FOR CASCADE LUMBER AND MANUFACTURING IN THE CITY OF CASCADE, IOWA**

WHEREAS, the City of Cascade Code 6-13 has requirements that developments address storm water and have 20% green space, and;

WHEREAS, certain businesses that have been in Cascade for a long time such as Cascade Lumber and Manufacturing have over time grown and developed such that this greenspace requirement has not been able to be achieved, and;

WHEREAS, while Cascade Lumber and Manufacturing is not able to achieve the greenspace requirement, they have addressed storm water management with a plan approved by the City Engineer so as to address the changes in run off going from a gravel to paved parking lot to the West of the main manufacturing plant.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cascade, Iowa, grants a variance to Cascade Lumber and Manufacturing to the twenty percent greenspace requirement as long as any exterior changes such as this pavement project address storm water with this project and all projects in the future.

PASSED, APPROVED AND ADOPTED this 22<sup>nd</sup> day of August, 2022.

\_\_\_\_\_  
Steve Knepper, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Kotter, City Administrator & Interim City Clerk

Board of Adjustment Hearing Application  
City of Cascade

Hearing No.: \_\_\_\_\_

Hearing Fee: \_\_\_\_\_

1. Name and address of applicant: Cascade Lumber and Manufacturing  
1000 1<sup>ST</sup> Avenue East Cascade, IA 52033  
(563) 852-3232
2. Nature of the Request: \_\_\_\_\_ Interpretation and review of decision of zoning administrator.  
(Check which applies) (Complete Section I of Application)  
\_\_\_\_\_ Special Use or Exception Permit as required by the Zoning Ordinance. (For Solar Energy Systems)  
(Complete Section II of Application)  
X Variance to a requirement of the Zoning Ordinance.  
(Complete Section III of Application)
3. Location and dimensions of property: 109 Madison Street SE  
Approximately 123ft x 322ft or 39,600 sq ft
4. Legal description of property: \_\_\_\_\_  
(Lot Number (s), Block Number (s), Subdivision Name)
5. Present zoning classification: M1 / light industrial
6. Existing and Proposed Uses of the Property: Current and future use of property is a parking lot for employees of our steel truss manufacturing plant and Cascade Manufacturing Company office employees
7. Attach a plat showing the location, dimensions, and use of the property and all property within 200 feet thereof including streets, alleys, and other prominent physical features.
6. Attach the names and addresses of all property owners within 200 feet of property to be re-zoned.
7. Signature and date: \_\_\_\_\_ (Applicants or Property Owners Signature) \_\_\_\_\_ (Date)
8. Application Fee \$150.

### SECTION III

REQUEST FOR VARIANCE of Section (below) of the Cascade Zoning Ordinance under which the Zoning Administrator refused to issue a permit.

Title VI – Physical Environment / Chapter 13 storm water management / 6-13-4 Green space calculations to meet minimum 20% requirement

**1. What is the nature of the variance request:**

We are requesting the ordinance variance to eliminate the 20% green space requirement as it relates to the paving of the existing parking lot. The current parking lot did not meet the 20% green space requirement. Recognizing the need to look at the storm water runoff, however, we have identified steps to take to help mitigate the *potential impact* of storm water. An alternative involving the creation of a water retention basin is proposed as part of the asphalt parking lot

**2. Applicant is unable to make reasonable use of his/her property for the following reasons.**

Not applicable

**3. The requested variance will not alter the essential character of the neighborhood for the following reasons:**

The area the variance is requested for is already a parking lot and will continue to be used as a parking lot. There are no structures being built or added. Aesthetically the paved lot will look better than the current gravel lot, with a reduction of dust in the immediate area

**4. The proposed variance requested will continue to maintain the purposes and intent of the zoning classification district and adjacent properties for the following reasons:**

No change in zoning classification is needed or requested. The area of the proposed variance currently serves as a parking lot and will continue to be

### Supplemental Variance Questions

**1. Please explain how the narrowness, shallowness, irregular shape, topography, and/or natural characteristics of your lot prevents lawful location of your proposed development on the lot i.e.**

Not applicable

**2. Explain and show how the requirement to maintain the required setbacks is a physical hardship upon you and denying you reasonable use of your property.**

Not applicable



**3. Explain and show how the hardship identified above is not one created or caused by your own doing.**

The property and existing parking lot we're looking to asphalt are found on the side of the road where little green space is/was. The collective property and surrounding area south of Main Street does not allow for additional real estate to be purchased for use as green space. We have a desire to be a good neighbor and have identified a way in which storm water runoff can be controlled that does not adversely impact the street any more than it already does. Water will be let to enter the city's collection system slowly. The elimination of rock runoff will also take place with proposed variance

**4. Explain and show that there are no other reasonable options for placing the structures you want to build on your lot that meets the required setbacks.**

Not applicable

**5. Explain and show that the variance you are requesting is the minimum necessary to permit reasonable use of your property.**

Our request to asphalt the entire parking lot still allows for sufficient collection of storm water and maximize parking

**6. Explain and show how your variance request will not be contrary to the intent of the Zoning District you are in.**

Although not meeting the 20% green space requirement, we are still addressing water runoff concerns

**7. Explain and show how your variance request will not cause a substantially adverse effect upon adjacent properties – like lowering property values, creating something that does not fit into the neighborhood, creating a neighborhood eyesore, creating a commercial use in the R-1 district, etc.**

For the same reason above, we're still addressing the storm water runoff impact of our parking lot pavement, while at the same time eliminating gravel runoff from current parking lot. Our paved parking lot will be aesthetically more pleasing than the current gravel lot.

**8. Explain and show how your variance request will not alter the essential character of the surrounding area.**

The variance request does not alter what the land/lot is being used for currently. It is already a parking lot and that's what it will continue to be used as. The same grassy area currently running along our steel yard fence and 1<sup>ST</sup> Avenue will also be present between our asphalt parking lot and 1<sup>ST</sup> Avenue.

9. Explain and show how your variance request will not increase the hazard from fire, flood, poor visibility at street intersection, or other similar dangers.

Despite the 20% requirement not being met, we are still addressing the storm water runoff concerns by having it “pond” on our property. We are also not adding any structures, so visibility at the intersection is not impacted.

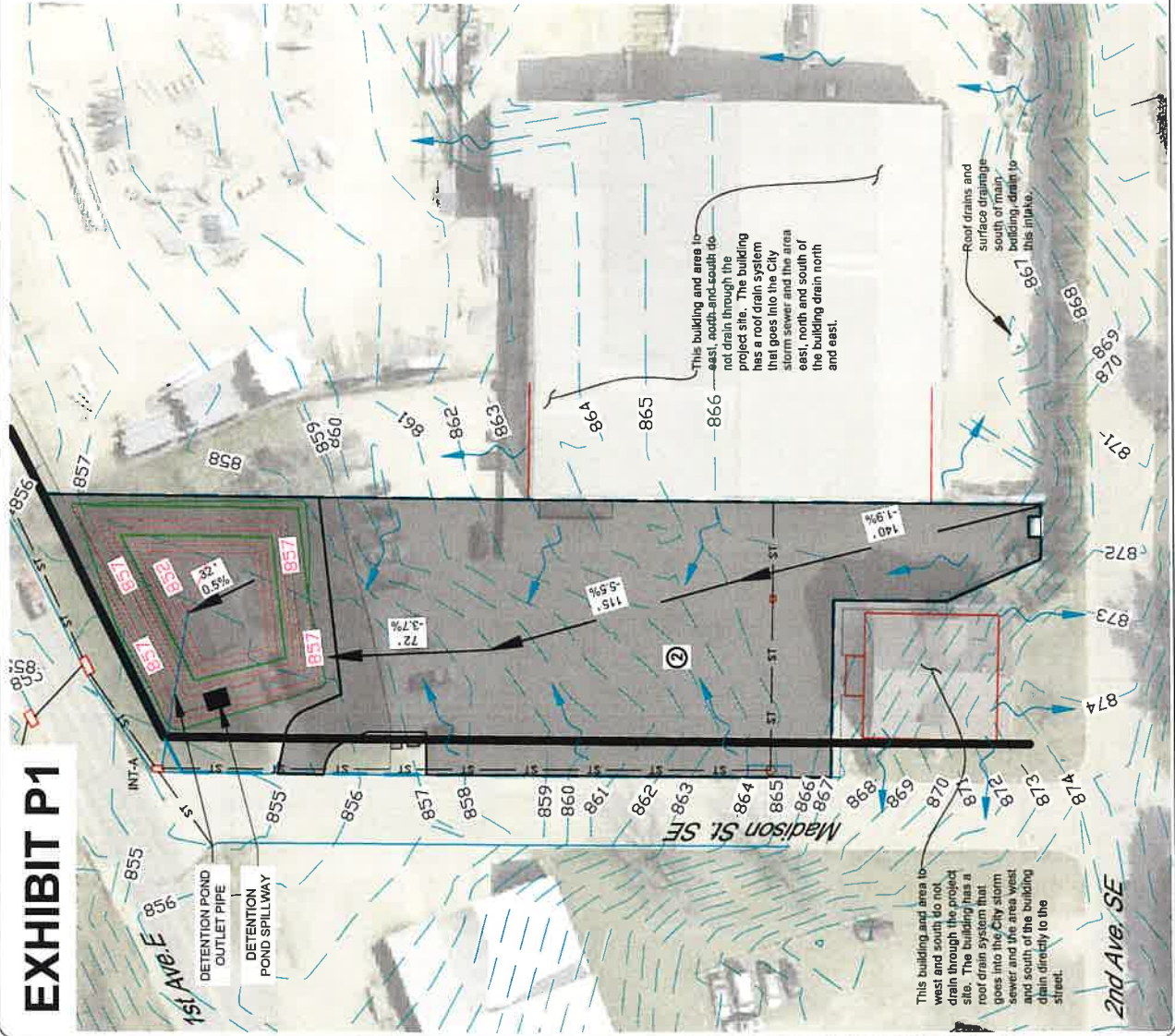
10. Explain and show how your variance request will not increase traffic congestion or exceed the traffic carrying capacity of the streets serving the area.

Not applicable

11. Explain and show how your variance request will not produce nuisance conditions to the occupants of nearby premises, whether by reason of dust, noise, fumes, odors, vibrations, smoke or lights.

Not applicable

# EXHIBIT P1

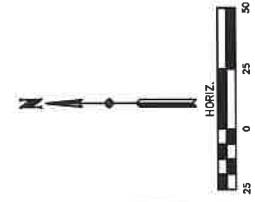


**INT-A**  
 Existing Open Throat Intake  
 Invert (W) = 850.54  
 Invert (S) = 850.75  
 Invert (E) = 850.59

TECHNICAL INFORMATION	
IMPERVIOUS AREA	= 0.88 ACRES
GRAVEL AREA	= 0.00 ACRES
GRASS AREA	= 0.02 ACRES
TOTAL WATERSHED AREA	= 1.00 ACRES
LONGEST FLOW PATH	= 331 FT.
CONTOURS ARE BASED ON LIDAR	
DETENTION POND	
AVAILABLE VOLUME	= 9,791 (TO ELEV. 856.0)
USED VOLUME FOR Q-100	= 7,807 CF (TO ELEV. 855.5)
SPILLWAY ELEVATION	= 856.0 (10' WIDE)
TOP OF BERM	= 857.0
OUTLET	= 70' of 8" Ø HDPE @ 0.5%
FLOWLINE INLET	= 851.85
FLOWLINE OUTLET	= 851.5

### LEGEND

- EXISTING WATERSHED BOUNDARY
- PROPOSED WATERSHED BOUNDARY
- PROPOSED WATERSHED SUB-AREA BOUNDARY
- HYDROGRAPH # THAT CORRESPONDS TO WATERSHED AREA/SUB-AREA
- APPROX. PROPERTY LINE
- TIME # CONCENTRATION PATH
- EXISTING PAVEMENT/ROOF/OTHER IMPERVIOUS SURFACE
- PROPOSED PAVEMENT/ROOF/OTHER IMPERVIOUS SURFACE
- EXISTING PAVEMENT/ROOF/OTHER IMPERVIOUS SURFACE TO BE REMOVED
- PROPOSED STORM SEWER/CULVERT
- EXISTING GRAVEL SURFACING
- PROPOSED DETENTION POND
- GENERAL DIRECTION OF DRAINAGE





A Place We Call Home

City of Cascade  
320 1<sup>st</sup> Avenue West  
P.O. Box 400  
Cascade, Iowa 52033  
Ph. 563-852-3114  
[admin@citycascade.com](mailto:admin@citycascade.com)

## NOTICE OF VARIANCE HEARING

**\*\* DATE CHANGE \*\***

You are being notified of a Public Hearing for a Variance from the Requirement to Have Twenty Percent Green Space at 109 Madison Street in Cascade.

### NOTICE OF PUBLIC HEARING

#### City Council

Monday, August 22, 2022, 6:00 p.m.

Variance for Twenty Percent Green Space

Notice is hereby given that a meeting is set for Monday, August 22, 2022 at 6:00 p.m. at which time the Cascade City Council will hold a public hearing at the Cascade City Hall, 320 1st Avenue West. The request is from Cascade Lumber and Manufacturing for a variance to not have a minimum of twenty percent green space at the property located at 109 Madison Street in M-1 Light Industrial District. The applicant wants to pave a gravel parking lot and the plans include storm water drainage. However, the current facility has not achieved the twenty percent green space requirement. The application is available for review at City Hall. At the above listed time and place, the public will be given the opportunity to comment on this request. Written opinions on the application can be made at City Hall or by email at [admin@citycascade.com](mailto:admin@citycascade.com).

