

**CITY OF CASCADE, IOWA**  
**COUNCIL MEETING AGENDA & PUBLIC NOTICE**  
**Tuesday, May 28, 2024, 6:00 P.M (Note Special Day)**  
**CITY HALL, 320 1ST AVE WEST**

NOTICE: Notice is hereby given that the Cascade City Council will hold a meeting at **6:00 PM** on Tuesday, May 28, 2024, 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) and Facebook Live

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approve Agenda**
- 5. Public Comment (Limit 3 minutes per person-Agenda Items and Local Government Issues)**
- 6. Consent Agenda - Review and approve the following:**
  - 1. Minutes: City Council 5/13/24**
  - 2. May 28, 2024 Claims**
  - 3. Liquor -Annual Renewal JL Holdings Inc - dba Kalmes Club 528**
- 7. Open Public Hearings - FY2024 Budget Amendment and Rezoning Tax Parcel 1931426012**
- 8. Close Public Hearings**
- 9. Consideration of Resolution #57-24 Adopting a FY24 Budget Amendment #1**
- 10. Consideration of Ordinance #09-24 Water Services Material Used to Replace Right of Ways (Final Reading)**
- 11. Consideration of Ordinance #11-24 Building Sewers and Connections Material Used to Replace Right of Ways (Final Reading)**
- 12. Consideration of Ordinance #10-24 Utility Billing Errors and Adjustment Policy (Final Reading)**
- 13. Consideration of Ordinance #12-24 Rezoning Tax Parcel 1931426012 (Adams Street SE)**
  - 1. Consideration to Suspend the Rules and Adopt This Ordinance in One Meeting vs Three**
- 14. Consideration of Ordinance #13-24 Grass Height Restriction - 8' Maximum Height**
- 15. Consideration of Resolution #58-24 Setting a Date of Meeting at Which it is Proposed to Approve a Development Agreement with NJCallahan LLC, Including Annual Appropriation of Tax Increment Payments**
- 16. Reports - Police Chief, Library Furniture and City Administrator**
- 17. Public Comment (Limit 3 Minutes per person-only items on this agenda)**
- 18. Adjournment**

May 13, 2024  
City Council Meeting Minutes

The May 13, 2024 Regular City Council meeting was called to order at 6:00PM by Mayor Steve Knepper. The Pledge of Allegiance was recited. Delaney, Gehl, Hosch, Oliphant and Rausch answered roll call.

Motion Gehl, second Oliphant to approve the agenda. All Ayes. Motion carried.

Motion Delaney, second Hosch to approve the consent agenda items: City Council Minutes 4/22/24; May 13, 2024 Claims and April 2024 Monthly Financial Reports; Liquor License Annual Renewal Biloani, LLC dba as The Bent Rim. All Ayes. Motion carried.

Motion Rausch, second Hosch to approve Ordinance #09-24 Water Service Material Used to Replace Right of Ways (Second Reading). Roll Call vote. All Ayes. Motion carried.

Motion Oliphant, second Gehl to approve Ordinance #11-24 Building Sewers and Connections Material Used to Replace Right of Ways (Second Reading). Roll Call vote. All Ayes. Motion carried.

Motion Delaney, second Oliphant to approve Ordinance #10-24 Utility Billing Errors and Adjustments Policy (Second Reading). Roll Call vote. All Ayes. Motion carried.

Motion Rausch, second Oliphant to approve Resolution #49-24 Declaring 1998 Freightliner Fire Truck Surplus. Roll Call vote. All Ayes. Motion carried.

Discussion regarding request from the Cascade Economic Development Corporation for Addition Funding for FY2024.

Discussion on City Ownership on Industrial Court and Oak Hill Storm Detention Basin.

Motion Gehl, Second Delaney to approve Resolution #51-24 Appointment of Gayle Walter Planning and Zoning Commission. Roll Call vote. All Ayes. Motion carried.

Discussion of City Code Weed and Grass Height Restriction- 8" Maximum Height.

Motion Rausch, second Oliphant to approve Resolution #52-24 Approval of Hwy 136 IDOT Contract Amendment. Roll Call vote. All Ayes. Motion carried.

Discussion on the Highway 136 Update and Weekly Newsletter Sign up.

Motion Oliphant, second Gehl to approve Resolution #53-24 Naming the Newly Developed Park-Oak Hill Park. Roll Call vote. All Ayes. Motion carried.

Motion Oliphant, second Delaney to approve Resolution #54-24 Second GIS Summer Employee. Roll Call vote. All Ayes. Motion carried.

Motion Oliphant, second Rausch to approve Resolution #55-24 Fund Transfers for FY24. Roll Call vote. All Ayes. Motion carried.

Motion Oliphant, second Delaney to approve Resolution #56-24 Library Change Orders #1. Roll Call vote. All Ayes. Motion carried.

Motion Rausch, second Oliphant to approve Resolution #50-24 Set Public Hearing for Budget Amendment FY24. Roll Call vote. All Ayes. Motion carried.

Acceptance of April Police Report from Police Chief Heim.

Motion Oliphant, second Rausch to enter Closed Session to evaluate the professional 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 requests a closed session- City Administrator Annual Review. Roll Call vote. All Ayes. Motion carried.

Closed Session.

Motion Rausch, second Delaney to return to Open Session. Roll Call vote. All Ayes. Motion carried.

No action taken from Closed Session.

Motion Oliphant, second Rausch to adjourn at 8:074pm. All Ayes. Motion carried.

