

NOTICE OF PLANNING & ZONING COMMISSION REGULAR MEETING

City of Cumming
May 26, 2020 – 7:00 p.m.
Cumming City Hall*
649 N 44th Street
Cumming, Iowa 50061

This is a tentative agenda only, which is subject to change. The final agenda will be posted at least 24 hours prior to commencement of the meeting.

- I. ROLL CALL
- II. APPROVAL OF AGENDA as presented and/or amended.
- III. CONSENT ITEMS
 - A. April 28, 2020 Meeting Minutes
- IV. PUBLIC COMMENT
- V. ACTION/DISCUSSION ITEMS
 - A. Chapter 40 Public Peace - Noise
 - B. Chapter 55 Animal Protection and Control
 - C. Peddlers/Mobile Food Units/Special Event Permits
 - D. Farmers Markets
- VI. UPCOMING PLANNING & ZONING MEETING:
 - A. Regular meeting – June 23, 2020 at 7:00 p.m. at City Hall
- VII. ADJOURN

*This meeting will be held electronically through the Zoom App. If you would like to participate or view this meeting please download the app and choose "Join Meeting" up to 10 minutes prior. The meeting ID is: 897 8949 1124. Password: 381592. If you would like to join by telephone please call: 312-626-6799 and enter the Meeting ID and Password when prompted.

Please keep your microphone muted unless you are called upon to speak during public comment. The standard rules of order apply during this meeting.

If have any questions about the operation of this app or how to join please contact City Hall at 515-981-9214 by 3:30 p.m., Tuesday, May 26.

City of Cumming
Planning & Zoning Commission Regular Meeting
April 28, 2020

The City of Cumming Planning and Zoning Commission held scheduled meeting on April 28, 2020 at 7:00PM. The meeting was held virtually with Zoom Meeting.

The Meeting was called to order by Chair, Brad Hopkey, at 7:19PM.

I. ROLL CALL

Present: Brad Hopkey, Karen McKinney, Matt Daniels, Jill Stanford

Absent: Holly De Hamer, Ethan Roos

II. APPROVAL OF AGENDA

McKinney moved – Daniels second – unanimously approved

III. CONSENT ITEMS

2/25/20 meeting minutes

McKinney moved – Daniels second – unanimously approved

IV. ACTION/DISCUSSION ITEMS

A. Great Western Crossing Plat 2 – Final Plat

Item opened for public comment – No comment.

The Commission reviewed Plat 2 and comments from Tony Bellizzi. Chris Thompson joined the meeting and stated he was in agreement with all staff's comments. Thompson will address all questions, comments and will take to council after the walkthrough. Motion for Commission Approval contingent upon improvements.

McKinney moved – Daniels second – unanimously approved

B. Great Western Crossing Plat 3 – Final Plat

The Commission reviewed Plat 3, no outstanding questions or comments.

Daniels moved – Stanford second – unanimously approved

C. 200 N 60th – Secondary Structure

Discussion only. Josh Giesemann joined the meeting to discuss a proposed building on his property zoned A1 Ag. Commission recommended verifying set back requirements (75' from front yard). Building met Max Height Restriction 35'. Giesemann will move ahead with a building permit and include a site plan.

D. Chapter 40 Public Peace – Noise

Discussion only. Hopkey will research a definition of auto repair with examples of noise.

E. Chapter 55 Animal Protection and Control

Discussion only. The Commission discussed including a restriction on a total number of pets and potentially licensing pets in the City. The Commission will review examples from neighboring cities at the May meeting.

F. Board Member Applicant Discussion

Discussion only. The Commission reviewed four applications for the open Commission position. The Commission will recommend Donald Paulin as the first choice candidate based on his professional experience and living in the area for 20 yrs. Second recommendation is Jordyn Hill given her experience in the Records Office.