Sincerely,

Lisa A. Kotter  
Interim City Administrator

**SHOP LOCAL. BUY LOCAL**

Lehman  
PO Box 237  
Cascade, IA 52033

Faley Properties  
PO Box 182038 MS #5  
Columbus OH 43218

Rent A Storage  
10864 Mandershied Rd  
Zwingle, IA 52079

Wayne Fees Service  
PO Box 38  
Cascade, IA 52033

Woerdehoff  
816 2<sup>nd</sup> Ave SE  
Cascade, IA 52033

Schwartz  
900 2<sup>nd</sup> Ave SE  
Cascade, IA 52033

Sauser  
904 2<sup>nd</sup> Ave SE  
Cascade, IA 52033

Houtakker  
908 2<sup>nd</sup> Ave SE  
Cascade, IA 52033

DJW Properties  
16814 Asbury Road  
Dubuque, IA 52002

Manternach  
PO Box 700  
Cascade, IA 52033

McDermott  
1002 2<sup>nd</sup> Ave SE  
Cascade, IA 52033

Lawson  
1018 2<sup>nd</sup> SE  
Cascade, IA 52033

Homan  
201 Adams ST SE  
Cascade, IA 52033

Loewen  
209 Madison St SE  
Cascade, IA 52033

Volk  
PO Box 323  
Cascade, IA 52033

Recker  
913 3<sup>rd</sup> Ave SE  
Cascade, IA 52033

Schlemme  
917 3<sup>rd</sup> Ave SE  
Cascade, IA 52033

Kurt  
813 Tyler ST NE Apt 202  
Cascade, IA 52033

Kedley  
1011 3<sup>rd</sup> Ave SE  
Cascade, IA 52033

Biloani  
1321 2<sup>nd</sup> Ave SE  
Cascade, IA 52033

Kauder  
1101 2<sup>nd</sup> Ave SE  
Cascade, IA 52033

Conrad  
109 Montrose Dr  
Fort Myers FL 33919

Kauder  
808 1<sup>st</sup> Ave W  
Cascade, IA 52033

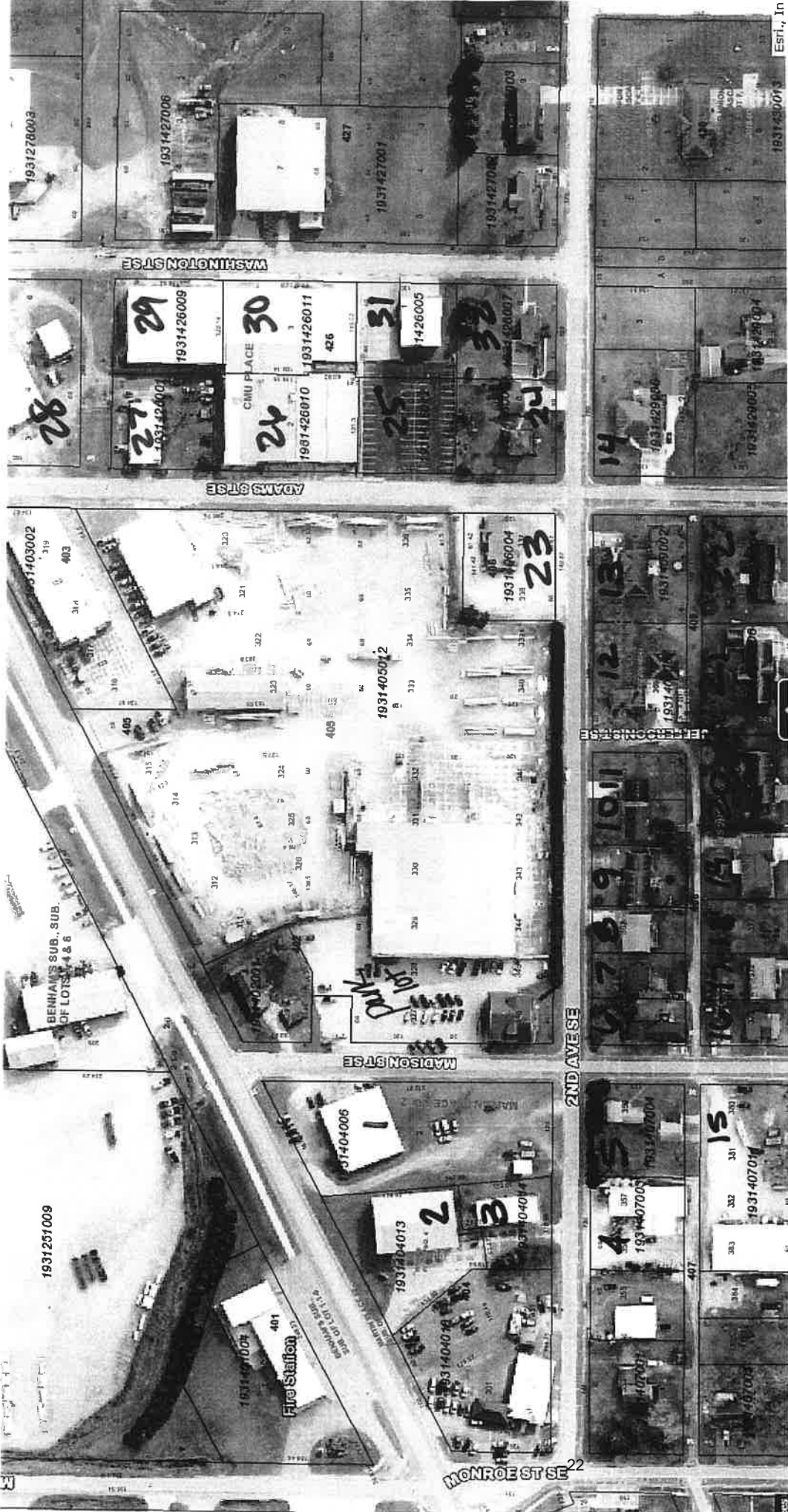
PRM Storage  
PO Box 608  
Cascade, IA 52033

Webber Metals  
PO Box 10  
Cascade, IA 52033

Jess Street Properties  
PO Box 494  
Cascade, IA 52033

City of Cascade  
PO Box 400  
Cascade, IA 52033

*200ft  
labels*



Est., In

MONROE ST SE<sup>22</sup>

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 13 STORM WATER MANAGEMENT

6-13-1	Purpose	6-13-5	Management Plan Design
6-13-2	Definitions		Requirements
6-13-3	Areas Requiring Storm Water Management Plan	6-13-6	Submission and Approval of Plan
6-13-4	Storm Water Management Requirement	6-13-7	Ownership by City
		6-13-8	Private Ownership
		6-13-9	Further Requirements

6-13-1 PURPOSE. It is the purpose of this Ordinance to establish policies to manage and control Storm Water Runoff occurring from new Development of residential, commercial, and industrial areas. The goal is to reduce peak runoff caused by Development of the land. This will result in cost savings to the overall storm sewer collection system by reducing the size of improvements required. In addition, increased public safety and sediment and erosion control are the expected benefits.

6-13-2 DEFINITIONS. Wherever used in this Ordinance and printed with an initial capital letter, the terms listed below will have the meanings indicated. Words using the present tense shall include the future; the singular shall include the plural; the plural shall always include the singular. The term 'shall' is always mandatory, and the term 'may' is permissive.

1. "Capacity (of a Storm Water Facility)" means the maximum volume or rate of conveyance available in a storm water management facility, including freeboard, to store or convey storm water without damage to public or private property.
2. "City" means the City of Cascade, Iowa.
3. "City Administrator" means the City Administrator of the City of Cascade, Iowa.
4. "City Council" means the City Council of the City of Cascade, Iowa.
5. "Civil Engineer" means a professional engineer licensed in the State of Iowa to practice in the field of civil works.
6. "Control Structure" means part of a Storm Water Management Facility designed to regulate the Storm Water Runoff Release Rate.
7. "Design Storm" means a storm with characteristics of the average storm for the desired Return Frequency.

8. “Detention Basin” means a Storm Water Management Facility designed, constructed or modified to provide short term storage of storm water runoff, which reduces the peak outflow to a rate less than the peak inflow.

9. “Development” means the changing of land from its existing state or an area of land use change, usually involving the building of infrastructure, housing, commercial, and/or industrial structures.

10. “Developed Condition” means the hydraulic and hydrologic site characteristics that occur upon completion of a Development.

11. “Drainage Area” means an area of land contributing to Storm Water Runoff.

12. “Green Infrastructure” means natural drainage ways, wet lands, infiltration systems, open green space, etc.

13. “Green Space” that area in and around a development which is covered with grass, trees, shrubs, and other natural plantings that naturally absorbs storm water.

14. “Ordinance” means the portion of the City Municipal Code entitled ‘Storm Water Management Ordinance’.

15. “Overflow Path” means the path taken by storm water runoff as a result of flows exceeding the capacity of the underground drainage system or Detention Basin. The path may include streets, channels, drainage ways, or areas of sheet flows, and be located on public property or private property within an easement.

16. “Pre-developed Condition” means the hydraulic and hydrologic site characteristics that occur prior to a proposed Development, including natural storage areas, drainage ways, drainage tiles, and highway drainage structures.

17. “Regional Storm Water Management Facilities” means those facilities designed to handle Storm Water Runoff from several lots which may include the entire subdivision, or multiple subdivisions, and may include existing developed areas.

18. “Return Frequency” means the statistic parameter that defines the average occurrence time for a storm of a given magnitude.

19. “Site” means a lot, parcel, or tract of land, or portion thereof, where Development is occurring, or has occurred, and may, or may not, require additional permits.

20. “Site Plan” means an overall plan of the area to be developed including, but not limited to: proposed building location(s), proposed parking and drive locations, proposed utilities including storm sewer components and subsurface drain tile, proposed ground elevations with drainage patterns highlighted, roof drainage outlet locations, other underground utilities, and property boundaries.



21. "Storm Sewer System" means facilities for the conveyance of Storm Water Runoff, a series of conduits and appurtenances, to accommodate frequent storms not generating large peak discharges. These facilities usually include conduits, street gutters, and swales.

22. "Storm Water Management Facilities" means a Detention Basin and the associated appurtenances to make the system functional.

23. "Storm Water Management Plan" means a Site Plan, certified by a Civil Engineer, including materials, construction phasing, grading activities, and methods used for mitigation of increased Storm Water Runoff from the Site.

24. "Storm Water Runoff" means the flow of water resulting from precipitation upon a surface area, not absorbed by the soil or plant material.

25. "Subdivision" means the division of land for the purpose of transfer of ownership or building development, whether immediate or future.

6-13-3 AREAS REQUIRING STORM WATER MANAGEMENT PLAN. A Storm Water Management Plan shall be required for the following:

1. All new residential, commercial, industrial developments and subdivision 4-acres in size and larger. Phased residential, commercial, and industrial developments whose combined total is 4-acres and larger. Residential, commercial, and industrial developments under 4-acres in size shall maintain a minimum of 20% green space.

2. In Developments where the natural drainage is divided into more than one watershed, the individual watershed Drainage Areas must meet the criteria mentioned above before storm water management is required.

3. Other Developments may be required to submit a Storm Water Management Plan at the discretion of the City Council. No subdivision or development plan will be approved unless adequate drainage will be provided to an appropriate storm sewer, drainage watercourse, or Storm Water Management Facility.

4. At the discretion of the City Council, a fee may be charged the developer in lieu of providing Storm Water Management Facilities. This may be utilized when the City is constructing a larger Regional Storm Water Management Facility to handle multiple existing or proposed Developments.

6-13-4 STORM WATER MANAGEMENT REQUIREMENTS. The Storm Water Management Plan shall include, but not be limited to, the following information:

1. Peak discharges for Pre-Developed and Developed conditions based upon the design storms.

2. Individual parameters used for determining discharges shall be listed.
3. Hydraulic capacity of storm sewer inlets, pipes, open channels, or other means of conveying water.
4. Green Space calculations to meet the 20% minimum requirement.
5. Detention Basin design with Capacity listed.
6. Control Structure/outlet design.
7. Review of existing or proposed downstream conveyance capacities.
8. The SCS TR-55 computerized runoff volume program or other technically proven method shall be utilized for runoff calculations.

6-13-5 MANAGEMENT PLAN DESIGN REQUIREMENTS. The design requirements of the Storm Water Management Plan shall include:

1. Developments requiring storm water management shall be required to detain the difference between the 10-year Pre-Developed storm and the 100-year Developed storm.
2. The maximum release rate for storms up to an expected Return Frequency of 100-years shall be the 10-year Pre-Developed storm. A safe overflow path shall be designed for storms exceeding the capacity of the Detention Basin.
3. Regional Storm Water Management Facilities are encouraged. Wet basins are also encouraged because they enhance water quality, add aesthetic value, and increase property value.
4. For residential developments, storm water detention is not allowed within any front or side yard setbacks required by zoning code, or within 25 feet from the estimated rear building line.
5. Dry-bottomed Detention Basins shall be oversized by 10% to help offset anticipated sedimentation. An alternative to oversizing, is the construction of a series of sediment trapping forebays in the basin with firm bottoms which allow routine remove of sediment.
6. Maximum side slopes of Detention Basins shall not exceed 3.5:1.
7. Provisions shall be made to keep the bottom of the Detention Basin dry unless a permanent pond or lake is being utilized for detention.

6-13-6 SUBMISSION AND APPROVAL OF PLAN. A Site Plan shall be a required attachment to a proposed Storm Water Management Plan, all of which is to be submitted to the City Administrator for review. The Storm Water Management Plan, including proposed storm water detention facilities, shall be reviewed and approved by the City Administrator (or those chosen by the City Administrator) prior to the issuance of any building permit for the proposed Development.

The City may inspect the site at any time to determine compliance with this Ordinance. Upon determination that a site is not in compliance with this Ordinance, the City may issue a stop work order until compliance is achieved. The order shall describe the problem, specify a completion date, and indicate the penalties to be assessed for further noncompliance.

6-13-7 OWNERSHIP BY CITY. Regional Storm Water Management Facilities which are of sufficient size may be deeded to and be maintained by the City. The conditions for City ownership will be reviewed on a case by case basis. The City is under no obligation to accept ownership of the facility. If the City elects to obtain ownership of the facility, the property owner shall dedicate to the City any property on which public storm sewer Detention Basins will be located with a 50-foot perimeter to establish and maintain a vegetative buffer. Ingress-egress easements for maintenance of public facilities shall be provided prior to final approval.

6-13-8 PRIVATE OWNERSHIP. For sites on which privately owned storm water detention facilities are located, the property owner will be responsible for the following:

1. All future grading, repairs, and maintenance.
2. Maintenance of the minimum storm water detention Capacity, as originally designed.
3. Maintenance of the Detention Basin Control Structure(s) and discharge pipe(s) to insure the maximum theoretical design release rate is not increased.
4. The property owner shall not place fill material, or erect any buildings, obstructions, or other improvements on the area reserved for storm water detention purposes, unless approved in writing by the City.

6-13-9 FURTHER REQUIREMENTS. Compliance with this ordinance does not relieve the developer or property owner of other responsibilities relating to storm water discharge. This includes, but is not limited to NPDES storm water discharge permits regulated by Iowa Department of Natural Resources, and other State of Iowa and federal requirements.



## August 22, 2022 Agenda

**To: Mayor, City Council and Staff**

**From: Lisa Kotter, Interim City Administrator**

**Date: August 18, 2022**

**Re: Building Inspection Permit Services from ECIA**

The City Council is presented with a third and final reading of Ordinance #02-22 which allows the City to contract out for building inspection services and adopts the State Building Code. The other two steps in the process are to determine what inspections ECIA will conduct and what the fees associated with these permits are. The ECIA staff will be at the meeting to help answer questions. Our goal will be to determine wording for what is getting inspected and the amount of the fees.

I did pose the question about the need for inspections on remodeling projects that do not change the footprint, as this was not clear at the last meeting.

The answer from ECIA staff was:

“This will be an issue that arises occasionally with doing only limited inspections. Our contact wouldn’t include electrical, plumbing or mechanical. Keep in mind, we are not doing framing either. But I would think a plan review is merited to review the scope and verify no plan change or egress change, and then the final inspection to verify they did what was proposed. “

**ORDINANCE #02-22**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF  
CASCADE, IOWA, BY AMENDING**

**CHAPTER 6-12 BUILDING PERMITS**

NOW, THEREFORE, BE IT ENACTED, by the City Council of the City of Cascade,  
Iowa, as follows:

Section I. Section Modified. Title VI Physical Environment, Chapter 12 Building Permits  
of the Code of Ordinances of the City of Cascade, Iowa, is repealed and the following adopted in  
lieu thereof:

**CHAPTER 12 BUILDING PERMITS**

6-12-1	Purpose	<del>6-12-10</del>	<del>Rear Yard Requirements</del>
6-12-2	Structure Defined	<del>6-12-11</del>	<del>Special Requirements for</del>
6-12-3	Permit Required		<del>Residences</del>
6-12-4	Application	<del>6-12-12</del>	<del>Variances</del>
6-12-5	Fees	6-12- <del>9</del> <sup>13</sup>	Fences
6-12-6	Plans Required	6-12- <del>10</del> <sup>14</sup>	Curb Cuts
6-12-7	Location of Structure	6-12- <del>11</del> <sup>15</sup>	Authority of City Council
6-12- <del>8</del>	<del>-8 Front Yard Requirements</del> <u>Building</u>	6-12- <del>12</del> <sup>16</sup>	Permit Issued
	<u>Code Adopted</u>	6-12- <del>13</del> <sup>17</sup>	Limitations on Permit

**6-12-8 BUILDING CODE ADOPTED.** There is hereby adopted by reference as the “**Cascade Building Code**” the current State of Iowa Building Code. The “**Cascade Building Code**” shall be controlling in the construction of buildings and other structures in all matters covered by such building code within the corporate limits of the City. Inspections shall be as set forth by resolution of the Council.

~~6-12-8~~ FRONT YARD REQUIREMENTS. There shall be a front yard of not less than twenty (20) feet, except as follows:

~~1.~~ Where a structure is to be erected on a parcel of land that is within one hundred (100) feet of existing structures on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent structures on the two sides, or

~~2.~~ Where a structure is to be erected on a parcel of land that is one hundred (100) feet of an existing structure on one side only within the same block, such structure may be erected as close to the street as a line drawn from the closest front corner of that structure to a point twenty (20) feet back from the front lot line measured at the center of the lot on which the proposed structure is to be erected.

~~3.~~ Where lots have a double frontage, the front yard as required herein shall be provided on both streets.

~~6-12-9~~ SIDE YARD REQUIREMENTS. No building shall be erected closer than five (5) feet to either side lot line, except in the business district where no side yard is required.

~~6-12-100~~ REAR YARD REQUIREMENTS. There shall be a rear yard provided for each structure of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller, except in the business district where no rear yard is required.

~~6-12-111~~ SPECIAL REQUIREMENTS FOR RESIDENCES. Any structure which is to be a residence for living shall meet the following special requirements:

~~1.~~ A residence shall have a minimum of 1,000 square feet of livable space on the main floor.