Kathy Goerd, City Clerk

Steven J. Knepper

**CLAIMS REPORT**  
**Vendor Checks: 5/15/2024- 5/29/2024**

INVOICE#	VENDOR NAME	INVOICE DESCRIPTION	INVOICE AMT	VENDOR TOTAL	CHECK#	CHECK DATE
0242108-IN	ACCO	LIQUID CHLORINATING SOLUTION	1,695.60			
0242181-IN	ACCO	CLARIFIER/POOL BRUSH/LEAF SKIM	220.55			
0242285-IN	ACCO	SERVICE COMPLETE KIT FAS-DPD	212.58	2,128.73		
05102024	ADVANTAGE ADMINISTRATORS	BENEFITS PAID-KOTTER	95.00		14016263	5/16/24
05172024	ADVANTAGE ADMINISTRATORS	BENEFITS PAID	42.73		14016264	5/23/24
12292022	ADVANTAGE ADMINISTRATORS	PSF BUY DOWNS		137.73		
2178313809	AT&T	APRIL INVOICE		22.84		
139776	BARD MATERIALS	OAKHILL PLAYGROUND		355.86		
85347710	BOUND TREE MEDICAL LLC	SILICONE AIRWAY		5.78		
4346	BROTHERS MARKET INC	POOL CONCESSIONS:BOMB POP/FREE		32.34		
0415939-IN	CAMPBELL PET COMPANY	DOG LICENSE TAGS		135.00	65728	5/15/24
185715	CASCADE LUMBER CO	REGALB-TOOLS-POOL	5.97			
185787	CASCADE LUMBER CO	BATTERIES-POOL	36.98			
185982	CASCADE LUMBER CO	OCC SENSOR/POWER BIT	28.58			
185988	CASCADE LUMBER CO	WALL PATE DOUBLE ROCKER	1.89			
949850	CASCADE LUMBER CO	PUSH VALVE-POOL	25.98			
950280	CASCADE LUMBER CO	ROUND UP-POOL	32.48			
953295	CASCADE LUMBER CO	CAULK GUN/ROD/ANCHOR ADHESIVE	68.32			
953575	CASCADE LUMBER CO	RAPID LINKS	3.99			
954165	CASCADE LUMBER CO	MALEXFEM LEADR HSE-POOL	9.99			
954185	CASCADE LUMBER CO	RAPID LINKS/TURNUCKLE	9.38	223.56		
06152024	CASCADE MUNICIPAL UTILITIES	UTILITIES BILL DUE 06/15/2024		7,985.77		
MAY 2024	CR HISTORY HOUSE, LLC	ECONOMIC DEV AGREEMENT		2,000.00		
05182024	CRISTOBAL TORRES	PAVILION RENTAL DEPOSIT REFUND		50.00		
0024117-IN	CUSTOM PRECAST CO	BEAMS		2,400.00		
3107	MICHAEL DELANEY	MONTHLY IT SERVICES/PUBLIC ACC		1,053.55		
9469	EASTERN IOWA ASPHALT MAIN	SWIMMING POOL PARKING LOT		350.00		
287309338483X052724	FIRST NET-AT&T MOBILITY	FIRST NET BILL DUE 06142024		679.39		
CPO TRAINING	BEN FRASHER	MILEAGE REIMBURSEMENT FOR CPO		128.64		
003158	GARLING CONSTRUCTION	LIBRARY PAY APP#4		131,540.11		
32710	GASSER FARM & HARDWARE LLC	PIN PUNCH KIT	20.99			
32913	GASSER FARM & HARDWARE LLC	STIHL SE 33 VACUUMS	99.99	120.98		
05052024	GEHL LAWN SERVICE	NEW SEEDING AT POOL		50.00		
05142024	GOERDT KATHY	FUEL REIMBURSEMENT SPRING CLER		32.83		
I00921212	GORDON FLESCH COMPANY INC	MONTHLY LEASE FEE		296.01		
6757160	HAWKINS INC	CHLORINE CYLINDERS	50.00			
6757825	HAWKINS INC	CHLORINE CYLINDERS	10.00	60.00		
MAY 2024	IMFOA	SPRING IMFOA HR SESSION		25.00		
20243	INSURANCE ASSOCIATES INC	ADD'L GROUP LIFE INS/FIRE &AMB	1,472.00			
20256	INSURANCE ASSOCIATES INC	ADD PROPERTY-DOB PARK	433.00	1,905.00		
PR20240509	IRS W/H	FED/FICA TAX		6,438.32	14016262	5/17/24
2405352-IN	J&R SUPPLY INC	12 SMOKEY BLACK SAFETY GLASSES		138.00		
7828	JKP DESIGNS LLC	PUBLIC WORKS CLOTHING	117.75			
7829	JKP DESIGNS LLC	POOL CLOTHING	659.75	777.50		
5145	KERPS SERVICE CENTER INC	POLICE:4 TIRE MOUNT	1,146.04			
5453	KERPS SERVICE CENTER INC	VEHICLE BATTERIES/AMBULANCE	630.00	1,776.04		
20368450	LIME ROCK SPRINGS CO	PEPSI PRODUCTS-POOL CONCESSION		405.96		
217257	LYNCH DALLAS P.C.	CITY ADMIN:REVIEW UB/FENCE/COD	277.50			
217258	LYNCH DALLAS P.C.	CITY ADMIN:REVIEW ABATEMENT	166.50	444.00		
05282024	MAQUOKETA VALLEY COOP	STREET LIGHTS	165.79			
54280251	MAQUOKETA VALLEY COOP	SIGN LIGHTS/HWY 151 & REITER	42.71	208.50		
1	MIDWEST CONCRETE INC	HAY 136 PAY APP #1		3,880.00		
3571	MIDWEST PATCH	HIGH PERFORMANCE PATCH		864.50		
PR20240509	MISSION SQUARE RETIRE-#303939	ICMA PERCENTAGE		1,229.20	65687	5/17/24

**CLAIMS REPORT**  
**Vendor Checks: 5/15/2024- 5/29/2024**

INVOICE#	VENDOR NAME	INVOICE DESCRIPTION	INVOICE AMT	VENDOR TOTAL	CHECK#	CHECK DATE
MMI157191	MODERN MARKETING INC	POLICE:STADIUM CUPS/SUNGLASSES		735.56		
004539	MSA PROFESSIONAL SERVICES	ENGINEERING SERVICES		510.00		
581081	MYERS-COX	TORK PAPER PRODUCTS/STAINLESS		312.00		
36758	PARTS AUTHORITY	POOL-CHROME POLISH	3.76			
37082	PARTS AUTHORITY	WATER WAGON FOR FLOWERS	31.11	34.87		
JUNE 2024	JOE OR PEG REIFF	JUNE 2024 MONTHLY BLDG RENT		500.00		
I004844	SCHNEIDER GEOSPATIAL LLC	ANNUAL GIS SUPPORT SYSTEM		4,110.00		
0937-5	SHERWIN-WILLIAMS	PICKELBALL PAINT		40.99		
MAY 2024	SQUARE SERVICES	POOL-SQUARE MONTHLY SERVICE FE		64.20		
INV00361383	USA BLUE BOOK	BALL VALVE SOCKET & THREDED EP		65.95		
241340000217	WELLMARK BC/BS OF IA	JUNE 2024 PREMIUMS		10,948.05		
				=====		
Accounts Payable Total				185,202.76		
Invoices: Paid				7,940.25		
Invoices: Scheduled				177,262.51		
Payroll Checks				19,884.39		
				=====		
Report Total				205,087.15		
				=====		

**CLAIMS REPORT**  
**CLAIMS FUND SUMMARY**

FUND	NAME	AMOUNT
001	GENERAL	40,098.94
016	PARTIAL SELF-FUND	137.73
110	ROAD USE TAX	5,956.73
323	HIGHWAY 136	3,880.00
370	LIBRARY CAPITAL PROJECT	131,710.11
600	WATER	10,765.16
610	SEWER	12,538.48
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	TOTAL FUNDS	205,087.15

## Lisa Kotter

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**From:** Kathy Goerd  
**Sent:** Monday, May 20, 2024 8:50 AM  
**To:** Lisa Kotter  
**Subject:** FW: License LC0038637 Renewal Notice Sent

**From:** noreply@salesforce.com <noreply@salesforce.com> **On Behalf Of** IOWA ABD Licensing Support  
**Sent:** Sunday, May 19, 2024 5:00 AM  
**To:** Kathy Goerd <clerk@citycascade.com>  
**Subject:** License LC0038637 Renewal Notice Sent

Hello,

LC0038637 has been sent a Renewal Notice is now eligible for their renewal.