UPCOMING PLANNING & ZONING MEETING

Regular meeting – May 26, 2020 at 7PM at Virtual or City Hall

V. ADJOURN

McKinney moved – Stanford second – unanimously approved
Adjourned 8:52PM

Project Name: Chapter 40 Public Peace - Noise

Date	Time	From	Comment
12/6/19	11:08 AM	Resident	Rec'd verbal complaint from caller: Noise in C-2 Zoning across from residential housing at all hours of the night.
12/16/19		City Council	Approved 4-0 to send possible revision of our code to P&Z See Minutes Attached.
12/17/19		Angie Ritchie	Letter was sent to the company addressing the noise complaint
12/27/19		Angie Cooper	Mrs. Cooper stopped by the office in regards to the letter and addressed concerns and indicated that they were no longer operating Party buses which should resolve the complaint.
12/27/19		Angie Ritchie	I contacted complainant to let her know about the Party Bus service no longer operating and she then said it was semi-trucks that came and went and ran for hours. She said it felt like living next to a truck stop.
12/27/19		Angie Ritchie	Called Angie Cooper back to address the new information. It was determined that she does not have a sign prohibiting No Overnight Camping on her property. She did acknowledge tow trucks sometimes bringing in vehicles for repair late/early morning hours. It was resolved that she would request that they only bring vehicles after 7:00 a.m.
2/13/20	2:07 PM	Resident	Rec'd verbal complaint from the same caller as on 12/6 in regards to the same company saying that there were currently three semi's idling on the property a few feet from her home. (This call was received when the outside temperature was negative double digits). She indicated that the idling of multiple trucks were shaking her walls.
2/13/20	2:14 PM	Angie Ritchie	Called and spoke with Angie about the trucks running. She explained that they were trucks that came from Texas and California that were not properly equipped for this cold. The Mayor gave permission for them to bring some trucks to idle outside of City Hall if needed, to help keep the noise down. They did not take advantage of this option before I left work at 4:00 p.m.

OFFICIAL PUBLICATION
CITY OF CUMMING
Special Council Meeting 12/16/2019
To be Approved at 1/13/20 Meeting

The Special City Council Meeting of the City of Cumming was held at Cumming City Hall, 649 N. 44th St., on Monday, December 16, 2019. The Meeting was called to order at 6:30 P.M. by Mayor Tom Becker. Present at Roll Call: Charlie Ochanpaugh, Thomas Cackler, Dave Chelsvig, and Dino Goode. Absent at Roll Call: Kathie Hungerford. Motion made by Chelsvig, seconded by Goode to approve the agenda. Approved 4-0.

Consent Items:

Motion made by Goode, seconded by Cackler to approve the Consent items: 12/9/19 Meeting Minutes. Approved 4-0.

Action/Discussion Items:

- A. Motion made by Goode, seconded by Cackler to approve the City Administrator Consulting Services Agreement with Don Sandor. Approved 4-0.
- B. MSA Guidelines was discussed.
- C. Motion made by Goode, seconded by Ochanpaugh to approve the Beeler Trucking Quote. Approved 4-0.
- F. Motion made by Cackler, seconded by Ochanpaugh to send Zone C-2 Noise Ordinance to Planning and Zoning. Approved 4-0.

Upcoming City Council Meetings: Regular Meeting, January 13, 2020, at 7:00 pm at City Hall.

Motion made by Cackler, seconded by Chelsvig to Adjourn at 7:16 pm. Approved 4-0.

Tom Becker, Mayor

Attest: Angie Ritchie, Deputy Clerk

CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

40.01 ASSAULT. No person shall, without justification, commit any of the following:

1. Pain or Injury. Any act that is intended to cause pain or injury to another or that is intended to result in physical contact that will be insulting or offensive to another, coupled with the apparent ability to execute the act.

(Code of Iowa, Sec. 708.1[1])

2. Threat of Pain or Injury. Any act that is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(Code of Iowa, Sec. 708.1[2])

An act described in subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace; (ii) if the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function, regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:

A. Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(Code of Iowa, Sec. 708.7)

B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by the other person.