~~2.~~ All residences shall have a permanent perimeter foundation constructed of cement, concrete blocks with mortar or other permanent material approved by the City Council. All foundations shall have footings that extend below the frost line.

~~6-12-122~~ VARIANCES. The city council may grant a variance to sections ~~6-12-8, 6-12-9, and 6-12-10~~ where the setback requirements would cause a hardship on the property owner.

~~6-12-9133~~FENCES. No setback requirements shall be applicable to the construction of a fence.

~~6-12-10144~~ CURB CUTS. No curb cut shall be constructed or permitted without first obtaining a building permit.

~~6-12-1155~~AUTHORITY OF CITY COUNCIL. The City Council shall have full authority to accept or reject any plans and specifications submitted.

~~6-12-1266~~PERMIT ISSUED. Permits shall be issued by the Zoning Administrator **and/or staff delegated to and hired via a contract for services entered into with City Council approval**, in duplicate, one copy for the applicant and one copy to be retained in the City records.

6-12-1387LIMITATIONS ON PERMIT.

Section II. Severability Clause. If any section, provision or part of the ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section III. When Effective. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED, ADOPTED AND APPROVED this 22<sup>nd</sup> day of August, 2022.

\_\_\_\_\_  
Steven J. Knepper, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Hartke City Clerk CMC, CFO

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: \_\_\_\_\_

# Attachment A City of Cascade Scope of Services Building Code Inspections And Code Enforcement



*A Regional Response  
..... to Local Needs*



# Building Code Inspections

- **Staffing**
  - ECIA staff will conduct inspections
  - Staff trained in Code inspections
  - Minimum of two staff will be available for inspections
  - ECIA insurance covers inspections
- **Timeframe**
  - ECIA will begin inspections with a signed contract and resolution
  - ECIA will be on call to conduct inspections during regular office hours of Monday through Friday, 8:00 a.m. to 4:00 p.m. Inspections will be conducted within 24 hours of the contractors' request, with the exception of holidays and weekends. ECIA staff will not be available on holidays or weekends. A list of holidays is attached to this Scope of Service.
- **Cost**
  - Inspections fees will be based on the ECIA billable hourly rate as established by the ECIA Council. FY'23 billable rates are \$96/hour for program director and \$91 Building Inspector. If re-inspections are required, ECIA will bill at the billable hourly rates set forth above. The average residential house takes approximately 1-3 hours to inspect.
  - ECIA will log all mileage related to the Cascade inspections and bill at the federal mileage rate as established by the Federal Government.

# Building Code Inspections

- A log will be maintained documenting the inspections and the time to complete the inspection on the inspection log report.
- ECIA will bill the City of Cascade based on its established billable hourly rates for responding to questions from the public, engineers, contractors, developers, architects and other interested parties. **A log will be maintained.**
- **Inspections - conducted per Cascade’s adopted building codes**
  - Cascade must provide ECIA with their adopted building codes
  - ECIA will use a standard checklist inspection form
  - Inspections to be conducted and improvement work including but not limited to:
    - Zoning classification, plan reviews, standards, specifications, special requirements, codes and regulations.
    - Physical change in structure footprint requires on-site inspection to ensure proper placement
    - All decks require a permit
    - All fences require a permit

# Building Code Inspections

- Commercial plan reviews will be billed at the hourly rate for time spent
- Final inspections on new construction, substantial remodels, and decks
  
- ECIA will maintain an inspection log report/record for each residential, commercial or industrial unit/building.
- ECIA will maintain a call/activity log for responding to questions from the public, architects, engineers, developers, and other interested parties.
  
- **ECIA Responsibilities**
  - Staff will compile and complete required reports, check lists and maintain logs pertaining to inspections and inquiries.
  - Staff will correspond with City of Cascade Building Official, regulatory agencies and others as needed.
  - Staff will provide findings and recommendations to the City of Cascade staff regarding corrective notices, approvals, and occupancy permits for residences, commercial and/or industrial buildings.
  - Staff will inspect for violation of local code
  - Staff will inspect for compliance with zoning set-back requirements and easements.
  - Staff will investigate and inspect complaints and report to City of Cascade City Clerk and staff of potential code violations relating to building occupancy, hazardous conditions, construction, polluting, or other related code-related matters.

# Building Code Inspections

- Staff will provide information and respond to inquiries regarding Code requirements from contractors, developers, property owners and general public.
- Staff will advise the City with respect to inquiries and concerns relating to building policies and procedures.
- Staff will provide advice regarding application codes within area of responsibility to architects, engineers, contractors, developers, and other interested parties.

- **Billing and Payment**

- ECIA will bill the City of Cascade on a monthly basis itemizing the inspections/unit and the number of billable hours. ECIA will log all miles related to Cascade inspections and bill for mileage monthly based on the federal mileage rate as established by the Federal Government.
- ECIA will bill the City of Cascade monthly for responding to complaints and inquiries itemizing and attaching a copy of the call log report.

- **Contract**

- Contract is attached. Upon City of Cascade approval, ECIA will continue inspections based on this Scope of Services.
- Contract will be reviewed annually

# ECIA Holidays

- ECIA is closed for business on the following holidays:
  - New Years Day
  - Martin Luther King Jr. Day
  - Memorial Day
  - Independence Day
  - Labor Day
  - Veterans Day
  - Thanksgiving (Thursday and Friday)
  - Christmas Eve Day
  - Christmas Day
  - New Year’s Eve
- Staff will **not** be available to conduct inspections on the above holidays.



## **August 22, 2022 Agenda**

**To: Mayor, City Council and Staff**

**From: Lisa Kotter, Interim City Administrator**

**Date: August 18, 2022**

**Re: Water and Sewer Connection Fees and Water Service Fees**

The City Council has decided at the last few meetings to proceed with an ordinance change for the fees on water and sewer connections. In the packet is the proposed Ordinance change and this will be the third and final of three readings. It is drafted so that the fees recommended by City Council at the last approval meeting are approved in a Resolution. If the Council approves the third reading this week, I have prepared a Resolution which would have the fees we have discussed. This ordinance also eliminates the duplication with having a water connection and water service fee.

**January 1, 2023 Water Connection \$150, Sewer Connection \$150**

**January 1, 2025 Water Connection \$200, Sewer Connection \$200**

**January 1, 2027 Water Connection \$250, Sewer Connection \$250**

ORDINANCE #01-22

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF  
CASCADE, IOWA, BY AMENDING

CHAPTER 6-3 UTILITIES-WATER SYSTEM SPECIFICALLY 6-3-5 PERMITS  
AND 6-3-8 CONNECTION CHARGE

AND

CHAPTER 6-2 UTILITIES-SANITARY SEWER SYSTEMS SPECIFICALLY 6-2-8  
CONNECTION CHARGE

NOW, THEREFORE, BE IT ENACTED, by the City Council of the City of Cascade, Iowa, as follows:

Section I. Section Modified. Title VI Physical Environment, Chapter 3 Utilities – Water System, of the Code of Ordinances of the City of Cascade, Iowa, is repealed and the following adopted in lieu thereof:

6-3-5 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City Administrator and Water Superintendent. The application for the permit shall be filed at the same time as the Building Permit and on the same form, with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses will be allowed except by written permission of the Superintendent. The Water Superintendent shall sign and issue the permit and state the time of issuance, if the proposed work meets all the requirements of this chapter and if all fees or charges required under this chapter have been paid. Work under any permit must be begun within six (6) months after it is issued. The Water Superintendent may at any time revoke the permit for any violation of this chapter and require that the work be stopped. The property owner shall pay a flat fee all charges in accordance with 6-3-8 of twenty-five dollars (\$25.00) upon the submission of the application for the water permit for use of City water for a period not to exceed thirty (30) days from the date that the owner connects to City water services to the date that the water meter is installed. The owner shall notify the City Administrator not less than thirty (30) days after receipt of the permit that when the connection to the City water meter is ready for inspection by the Water Superintendent. This fee will be included on the first water bill. The water meter must be connected and operational prior to any water consumption from the City's water system.

6-3-8 CONNECTION CHARGE. Before any permit is issued in accordance with 6-3-5 and connection made, a connection charge shall be paid to the City, in accordance with the following: 1. East Industrial Park Area. In the property described below, the connection charge is \$2,000.00. Provided, however, if connection is made to both the water system and the sewer system, the \$2,000.00 connection charge shall cover both connections. Said connection charge shall apply not only to connections made in the property specifically described below but to all connections to the water mains or any extension to the mains. The City may determine what connections will be made under this section and connections may be denied, or an additional connection fee negotiated, if a determination is made by the City that the requested hookup will place an unreasonable burden on the water and/or sewer mains. The East Industrial Park Area is described as follows: Part of Lot 1 of Lot 1 of Lot 1

~~of Lot 4 of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼), Lot 1 of Lot 1 of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼), and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼), all in Section 31; Lot 1 of Lot 1 of Lot 1 and Lot 1 of Lot 2 of Lot 1 of Lot 1 of Section 32; and Lots 1, 2, 3, 4, 5 and 6 of Beck Bros. Industrial Subdivision No. 1, all in Township 87 North Range 1 West of the Fifth P.M., Dubuque County, Iowa. 2. Johnson Street NW. In the property described below, the connection charge is \$2,000. Provided, however, if connection is made to both the water system and the sewer system, the \$2,000.00 connection charge shall cover both connections. Said connection charge shall apply not only to connections made in the property specifically described below, but to all connections to the water mains or any extensions to the water mains. The City may determine what connections will be made under this section and connections may be denied, or an additional connection fee negotiated, if the City makes a determination that the requested hookup will place an unreasonable burden on the water and/or sewer mains. The Johnson Street NW area is described as follows: Lot 1 of Breitbach Addition, and Lot 2 of Breitbach Addition that portion West 184 of the North Fork Maquoketa River. 4. Other Areas. The connection charge in all other areas is \$250.00. This fee applies to each and every sixty foot lot. Each additional foot of lot frontage shall require the payment of an additional fee of \$4.17 per foot. **A connection fee will be charged for each time a new connection is made to the water system regardless of whether the connection is made to a stubbed out water lateral or water main. The connection fee will be established by Resolution of the City Council.**~~

Section II. Section Modified. Title VI Physical Environment, Chapter 2 Utilities – Sanitary Sewer System, of the Code of Ordinances of the City of Cascade, Iowa, is repealed and the following adopted in lieu thereof:

6-2-8 Connection Charge. Before any permit is issued and connection made, a connection charge shall be paid to the City in accordance with the following: a. East Industrial Park Area. ~~In the property described below, the connection charge is \$2,000.00. Provided, however, if connection is made to both the water system and the sewer system, the \$2,000.00 connection charge shall cover both connections. Said connection charge shall apply not only to connections made in the property specifically described below but to all connections to the sewer mains or any extension to the sewer mains. The City may determine what connections will be made under this section and connections may be denied, or an additional connection fee negotiated, if a determination is made by the City that the requested hookup will place an unreasonable burden on the sewer mains. The East Industrial Park Area is described as follows: Part of Lot 1 of Lot 1 of Lot 1 of Lot 4 of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼), Lot 1 of Lot 1 of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼), and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼), all in Section 31; Lot 1 of Lot 1 of Lot 1 and Lot 1 of Lot 2 of Lot 1 of Lot 1 of Section 32; and Lots 1, 2, 3, 4, 5 and 6 of Beck Bros. Industrial Subdivision No. 1, all in Township 87 North Range 1 West of the Fifth P.M., Dubuque County, Iowa. b. Johnson Street NW. In the property described below, the connection charge is \$2,000. Provided, however, if connection is made to both the water system and the sewer system, the \$2,000.00 connection charge shall cover both connections. Said connection charge shall apply not only to connections made in the property specifically~~



~~described below, but to all connections to 172 the sewer mains or any extensions to the sewer mains. The City may determine what connections will be made under this section and connections may be denied, or an additional connection fee negotiated, if the City makes a determination that the requested hookup will place an unreasonable burden on the water and/or sewer mains. The Johnson Street NW area is described as follows: Lot 1 of Breitbach Addition, and Lot 2 of Breitbach Addition that portion West of the North Fork Maquoketa River. e. 6th Avenue SE. A connection charge of \$15.26 per linear foot of lot frontage shall be required for all 6th Avenue SE properties between Madison Avenue and Delong Avenue. d. Other Areas. The connection charge in all other areas is \$250.00. This fee applies to each and every sixty foot lot. Each additional foot of lot frontage shall require the payment of an additional fee of \$4.17 per foot.~~

**A connection fee will be charged for each time a new connection is made to the sanitary sewer system regardless of whether the connection is made to a stubbed out sewer lateral or sewer main. The connection fee will be established by Resolution of the City Council.**

Section II. Severability Clause. If any section, provision or part of the ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section III. When Effective. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED, ADOPTED AND APPROVED this 22<sup>nd</sup> day of August, 2022.

\_\_\_\_\_  
Steven J. Knepper, Mayor

ATTEST:

\_\_\_\_\_  
Danielle Hartke City Clerk CMC, CFO

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: \_\_\_\_\_

**RESOLUTION #53-22**

**A RESOLUTION SETTING WATER AND SEWER CONNECTION FEES**

WHEREAS, the City Code Title VI Physical Environment, Chapter 3 Utilities Water System, Section 8 Connection Charge and Title VI Physical Environment, Chapter 2 Utilities-Sewer System, Section 8 both establish fees to connect to a water or sewer main, and;

WHEREAS, Ordinance #01-22 states that the fees will be established by Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cascade, Iowa, established the following fees to connect to a sewer or water main:

Effective January 1, 2023 Water Connection \$150, Sewer Connection \$150

Effective January 1, 2025 Water Connection \$200, Sewer Connection \$200

Effective January 1, 2027 Water Connection \$250, Sewer Connection \$250

PASSED, APPROVED AND ADOPTED this 22<sup>nd</sup> day of August, 2022.

\_\_\_\_\_  
Steve Knepper, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Kotter, City Administrator & Interim City Clerk



City of  
CASCADE



## August 22, 2022 Agenda

**To: Mayor, City Council and Staff**  
**From: Lisa Kotter, Interim City Administrator**  
**Date: August 18, 2022**  
**Re: UTV ATV Laws**

As you know we have our City Code regarding off road vehicles. At the last meeting staff was directed to prepare an ordinance which would mirror the State Code changes that UTV-ATVs can be on State Highway 136. The draft in the packet does this. There needs to be three readings unless you direct staff to post the September 12 agenda to be the second and third readings combined.

**ORDINANCE #03-22**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF  
CASCADE, IOWA, BY AMENDING PROVISIONS FOR UTV-ATV OPERATIONS IN  
THE CITY OF CASCADE, IOWA**

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Cascade, Iowa, that the following two Sections are deleted under the Title III Community Protection, Chapter 3 Traffic Code, 71 Places of Operation, Sub 2 and 3 (3-3-71(1)) and (3-3-71(2)):

3-3-71 PLACES OF OPERATION. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Streets. ATVs and UTVs may be operated on all City streets unless prohibited by this Section. ATVs and UTVs may stop at service stations or convenience stores along any permitted street.  
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~~2. Prohibited Streets. ATVs and UTVs shall not be operated upon any City street which is a primary road extension through the City. However, an ATV/UTV may cross such a primary road extension. Primary road extensions shall include all of Highway 136.~~

~~3. Exceptions to Prohibited Streets. The City of Cascade, a political subdivision can legally operate an ATV/UTV on prohibited streets for the purpose of construction or maintenance per State Code 321.234A.~~

Section II. Severability Clause. If any section, provision or part of the 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 III. When Effective. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED, ADOPTED AND APPROVED this 26 day of September, 2022.