Corp Name: JL Holdings Inc

DBA: Kalmes Club 528

License Number: LC0038637

Application Number: App-182027

Tentative Effective Date:

Application Type: Renewal

Amendment Type:

Thank you,  
The Iowa Alcoholic Beverages Division



## **May 28, 2024 Agenda**

**To: Mayor, City Council and Staff**  
**From: Lisa Kotter, City Administrator**  
**Date: May 24, 2024**  
**Re: FY 24 Budget Amendments**

The public hearing notice was in the Pioneer on May 15 to hold a hearing at this meeting.

The City Council must amend the budget prior to May 30 according to State Code if expenses are to go over what was planned in March 2023. The first step was to consider a resolution that sets the public hearing date. That resolution sets the hearing for this meeting on May 28. Included in the packet is the hearing notice which shows summaries. I also included the proposed amended budget by line item. The third from the right column titled "Proposed Change for Amend" is where the Council will find the line items that I am suggesting be changed. If the Council agrees to the proposal, the final step is to approve Resolution #57-24.



**RESOLUTION #57-24**

**ADOPTING THE CITY OF CASCADE'S FY24 BUDGET AMENDMENT FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2023 AND ENDS JUNE 30, 2024**

WHEREAS, the City of Cascade thoroughly examined and projected the City's expenses for the FY24 year and has amended the budget accordingly for the fiscal year which began July 1, 2023 and ends June 30, 2024; and,

WHEREAS, the City has published an advance notice of a public hearing as required by law on the budget amendment attached as Exhibit A in the May 15, 2022 edition of the Cascade Pioneer for the May 28, 2022 public hearing at 6:00p.m. at the Cascade City Hall.

THEREFORE, BE IT RESOLVED, by the City Council of the City of Cascade, Iowa, that the annual budget amendment for the fiscal year beginning July 1, 2023 and ending June 30, 2024 is hereby approved as shown in Exhibit A.

BE IT FURTHER RESOLVED, by the City Council of the City of Cascade, Iowa, that the City Clerk is hereby directed to make the filing required by law and to set up the books in accordance with the budget amendment as adopted.

PASSED AND APPROVED this 28<sup>th</sup> day of May, 2024.

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

ATTEST:

\_\_\_\_\_  
Kathy Goerdts, City Clerk

**NOTICE OF PUBLIC HEARING - AMENDMENT OF CURRENT BUDGET**

**Resolution #57-24**

City of CASCADE  
Fiscal Year July 1, 2023 - June 30, 2024

**Exhibit A**

The City of CASCADE will conduct a public hearing for the purpose of amending the current budget for fiscal year ending June 30, 2024

**Meeting Date/Time:** 5/28/2024 06:00 PM

**Contact:** Lisa Kotter

**Phone:** (563) 852-3114

**Meeting Location:** Cascade City Hall 320 1st Ave Cascade, Iowa 52033

There will be no increase in taxes. Any residents or taxpayers will be heard for or against the proposed amendment at the time and place specified above. A detailed statement of: additional receipts, cash balances on hand at the close of the preceding fiscal year, and proposed disbursements, both past and anticipated, will be available at the hearing. Budget amendments are subject to protest. If protest petition requirements are met, the State Appeal Board will hold a local hearing. For more information, consult <https://dom.iowa.gov/local-gov-appeals>.

REVENUES & OTHER FINANCING SOURCES		Total Budget as Certified or Last Amended	Current Amendment	Total Budget After Current Amendment
Taxes Levied on Property	1	1,191,025	0	1,191,025
Less: Uncollected Delinquent Taxes - Levy Year	2	0	0	0
Net Current Property Tax	3	1,191,025	0	1,191,025
Delinquent Property Tax Revenue	4	0	0	0
TIF Revenues	5	324,209	0	324,209
Other City Taxes	6	425,000	-25,000	400,000
Licenses & Permits	7	31,450	0	31,450
Use of Money & Property	8	63,641	0	63,641
Intergovernmental	9	2,295,900	0	2,295,900
Charges for Service	10	5,146,486	0	5,146,486
Special Assessments	11	0	0	0
Miscellaneous	12	809,322	0	809,322
Other Financing Sources	13	1,300,000	0	1,300,000
Transfers In	14	937,148	-89,678	847,470
<b>Total Revenues &amp; Other Sources</b>	<b>15</b>	<b>12,524,181</b>	<b>-114,678</b>	<b>12,409,503</b>
<b>EXPENDITURES &amp; OTHER FINANCING USES</b>				
Public Safety	16	658,795	20,364	679,159
Public Works	17	861,402	203,099	1,064,501
Health and Social Services	18	0	0	0
Culture and Recreation	19	398,323	89,927	488,250
Community and Economic Development	20	915,369	5,727	921,096
General Government	21	350,124	115,090	465,214
Debt Service	22	347,234	14,104	361,338
Capital Projects	23	3,025,000	245,000	3,270,000
Total Government Activities Expenditures	24	6,556,247	693,311	7,249,558
Business Type/Enterprise	25	4,663,706	194,601	4,858,307
<b>Total Gov Activities &amp; Business Expenditures</b>	<b>26</b>	<b>11,219,953</b>	<b>887,912</b>	<b>12,107,865</b>
Transfers Out	27	937,148	-89,678	847,470
<b>Total Expenditures/Transfers Out</b>	<b>28</b>	<b>12,157,101</b>	<b>798,234</b>	<b>12,955,335</b>
<b>Excess Revenues &amp; Other Sources Over (Under) Expenditures/Transfers Out</b>	<b>29</b>	<b>367,080</b>	<b>-912,912</b>	<b>-545,832</b>
Beginning Fund Balance July 1, 2023	30	6,804,020	0	6,804,020
<b>Ending Fund Balance June 30, 2024</b>	<b>31</b>	<b>7,171,100</b>	<b>-912,912</b>	<b>6,258,188</b>

**Explanation of Changes:** Public Safety: Increase from Ambulance Service changes in wages, new facility and hiring a consultant. Public Works: Increase due to the purchase of a street sweeper. Culture and Recreation: Increase from final gazebo payment and new playground at Oak Hill Park. General Government: Increase from salary and benefits of additional staff positions and insurance premiums. Debt service: Increase from street sweeper payments. Capital Projects: Increase from project expenditures. Enterprise Funds: Increase from additional operating expenses.



## **May 28, 2024 Agenda**

**To: City Council, Mayor and Staff**  
**From: Lisa Kotter, City Administrator**  
**Date: May 24, 2024**  
**Re: Water and Sewer Repairs ROW**

The City Council has already approved the first two readings. This will be consideration of the third and final reading.

### **Background Information from April Meeting:**

We were reviewing the water and sewer ordinances it was not clear what material can be used for patches to a road after pipe repairs are completed. Since all repairs are the responsibility of the property owner, we want to be clear that if the road is concrete, concrete must be used in the patch. The proposed ordinance #09 and #11 both clarify that like materials must be used. In addition, the water language includes “100%” for who is responsible, and the sewer side does not. The language still is that both are fully responsible but since we are changing the material portion, I also added the “100%” to the sewer language. I am making these two recommendations simply to be clear prior to any issue coming forward.