(Code of Iowa, Sec. 708.7)

C. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.

(Code of Iowa, Sec. 708.7)

D. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur.

(Code of Iowa, Sec. 708.7)

2. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

40.03 DISORDERLY CONDUCT. No person shall do any of the following:

1. **Fighting.** Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct that is reasonably related to that sport.

(Code of Iowa, Sec. 723.4[1])

2. **Noise.** Make loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.

(Code of Iowa, Sec. 723.4[2])

3. **Abusive Language.** Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.

(Code of Iowa, Sec. 723.4[3])

4. **Disrupt Lawful Assembly.** Without lawful authority or color of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

(Code of Iowa, Sec. 723.4[4])

5. **False Report of Catastrophe.** By words or action, initiate or circulate a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

(Code of Iowa, Sec. 723.4[5])

6. **Disrespect of Flag.** Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault. As used in this subsection:

(Code of Iowa, Sec. 723.4[6])

A. "Deface" means to intentionally mar the external appearance.

B. "Defile" means to intentionally make physically unclean.

C. "Flag" means a piece of woven cloth or other material designed to be flown from a pole or mast.

D. "Mutilate" means to intentionally cut up or alter so as to make imperfect.

E. "Show disrespect" means to deface, defile, mutilate, or trample.

F. "Trample" means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

7. **Obstruct Use of Street.** Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

(Code of Iowa, Sec. 723.4[7])

8. **Funeral or Memorial Service.** Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.

C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

This subsection applies to conduct within 60 minutes preceding, during, and within 60 minutes after a funeral, memorial service, funeral procession, or burial.

(Code of Iowa, Sec. 723.5)

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

(Code of Iowa, Sec. 723.2)

40.05 FAILURE TO DISPERSE. A peace officer may order the participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. No person within hearing distance of such command shall refuse to obey.

(Code of Iowa, Sec. 723.3)

165.19 C-2 CENTRAL BUSINESS DISTRICT REGULATIONS. The regulations set forth in this section or elsewhere in this chapter, which are applicable, shall apply in all of the C-2 Central Business Zoning District.

1. Principal Permitted Uses and Structures. Following are the principal uses and structures permitted in the C-2, Central Business District:
 - A. Antique stores.
 - B. Artists, architectural, engineering and surveying services.
 - C. Automotive display, sales, service and repair.
 - D. Automotive paint and body shops.
 - E. Dry cleaners and laundry.
 - F. Custom cabinetry, furniture upholstery and repair.
 - G. Clubs, lodges, rental halls, and religious organizations.
 - H. Banks, savings and loans, and other financial institutions with drive-in facilities and free-standing ATM machines permitted.
 - I. Retail or variety stores.
 - J. Formal wear and costume rental.
 - K. Hardware stores.
 - L. Personal services.
 - M. Professional and semi-professional office buildings.
 - N. Medical, dental, chiropractic, and veterinary clinics.
 - O. Restaurants, cafe, tavern and catering services.
 - P. Public buildings owned by federal, State, County, City or other political subdivision that is operated for the social benefit or convenience of the public and utilities but not including storage or maintenance yards or buildings.
 - Q. Repair and restoration shops.
 - R. Museums and libraries.
 - S. Postal service (local substation of the United States) or private parcel post delivery service.
 - T. Mini-warehousing for storage and outside storage within fencing. Anything stored outside of the building must be out of public sight from the street.
 - U. Plumbing, heating and cooling sales, service and repair shops.
 - V. Hotels or bed and breakfast inns, wherein guest rooms and dwelling units shall not be located on the first floor of the building.
 - W. Printing, publishing and engraving.
 - X. Dance or music studios.
 - Y. Dwelling unit with a store or shop.