\_\_\_\_\_  
Steve Knepper, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Kotter, Interim City Clerk

1<sup>st</sup> Reading: \_\_\_\_\_

2<sup>nd</sup> Reading: \_\_\_\_\_

3<sup>rd</sup> Reading: \_\_\_\_\_



## **August 22, 2022 Agenda**

**To: Mayor, City Council and Staff**

**From: Lisa Kotter, Interim City Administrator**

**Date: August 18, 2022**

**Re: Payroll and Accounts Receivable and Payables Duties**

**As you know we discussed the idea of finding someone more knowledgeable with GWorks software to help with Payroll and Accounting duties. Cheryl Clark, Deputy Clerk, from Monticello is willing to come assist in training as they use the same software. In the packet is a Resolution and Agreement with her for assistance. Depending on the work load, and time it takes to fill the position, we have another option to hire the firm Bohnsack and Froemmelt as they have staff that can help with the functions remotely. I think it is worth working with Cheryl first.**

**RESOLUTION #52-22**

**A RESOLUTION HIRING MENTOR CHERYL CLARK TO ASSIST WITH CITY CLERK DUTIES FOR THE CITY OF CASCADE**

WHEREAS, the City is in the process of filling the vacant City Clerk position, and;

WHEREAS, the current staff needs assistance in learning some of the duties and software used to perform responsibilities such as accounts payable and receivable and payroll, and;

WHEREAS, the current staff would benefit from temporarily hiring someone with such experience.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cascade, Iowa, authorizes the temporary hiring of Cheryl Clark to train and help perform the duties of the City Clerk as a mentor with the terms outlined in Exhibit A.

PASSED, APPROVED AND ADOPTED this 22<sup>nd</sup> day of August, 2022.

\_\_\_\_\_  
Steve Knepper, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Kotter, City Administrator & Interim City Clerk

THIS AGREEMENT IS ENTERED INTO ON THIS 22<sup>nd</sup> DAY OF August, 2022 BY AND BETWEEN THE CITY OF Cascade, IOWA, (HEREINAFTER CITY) AND Cheryl Clark (HEREINAFTER MENTOR) FOR THE PURPOSE OF PROVIDING CERTAIN MENTORING SERVICES TO THE City Administrator OF CITY, ON THE FOLLOWING TERMS AND CONDITIONS.

1. MENTOR is qualified to provide certain mentoring services to the city clerk office staff and MENTOR will not attempt to provide mentoring services to the staff in any area in which MENTOR is not experienced and knowledgeable.
2. MENTOR will provide a maximum of 50 hours (with flexibility) of mentoring services to city clerk office staff of CITY during the period commencing August 22, 2022 an ending on August 31, 2022. The time of providing such services and the dates and location when such services will be provided is at the direction and control of MENTOR.
3. MENTOR will keep accurate records of the amount of time spent performing such mentoring, the nature of mentoring provided, and any expenses incurred and will submit an itemized statement to the City each month after services and expenses were incurred.
4. The CITY will pay for such services at a rate of \$50.00 per hour and will reimburse MENTOR for the expenses incurred which shall be limited to mileage for automobile expenses at the rate of \$0.625 cents per mile or the current Federal rate for mileage reimbursement.
5. Each party acknowledges that MENTOR is an independent contractor for the purpose of providing these mentoring services. The CITY will not withhold federal or state income taxes, social security or IPERS payments; neither will the CITY provide any benefits or compensation to MENTOR except for the hourly fees for itemized services and except for expenses incurred. The MENTOR is solely responsible for providing his/her own insurance coverage.
6. MENTOR agrees that this is a personal service contract and the mentoring services to be performed cannot be assigned to any other individual.
7. This agreement may be extended as to the hours of mentoring services to be performed and as to the completion date only by written agreement of both parties.
8. Either party may terminate this agreement at any time by serving written notice of such termination on the other party. In the event that future mentoring sessions have already been scheduled, notice must be personally delivered by the party to the other party, thus canceling all future sessions. In all other cases, notice will be considered served when deposited in the United States mail with sufficient postage affixed, addressed to the other party at the respective addresses listed below:

Notice to CITY:

Lisa A. Kotter, City Administrator  
Cascade City Hall  
320 1<sup>st</sup> Ave West  
Cascade, IA 52033

Notice to MENTOR:

Cheryl Clark  
Monticello City Hall  
200 East 1<sup>st</sup> Street  
Monticello, IA 52310

9. This written agreement sets out the entire agreement between the parties and any change, modification, addition, or extension thereof shall not be effective unless set out in writing.

Dated at Cascade, Iowa on this 22<sup>nd</sup> day of August, 2022.

\_\_\_\_\_  
Cheryl Clark, MENTOR

\_\_\_\_\_  
Steven Knepper, Mayor

Attest: \_\_\_\_\_  
Lisa A. Kotter, City Administrator and Interim City Clerk



## **August 22, 2022 Agenda**

**To: Mayor, City Council and Staff**

**From: Lisa Kotter, Interim City Administrator**

**Date: August 18, 2022**

**Re: Cable Franchise Agreement**

**Dave Gibson and I discussed that our Cable Franchise Agreement with Cascade Communication is set to expire in December as we had a 2012 agreement that was 10 years. The State now gives an option for Cascade Communication to renew with the State versus a local government. It is the company's intent to move in this direction and apply with the State. The City still receives the franchise fees as we currently do. I have included the current agreement, state code and state administrative rules. This is for information only for this meeting.**



**ORDINANCE NO. 36-12**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CASCADE, IOWA BY DELETING ORDINANCE NO. 48-03 "CABLE TELEVISION FRANCHISE" GRANTED TO MCC IOWA, LLC AND ENACTING A NEW "VIDEO FRANCHISE" GRANTED TO CASCADE COMMUNICATIONS COMPANY**

THIS ORDINANCE grants CASCADE COMMUNICATIONS COMPANY f/k/a CASCADE TELEPHONE COMPANY, its successors and assigns (the "**Company**"), the right, franchise and authority for a period of ten (10) years to construct, operate and maintain a video system within the public rights of way of and within the CITY OF CASCADE, IOWA (the "**City**").

WHEREAS, on December 8, 2003, the City passed and adopted Ordinance No. 49-03 (the "**Regulatory Ordinance**"), specifying certain requirements for the establishment, construction, operation and maintenance of cable television service and cable television systems in the City pursuant to applicable Iowa and Federal law.

WHEREAS, on December 8, 2003, the City passed and adopted Ordinance No. 48-03 (the "**Cable Franchise Ordinance**"), granting to MCC Iowa LLC, its successors and assigns a renewal of its non-exclusive right, franchise and authority to construct, operate and maintain a cable television system and to provide cable television service within the City.

WHEREAS, the Company is the lawful assignee and successor in interest to MCC Iowa LLC's legal and contractual rights and obligations under the Cable Franchise Ordinance and is in good standing under the Regulatory Ordinance and Cable Franchise Ordinance.

WHEREAS, the Company has, in accordance with applicable Iowa and Federal law, applied for the renewal of its non-exclusive right, franchise and authority to construct, operate and maintain a video and/or cable television system and to provide video and/or cable television service within the City.

WHEREAS, the Franchise granted by this Ordinance has been considered at a public hearing and approved by all requisite public action on the part of the City and has been approved by the City in accordance with applicable Iowa and Federal law governing the renewal of video and/or cable television franchises.

NOW THEREFORE, be it enacted and ordained by the City Council of the City of Cascade, Iowa that the Code of Ordinances of the City of Cascade is amended by deleting Ordinance No. 48-03 entitled "Cable Television Franchise" and enacting a new Ordinance No. 36-12 entitled "Video Franchise" as follows:

CHAPTER 112

VIDEO FRANCHISE

SECTIONS

SECTION 1.	DEFINED TERMS
SECTION 2.	REGULATORY AUTHORITY
SECTION 3.	GRANT OF FRANCHISE
SECTION 4.	TERM AND RENEWAL

SECTION 5.	FRANCHISE FEE
SECTION 6.	PEG CAPITAL SUPPORT FEE
SECTION 7.	PEG CAPITAL GRANT
SECTION 8.	PEG ACCESS EQUIPMENT AND CAPACITY
SECTION 9.	INSTITUTIONAL NETWORK
SECTION 10.	BONDING REQUIREMENTS
SECTION 11.	CUSTOMER SERVICE STANDARDS
SECTION 12.	TECHNICAL STANDARDS
SECTION 13.	NONEXCLUSIVE FRANCHISE; EQUAL PROTECTION
SECTION 14.	CONSTRUCTION AND INSTALLATION
SECTION 15.	SERVICE EXTENSIONS
SECTION 16.	OWNERSHIP AND REMOVAL
SECTION 17.	CONFIDENTIALITY OF PROTECTED INFORMATION
SECTION 18.	LEGAL COMPLIANCE; SEVERABILITY
SECTION 19.	FORCE MAJEURE
SECTION 20.	ASSIGNMENT OR TRANSFER
SECTION 21.	THIRD PARTY LIABILITY
SECTION 22.	NOTICES
SECTION 23.	LEGAL EFFECT; OTHER ORDINANCES

## **SECTION 1. DEFINED TERMS**

For purposes of this Chapter, certain capitalized terms have the meanings provided in this Section. Other capitalized terms used in this Chapter are defined in the context in which they are used and shall have the meanings ascribed therein. Capitalized terms used in this Chapter shall have the meaning ascribed to them at the point where defined, irrespective of where their use occurs, with the same effect as if the definitions of said terms were set forth in full and at length every time such terms are used. All terms defined in this Chapter in the singular form will have comparable meanings when used in the plural form and vice versa.

**“Affiliate”** means as to any Person, any Person directly or indirectly controlling, controlled by or under common control with such Person. For purposes of this definition, the terms “control”, “controlling”, “controlled by” or “under common control with” means having the right to elect or appoint, directly or indirectly, a majority of the board of directors, managers, managing members, general partners or other comparable body or entity responsible for the management or direction of a Person, whether by contract, equity ownership or otherwise.

**“Cable Act”** means, collectively, the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, each as amended.

**“Cable Franchise Ordinance”** is defined in the introductory paragraphs of this Chapter.

**“Cable Service”** means (a) the one-way transmission to subscribers of (i) Video Programming, or (ii) other information that the Company makes available to all subscribers generally, and (b) subscriber interaction, if any, which is required for the selection or use of such Video Programming or other information.

**“Communications Act”** means the Communications Act of 1934, as amended.

**“Company”** is defined in the introductory paragraphs of this Chapter.

**“Customer Proprietary Information”** means any and all information or data that is provided to the City by, through or on behalf of the Company under this Chapter or the Cable Regulatory Ordinance that relates to any: (a) lists of current, prospective or former customers of the Company or its Affiliates; (ii) nonpublic personal information of any Person who is a current, prospective or former customer of the Company or its Affiliates, including information about any customer’s network or business operations; (iii) customer proprietary network information (“CPNI”) of any party or its Affiliates, within the meaning of Telecommunications Act and implementing FCC Rules, or any similar provision under any other applicable Legal and Regulatory Requirements; or (iv) other sensitive personal or personally identifiable information of a party’s customers required to be safeguarded as confidential under applicable Legal and Regulatory Requirements.

**“FCC”** means the Federal Communications Commission.

**“FCC Rules”** means the rules and published policies of the FCC as in effect from time to time.

**“Franchise”** means the franchise authorization issued by the City under this Chapter which authorizes the construction, operation and maintenance of a Video System within the Public Right-of-Way.

**“Franchise Area”** means the geographic area within the corporate boundaries of the City, including any areas lawfully annexed to the City in the future.

**“Governmental or Regulatory Authority”** means the FCC, the IUB, and any other Federal, state, local, foreign or other governmental or quasi governmental authority and any governmental, quasi governmental or other department, commission, body, board, bureau, agency, association, subdivision, court, tribunal or other instrumentality exercising any executive, judicial, legislative, regulatory or administrative function.

**“Gross Revenues”** means all consideration of any kind or nature, including but not limited to cash, credits, property, and in-kind contributions received from subscribers for the provision of Service within the Franchise Area.

(a) “Gross Revenues” are limited to the following:

- (1) Recurring charges for Service.
- (2) Event-based charges for Service, including but not limited to pay-per-view and video-on-demand charges.
- (3) Rental of set-top boxes and other Service equipment.
- (4) Service charges related to the provision of Service, including but not limited to activation, installation, and repair charges.
- (5) Administrative charges related to the provision of Service, including but not limited to service order and service termination charges.

(b) For avoidance of doubt, “Gross Revenues” do not include:

- (1) Revenues not actually received, even if billed, including bad debt.
- (2) Revenues received by any Affiliate or any other Person in exchange for supplying goods or services used by the Company to provide Video Service.
- (3) Refunds, rebates, or discounts made to third parties, including subscribers, leased access providers, advertisers, or the City or any other unit of local government.
- (4) Regardless of whether the services are bundled, packaged, or functionally integrated with Video Service, any revenues derived by the Company from services not classified as Video Service,

including, without limitation, revenue received from telecommunications services, revenue received from data communications services, revenue received in connection with home-shopping services, or any other revenues attributed by Company to other noncable or nonvideo service in accordance with the Company's books and records kept in the regular course of business and any applicable Legal and Regulatory Requirements.

(5) Revenues paid by subscribers to home-shopping programmers directly from the sale of merchandise through any home-shopping channel offered as part of Video Service.

(6) Revenues from the sale of Video Service for resale in which the purchaser is required to collect the franchise fee from the purchaser's customer.

(7) Revenues from any tax of general applicability imposed upon the Company or upon subscribers by a Governmental or Regulatory Authority and required to be collected by the Company and remitted to the taxing entity, including but not limited to sales or use tax, gross receipts tax, excise tax, utility users tax, public service tax, and communication taxes, and including any franchise fee imposed under this Chapter or the Regulatory Ordinance.

(8) Revenues forgone from the provision of Video Service to public institutions, public schools, or civic or governmental entities at no charge.

(9) Revenues forgone from the Company's provision of free or reduced-cost Video Service to any Person, including, without limitation, any Governmental or Regulatory Authority.

(10) Revenues from sales of capital assets or sales of surplus equipment.

(11) Revenues from reimbursements by programmers of marketing costs incurred by the Company for the introduction or promotion of new programming.

(12) Directory or Internet advertising revenues including but not limited to yellow page, white page, banner advertisement, and electronic publishing.

(13) Copyright fees paid to the United States Copyright Office.

(14) Late payment charges.

(15) Maintenance charges.

**"IUB"** means the Iowa Utilities Board.

**"IUB Rules"** means the rules and published policies of the IUB as in effect from time to time.

**"Institutional Network"** means any facilities within or services provided using the System reserved and dedicated by the City for noncommercial purposes, including service outlets for the provision of Video Service to public institutions, public or parochial schools, or civic or governmental entities at no charge.

**"Legal and Regulatory Requirements"** means any provision of the Communications Act, Cable Act, Telecommunications Act, the FCC Rules, IUB Rules, and any other Federal, state, local, foreign or other constitution, statute, treaty, ordinance, rule, regulation, regulatory or administrative guidance, principle of common law or equity, order, award, decision, injunction, judgment, ruling, decree, charge, writ, subpoena or verdict entered, issued, made or rendered by any Governmental or Regulatory Authority. To the extent not repealed or preempted by the provisions of this Chapter, the provisions of the Regulatory Ordinance are "Legal and Regulatory Requirements" within this meaning.

**"Person"** means any individual, corporation (including any nonprofit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union or other entity or Governmental or Regulatory Authority.

**"Protected Information"** means any and all trade secrets, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, maps, blueprints, diagrams, and other technical, financial and business information concerning the Company or its Affiliates, including all intellectual property rights therein and derivatives thereof or improvements thereto, or any other information relating to any

research project, work in process, future development, scientific, engineering, service, manufacturing, marketing or business plans or financial or personnel matters relating to the Company or its Affiliates, or their present or future services, products, sales, suppliers, vendors, customers, employees, lenders or investors, and disclosed to or otherwise received by the City pursuant to this Chapter or the Cable Regulatory Ordinance. For avoidance of doubt, Protected Information includes: (a) information disclosed in a written or other tangible form which is clearly marked with a “confidential” or “proprietary” legend or other comparable legend; (b) information disclosed orally or visually which is identified as confidential at the time of disclosure and confirmed in writing within a reasonable time; (c) any personnel records or employee health data, including genetic information; (d) any Customer Proprietary Information; and (e) any other information which a reasonable person would deem confidential under the context of disclosure or due to the nature of the information. Except for Customer Proprietary Information (which will always continue as Protected Information without exception), “Protected Information” will not include information to the extent that: (i) such information is or becomes publicly available other than through any act or omission of the City or its Representatives; (ii) such information was received by the City, other than under an obligation of confidentiality from a third party, which third party had no obligation of confidentiality to the Company; or (iii) such information was in the possession of the City at the time of the disclosure, or was independently developed by the City without reference to the Company’s Protected Information.