**ORDINANCE #09-24**

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

**CHAPTER 6-3 UTILITIES-WATER SYSTEM SPECIFICALLY  
RESPONSIBILITY FOR WATER SERVICE PIPE 6-3-13**

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:

**6-3-13 RESPONSIBILITY FOR WATER SERVICE PIPE**

1. Installation. All costs and expenses incident to the installation and connection of the water service pipe from the curb stop to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of said water service pipe. The cost to repair the water service pipe from the city water main to the curb box and from the curb box to the residence shall be paid by the property owner 100%. The materials used to repair the right of way must be the same original material such as concrete or asphalt, unless otherwise pre-approved by the City.

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 28<sup>th</sup> day of May, 2024.

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

ATTEST:

\_\_\_\_\_  
Kathy Goerd, City Clerk

First Reading: April 22, 2024  
Second Reading: May 13, 2024  
Third Reading:  
Publication:  
Sent to American Legal:

**ORDINANCE #11-24**

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

**CHAPTER 6-2 UTILITIES-SANITARY SYSTEMS SPECIFICALLY  
RESPONSIBILITY FOR BUILDING SEWERS AND CONNECTIONS 6-2-4-14**

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 2 Utilities – Sanitary System, of the Code of Ordinances of the City of Cascade, Iowa, is repealed and the following adopted in lieu thereof:

6-2-4-14 BUILDING SEWERS AND CONNECTIONS

The Owner of the property served by a building sewer shall be 100% responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer. The materials used to repair the right of way must be the same original material such as concrete or asphalt, unless otherwise pre-approved by the City.

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 28<sup>th</sup> day of May, 2024.

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

ATTEST:

\_\_\_\_\_  
Kathy Goerd, City Clerk

First Reading: April 22 2024

Second Reading: May 13, 2024

Third Reading:

Publication:

Sent to American Legal:



## May 28, 2024 Agenda

**To: City Council, Mayor and Staff**  
**From: Lisa Kotter, City Administrator**  
**Date: May 24, 2024**  
**Re: Water, Sewer and Garbage Billing Adjustments**

At the last few meetings, the City Council approved the first two readings as recommended below. This will be consideration of the third and final reading.

### Background information from April:

There are times when billing errors occur. The error can be over or under billing a customer. We have the right by State law to collect the charges if services were provided. We would also like to add a section to the ordinance that further clarifies how the charges will be handled when billing errors occur. In the packet is a draft of Ordinance #10-24, which covers this area of consideration. This draft specifies that the back bill or refund can go as far as three years. For repayment it states lump sums or payments over time and allows for repayment plans. It also clarifies that CMU is acting as our billing agent. It also clarifies that people have a duty to report discrepancies they find. Finally, it states that we will not charge interest on back billed amounts due to the City underbilling a customer.

**ORDINANCE NO. 10-24**

**AN ORDINANCE AMENDING TITLE VI, CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF CASCADE, IOWA, BY CREATING A NEW SECTION 6-5-13 FOR THE PURPOSE OF ESTABLISHING A POLICY FOR UTILITY BILLING ERRORS AND ADJUSTMENTS**

**Be It Ordained by the City Council of the City of Cascade, Iowa, that:**

**SECTION 1. AMENDMENT.** Title VI, Chapter 5, of the Code of Ordinances, is amended by creating the following new section 6-5-13:

**6-5-13 – Utility Billing Errors and Adjustments Policy**

1. Intent and Purpose. This policy is intended to establish the maximum time period for (1) the collection of billing undercharges, and (2) the refund or credit for billing overcharges. This rule shall supplement all other applicable rules and policies of the City of Cascade that may pertain to the calculation of utility service billing errors, overcharges and undercharges, the recovery of undercharges, and the refund or credit for overcharges.

2. Joint Billing for Combined Services. The City Council is the governing body of the City of Cascade and its water, sewer utilities and garbage services. The City Council is solely responsible for the establishment, imposition, adjustment, and collection of rates and charges, including billing adjustments relating to overcharges and undercharges. However, pursuant to Iowa Code section 384.84(8)(b), two or more city utilities, including board-governed city utilities under Iowa Code chapter 388, may contract for the joint billing or collection of combined service accounts. The City Council of Cascade, which governs the city’s water and sewer utilities, and the Board of Trustees of the Cascade Municipal Utilities (“CMU”), which governs the city’s gas and electric utilities, have agreed that CMU will undertake the billing and collection of combined service accounts for all of the city-owned utility services.

3. Duty to Review Usage and Notify. Customers and ratepayers (“Customers”) of the City’s water and sewer utilities shall have a duty to review all billing invoices and other billing communications sent to them, whether from the City or from CMU, to monitor their utility usage, and to notify the City or CMU promptly if the usage appears out of the ordinary, whether deficient or excessive in general or relative to prior billings and usage. Such notification shall be given to the City or to CMU, if there is an agreement to undertake joint billing for combined service accounts. Failure to promptly notify the City or CMU of a potential or suspected billing error may be a basis for denial of a request for a refund or credit for an overcharge for the time period after the Customer was aware of or suspected the potential overcharge.

4. Time Period for Billing Adjustments. If for any reason the City or CMU determines there has been a billing error with regard to the amounts due and owing for water or sewer service, the City or CMU may adjust the amount due and owing as provided in this rule or may authorize CMU to do so under the joint billing agreement. The time period for recovery of undercharges and for a refund or credit of overcharges shall be limited as follows:

- The maximum time period for which an undercharge may be recovered from the Customer is three (3) years. The maximum time period for which an overcharge may be refunded or credited to the Customer is also three (3) years.

- There shall be no recovery of an undercharge, nor a refund or credit for an overcharge, for a time period that is more than three (3) years prior to the time notification was given, whether by the Customer or by the City or CMU, as applicable.

- In the case of a failure by the Customer to promptly notify the City or CMU, or by the City or CMU to promptly notify the Customer, of a potential or suspected overcharge or undercharge, there shall be no recovery of an undercharge or refund or credit for an overcharge for the time period after the Customer suspected or was aware of the potential overcharge or the City or CMU suspected or was aware of the potential undercharge.

- No interest shall be applied to undercharges or overcharges.

- CMU shall include the City Administrator in large payment arrangements when there are undercharge billing adjustment payment arrangements and in all cases inform the City of undercharges and overcharges involving the water, sewer and garbage billing.

Examples:

- If a meter error results in a Customer being overcharged by 10% for each bill for the most recent two-year period and the Customer gives the City Utility prompt notice once the Customer suspects the overcharge, the Customer will receive a full refund or credit of the overcharge.

- If the 10% overcharge has occurred for the most recent 7 years and the Customer gives prompt notice to the City Utility once the Customer suspects the overcharge, the Customer will receive a refund or credit for the most recent 3 years of the overcharge.

- If the 10% overcharge occurred for a 7-year period which began 10 years ago and stopped 3 years ago, and the Customer gives prompt notice to the Utility once the Customer suspects the overcharge, the Customer will not receive a refund or credit for the overcharge because the overcharge was more than 3 years ago. The outcome is the same without regard to whether the Customer knew, should have known, or could have known of the overcharge.

Recovery of Undercharges. Undercharges payable under this rule may be recovered by the City or CMU by applying the amount of the undercharge to the Customer's bill in a lump sum or by applying it monthly over a period of time up to one year. The Customer and the City or CMU may enter into a payment plan the terms of which are established by contract, though the offering of a payment plan is solely at the City or CMU's discretion. A Customer's failure to pay an undercharge, or failure to enter into a payment plan, or a breach of a payment plan, may result in a disconnection of service or in a lien upon the property as provided by law.