- Z. Community amusements.
 - AA. Small engine sales, service and rental.
 - BB. Manufacturing, assembling, compounding, processing, repairing and packaging uses that are contained within a building and create no offensive noise, dust, odor, vibration or electrical interference.
 - CC. Tool, die, machine shop, welding and metal fabrication.
 - DD. Any use which is found by the Zoning Administrator to be similar to one of the above named uses and conforms to the intent of this section.
2. Permitted Accessory Uses. Following are the permitted accessory uses and structures permitted in the C-2 Central Business District:
- A. Uses and structures clearly incidental and necessary to their permitted principal uses or structures of this district.
 - B. Storage warehouses in conjunction with the permitted principal uses or structures of this district.
 - C. Temporary buildings used in conjunction with construction work, provided that such buildings shall be removed upon the completion or abandonment of the construction work.
3. Special Exception Uses and Structures. Special exception uses and structures are permitted in the C-2 Central Business District in accordance with subsections 165.42(2) and (3).
4. Minimum Lot Area and Width. There are no minimum requirements for lot area and width in the C-2 Central Business District.
5. Minimum Required Front, Side and Rear Yards. Following are the minimum requirements for front, side, and rear yards in the C-2 Central Business District:
- A. Front: five feet.
 - B. Side street, corner lot: five feet.
6. Maximum Height. The maximum height for structures in the C-2 Central Business District is 2 1/2 stories or 35 feet.
7. Permitted Signs. Permitted signs in the C-2 Central Business District are described in the City sign regulations. (See Section 165.27.)
8. Minimum Required Off-Street Parking. The minimum off-street parking requirements for permitted principal uses and structures in the C-2 Central Business District are: two spaces provided for each business. (See Section 165.47)
9. Buffer and Green Space Requirements. The minimum buffer and green space requirements for permitted principal uses and structures in the C-2 Central Business District are described in the City buffer and green space regulations. (See Section 165.29 of this chapter.)
10. Architectural Standards. See Chapter 166.
11. Site Plan Requirements. See Section 165.48.

[The next page is 769]

69.09 TRUCK PARKING LIMITED. No person shall park a semi-tractor, semi-trailer, passenger bus used for commercial or school purposes, any vehicle in excess of five (5) tons, or other motor vehicle with trailer attached with total weight in excess of five (5) tons in violation of the following regulations.

(Code of Iowa, Sec. 321.236[1])

1. **Streets.** Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle, on any street within the City except for designated parking areas on the City truck routes. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. **Noise.** No such vehicle shall be left standing or parked upon any street, public or private parking lot, or drive of any service station between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.
3. **Livestock.** No such vehicle containing livestock shall be parked on any street or highway for a period of time of more than thirty (30) minutes.

69.10 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency. When predictions or occurrences indicate the need, the Public Works Director shall initiate a snow emergency and inform the news media to publicize the snow emergency. The snow emergency shall remain in effect until the Public Works Director declares it over.

(Ord. 09-05 – Feb. 10 Supp.)

69.11 SNOW ROUTES. The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

(Code of Iowa, Sec. 321.236[12])

69.12 PRIVATE PROPERTY. No person shall drive, stop, stand or park a vehicle onto or upon privately owned property or in an area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of such privately owned property or facility. A violation of this section shall place such vehicle in the status of an illegally parked vehicle and, upon complaint of the owner, lessee or person in charge of the privately owned property or facility, the vehicle may be given a notice under the provisions of Chapter 70 of this Code of Ordinances or may be removed from the property in accordance with law. However, no vehicle shall be deemed illegally parked under this section on land zoned commercial or industrial unless the owner, lessee or person in charge of such privately owned property or facility shall first post, in a conspicuous location, a sign or signs designating the specific use of the off-street parking facility.

69.13 SPECIAL PARKING RESTRICTIONS FOR PUBLIC EVENTS. No one shall stop, stand or park a vehicle in area that has been designated as a special restricted parking area and that has been marked accordingly with an official no parking sign. The following street shall contain a special restricted parking area:

1. The West side of Cherry Street between North Avenue and Elm Avenue.

(Ord. 12-10 – Mar. 13 Supp.)