“**Public Right of Way**” means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements. “Public Right of Way” does not include airwaves above any public right-of-way with regard to wireless facilities or services. “Public Right of Way” does not include utility poles owned by the City or its municipal utility.

“**Regulatory Ordinance**” is defined in the introductory paragraphs of this Chapter.

“**Representative**” means, as to any Person, any director, officer, member, manager, general partner, shareholder, employee, agent, consultant, advisor or other representative of such Person or its Affiliates, including legal counsel, accountants and financial advisors.

“**Telecommunications Act**” means the Telecommunications Act of 1996, as amended.

“**Video Programming**” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

“**Video Service**” means Cable Service or any other Video Programming provided by the Company, without regard to delivery technology, including Video Programming provided utilizing Internet protocol television (IPTV) technologies. “Video Service” does not include any Video Programming service or other service provided solely as part of, and via, a data communications service that enables users to access or stream content, information, electronic mail, or other services offered over the public Internet.

“**Video System**” means the Company’s wireline communications facilities located at least in part in the Public Right of Way and designed to provide Video Service to multiple customers within the Franchise Area.

## **SECTION 2. REGULATORY AUTHORITY**

The Company’s operation of its Video System shall be governed by this Chapter only to the extent that the City is permitted to exercise its power as a local franchising authority with respect to the Company’s Video Service under applicable Legal and Regulatory Requirements. Without limiting the City’s

otherwise lawful authority under other applicable City codes and ordinances, this Chapter shall authorize and regulate the Company's use and occupancy of the Public Right of Way within the City for the purpose of providing Video Service over its Video System. The provisions of this Ordinance are intended and shall be applied and construed in such a manner as to govern the Company's use and occupancy of public rights-of-way in competitively neutral and nondiscriminatory manner as compared to other public and private utilities using and occupying such rights-of-way, including any municipal utility. Nothing in this Chapter shall be interpreted or construed to impose any requirement that has the purpose or effect of prohibiting, limiting, restricting or conditioning the provision of telecommunications services or other communications or data services by the Company or any of its Affiliates.

### **SECTION 3. GRANT OF FRANCHISE**

The Company is hereby granted a renewal of its Franchise, conferring upon the Company, its successors and assigns, a nonexclusive right, license and authority to construct, operate and maintain a Video System for the purpose of providing Video Service to end-user customers located in the Franchise Area. The Franchise includes the right of the Company to construct, install, maintain, operate, repair replace and remove facilities and equipment comprising the Video System in the Public Right of Way throughout the Franchise Area.

### **SECTION 4. TERM AND RENEWAL**

The renewal term of the Franchise shall commence upon expiration of the Cable Franchise Ordinance (December 10, 2012) and shall continue for a period of ten (10) years. At the end of this renewal term and any subsequent renewal term(s), the Company may apply for a subsequent renewal of the Franchise by giving written notice to the City not less than ninety (90) days prior to the expiration of the Franchise. In determining whether to grant any subsequent renewals, the City shall consider those factors prescribed by Federal law, including (i) whether the Company has substantially complied with the material terms of the Franchise and with applicable Legal and Regulatory Requirements; (ii) the extent and quality of the Company's Video Service; (iii) whether the Company remains financially, legally and technically qualified to provide Video Service; and (iv) whether renewal of the Franchise promotes the Video Programming-related community needs and interests. The City may terminate the Franchise for cause as provided in the Regulatory Ordinance. In the event the Company elects to cease its operation of a Video System and to no longer provide Video Service, the Company may terminate the Franchise by submitting not less than ninety (90) days prior written notice to the City. The terms and provisions of this Ordinance that can only be given proper effect if they survive the termination of the Franchise will survive and remain enforceable notwithstanding the termination, rescission, or expiration of the Franchise, for any reason whatsoever. In addition, all provisions of this Ordinance will remain valid as to any obligation incurred prior to termination of the Franchise until such time as such obligations have been discharged. This Section specifically preempts and supersedes any additional or different franchise term or renewal conditions or requirements provided under the Regulatory Ordinance.

### **SECTION 5. FRANCHISE FEE**

For the term of the Franchise, the Company shall pay to the City an annual franchise fee of five percent (5%) of the Company's annual Gross Revenues received from subscribers for the provision of Video Service within the Franchise Area. The franchise fee shall be payable quarterly at the Clerk's office as provided in the Cable Regulatory Ordinance. Any franchise fees collected and paid under this Section may be credited to the City's general fund and used for the City's lawful general fund purposes. The Company may identify the franchise fee collected and paid under this Section as a separate line item on the regular bill of each subscriber. This Section specifically preempts and supersedes any additional or different franchise fee requirements provided under the Regulatory Ordinance.

## **SECTION 6. PEG CAPITAL SUPPORT FEE**

For the term of the Franchise, the Company shall pay the City an annual PEG capital support fee of fifteen cents (\$0.15) per subscriber per month. The PEG capital support fee shall be payable in the same manner as the franchise fee payments. Any PEG capital support fee collected and paid pursuant to this Section shall be used only for the support of public, educational and governmental access equipment and facilities. The PEG capital support fee shall not be deemed to be "franchise fees" and shall not be included in Gross Revenues for purposes of this Chapter or applicable Legal and Regulatory Requirements. The Company may identify the PEG capital support fee collected and paid under this Section as a separate line item on the regular bill of each subscriber. This Section specifically preempts and supersedes any additional or different PEG capital support fee requirements provided under the Regulatory Ordinance.

## **SECTION 7. PEG CAPITAL GRANT**

For the term of the Franchise, the Company shall provide the City with an annual capital grant in the amount of five hundred dollars (\$500.00). The PEG capital grant shall be payable on or before January 30 each year at the Clerk's office as provided in the Cable Regulatory Ordinance. Any PEG capital grant paid pursuant to this Section shall be used solely for the acquisition and maintenance of capital equipment and facilities in support of educational and governmental programming. The PEG capital grant shall not be deemed to be "franchise fees" for purposes of this Chapter or applicable Legal and Regulatory Requirements. This Section specifically preempts and supersedes any additional or different PEG capital grant requirements provided under the Regulatory Ordinance.

## **SECTION 8. PEG ACCESS EQUIPMENT AND CAPACITY**

The Company shall not be required to provide PEG access equipment as provided under the Regulatory Ordinance. For the term of the Franchise, the Company shall designate a sufficient amount of channel capacity on the Video System to allow the provision of a comparable number of public, educational, and governmental channels that the Company has activated and provided in the Franchise Area under the terms of the Franchise Ordinance. If no such channels are active, the City may during the term of the Franchise request a maximum of two public, educational, and governmental channels in accordance with the qualifications and limitations set forth in the Cable Regulatory Ordinance. The public, educational, and governmental content to be provided pursuant to this Section and the operation of the public, educational, and governmental channels shall be the responsibility of the City, and the Company shall be responsible only for the transmission of such content, subject to technological restraints. The City shall ensure that all transmissions, content, or programming to be transmitted by the Company pursuant to this Section are provided or submitted to the Company in a manner or form that is capable of being accepted and transmitted by the Company, without requirement for additional alteration or change in the content, over the Video System, which is compatible with the technology or protocol utilized by the Company to deliver Video Service. At its election, the City may reasonably request the Company to make any necessary change to the form of any programming, furnished for transmission, which shall be charged to the City, not to exceed the Company's incremental costs. In that case, the City shall have up to twelve (12) months to reimburse the Company for such costs. The provision of such transmissions, content, or programming to the Company shall constitute authorization for the Company to carry such transmissions, content, or programming, at the Company's option, beyond the jurisdictional boundaries of the Franchise Area. This Section specifically preempts and supersedes any additional or different PEG access equipment and capacity requirements provided under the Regulatory Ordinance.

## **SECTION 9. INSTITUTIONAL NETWORK**

For the term of the Franchise, the Company shall provide an Institutional Network comparable to the Institutional Network that the Company has provided in the Franchise Area under the terms of the Franchise Ordinance, including free service to the following locations within the City's Institutional Network:

- City Hall
- Fire Station
- Cascade Public Library
- Aquin System
- Western Dubuque Community Senior and Junior High School
- Western Dubuque Community Elementary School

The City may from time to time request reasonable additions or modifications to the Institutional Network, provided that, (a) the total revenues forgone by the Company from the provision of Video Service to public institutions, public or parochial schools, or civic and governmental entities at no charge shall be limited to an amount not to exceed the existing total of forgone revenues associated with providing such services to such institutions and (b) the total amount of direct or indirect financial support provided for an Institutional Network shall be limited to ongoing maintenance and support of the existing Institutional Network. For the purposes of this Section, maintenance and support shall only include the reasonable incremental cost of moves, changes, and restoring connectivity of the fiber or coaxial cable lines up to a demarcation point at any location within the Institutional Network. This Section specifically preempts and supersedes any additional or different Institutional Network requirements provided under the Regulatory Ordinance.

## **SECTION 10. BONDING REQUIREMENTS**

For the term of the Franchise and provided that the Company maintains its principal place of business within the Franchise Area, the Company shall not be required to provide any form of performance or surety bond as provided under the Regulatory Ordinance.

## **SECTION 11. CUSTOMER SERVICE STANDARDS**

The Company shall comply with customer service standards consistent with those contained in applicable FCC Rules, and shall maintain a local toll-free telephone number for customer service contacts. This Section specifically preempts and supersedes any additional or different customer service standards provided under the Regulatory Ordinance.

## **SECTION 12. TECHNICAL STANDARDS**

The Company shall comply with technical standards consistent with those contained in applicable FCC Rules. This Section specifically preempts and supersedes any additional or different technical standards provided under the Regulatory Ordinance.

## **SECTION 13. NONEXCLUSIVE FRANCHISE; EQUAL PROTECTION**

The Franchise is nonexclusive and shall in no way prevent the City from granting or renewing any other franchise for Cable Service or Video Service in accordance with applicable Iowa and Federal laws. In the event the City enters into a franchise, permit, license authorization or other agreement of any kind with any Person other than the Company, to use or occupy the Public Right of Way for the purpose of



constructing, operating or maintaining a system for providing Cable Service or Video Service to any part of the Franchise Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one service provider not be granted an unfair competitive advantage or another service provider, and to provide all Persons equal protection under the law.

#### **SECTION 14. CONSTRUCTION AND INSTALLATION**

The Company shall construct, install, maintain, operate, repair, replace and remove the Video System in a manner consistent with accepted technical and engineering standards and in accordance with all applicable Legal and Regulatory Requirements. All facilities and equipment comprising the Video System and located in the Public Right of Way shall be located so as to cause minimum interference with the proper use of the Public Right of Way and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any Public Right of Way. In case of any facilities or equipment causing interference with the Public Right of Way, the Company shall, at its own cost and expense and in a commercially reasonable manner, modify, remove or relocate such facilities or equipment. In the event that at any time during the term of the Franchise the City lawfully elects to alter or change any street, alley or other Public Right of Way, the Company shall, if necessary and upon reasonable notice from the City, modify, remove or relocate any facilities or equipment at its own cost and expense and in a commercially reasonable manner, provided that where public funds are available to compensate for such removal or relocation under applicable Legal and Regulatory Requirements, the Company shall not be required to pay such costs. Decisions concerning the need for relocation of facilities shall be made and applied to all users of the affected Public Right of Way (including the City and any of its Affiliates) in a competitively neutral and nondiscriminatory manner. In connection with any construction, reconstruction, maintenance or repair project, the City and the Company shall communicate and coordinate with each other (and with other private and public utility companies utilizing the affected Public Right of Way and any third party contractors involved with any project) in a timely and open manner in order to limit the potential need for relocation of facilities and to minimize costs and disruption of utility services in connection with any required relocations. In case of any disturbance or damage to a Public Right of Way, the Company shall, at its own cost and expense and in a commercially reasonable manner approved by the City, replace and restore such right of way to as good a condition as before the Company's activities were commenced. This Section specifically preempts and supersedes any additional or different construction and installation requirements provided under the Regulatory Ordinance.

#### **SECTION 15. SERVICE EXTENSIONS**

The Company shall provide service to residents on a nondiscriminatory basis, and shall not deny access to Video Service to any resident or neighborhood on the basis of income. The Company shall serve all residents of the City, except to the extent that density of homes, adverse terrain or other factors render providing service commercially impracticable or technically infeasible. For purposes of determining compliance with the provisions of this Section, and to provide for a commercially reasonable and non-discriminatory policy governing extensions of video service within the City, the Company shall extend service to new subscribers at the normal installation charge and monthly rate for customers taking the same service, where there is an average of at least forty-five (45) homes per each linear mile of new facilities construction. In the event the requirements of this Section are not met, extensions of Video Service shall be required only on a basis which is commercially reasonable. Nothing in the preceding shall prohibit the Company from offering Video Service in any area not meeting the preceding density requirements on terms acceptable to the Company. This Section specifically preempts and supersedes any additional or different service extension standards provided under the Regulatory Ordinance.

## **SECTION 16. OWNERSHIP AND REMOVAL**

The Video System shall be and remain the exclusive property of the Company at all times and for all purposes. Any costs, expenses, taxes or other assessments arising from or related to the construction, installation, maintenance, operation, repair, replacement and removal of the Video System shall be the sole responsibility of the Company. Upon expiration or termination of the Franchise in accordance with this Chapter, the Company shall, upon written request of the City, at its own cost and expense and within a commercially reasonable time under the circumstances, remove all facilities and equipment comprising the Video System and restore the Public Right of Way to as good a condition as before the Company's activities were commenced. In the event the Company fails to remove its facilities and equipment within a reasonable time after the written request of the City, the City may accept bids for a contract to remove the facilities and equipment. The Company shall have the right to bid on such a contract. The City may award the contract to the appropriate bidder and charge the costs of such contract to the Company. The provisions of this Section shall not apply to facilities or equipment of the Company which are buried; provided, however, the Company shall transfer ownership to the City of any buried facilities and equipment which are not removed. Nothing in this Section shall require the Company to remove or transfer ownership of any facilities or equipment comprising the Video System so long as such facilities or equipment are being utilized by the Company or an Affiliate to provide telecommunications services or other communications or data services to subscribers within the City.

## **SECTION 17. CONFIDENTIALITY OF PROTECTED INFORMATION**

Any Protected Information of the Company, and the results derived in any way from such information, is and will remain the sole and exclusive property of the Company, and the City has no right or license in or to the Company's Protected Information. Protected Information of the Company that has been disclosed to the City will be maintained in confidence by the City, which will safeguard this information using the same degree of care as it uses to safeguard its own Protected Information, but in no case less than a reasonable degree of care. Without limiting the preceding, the City will (a) limit access to the Company's Protected Information to those of its Representatives with a need to know such Protected Information for the performance of the City's responsibilities and obligations under this Chapter and the Regulatory Ordinance and (b) limit use of the Company's Protected Information for the exclusive purpose of fulfilling its obligations and responsibilities under this Chapter and the Regulatory Ordinance. The City has established and will maintain commercially reasonable safeguards against the destruction, loss, alteration of or unauthorized use of or access to the Company's Protected Information in the possession of the City or its Representatives, which safeguards will include policies for the disposal/destruction of any such data that are commensurate with the sensitivity of the materials to be disposed of or destroyed. The City warrants that it will take all steps necessary to ensure fulfillment of this obligation and will take all reasonable measures, including court proceedings, to restrain its Representatives from unauthorized disclosure or use of the Company's Protected Information. In the event a subpoena or other legal process is served upon the City that, pursuant to the requirement of a Governmental or Regulatory Authority, requires the disclosure of the Company's Protected Information, the City will notify the Company promptly upon receipt of such subpoena or other request for legal process (unless such notice is prohibited by applicable Legal or Regulatory Requirements), and will cooperate with the Company, at the Company's expense, in any lawful effort by the Company to contest the legal validity or scope of such subpoena or other legal process.