Refund or Credit of Overcharges. Overcharges payable to a Customer may be refunded or credited to the Customer as provided in this rule, in the City or CMU's discretion. If the City or CMU provides a refund, it may be paid in a lump sum or monthly over a period of time up to one year. If the City or CMU provides a credit, the credit shall be applied to the Customer's account balance for the applicable utility for each billing cycle thereafter until the credit has been used in full.

If a Customer gives notice of a suspected or potential overcharge and the City or CMU does not agree, and if the source of the overcharge involves the meter, the Customer's sole remedy is to request a meter test pursuant to the rules of the applicable utility service.

This rule shall not be construed to require a cash refund to a current customer if the amount is less than five dollars nor to a previous customer in an amount less than ten dollars.

5. Authority: This policy is adopted under the authority reserved for and granted to the City or CMU by applicable law, including the following:



- Municipal Home Rule authority under the Iowa Constitution, as amended (at the time of adoption of this Policy, Article III, Section 38A of the Iowa Constitution) and its statutory implementation in Iowa Code chapter 364;
- Iowa Code section 384.84, as amended regarding the establishment, imposition, adjustment, and collection of rates and charges by the governing body of the city utility; and
- Iowa Code Chapter 388;

6. Non-Applicability and Waiver. The provisions of this policy are not subject to and shall not be subject to or modified by the discovery rule or theories of continuing violations, statutory law (unless expressly regulating municipal utility ratemaking authority), provisions or theories of general contract law, equitable principles, or other common law theories or remedies which might otherwise have the effect of extending the time period for or the amount of collection of underpayments and refunds or credit for overpayments. By accepting utility service from the City, the customer expressly waives, holds harmless from, and agrees not to assert any of the aforementioned claims, causes of action, or theories against the City, or in relation to its sewer service, water service, or financial management, in any forum whatsoever.

7. Severability. If any part or provision of this rule is legally declared invalid or unenforceable by a court of law with proper jurisdiction, that part or provision of the rule will be construed consistent with applicable law as nearly as possible, and the remaining parts and provisions will remain in full force and effect. Such invalidity or non-enforceability will not invalidate or render unenforceable any other part or provision of this Policy.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved by the City Council the 28<sup>th</sup> day of May, 2024.

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

ATTEST:

\_\_\_\_\_  
Kathy Goerdt, City Clerk

1<sup>st</sup> Reading: April 22 2024  
2<sup>nd</sup> Reading: May 13, 2024  
3<sup>rd</sup> Reading:

Published:  
Sent to American Legal:



## May 28, 2024 Agenda

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

**From: Lisa Kotter, City Administrator**

**Date: May 24, 2024**

**Re: Rezoning Parking Lot South of 109 Adams Street SE**

This property was sold to Jason Conrad in 2019. During that sale it was not noticed by either party that the parking lot used for commercial purposes was zoned as Single-Family R-1. I received a call from a realtor representing a buyer. I informed them that the building was zoned M-1 Light Manufacturing, while the parking lot was still zoned R-1 Single Family. I was then contacted by Mr. Conrad. He has an offer to purchase and so I have done my best to walk him through this rezoning process as efficiently as we can to avoid a delay in the closing. The Planning and Zoning Commission held their hearing on May 23. There were no objections. I suggested to Mr. Conrad that I would ask the council to consider voting to have all readings at one meeting for two reasons. The first is that this is more of a correction as it has been used for business for decades. Second is that there were no objections. I have posted the agenda to include the option to skip the three separate readings rules. This will assist in the already planned closing date not being delayed.

**ORDINANCE #12-24**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CASCADE,  
IOWA BY REZONING PARCEL 1931426012 FROM THE CURRENT ZONING DISTRICT  
CLASSIFICATION R-1 SINGLE FAMILY TO M-1 LIGHT MANUFACTURING IN THE CITY  
OF CASCADE, IOWA**

WHEREAS, pursuant to the requirement of the Cascade Zoning Ordinance, the owner of Parcel 1931426012 (Lot 1 CMU Place) in Dubuque County, petitioned for rezoning of these two lots from R-1 Single Family to M-1 Light Manufacturing in the City of Cascade for the purpose of constructing a new public library; and,

WHEREAS, pursuant to the duly published notice in the May 8, 2024 edition of the Cascade Pioneer newspaper, the Cascade Planning & Zoning Commission held a public hearing on May 23, 2024 to review, consider and hear public comment on the rezoning request; and,

WHEREAS, pursuant to the duly published notice in the May 8, 2024 edition of the Cascade Pioneer newspaper, the Cascade City Council held a public hearing on May 28, 2024 to review, consider and hear public comment on the rezoning request; and,

WHEREAS, the Cascade Planning & Zoning Commission has approved the rezoning request and recommends to the Cascade City Council and the Cascade City Council concurs with the Planning & Zoning Commissions recommendation.

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

Section I. That the Zoning Code of the City of Cascade, Iowa, is hereby amended by rezoning 1931426012 (Lot 1 CMU Place) from R-1 Single Family Residential to M-1 Light Manufacturing in the City of Cascade; and,

Section II. The City Clerk is hereby directed to make the above change on the Official Zoning Map of the City of Cascade, publish the ordinance in the Cascade Pioneer newspaper and submit the Ordinance and the attached map to the Dubuque County Recorder.

Section III. This ordinance shall take effect immediately upon publication as provided by law.

PASSED, APPROVED AND ADOPTED this 28<sup>th</sup> day of May, 2024.

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

\_\_\_\_\_  
Kathy Goerd, City Clerk

First Reading  
Third Reading  
American Legal

Second Reading  
Publication

Application for Change of Zoning District Boundaries  
City of Cascade

APPLICANT INFORMATION

1. Name and address of applicant: Jason Conrad  
109 Montrose Dr. Fort Myers, FL. 33919  
553-580-0766 (Phone)
2. Location of property to be re-zoned: 109 Adams St SE Cascade, IA. 52033  
(Street Address)
3. Legal description of property: \_\_\_\_\_ LOT 1 CMU PLACE; Parcel #1931426012  
(Lot Number (s), Block Number (s), Subdivision Name)
4. Present and requested zoning classification: RES M1  
(Example A-1, R-1, C-2, M-1) (Present) (Proposed)
5. Existing and Proposed Uses of the Property: Parking lot for 109 Adams St SE businesses.

6. Narrative statement of reasons why present zoning is no-longer valid.

When I purchased the property from the city it was presented to me as commercial zoning M1, which the building is but parking lot isn't. I just want to have zoning to match the building.

7. Attach a plat showing the location, dimensions, and use of the property and all property within 300 feet thereof including streets, alleys, and other prominent physical features.
8. Attach the names and addresses of all property owners within 300 feet of property to be re-zoned.
9. Signature and date: Jason Conrad 4/30/24  
(Applicants or Property Owners Signature) (Date)

10. Application Fee \$200 effective 1-1-23

Line1

PRM STORAGE, LLP  
 CASCADE LUMBER & MANUFACTURING  
 BILOANI LLC  
 KAUDER, BART J & HEATHER  
 WEBBER METAL PRODUCTS INC  
 SAUNDERS, RODNEY R & THRESA M  
 JESS STREET PROPERTIES LLC  
 CONRAD, JASON M & JILL A  
 WEBBER WAREHOUSING LLC  
 CASCADE, CITY OF

Line2

501 BUCHANAN ST SW  
 1000 1ST AVE E BOX 220  
 1017 2ND AVE SE  
 808 1ST AVE W  
 PO BOX 10  
 1101 2ND AVE SE  
 PO BOX 494  
 109 MONTROSE DR  
 120 INDUSTRIAL PARK RD  
 320 1ST AVE W BOX 400



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 REZONING REQUEST**

You are receiving this notice as you own property within 200 feet of the zoning change being requested.

The City is planning to hold a public hearing regarding the vacant lot south of 109 and 111 Adams Street SE to rezone it from R-1 Single Family Residential to M-1 Light Industrial for purposes of a parking lot used with the northern businesses.

Notice is hereby given that on Thursday, May 23, 2024 at 6:00PM the Cascade Planning & Zoning Commission will hold a public hearing at City Hall, 320 1<sup>st</sup> Ave NW, to consider the rezoning request.

Notice is also given that on Tuesday, May 28, 2024 at 6:00PM the Cascade City Council will hold a public hearing at City Hall, 320 1<sup>st</sup> Ave NW, to consider the same rezoning request.

Note: This lot has been used as a parking lot for a commercial or industrial business for many years. However, it was recently discovered that it was zoned residential. Therefore, the request is being made to have the correct zoning.

At the above designated time and place, an opportunity to be heard will be given on the request. If you have any questions, please reach out at (563) 852-3114 or [admin@citycascade.com](mailto:admin@citycascade.com).

Sincerely,

Lisa A. Kotter  
City Administrator

M-1 LIGHT INDUSTRIAL DISTRICT

A. Statement of Intent. The "M-1" Light Industrial District is intended principally for manufacturing, processing, storage, wholesaling, distribution and related uses that are generally contained within a building. It is further the intent of this district to accommodate such uses in appropriate locations which will not adversely affect existing and future land uses in other districts.

B. PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Farm implement sales, service, repair, and assembly.	1 space/300 sq. ft. of sales service or office floor area.
2. Automotive and truck sales, service and repair.	1 space/300 sq. ft. of sales service or office floor area.
3. Automobile paint and body shop.	1 space/300 sq. ft. of sales service or office floor area.
4. Building material sales and storage.	1 space/300 sq. ft. of sales service or office floor area.
5. Manufacturing, assemble and processing uses, but not including the manufacture, processing or blending of fertilizers, pesticides, insecticides or other chemicals, fuels or petroleum products that are combustible, explosive or of toxic nature.	1 space/employee plus 1/vehicle used by the industry.
6. Concrete products manufacture and central mixing and proportioning plant.	1 space/employee plus 1/vehicle used by the industry.
7. Wholesaling, warehousing or storage but not including the bulk storage of liquid fertilizer, agricultural chemical or petroleum products.	1 off-street loading space for each 5,000 sq. ft. of floor area or fraction thereof.
8. Contractor's office, shop and storage yard.	1 off-street loading space for each 5,000 sq. ft. of floor area or fraction thereof.
9. Grain elevator and storage bins.	1 off-street loading space for each 5,000 sq. ft. of floor area or fraction thereof.
	1 off-street loading space for each 5,000 sq. ft. of floor area

10. Feed milling.	or faction thereof.
11. Veterinarian's office, kennel, and stable.	1 off-street loading space for each 5,000 sq. ft. of floor area or faction thereof.
12. Truck and freight terminal.	1 off-street loading space for each 5,000 sq. ft. of floor area or faction thereof.
13. Welding and machine shop.	1 off-street loading space for each 5,000 sq. ft. of floor area or faction thereof.
14. Plumbing, heating, air conditioning and sheet metal shop.	1 off-street loading space for each 5,000 sq. ft. of floor area or faction thereof.
15. Railroads and public utilities including storage and maintenance yards and buildings.	1 off-street loading space for each 5,000 sq. ft. of floor area or faction thereof.
16. Zero-lot line buildings.	1 off-street loading space for each 5,000 sq. ft. of floor area or faction thereof.

C. PERMITTED ACCESSORY USES AND STRUCTURES.

1. Uses and structures clearly incidental and necessary to the permitted principal uses of this district.

2. Temporary buildings used in conjunction with construction provided such buildings are removed promptly upon completion of the construction work.

3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of at least 2,400 sq. ft. is reserved and maintained for use by the



occupants.

4. Satellite receivers.

D. SPECIAL EXCEPTION USES AND STRUCTURES. Subject to Section 165.34(2) and other requirements contained herein, the Board of Adjustment may permit the following:

- I. Communications stations and towers provided that they are not closer to a dwelling or place of public assembly than a distance equal to one-half their height, that will not interfere with the operation of any airport or landing strip, and that 1 off-street space for each vehicle used by the facility be provided.
2. An on-site free-standing business identification sign up to 75-feet in height provided the sign is a distance equal to one-half its height from neighboring buildings, maintains 7.5-foot horizontal clearance and 12.5-foot vertical clearance from overhead power lines, and the sign is designed and built to withstand 100-mph winds. Applicant must demonstrate a clear and compelling need for the special exception.

E. MINIMUM LOT AREA, WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
None.	Front .....25-foot Rear .....25-foot Side.....20-foot Side Street, Corner Lot .....20-foot.	60-feet.
Zero-lot line buildings: None.	Front .....25-foot Rear .....25-foot Interior side .....0-foot Exterior side .....20-foot Side Street, Corner Lot.....20-foot	60-feet.

F. PERMITTED SIGNS.

1. Billboards and advertising signs provided:
  - a) That they are not within 75 feet of a highway intersection, highway structure, residence, park, school, cemetery, public or semi-public building.

- b) That they are not within 150 feet of another billboard or advertising sign.
  - c) That they do not exceed 300 sq. ft. in area.
2. Trade, business or industry identification signs for the firm located on the site provided that:
- a) Free standing signs shall not exceed 150 square feet in area or 25 feet in height.
  - b) Signs mounted flush on the wall of a building shall not exceed 10% of the area of the wall of the building on which they are located or 200 square feet, whichever is smaller.
  - c) Overhanging signs, attached to a building shall not project above the height of the building, or more than four (4) feet from the wall of the building and shall not have more than 100 square feet of area.
3. All signs shall be maintained in a neat and presentable condition and in the event that they shall become illegible or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free from refuse and debris.
4. See Supplementary District Regulation (Section 165.12).

G. SPECIAL REQUIREMENTS.

- 1. See Supplementary District Regulations (Section 165.12).





## May 28, 2024 Agenda

**To: City Council, Mayor and Staff**  
**From: Lisa Kotter, City Administrator**  
**Date: May 24, 2024**  
**Re: Grass Weed Height 8 inches**

As we approach lawn mowing season, we noticed that the nuisance code has a conflict in it. Section L states no more than 6 inches. Section OO states 8 inches. At the last meeting the Council gave directions to change the 6-inch reference to 8 inches. Ordinance #13-24 correct the 6 inches so that there will no longer be a conflict in the code. This will be the first of three readings.