## **SECTION 18. LEGAL COMPLIANCE; SEVERABILITY**

The rights and obligations of the Company and the City under this Chapter shall be subject to, and are intended to comply in all respects with, all applicable Legal and Regulatory Requirements. Each party

agrees to take all such further acts and execute all such further documents as the other party reasonably may request to fulfill their respective obligations under this Chapter or to assist the requesting party in complying with all Legal and Regulatory Requirements applicable to such party's rights and obligations under this Chapter. Every provision of this Chapter is intended to be severable. If any provision hereof is invalid or unenforceable for any reason whatsoever under the applicable Legal and Regulatory Requirements of a particular jurisdiction, this Chapter will be construed and enforced as if the invalid or unenforceable provision were not a part of this Chapter for purposes of that jurisdiction, and the remaining provisions of this Chapter will remain in full force and effect and will not be affected by the invalid or unenforceable provision or by its severance from this Chapter. Moreover, a provision as similar in terms to the invalid or unenforceable provision as may be possible and be valid and enforceable in the applicable jurisdiction will be substituted automatically as part of this Chapter in lieu of the illegal, invalid or unenforceable provision. If applicable Legal and Regulatory Requirements are subsequently amended or interpreted by an appropriate Governmental or Regulatory Authority in a way that causes any provision of this Chapter that was formerly invalid or unenforceable to become valid or enforceable, that provision (to the extent that it subsequently becomes valid and enforceable) will be considered to be adopted as part of this Chapter as of the effective date of that amendment or interpretation.

#### **SECTION 19. FORCE MAJEURE**

The Company shall not be liable for any delay or failure in performance of any part of its obligations under this Chapter from any cause beyond its control and without its fault or negligence, including acts of God, acts of civil or military authority, government regulations, adverse judicial proceedings, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation common carriers.

#### **SECTION 20. ASSIGNMENT OR TRANSFER**

The Company shall not assign or transfer any right granted under this Chapter to any other Person without the prior written consent of the City; provided that such prior written consent shall not be unreasonably withheld or delayed if the proposed assignee or transferee agrees in writing to assume the Company's obligations under this Chapter, including compliance with the terms and conditions of this Chapter and the applicable provisions of the Regulatory Ordinance. Notwithstanding the preceding or anything in this Chapter or the Regulatory Ordinance to the contrary, no restrictions or special rights with respect to assignment or transfer of the Franchise or the Video System shall apply to transfers from the Company to any Affiliate of the Company. This Section specifically preempts and supersedes any additional or different assignment or transfer restrictions or rights provided under the Regulatory Ordinance.

#### **SECTION 21. THIRD PARTY LIABILITY**

Nothing in this Chapter shall be deemed to create civil liability by one party for actions, omissions or negligence of the other party, or of the other party's agents, employees, officers or assigns. This Chapter shall not be interpreted or construed to provide any third parties (including, but not limited to the Company's customers) with any remedy, claim, liability, reimbursement, cause of action or any other right as against the Company or the City. Each of the Company and the City shall bear responsibility for its own actions, omissions and negligence. Without limiting the preceding, the Company shall hold the City harmless from any claim, liability or damage arising from or caused by the Company's activities under the Franchise.

**SECTION 22 NOTICES**

All notices, consents, waivers, and other communications under this Chapter or the Regulatory Ordinance must be in writing and will be deemed to have been duly given when (a) delivered by hand (with confirmation of receipt), (b) sent by email or facsimile (with confirmation of receipt), provided that a copy is mailed by registered mail, return receipt requested or (c) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the address of the receiving party designated below, as such address may be modified by notice given in accordance herewith.

**If to the City:**

City of Cascade, Iowa  
Cascade City Hall  
320 First Avenue West, PO Box 400  
Cascade, IA 52033

Fax: (563) 852-7554  
Email: [cascadecity@netins.net](mailto:cascadecity@netins.net)

**If to the Company:**

Cascade Communications Company  
Attn: General Manager  
106 Taylor Street SE, PO Box 250  
Cascade, IA 52033

Fax: (563)-852-3710  
Email: [dave@cascadecomm.com](mailto:dave@cascadecomm.com)

**SECTION 23. EMERGENCY ALERT SYSTEM**

The Company shall comply with all current and subsequent FCC Rules concerning the maintenance, operation and testing of an Emergency Alert System.

**SECTION 24. LEGAL EFFECT; OTHER ORDINANCES**

This Chapter and applicable provisions of the Regulatory Ordinance contain the entire agreement between the City and the Company regarding the Franchise. Any ordinance or provision of any ordinance inconsistent with the provisions of this Chapter is hereby repealed, including without limitation the following provisions of the Regulatory Ordinance:

§ 113.03	§ 113.11	§ 113.19	§ 113.27	§ 113.35
§ 113.04	§ 113.12	§ 113.20	§ 113.28	§ 113.36
§ 113.05	§ 113.13	§ 113.21	§ 113.29	§ 113.42
§ 113.06	§ 113.15	§ 113.22	§ 113.30	§ 113.43
§ 113.08	§ 113.16	§ 113.23	§ 113.31	§ 113.51
§ 113.09	§ 113.17	§ 113.24	§ 113.33	
§ 113.10	§ 113.18	§ 113.26	§ 113.34	

The Company shall comply with the terms of any lawfully adopted or amended generally applicable local ordinance (including the Regulatory Ordinance), to the extent the provisions of such ordinance do have the effect of limiting the benefits or expanding the obligations of the Company under this Chapter. In the event of any conflict between this Chapter and any ordinance (including the Regulatory Ordinance) this Chapter shall control. Neither party may unilaterally alter the material rights and obligations set forth in this Chapter.

*[End of Ordinance. Approval and Acceptance page follows.]*

VIDEO FRANCHISE ORDINANCE

PASSED and APPROVED on September 10, 2012.

Attest:



City Clerk



Mayor

ACCEPTED:

CASCADE COMMUNICATIONS COMPANY accepts all of the provisions of the foregoing Video Franchise Ordinance effective as of 9-26-12, 2012.

CASCADE COMMUNICATIONS COMPANY

By: Kevin Schockemoehl

Name: Kevin Schockemoehl

Title: Secretary

## CHAPTER 477A

## CABLE OR VIDEO SERVICE FRANCHISES

Purpose of chapter; 2007 Acts, ch 201, §1

477A.1	Definitions.	477A.7	Fees — financial support.
477A.2	Certificate of franchise authority requirement.	477A.8	Customer service standards.
477A.3	Application requirements — certificate of franchise authority.	477A.9	Nondiscrimination by municipality.
477A.4	Applicability to federal law.	477A.10	Provider discrimination prohibited.
477A.5	Municipality restrictions.	477A.11	Applicability of other law.
477A.6	Public, educational, and governmental access channels.	477A.12	Rules.

**477A.1 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. “Board” means the utilities board within the utilities division of the department of commerce.
2. “Cable operator” means the same as defined in 47 U.S.C. §522.
3. “Cable service” means the same as defined in 47 U.S.C. §522.
4. “Cable system” means the same as defined in 47 U.S.C. §522.
5. “Competitive cable service provider” means a person who provides cable service over a cable system in an area other than the incumbent cable provider providing service in the same area.
6. “Competitive video service provider” means a person who provides video service other than a cable operator.
7. “Franchise” means an initial authorization, or renewal of an authorization, issued by the board or a municipality, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system or video service provider’s network in a public right-of-way.
8. “Franchise fee” means the fee imposed under section 477A.7.
9. a. “Gross revenues” means all consideration of any kind or nature, including but not limited to cash, credits, property, and in-kind contributions received from subscribers for the provision of cable service over a cable system by a competitive cable service provider or for the provision of video service by a competitive video service provider within a municipality’s jurisdiction. Gross revenues are limited to the following:
  - (1) Recurring charges for cable service or video service.
  - (2) Event-based charges for cable service or video service, including but not limited to pay-per-view and video-on-demand charges.
  - (3) Rental of set-top boxes and other cable service or video service equipment.
  - (4) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
  - (5) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
  - (6) A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a cable service provider or a video service provider for advertising over the cable service or video service network to subscribers within the franchise area where the numerator is the number of subscribers within the franchise area, and the denominator is the total number of subscribers reached by such advertising. This subparagraph applies only to municipalities that include this provision in their franchise agreements as of January 1, 2007.
- b. “Gross revenues” does not include any of the following:
  - (1) Revenues not actually received, even if billed, including bad debt.
  - (2) Revenues received by any affiliate or any other person in exchange for supplying goods or services used by the person providing cable service or video service.

(3) Refunds, rebates, or discounts made to third parties, including subscribers, leased access providers, advertisers, or any municipality or other unit of local government.

(4) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues derived by the holder of a certificate of franchise authority from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, revenue received from information services, revenue received in connection with home-shopping services, or any other revenues attributed by the competitive cable service provider or competitive video service provider to noncable service or nonvideo service in accordance with the holder's books and records kept in the regular course of business and any applicable rules, regulations, standards, or orders.

(5) Revenues paid by subscribers to home-shopping programmers directly from the sale of merchandise through any home-shopping channel offered as part of the cable services or video services.

(6) Revenues from the sale of cable services or video services for resale in which the purchaser is required to collect the franchise fee from the purchaser's customer.

(7) Revenues from any tax of general applicability imposed upon the competitive cable service provider or competitive video service provider or upon subscribers by a city, state, federal, or any other governmental entity and required to be collected by the competitive cable service provider or competitive video service provider and remitted to the taxing entity, including but not limited to sales or use tax, gross receipts tax, excise tax, utility users tax, public service tax, and communication taxes, and including the franchise fee imposed under section 477A.7.

(8) Revenues forgone from the provision of cable services or video services to public institutions, public schools, or governmental entities at no charge.

(9) Revenues forgone from the competitive cable service provider's or competitive video service provider's provision of free or reduced-cost video service to any person, including, without limitation, any municipality and other public institutions or other institutions.

(10) Revenues from sales of capital assets or sales of surplus equipment.

(11) Revenues from reimbursements by programmers of marketing costs incurred by the competitive cable service provider or competitive video service provider for the introduction or promotion of new programming.

(12) Directory or internet advertising revenues including but not limited to yellow page, white page, banner advertisement, and electronic publishing.

(13) Copyright fees paid to the United States copyright office.

(14) Late payment charges.

(15) Maintenance charges.

10. "*Incumbent cable provider*" means the cable operator serving the largest number of cable subscribers in a particular franchise service area on January 1, 2007.

11. "*Institutional network*" means the system of dedicated fibers, coaxial cables, or wires constructed and maintained by an incumbent cable provider which is reserved and dedicated by the municipality for noncommercial purposes.

12. "*Municipality*" means a city.

13. "*Percentage of gross revenues*" means the percentage set by the municipality and identified in a written request made under section 477A.7, subsection 1, which shall be not greater than five percent. However, if the incumbent cable provider is a municipal utility providing telecommunications services under section 388.10, "*percentage of gross revenues*" means the percentage set by the municipality and identified in a written request made under section 477A.7, subsection 1, which shall not be greater than an equitable apportionment of the services and fees that the municipal utility pays to the municipality, or five percent, whichever is less.

14. "*Public right-of-way*" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the municipality has an interest, including other dedicated rights-of-way for travel purposes and utility easements. "*Public right-of-way*" does not include the airwaves above a public right-of-way with regard

to cellular or other nonwire telecommunications or broadcast services or utility poles owned by a municipality or a municipal utility.

15. “Video programming” means the same as defined in 47 U.S.C. §522.

16. “Video service” means video programming services provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including internet protocol technology. “Video service” does not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. §332, or cable service provided by an incumbent cable provider or a competitive cable service provider or any video programming provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public internet.

2007 Acts, ch 201, §2, 15; 2008 Acts, ch 1062, §1

#### **477A.2 Certificate of franchise authority requirement.**

1. After July 1, 2007, a person providing cable service or video service in this state shall not provide such service without a franchise. The franchise may be issued by either the board pursuant to section 477A.3 or by a municipality pursuant to section 364.2.

2. a. A person providing cable service or video service under a franchise agreement with a municipality prior to July 1, 2007, is not subject to this section with respect to such municipality until the franchise agreement expires or is converted pursuant to subsection 6.

b. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may choose to obtain a certificate of franchise authority under this chapter. An application for a certificate of franchise authority pursuant to this subsection may be filed within sixty days prior to the expiration of a municipal franchise agreement. A certificate of franchise authority obtained pursuant to an application filed prior to the expiration of a municipal franchise agreement shall take effect upon the expiration date of the municipal franchise agreement.

c. A municipal utility that provides cable service or video service in this state is not subject to this section and shall not be required to obtain a certificate of franchise authority pursuant to this chapter in the municipality in which the provision of cable service or video service by that municipality was originally approved.

3. For purposes of this section, a person providing cable service or video service is deemed to have executed a franchise agreement to provide cable service or video service with a specific municipality if an affiliate or predecessor of the person providing cable service or video service has or had executed an unexpired franchise agreement with that municipality as of May 29, 2007.

4. A competitive cable service provider or competitive video service provider shall provide at least thirty days’ notice to each municipality with authority to grant a franchise in the service area, and to the incumbent cable provider, in which the competitive cable service provider or competitive video service provider is granted authority to provide service under a certificate of franchise authority that the competitive cable service provider or competitive video service provider will offer cable services or video services within the jurisdiction of the municipality, and shall not provide service without having provided such thirty days’ notice. A copy of the notice shall be filed with the board on the date that the notice is provided. All notices required by this subsection shall be sent by certified mail.

5. As used in this section, “affiliate” includes but is not limited to a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a person receiving, obtaining, or operating under a franchise agreement with a municipality to provide cable service or video service through merger, sale, assignment, restructuring, or any other type of transaction.

6. If a competitive cable service provider or a competitive video service provider applies for a certificate of franchise authority to operate within a municipality, the incumbent cable provider may, at its discretion, apply for a certificate of franchise authority for that same municipality. Such application shall be automatically granted on the same day as a competitive cable service provider or competitive video service provider files a thirty days’ notice of offering service as required pursuant to subsection 4. The franchise agreement



with the municipality is terminated on the date the board issues the certificate of franchise authority to an incumbent cable provider. The terms and conditions of the certificate of franchise authority shall be the same as the terms and conditions of a competitive cable service provider or a competitive video service provider pursuant to [this chapter](#) and shall replace the terms and conditions of the franchise agreement previously granted by the municipality.

2007 Acts, ch 201, §3, 15; 2008 Acts, ch 1062, §2; 2010 Acts, ch 1126, §1, 3  
 Referred to in §477A.3, 477A.7, 714H.4

### 477A.3 Application requirements — certificate of franchise authority.

1. The board shall issue a certificate of franchise authority under [this chapter](#) within thirty calendar days after receipt of a completed application and affidavit submitted by the applicant and signed by an officer or general partner of the applicant, subject to [subsection 3](#). The application and affidavit shall provide all of the following information:

a. That the applicant has filed or will timely file with the federal communications commission all forms required by the commission in advance of offering cable service or video service in this state.

b. That the applicant agrees to comply with all applicable federal and state statutes, regulations, and rules.

c. That the applicant agrees to comply with all applicable state laws and nondiscriminatory municipal ordinances and regulations regarding the use and occupation of a public right-of-way in the delivery of the cable service or video service, to the extent consistent with [this chapter](#), including the police powers of the municipalities in which the service is delivered.

d. A description of the service area to be served and the municipalities to be served by the applicant which may include certain designations of unincorporated areas. This description shall be updated by the applicant prior to the expansion of cable service or video service to a previously undesignated service area and, upon such expansion, notice shall be given to the board of the service area to be served by the applicant.

e. The address of the applicant's principal place of business and the names of the applicant's principal executive officers.

f. Documentation that the applicant possesses sufficient managerial, technical, and financial capability to provide the cable service or video service proposed in the service area.

g. Copies of advertisements or news releases announcing the applicant's intent to provide cable service or video service in the service area intended for release if the certificate of franchise authority is granted.

h. A schedule of dates by which the applicant intends to commence operation in each municipality proposed to be served within the service area. This schedule shall be timely updated by the applicant as necessary to maintain accuracy.

2. In addition to the notice requirements in [section 477A.2, subsection 4](#), an applicant shall provide notice to each municipality with authority to grant a franchise in the service area on the date that the application is submitted that the applicant has submitted an application to the board pursuant to [subsection 1](#).

3. a. The board shall not issue a certificate of franchise authority to an applicant unless the board finds that all of the requirements specified in [subsection 1](#) have been met.

b. The board may take up to an additional sixty calendar days, beyond the thirty-day period for issuance of a certificate of franchise authority specified in [subsection 1](#), if the board determines that additional information will be required to make a determination regarding whether the requirements specified in [subsection 1](#), paragraphs "f" through "h" have been met, and that the determination cannot be made within the thirty-day period.

c. The board may assess its costs associated with an application or a certificate of franchise authority pursuant to the assessment authority contained in [section 476.10, subsection 1](#), paragraph "a".