**ORDINANCE NO. 13-24**

**AN ORDINANCE AMENDING TITLE III, CHAPTER 2 (NUISANCES) OF THE CODE OF ORDINANCES OF THE CITY OF CASCADE, IOWA**

**WHEREAS**, the City Council of the City of Cascade, Iowa, has determined it is necessary to amend Title III, Chapter 2 (Nuisances) of the Code of Ordinances of the City of Cascade, Iowa (“City Code”), to expand upon the City’s enumerated nuisances.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASCADE, IOWA** that City Code §3-2-1(l) be adopted as follows:

1. Weeds, brush. Any condition relating to weeds which is described as a nuisance in the Cascade Municipal Code of Ordinances or under state law. Dense growth of all weeds, grasses, vines, brush, or other vegetation including grass over 6” **8 in** height in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way. Any condition related to weeds described or defined as a nuisance under the Code of Iowa or the City Municipal Code.

**SECTION 3. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4. SEVERABILITY.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be effective after its passage and publication as required by law.

PASSED AND APPROVED this 24th day of June, 2024.

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

ATTEST:

\_\_\_\_\_  
Kathy Goerdts, City Clerk

First Reading:  
Second Reading:  
Third Reading:

Publication Date:  
Sent to American Legal:



## May 28, 2024 Agenda

**To: Mayor, City Council and Staff**  
**From: Lisa Kotter, City Administrator**  
**Date: May 24, 2024**  
**Re: NJCallahan Development Agreement**

When the City Council approved the last Urban Renewal Amendment, a project was added to provide funding to Nick and Jeannette Callahan for their building in the Industrial Park. The final step in completing that agreement is to set up a public hearing and approve the Development Agreement. The agenda item for this meeting is to consider a Resolution that sets the Public Hearing for June 11. In your packet is the Resolution to set the hearing and a draft of the development agreement. The draft terms are to receive actual dollars back from their tax bill up to \$20,000.

RESOLUTION NO. 58-24

Resolution Setting a Date of Meeting at which it is Proposed to Approve a Development Agreement with NJCallahan, LLC, Including Annual Appropriation Tax Increment Payments

WHEREAS, the City of Cascade, Iowa (the “City”), pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted an Urban Renewal Plan for the Cascade Urban Renewal Area (the “Urban Renewal Area”); and

WHEREAS, this City Council has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa, which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the City for the payment of the principal of and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, the City proposes to enter into a certain development agreement (the “Development Agreement”) with NJCallahan, LLC (the “Company”) in connection with the construction by the Company of a new storage building with recreational space for use in its business operations in the Urban Renewal Area; and

WHEREAS, under the Development Agreement the City would provide financial incentives to the Company in the form of annual appropriation incremental property tax payments (the “Payments”) in an amount not to exceed \$20,000 under the authority of Section 403.9(1) of the Code of Iowa; and

WHEREAS, it is necessary to set a date for a public hearing on the Development Agreement, pursuant to Section 403.9 of the Code of Iowa;

NOW THEREFORE, IT IS RESOLVED by the City Council of the City of Cascade, Iowa, as follows:

Section 1. This City Council shall meet on June 11, 2024, at 6:00 p.m., at the Cascade City Hall , in the City, at which time and place proceedings will be instituted and action taken to approve the Development Agreement and to authorize the Payments.

Section 2. The City Clerk is hereby directed to give notice of the proposed action, the time when and place where said meeting will be held, by publication at least once not less than four days and not more than twenty days before the date of said meeting in a legal newspaper of general circulation in the City. Said notice shall be in substantially the following form:

NOTICE OF MEETING FOR APPROVAL OF DEVELOPMENT AGREEMENT WITH  
NJCALLAHAN, LLC AND AUTHORIZATION OF ANNUAL APPROPRIATION TAX  
INCREMENT PAYMENTS

The City Council of the City of Cascade, Iowa (the “City”), will meet at the Cascade City Hall, on June 11, 2024, at 6:00 pm., at which time and place proceedings will be instituted and action taken to consider approval of a Development Agreement between the City and NJCallahan, LLC (the “Company”), in connection with the construction by the Company of a new storage building with recreational space for use in its business operations in the Cascade Urban Renewal Area. The Agreement provides for certain financial incentives to the Company in the form of annual appropriation incremental property tax payments (the “Payments”) in an amount not to exceed \$20,000 as authorized by Section 403.9 of the Code of Iowa.

The commitment to make the Payments to the Company under the Development Agreement will not be a general obligation of the City, but such Payments will be payable solely and only from incremental property tax revenues generated within the Cascade Urban Renewal Area. Some or all of the Payments under the Development Agreement may be made subject to annual appropriation by the City Council.

At the meeting, the City Council will receive oral or written objections from any resident or property owner of the City. Thereafter, the City Council may, at the meeting or at an adjournment thereof, take additional action to approve the Development Agreement or may abandon the proposal.

This notice is given by order of the City Council of Cascade, Iowa, in accordance with Section 403.9 of the Code of Iowa.

Kathy Goerd  
City Clerk

Publish June 5, 2024



Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved May 28, 2024.

---

Steve Knepper, Mayor

Attest:

---

Kathy Goerd, City Clerk

• • • •

On motion and vote the meeting adjourned.

---

Steve Knepper, Mayor

Attest:

---

Kathy Goerd, City Clerk

## DEVELOPMENT AGREEMENT

This Development Agreement (the “Agreement”) is entered into between the City of Cascade, Iowa (the “City”) and NJCallahan, LLC (the “Company”) as of the \_\_\_ day of \_\_\_\_\_, 2024 (the “Commencement Date”).

WHEREAS, the City has established the Cascade Urban Renewal Area (the “Urban Renewal Area”), and has adopted a tax increment ordinance for the Urban Renewal Area; and

WHEREAS, the Company owns certain real property which is situated in the City, lies within the Urban Renewal Area and is more specifically described on Exhibit A hereto (the “Property”); and

WHEREAS, the Company has constructed a new storage building with recreational space (the “Project”) for use in its business operations on the Property; and

WHEREAS, the Company has requested that the City provide financial assistance in the form of incremental property tax payments to be used by the Company in paying the costs of constructing and maintaining the Project; and

WHEREAS, the taxable base valuation (the “Base Valuation”) of the Property for purposes of calculations of Incremental Property Tax Revenues (as hereinafter defined) under this Agreement and Section 403.19 of the Code of Iowa shall be the assessed taxable valuation of the Property as of January 1, 2023; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

**A. Company’s Covenants**

**1. Project Construction and Maintenance.** The Company has completed the Project on the Property.

The Company agrees to use the completed Project as part of its business operations on the Property throughout the Term (as hereinafter defined) of this Agreement (the “Business Operations Requirement”).

The Company further agrees to maintain, preserve, and keep the Property, including but not limited to the Project, useful and in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions. Further, the Company agrees to maintain compliance with local zoning, land use, building and safety codes and regulations.