4. The failure of the board to notify the applicant of the completeness of the applicant's affidavit or issue a certificate of franchise authority before the ninetieth calendar day after

receipt of a completed affidavit shall constitute issuance of the certificate of franchise authority applied for by the applicant without further action by the applicant.

5. The certificate of franchise authority issued by the board shall contain all of the following:

a. A grant of authority to provide cable service or video service in the service area designated in the application.

b. A grant of authority to use and occupy the public right-of-way in the delivery of cable service or video service, subject to the laws of this state, including the police powers of the municipalities in which the service is delivered.

c. A statement that the grant of authority provided by the certificate is subject to the lawful operation of the cable service or video service by the applicant or the applicant's successor.

d. A statement that the franchise is for a term of ten years, is renewable under the terms of [this section](#), and is nonexclusive.

6. a. If the holder of a certificate of franchise authority fails to commence operation of a cable system or video service network within twelve months from the date the application is granted, the board may determine that the applicant is not in compliance with the certificate of franchise authority and may revoke the certificate.

b. If a certificate is revoked pursuant to [this subsection](#), and if the franchise agreement previously in effect between an incumbent cable provider and the municipality would have remained in effect for at least a sixty-day period prior to expiration, the previous franchise agreement shall be reinstated for the remaining duration of the previous agreement. The incumbent cable provider shall comply with the terms of the prior franchise agreement within ninety days of notification by the board. This paragraph is applicable to an incumbent cable provider who has not been issued a certificate of franchise authority pursuant to [section 477A.2, subsection 6](#), as of April 12, 2010.

7. a. In the event that an applicant granted a certificate of franchise authority subsequently ceases to engage in construction or operation of a cable system or video service network and is no longer providing service, the applicant shall notify the municipality, the board, and the incumbent cable provider on the date that construction or service is terminated.

b. If the franchise agreement previously in effect between an incumbent cable provider and the municipality would have remained in effect for at least a sixty-day period prior to expiration, the previous franchise agreement shall be reinstated for the remaining duration of the previous agreement. The incumbent cable provider shall comply with the terms of the prior franchise agreement within ninety days of notification by the applicant. This paragraph is applicable to an incumbent cable provider who has not been issued a certificate of franchise authority pursuant to [section 477A.2, subsection 6](#), as of April 12, 2010.

8. A certificate of franchise authority issued by the board is fully transferable to any successor of the applicant to which the certificate was initially issued. A notice of transfer shall be filed by the holder of the certificate of franchise authority with the board and the affected municipality and shall be effective fourteen business days after submission. The notice of transfer shall include the address of the successor's principal place of business and the names of the successor's principal executive officers. The successor shall assume all regulatory rights and responsibilities of the holder of the certificate. Neither the board nor an affected municipality shall have authority to review or require approval of such transfer.

9. The certificate of franchise authority issued by the board may be terminated by a person providing cable service or video service by submitting written notice to the board and any affected municipality. Neither the board nor an affected municipality shall have authority to review or require approval of such termination.

10. The board shall only have the authorization to issue a certificate of franchise authority as provided in [this section](#), and shall not impose any additional requirements or regulations upon an applicant.

[2007 Acts, ch 201, §4, 15; 2010 Acts, ch 1126, §2, 3; 2018 Acts, ch 1160, §22](#)

Referred to in [§477A.2](#)

**477A.4 Applicability to federal law.**

To the extent required by applicable law, a certificate of franchise authority issued under this chapter shall constitute a “franchise” for the purposes of 47 U.S.C. §541(b)(1). To the extent required for the purposes of 47 U.S.C. §521 – 561, only the state of Iowa shall constitute the exclusive franchising authority for competitive cable service providers and competitive video service providers in this state.

2007 Acts, ch 201, §5, 15

**477A.5 Municipality restrictions.**

1. A municipality shall not require a holder of a certificate of franchise authority to do any of the following:

- a. Comply with a mandatory build-out provision.
- b. Obtain a separate franchise.
- c. Pay any additional fees, except as provided in this chapter.
- d. Be subject to any additional franchise requirement by the municipality, except as provided in this chapter.

2. For purposes of this section, a “franchise requirement” includes any provision regulating rates or requiring build-out requirements to deploy any facilities or equipment.

3. Section 364.2 shall not apply to a holder of a certificate of franchise authority issued pursuant to this chapter.

2007 Acts, ch 201, §6, 15

**477A.6 Public, educational, and governmental access channels.**

1. Not later than one hundred eighty days after a request by a municipality in which a competitive cable service provider or a competitive video service provider is providing cable service or video service, the holder of the certificate of authority for that municipality shall designate a sufficient amount of capacity on the certificate holder’s communications network to allow the provision of a comparable number of public, educational, and governmental channels that the incumbent cable provider in the municipality has activated and provided in the municipality under the terms of a franchise agreement with a municipality prior to July 1, 2007. If no such channels are active, the municipality may request a maximum of three public, educational, and governmental channels for a municipality with a population of at least fifty thousand, and a maximum of two public, educational, and governmental channels for a municipality with a population of less than fifty thousand.

a. The public, educational, and governmental content to be provided pursuant to this section and the operation of the public, educational, and governmental channels shall be the responsibility of the municipality receiving the benefit of such capacity. The holder of a certificate of franchise authority shall be responsible only for the transmission of such content, subject to technological restraints.

b. The municipality receiving capacity under this section shall ensure that all transmissions, content, or programming to be transmitted by the holder of the certificate of franchise authority are provided or submitted to the competitive cable service provider or competitive video service provider in a manner or form that is capable of being accepted and transmitted by the competitive cable service provider or competitive video service provider, without requirement for additional alteration or change in the content, over the particular network of the competitive cable service provider or competitive video service provider, which is compatible with the technology or protocol utilized by the competitive cable service provider or competitive video service provider to deliver services. At its election the municipality may reasonably request any cable service provider or video service provider to make any necessary change to the form of any programming, furnished for transmission, which shall be charged to the municipality, not to exceed the provider’s incremental costs. The municipality shall have up to twelve months to reimburse the cable service provider or video service provider. The provision of such transmissions, content, or programming to the competitive cable service provider or competitive video service provider shall constitute authorization for such holder to carry such transmissions, content, or programming, at the holder’s option, beyond the jurisdictional boundaries stipulated in any franchise agreement.

2. Where technically feasible, a competitive cable service provider or competitive video service provider that is a holder of a certificate of franchise authority and an incumbent cable provider shall use reasonable efforts to interconnect the cable or video communications network systems of the certificate holder and incumbent cable provider for the purpose of providing public, educational, and governmental programming. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. A holder of a certificate of franchise authority and an incumbent cable provider shall negotiate in good faith and an incumbent cable provider shall not withhold interconnection of public, educational, or governmental channels.

3. A court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement under this section.

2007 Acts, ch 201, §7, 15

**477A.7 Fees — financial support.**

1. *a.* In any service area in which a competitive cable service provider or a competitive video service provider holding a certificate of franchise authority offers or provides cable service or video service, the competitive cable service provider or competitive video service provider shall calculate and pay a franchise fee to the municipality with authority to grant a certificate of franchise authority in that service area upon the municipality's written request. If the municipality makes such a request, the franchise fee shall be due and paid to the municipality on a quarterly basis, not later than forty-five days after the close of the quarter, and shall be calculated as a percentage of gross revenues. The municipality shall not demand any additional franchise fees from the competitive cable service provider or competitive video service provider, and shall not demand the use of any other calculation method for the franchise fee.

*b.* All cable service providers and video service providers shall pay a franchise fee at the same percent of gross revenues as had been assessed on the incumbent cable provider by the municipality as of January 1, 2007, and such percentage shall continue to apply for the period of the remaining term of the existing franchise agreement with the municipality. Upon expiration of the period of the remaining term of the agreement with the incumbent cable service provider, a municipality may request an increase in the franchise fee up to five percent of gross revenues.

*c.* A provider who is both a competitive cable service provider and a competitive video service provider shall be subject to and only be required to pay one franchise fee to a municipality under this subsection regardless of whether the provider provides both cable service and video service.

*d.* At the request of a municipality and not more than once per year, an independent auditor may perform reasonable audits of the competitive cable service provider's or competitive video service provider's calculation of the franchise fee under this subsection. The municipality shall bear the costs of any audit requested pursuant to this subsection, unless the audit discloses that the competitive cable service provider or competitive video service provider has underpaid franchise fees by more than five percent, in which case the competitive cable service provider or competitive video service provider shall pay all of the reasonable and actual costs of the audit.

*e.* A competitive cable service provider or competitive video service provider may identify and collect the amount of the franchise fee as a separate line item on the regular bill of each subscriber.

2. If an incumbent cable provider pays any fee to a municipality for public, educational, and governmental access channels, any subsequent holder of a certificate of franchise authority that includes that municipality shall pay this fee at the same rate during the remaining term of the existing franchise agreement with the municipality, even if the incumbent cable provider elects to convert to a certificate of franchise authority pursuant to section 477A.2. All fees collected pursuant to this subsection shall be used only for the support of the public, educational, and governmental access channels.

3. *a.* If an incumbent cable provider is required by a franchise agreement as of January 1, 2007, to provide institutional network capacity to a municipality for use by the municipality

for noncommercial purposes, the incumbent cable provider and any subsequent holder of a certificate of franchise authority shall provide support only for the existing institutional network on a pro rata basis per customer. Any financial support provided for an institutional network shall be limited to ongoing maintenance and support of the existing institutional network. [This subsection](#) shall be applicable only to a cable service provider's or video service provider's first certificate of franchise authority issued under [this chapter](#), and shall not apply to any subsequent renewals. For the purposes of [this subsection](#), maintenance and support shall only include the reasonable incremental cost of moves, changes, and restoring connectivity of the fiber or coaxial cable lines up to a demarcation point at the building.

b. For purposes of [this subsection](#), the number of customers of a cable service provider or video service provider shall be determined based on the relative number of subscribers in that municipality at the end of the prior calendar year as reported to the municipality by all incumbent cable providers and holders of a certificate of franchise authority. Any records showing the number of subscribers shall be considered confidential records pursuant to [section 22.7](#). The incumbent cable provider shall provide to the municipality, on an annual basis, the maintenance and support costs of the institutional network, subject to an independent audit. A municipality acting under [this subsection](#) shall notify and present a bill to competitive cable service providers or competitive video service providers for the amount of such support on an annual basis, beginning one year after issuance of the certificate of franchise authority. The annual institutional network support shall be due and paid by the providers to the municipality in four quarterly payments, not later than forty-five days after the close of each quarter. The municipality shall reimburse the incumbent cable provider for the amounts received from competitive cable service providers or competitive video service providers.

c. [This subsection](#) shall not apply if the incumbent cable service provider is a municipal utility providing telecommunications services under [section 388.10](#).

4. A franchise fee may be assessed or imposed by a municipality without regard to the municipality's cost of inspecting, supervising, or otherwise regulating the franchise, and the fees collected may be credited to the municipality's general fund and used for municipal general fund purposes.

5. To the extent that any amount of franchise fees assessed by and paid to a municipality prior to May 29, 2007, pursuant to a franchise agreement between a municipality and any person to erect, maintain, and operate plants and systems for cable television, exceeds the municipality's reasonable costs of inspecting, supervising, or otherwise regulating the franchise, such amount is deemed and declared to be authorized and legally assessed by and paid to the municipality.

[2007 Acts, ch 201, §8, 15](#)  
 Referred to in [§477A.1](#)

**477A.8 Customer service standards.**

1. The holder of a certificate of franchise authority shall comply with customer service requirements consistent with those contained in [47 C.F.R. §76.309](#), and shall maintain a local or toll-free telephone number for customer service contact.

2. The holder of a certificate of franchise authority shall implement an informal process for handling inquiries from municipalities and customers concerning billing events, service issues, and other complaints. If an issue is not resolved through this informal process, a municipality may request a confidential nonbinding mediation with the holder of a certificate of franchise authority, with the costs of such mediation to be shared equally between the municipality and the holder of a certificate of franchise authority.

[2007 Acts, ch 201, §9, 15](#)

**477A.9 Nondiscrimination by municipality.**

1. A municipality shall allow the holder of a certificate of franchise authority to install, construct, and maintain a communications network within a public right-of-way and shall provide the holder of a certificate of franchise authority with open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way.

2. A municipality shall not discriminate against the holder of a certificate of franchise authority in providing access to a municipal building or through a municipal utility pole attachment term.

2007 Acts, ch 201, §10, 15

**477A.10 Provider discrimination prohibited.**

1. The purpose of this section is to prevent discrimination among potential residential subscribers.

2. A competitive cable service provider or competitive video service provider holding a certificate of franchise authority shall not deny access to any group of potential residential subscribers because of the income of residents in the local area in which such group resides.

3. a. A video service provider operating under a certificate of franchise authority that is using telecommunication facilities to provide video services and has more than five hundred thousand telecommunication access lines in this state shall extend its system to a potential subscriber, at no cost to the potential subscriber, if all of the following criteria are met:

(1) The potential subscriber is located within its authorized service area.

(2) At least two hundred fifty dwelling units are located within two thousand five hundred feet of a remote terminal.

(3) These dwelling units do not have cable or video service available from another cable service provider or video service provider.

b. This subsection shall be applicable only after the first date on which the video service provider operating under a certificate of franchise authority is providing cable service or video service to more than fifty percent of all cable and video subscribers receiving cable or video service from the holders of certificates of franchise authority and any other providers of cable or video services operating under franchise agreements with a municipality.

2007 Acts, ch 201, §11, 15

**477A.11 Applicability of other law.**

1. This chapter is intended to be consistent with the federal Cable Act, 47 U.S.C. §521 et seq.

2. Except as otherwise stated in this chapter, this chapter shall not be interpreted to prevent a competitive cable service provider, competitive video service provider, municipality, or other provider of cable service or video service from seeking clarification of any rights and obligations under federal law or to exercise any right or authority under federal or state law.

2007 Acts, ch 201, §12, 15

**477A.12 Rules.**

The board shall adopt rules necessary to administer this chapter.

2007 Acts, ch 201, §13, 15

CHAPTER 44  
CERTIFICATES OF FRANCHISE AUTHORITY FOR  
CABLE AND VIDEO SERVICE

**199—44.1(17A,476,477A) Authority and purpose.** These rules are intended to implement Iowa Code chapter 477A, relating to certificates of franchise authority issued by the board for the provision of cable service or video service. The purpose of these rules is to establish procedures for initial applications for and subsequent modifications, transfers, terminations, or updates of certificates of franchise authority issued by the board.

[ARC 9494B, IAB 5/4/11, effective 6/8/11]

**199—44.2(17A,476,477A) Definitions.** The following words and terms, when used in this chapter, shall have the meanings shown below:

“*Board*” means the utilities board within the utilities division of the department of commerce.

“*Cable operator*” means the same as defined in 47 U.S.C. Section 522.

“*Cable service*” means the same as defined in 47 U.S.C. Section 522.

“*Cable system*” means the same as defined in 47 U.S.C. Section 522.

“*Certificate of franchise authority*” means the certificate issued by the board authorizing the construction and operation of a cable system or video service provider’s network in a public right-of-way.

“*Competitive cable service provider*” means a person who provides cable service over a cable system in an area other than the incumbent cable provider providing service in the same area.

“*Competitive video service provider*” means a person who provides video service other than a cable operator.

“*Franchise*” means an initial authorization, or renewal of an authorization, issued by the board or a municipality, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system or video service provider’s network in a public right-of-way.

“*Franchise fee*” means the fee imposed pursuant to 2007 Iowa Acts, Senate File 554, section 8.

“*Incumbent cable provider*” means the cable operator serving the largest number of cable subscribers in a particular franchise service area on January 1, 2007.

“*Municipality*” means a city.

“*Public right-of-way*” means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the municipality has an interest, including other dedicated rights-of-way for travel purposes and utility easements. “Public right-of-way” does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast services or utility poles owned by a municipality or a municipal utility.

“*Video programming*” means the same as defined in 47 U.S.C. Section 522.

“*Video service*” means video programming services provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. “Video service” does not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. Section 332 or cable service provided by an incumbent cable provider or a competitive cable service provider or any video programming provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

[ARC 9494B, IAB 5/4/11, effective 6/8/11]

**199—44.3(17A,476,477A) Certificate of franchise authority.** As provided in 2007 Iowa Acts, Senate File 554, section 3, after July 1, 2007, a person shall not provide cable service or video service in Iowa without a franchise. The franchise may be issued by either the board pursuant to this chapter or by a municipality pursuant to Iowa Code section 364.2.

**44.3(1) Existing franchise agreements.** A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to the requirement

to obtain a franchise with respect to such municipality until the franchise agreement expires or, in the case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the board. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the board. An application for a certificate of franchise authority from a person subject to an existing municipal franchise agreement may be filed within 60 days prior to the expiration of the agreement and, if granted, shall take effect upon the expiration date of the agreement.

**44.3(2) *Municipal utilities.*** A municipal utility that provides cable service or video service in Iowa is not required to obtain a certificate of franchise authority in the municipality in which the provision of cable service or video service by the municipality was originally approved.

**44.3(3) *Initial application.*** Within 30 calendar days after receiving an application and affidavit from an applicant using a form developed by and available from the board, the board shall issue a certificate of franchise authority or notify the applicant that the application is incomplete. The board shall not issue a certificate of franchise authority to an applicant unless the board finds that all of the following requirements have been met. If the board needs additional information to determine whether the requirements in paragraphs “g,” “h” and “i” are met and that determination cannot be made within the initial 30-day period, the board may docket the application for further review and take an additional 60 calendar days to make that determination. The application must be signed by an officer or general partner of the applicant and shall provide the following information:

*a.* A statement that the applicant has filed or will timely file with the Federal Communications Commission (FCC) all forms required by the FCC in advance of offering cable service or video service in Iowa.

*b.* A statement that the applicant agrees to comply with all applicable federal and state statutes, regulations, and rules.

*c.* A statement that the applicant agrees to comply with all applicable state laws and nondiscriminatory municipal ordinances and regulations regarding the use and occupation of a public right-of-way in the delivery of the cable service or video service, including the police powers of the municipalities in which the service is delivered.

*d.* A description of the service area to be served and the municipalities to be served by the applicant, including descriptions of unincorporated areas, if applicable. The service area description must be sufficiently detailed to enable the board to ascertain the boundaries of the applicant’s proposed service area. Applicants certificated by the board as local exchange carriers pursuant to Iowa Code section 476.29 may choose to refer to descriptions (including maps) of local exchange service areas on file with the board.

*e.* The address of the applicant’s principal place of business and the names and titles of the applicant’s principal executive officers with direct authority over and responsibility for the applicant’s cable or video operations.

*f.* The telephone number for customer service contact.

*g.* Documentation that the applicant possesses sufficient managerial, technical, and financial capability to provide the cable service or video service proposed in the service area. An applicant or its subsidiary which has a board-issued certificate of public convenience and necessity to provide telephone service pursuant to Iowa Code section 476.29 shall be exempt from the provisions of this paragraph.

*h.* Copies of advertisements or news releases announcing the applicant’s intent to provide cable service or video service in the service area intended for release if the certificate of franchise authority is granted. If such items are not available at the time the application is filed, the applicant shall file copies with the board when they become available.

*i.* A schedule of dates by which the applicant intends to commence operation in each municipality proposed to be served within the service area. The applicant shall file timely updates to this schedule to maintain accuracy.

**44.3(4) *Content of certificate.*** A certificate of franchise authority issued by the board shall contain all of the following:



*a.* A grant of authority to provide cable service or video service in the service area designated in the application;

*b.* A grant of authority to use and occupy the public right-of-way in the delivery of cable service or video service, subject to the laws of Iowa, including the police powers of the municipalities in which the service is delivered;

*c.* A statement that the grant of authority provided by the certificate is subject to the lawful operation of the cable service or video service by the applicant or the applicant's successor; and

*d.* A statement that the franchise is for a term of ten years, is renewable, and is nonexclusive.

**44.3(5) *Modification of service area.*** At least 14 days before expanding cable service or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and shall notify the board of the effective date of the expansion or other change in service area using a form developed by and available from the board. The board will acknowledge receipt of a notice of service area modification by letter.

**44.3(6) *Transfer of certificate of franchise authority.*** The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor's principal place of business and the names and titles of the successor's principal executive officers with direct authority over and responsibility for the successor's cable or video operations. A notice of transfer shall be effective on the date which is the later of (1) 14 business days after the date of filing of the notice of transfer with the board or (2) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate. The board will acknowledge receipt of a notice of transfer by letter.

**44.3(7) *Termination of certificate of franchise authority.*** The holder of a certificate of franchise authority may terminate the certificate by providing written notice of the effective date of termination to the board and to each affected municipality using a form developed by and available from the board. The board will acknowledge receipt of a notice of termination by letter.

**44.3(8) *Updates.*** The holder of a certificate of franchise authority shall notify the board of any change in the name of the entity holding the certificate, contact personnel, principal executive officers, address of principal place of business, telephone number, and customer service contact information by sending a letter to the board specifying the change and certificate number. The notice shall be provided within 14 days after the effective date of the change.

[ARC 9494B, IAB 5/4/11, effective 6/8/11]

**199—44.4(17A,476,477A) Notice to municipality and incumbent cable provider.** A competitive service provider shall notify affected municipalities and incumbent cable providers of its plan to offer service as provided in this rule.

**44.4(1) *Notice of intent to provide service.*** At least 30 days before providing service in any part of a competitive cable or video service provider's certificated service area in which the provider has not yet offered service pursuant to a board-issued certificate of franchise authority, a competitive cable service provider or competitive video service provider shall notify each municipality with authority to grant a franchise in the part of the competitive provider's service area to be served and the incumbent cable provider in that area that the competitive provider will provide service within the jurisdiction of the municipality and when such service will begin. All notices required by this subrule shall be sent by certified mail. A competitive cable service provider or competitive video service provider shall not provide service without having provided the notice required by this rule.

*a.* The competitive cable service provider or competitive video service provider shall file a copy of the notice required by this rule with the board on the date that the notice is provided.

b. If the competitive cable service provider or competitive video service provider determines that its entry into the market will be delayed, no further notice will be required unless market entry is delayed for more than 30 days after the date service was expected to begin.

**44.4(2) Notice of application.** In addition to the notice of intent to provide service, an applicant shall notify each municipality with authority to grant a franchise in the applicant's proposed service area that the applicant has filed an application with the board for a certificate of franchise authority. This notice shall be mailed on the date the application is filed with the board and shall be sent by certified mail.  
[ARC 9494B, IAB 5/4/11, effective 6/8/11]

**199—44.5(17A,476,477A) Conversion of municipal franchise by incumbent cable provider.** If a competitive cable service provider or a competitive video service provider applies for a certificate of franchise authority to operate within a municipality, the incumbent cable provider in that municipality may apply for a certificate of franchise authority for that same municipality using an application form developed by the board and providing the information required in 44.3(3). The board shall automatically grant the incumbent's application, if complete, effective on the same day a competitive cable service provider or competitive video service provider files the 30 days' notice of offering service as required pursuant to 44.4(17A,476,477A) if the incumbent cable provider files its application within 30 days of the day the competitive service provider provides the 30 days' notice. If the incumbent cable provider files its application more than 30 days after the date the competitive service provider provides the 30 days' notice, the board shall grant the incumbent's application, if complete, to be effective on the date the application is filed with the board.

[ARC 9494B, IAB 5/4/11, effective 6/8/11]

**199—44.6(17A,476,477A) Revocation of certificates, termination of service, reinstatement of previously terminated municipal franchises.**

**44.6(1) Certificate holder fails to commence operation.** If a certificate holder fails to commence operation of the cable service or video service proposed in its application within 12 months from the date the board granted the certificate holder's application, the board may determine that the certificate holder is not in compliance with the certificate and may revoke the certificate. The board shall notify any incumbent cable operator affected by the revocation.

**44.6(2) Reinstatement of previously terminated municipal franchise upon revocation.** In the event a certificate is revoked as provided in subrule 44.6(1), the municipal franchise agreement which was in effect between the incumbent cable provider and municipality before being terminated pursuant to Iowa Code section 477A.2(6) and rule 199—44.5(17A,476,477A) after the certificate holder filed its notice of intent to provide service shall be reinstated for the remaining duration of the municipal franchise agreement, provided that the agreement would have remained in effect for at least 60 days prior to termination and provided that the municipal franchise agreement was terminated after April 12, 2010. Within 90 days of receiving notice from the board that a certificate has been revoked as provided in subrule 44.6(1), the incumbent cable provider shall comply with the terms of the previous municipal franchise agreement.

**44.6(3) Certificate holder ceases to provide service.** In the event a certificate holder ceases to engage in construction or ceases operation of a cable system or video service network and is no longer providing service, the certificate holder shall notify the affected municipality, the board, and the incumbent cable provider on the date that construction or service is terminated. If the municipal franchise agreement which was in effect between the incumbent cable provider and the municipality before being terminated pursuant to Iowa Code section 477A.2(6) and rule 199—44.5(17A,476,477A) after the certificate holder filed its notice of intent to provide service would have remained in effect for at least 60 days prior to termination and was terminated after April 12, 2010, the agreement shall be reinstated and shall be in effect for the remaining term of that agreement. The incumbent cable provider shall comply with the terms of the previous municipal franchise agreement within 90 days of notification by the certificate holder that it has ceased construction of a cable system or video service network or is no longer providing services.

[ARC 9494B, IAB 5/4/11, effective 6/8/11]

**199—44.7(17A,476,477A) Renewal of certificate of franchise authority.**

**44.7(1)** Thirty days prior to the tenth anniversary of the issuance of the original certificate and every ten years thereafter, the certificate holder shall file with the board a notice of renewal containing the following:

- a.* An acknowledgment that the certificate holder continues to hold the certificate;
- b.* A statement that the certificate holder continues to provide cable service or video service or both in all or a portion of its approved service territory;
- c.* Any necessary updates to the address of the principal place of business, the telephone number for customer service, and the names and titles of the principal executive officers with direct authority over and responsibility for the cable or video operations;
- d.* A list of the approved areas the certificate holder currently is serving; and
- e.* A list of the areas in which the certificate holder was previously authorized to offer service but where service has ceased or never commenced.

**44.7(2)** The notice of renewal shall be filed using the VCA docket number in which the initial certificate was issued. The board will acknowledge the renewal by letter.

[ARC 3302C, IAB 8/30/17, effective 10/4/17]

**199—44.8(17A,476,477A) Assessment of board costs.** The board may allocate and charge the expenses attributable to its duties pursuant to Iowa Code chapter 477A directly to the person filing an application for a certificate of franchise authority or subsequent notice regarding a certificate issued by the board or any other proceeding relating to a certificate of franchise authority.

[ARC 9494B, IAB 5/4/11, effective 6/8/11; ARC 3302C, IAB 8/30/17, effective 10/4/17]

These rules are intended to implement Iowa Code sections 17A.4 and 476.10 and chapter 477A.

[Filed 11/1/07, Notice 8/1/07—published 11/21/07, effective 12/26/07]

[Filed 11/25/08, Notice 9/24/08—published 12/17/08, effective 1/21/09]

[Filed ARC 9494B (Notice ARC 9198B, IAB 11/3/10), IAB 5/4/11, effective 6/8/11]

[Filed ARC 3302C (Notice ARC 3122C, IAB 6/21/17), IAB 8/30/17, effective 10/4/17]



## August 22, 2022 Agenda

**To: Mayor, City Council and Staff**

**From: Lisa Kotter, Interim City Administrator**

**Date: August 18, 2022**

**Re: Food Truck Ordinance**

I was looking for details on the food truck licensing and have found that the only license is the peddler's license which is somewhat relevant to food trucks. However, the fees in the peddler's license is \$100 per day and we are charging food trucks \$25. I found an ordinance that was drafted in 2019 and never adopted. My recommendation is that we adopt an ordinance as these trucks are not typical peddlers as we define them. I have included the current peddler's chapter and the draft ordinance I found. This is for discussion only.

**Things to consider: where they are allowed, public property, private property require proof of food licensing and insurance, fees, community events, etc.**

## TITLE III COMMUNITY PROTECTION

### CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

3-7-1	Definitions	3-7-7	Bond Required
3-7-2	Exemptions	3-7-8	Obstruction of Pedestrian or Vehicular Traffic
3-7-3	Permits	3-7-9	Display of Permit
3-7-4	Requirements	3-7-10	Permit Not Transferable
3-7-5	Hours of Solicitation	3-7-11	Revocation of Permit
3-7-6	Consumer Protection Law		

3-7-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. A "peddler" is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

2. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

For the purposes of this chapter, "solicitor" does not include a person who contacts another person at such person's residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3. A "transient merchant" includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant.

The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

3-7-2 EXEMPTIONS. The provisions of this chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising;

route delivery persons who incidentally solicit additional business or special sales; persons customarily calling on businesses or institutes for the purpose of selling products for resale or institutional use.

3-7-3 PERMITS. Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. An application fee of \$100.00 for each day of licensure shall be paid at the time of filing application to cover the cost of investigation and issuance.

(Code of Iowa, Sec. 9C.2)

3-7-4 REQUIREMENTS. Any applicant engaged in any activity described in 3-7-1 of this chapter must file with the City Clerk an application in writing that gives the following information:

1. Name and social security number.
2. Permanent and local addresses and, in case of transient merchants, the local address from which proposed sales will be made.
3. A brief description of the nature of the sales method.
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale.
5. Length of time for which the permit is desired.
6. A statement as to whether or not the applicant has been convicted of any crime, and if so, the date, the nature of the offense, and the name of the court imposing the penalty.
7. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation.

3-7-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-7-1 except between the hours of 8:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

3-7-6 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

3-7-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall provide to the Clerk, evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

3-7-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

3-7-9 DISPLAY OF PERMIT. Each solicitor or peddler shall at all times while doing business in the City keep in his or her possession the permit provided for in Section 3-7-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

3-7-10 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

3-7-11 REVOCATION OF PERMIT. The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violate this Ordinance or has otherwise conducted business in an unlawful manner.

NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than 10 days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.

HEARING. The clerk shall conduct a hearing at which both the licensee and any complaints shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative fail to appear without good cause, the clerk may proceed to a determination of the complaint.

RECORD AND DETERMINATION. The clerk shall make and record finding of fact and conclusions of law and shall revoke a license only when upon review of the entire record the clerk finds clear and convincing evidence of substantial violation of this chapter or state law.

APPEAL. If the clerk revokes or refuses to issue a license, the clerk shall make a part of the record the reasons therefor. The licensee or applicant, shall have a right to a hearing before council at its next regular meeting. Council may reverse, modify or affirm the decision of the clerk by a majority vote of council members present. The clerk shall carry out the decision of council.

EFFECT OF REVOCATION. Revocation of any permit shall bar the licensee from being eligible for any permit under this chapter for a period of 1 year from the date of the revocation.

ORDINANCE #7-19

Previous  
draft

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF  
CASCADE, IOWA BY AMENDING THE PEDDLERS, SOLICITORS AND TRANSIENT  
MERCHANT CODE**

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Cascade,  
Iowa, as follows:

Section I. SECTION ADDED. Chapter 122, Section 122.18 “Mobile Food Vendors”  
shall be added and the following adopted:

**122.18 Mobile Food Vendors.**

A. License Requirements. When a mobile food vendor license is required, the  
applicant shall submit the following to City Hall:

1. Completed application provided by City Hall.
2. Each mobile food vendor shall provide proof of general liability  
insurance, in the amount of \$1,000,000 or more per occurrence and  
\$1,000,000 for property damage. A certificate of insurance shall be  
included with the completed application.
3. Each mobile food vendor shall provide a copy of the mobile food license  
with the completed application.

B. Fees.

1. \$100 for one day.
2. \$300 for six months.
3. \$500 for an annual license.

C. Exemption. A license is not required if the for profit mobile food vendor is  
attending an event venue, but only during the hours of the event and (2) two hours  
prior and after event. Event venues would include events at Riverview Park.

Section II. Severability Clause. If any section, provision or part of the 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 III. When Effective. This ordinance shall be in effect from and after its final  
passage, approval and publication as provided by law.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of July, 2019.



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Greg Staner, Mayor

ATTEST:

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Danielle Hartke City Clerk CMC, CFO