**2. Business Operations Certifications.** Upon request by the City, the Company agrees to submit documentation to the satisfaction of the City by no later than each

October 15<sup>th</sup> during the Term, commencing October 15, 2024, demonstrating that the Business Operations Requirement is being met by the Company.

3. **Property Taxes.** The Company agrees to make timely payment of all property taxes as they come due with respect to the Property with the completed Project thereon throughout the Term and to submit a receipt or cancelled check in evidence of each such payment.

4. **Property Tax Payment Certification.** The Company agrees to certify to the City by no later than October 15<sup>th</sup> of each year during the Term, commencing on October 15, 2024, an amount (the “Company’s Estimate”) equal to the estimated Incremental Property Revenues (as hereinafter defined) anticipated to be paid in the fiscal year immediately following such certification with respect to the taxable valuation of the Property factored by forty percent (40%) (the “Annual Percentage”). The Company will submit the Company’s Estimate by completing and submitting the worksheet attached hereto as Exhibit B. The City reserves the right to review and request revisions to each such Company’s Estimate to ensure the accuracy of the figures submitted.

For purposes of this Agreement, Incremental Property Tax Revenues are calculated by: (1) determining the consolidated property tax levy (city, county, school, etc.) then in effect with respect to taxation of the Property; (2) subtracting (a) the debt service levies of all taxing jurisdictions, (b) the school district instructional support and physical plant and equipment levies and (c) any other levies which may be exempted from such calculation by action of the Iowa General Assembly; (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the assessed taxable valuation of the Property, as shown on the property tax rolls of Dubuque County, above and beyond the Base Valuation; and (4) deducting any property tax credits which shall be available with respect to the Property.

Upon request, the City staff shall provide reasonable assistance to the Company in completing the worksheet required under this Section A.4.

5. **Default Provisions.**

A. **Events of Default.** The following shall be “Events of Default” under this Agreement, and the term “Event of Default” shall mean, whenever it is used in this Agreement (unless otherwise provided), any one or more of the following events:

- (i) Failure by the Company to comply with the Business Operations Requirement.
- (ii) Failure by the Company to fully and timely remit payment of property taxes when due and owing.
- (iii) Failure by the Company to comply with the certification requirements set forth in Sections A.2 and A.4 of this Agreement.
- (iv) Failure by the Company to observe or perform any other material covenant on its part, to be observed or performed hereunder.

B. **Notice and Remedies.** Whenever any Event of Default described in this Agreement occurs, the City shall provide written notice to the Company describing the cause of the default

and the steps that must be taken by the Company in order to cure the default. The Company shall have thirty (30) days after receipt of the notice to cure the default or to provide assurances satisfactory to City that the default will be cured as soon as reasonably possible. If the Company fails to cure the default or provide assurances, the City shall then have the right to:

- (i) Pursue any action available to it, at law or in equity, in order to enforce the terms of this Agreement.
- (ii) Withhold the Payments provided for under Section B.1 below.
- (iii) Terminate this Agreement.

**B. City’s Obligations**

**1. Payments.** In recognition of the Company’s obligations set out above, the City agrees to make eight (8) semiannual economic development tax increment payments (the “Payments” and each, individually a “Payment”) to the Company during the Term, pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments shall not exceed twenty thousand dollars (\$20,000) (the “Maximum Payment Total”), and all Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

The Payments shall not constitute general obligations of the City, but shall be made solely and only from the Annual Percentage of Incremental Property Tax Revenues received by the City from the Dubuque County Treasurer attributable to the taxable valuation of the Property.

The new valuation from the Project went on the property tax rolls as of January 1, 2024. Accordingly, the Payments will be made on December 1 and June 1 of each fiscal year, beginning on December 1, 2025 and continuing to, and including, June 1, 2029, or until such earlier date upon which total Payments equal to the Maximum Payment Total have been made.

**2. Annual Appropriation.** The Payments shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the Term of this Agreement, commencing in calendar year 2024, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payments due in the following fiscal year, an amount (the “Appropriated Amount”) of Incremental Property Tax Revenues to be collected in the following fiscal year equal to or less than the most recently submitted Company’s Estimate.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payments scheduled to become due in the following fiscal year, and the Company will have no rights whatsoever to compel the City to make such Payments, to seek damages relative thereto or to compel the funding of such Payments in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year’s Payments shall not render this Agreement null and void, and the Company shall make the next succeeding submission of the Company’s Estimate as called for in Section A.4 above, provided however that no Payment shall be made after June 1, 2029.

3. **Payment Amounts.** The aggregate Payments to be made in a fiscal year shall not exceed an amount equal to the corresponding Appropriated Amount (for example, for the Payments due on December 1, 2025 and on June 1, 2026, the aggregate maximum amount of such Payments would be determined by the Appropriated Amount determined for certification by December 1, 2024). Furthermore, the amount of each such Payment shall not exceed the Annual Percentage of Incremental Property Tax Revenues (excluding allocations of “back-fill” or “make-up” payments from the State of Iowa for property tax credits or roll-back) actually received by the City from the Dubuque County Treasurer attributable to the taxable incremental valuation of the Property in the six (6) months immediately preceding such Payment due date.

4. **Certification of Payment Obligation.** In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section B.2 above, then the City Clerk will certify by December 1 of each such year to the Dubuque County Auditor an amount equal to the most recently obligated Appropriated Amount.

**C. Administrative Provisions**

1. **Amendment and Assignment.** Neither party may cause this Agreement to be amended, assigned, assumed, sold or otherwise transferred without the prior written consent of the other party. However, the City hereby gives its permission that the Company’s rights to receive the Payments hereunder may be assigned by the Company to a private lender, as security on a credit facility taken with respect to the Project, without further action on the part of the City.

2. **Successors.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. **Term.** The term (the “Term”) of this Agreement shall commence on the Commencement Date and end on June 1, 2029 or on such earlier date upon which the aggregate sum of Payments made to the Company equals the Maximum Payment Total.

4. **Choice of Law.** This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

The City and the Company have caused this Agreement to be signed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF CASCADE, IOWA

By: \_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_

City Clerk

NJCALLAHAN, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

Certain real property situated in the City of Cascade, Dubuque County, State of Iowa, bearing Dubuque County Property Tax Parcel Identification Number 1932152012.

**EXHIBIT B**

**COMPANY'S ESTIMATE WORKSHEET**

- (1) Date of Preparation: October \_\_\_\_\_, 20\_\_\_\_.
- (2) Assessed Taxable Valuation of Property as of January 1, 20\_\_\_\_:  
\$ \_\_\_\_\_.
- (3) Base Taxable Valuation of Property for purposes of Agreement (January 1, 2023):  
\$ \_\_\_\_\_.
- (4) Incremental Taxable Valuation of Property (2 minus 3):  
\$ \_\_\_\_\_ (the "TIF Value").
- (5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):  
\$ \_\_\_\_\_ per thousand of value.
- (6) The TIF Value (4) factored by the Adjusted Levy Rate (5).  
\$ \_\_\_\_\_ x \$ \_\_\_\_\_ /1000 = \$ \_\_\_\_\_ (the "TIF Estimate")
- (7) TIF Estimate (\$ \_\_\_\_\_ x .40 (40%) = Company's Estimate (\$ \_\_\_\_\_).