Ankeny Code of Ordinances

44.05 SOUNDS NOT ALLOWED.

The term "noise disturbance" means any of the following sounds:

1. Alarm Testing. The sound emitted by the intentional sounding outdoors of any privately-owned fire alarm, burglar alarm, siren, whistle, or similar stationary emergency signaling device for the essential testing of such device, when conducted between the hours of 5:00 p.m. and 8:00 a.m.
2. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or compact disk player, or other such standard equipment used and intended for the use and enjoyment of such vehicle's occupants, if the sound emitted therefrom is audible for more than 50 feet, at all times.
3. Chain Saws. The sound emitted by motor-powered tree trimming equipment operated between the hours of 9:00 p.m. and 7:00 a.m.
4. Construction Noise. The sound made by privately owned and operated tools or equipment in the erection, demolition, excavation, drilling, or other such construction work, which is received between the hours of 9:00 p.m. and 7:00 a.m. on weeknights and between the hours of 6:00 p.m. and 9:00 a.m. on Saturday and Sunday.
5. Engine Brake Noise. The sound made by an engine brake device of a diesel engine truck, at all times.
6. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing a motor vehicle or recreational vehicle which is received between the hours of 9:00 p.m. and 7:00 a.m.
7. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the health, safety or welfare of a human being, disturbs a reasonable human being of normal sensitivities, or causes or tends to cause an adverse physiological or physical effect on human beings, or devalues or injures property, at all times.
8. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler-equipped, lawn and garden equipment operated between the hours of 9:00 p.m. and 7:00 a.m. Golf courses are exempt from lawn mower operation restrictions.

Sec. 42-256. - Specific activities prohibited.

- (a) *Sales by hawking or barking.* No person shall offer for sale or sell anything by shouting or raised voice within any residential or commercial area in the city.
- (b) *Loading and unloading.* No person shall so load, unload, open, close or handle boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 7:00 p.m. and 6:00 a.m. the following morning as to create a noise disturbance across a residential real property boundary or within a noise sensitive area. This subsection shall not apply to the engine noise generated by the activities regulated by section 42-259 of this article.
- (c) *Vehicle or motorboat repairs and testing.* No person shall repair, rebuild, modify, or test any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or outdoors within a noise sensitive area.
- (d) *Powered model vehicles.* No person shall operate or permit the operation of powered model vehicles in a public or private space out-of-doors or within a noise sensitive area between the **hours of 10:00 p.m. and 7:00 a.m.** the following day.
- (e) No business shall allow sound to escape a structure through walls, rooftops, openings in the building, including but not limited to, vents, roof top mechanical units, doors or windows left open, except for the ingress and egress of customers, so as to create a noise disturbance.

(O.14,746, 14,976, 15,566)

Des Moines Ordinance

Project Name: Chapter 55 Animal Protection and Control

Date	Time	From	Comment
3/5/20		Brian Reelitz	See letter attached.
4/13/20		City Council	Approved 5-0 to send this issue to P&Z, See Minutes Attached

March 5, 2020

City Clerk – Cumming, Iowa
649 N 44th Street
Cumming, Iowa, 50061

Re: Animal restrictions and nuisance barking

Dear City Council Members,

I am writing to address an issue of concern for the current and future residents of Cumming as our city continues growing through future development.

I built a home in Prairie/Shores/Apple Creek in 2012. I chose this area for its peaceful and rural location as well to escape the noise and congestion of city life. My experience with my neighbors and the Cumming community has been very positive, with one ongoing exception.

There doesn't seem to be any restrictions or control for the number of pets (dogs and cats) the residents of Cumming can have. There is also no clear resolution of how to address nuisance dog barking or disturbance of peace and quiet.

I have a neighbor that is currently in possession of up to 7 small dogs. I have no problem with responsible dog ownership and, in fact, I hope to have another dog again someday. The problem is that these dogs are kept in a small fenced-in area on the edge of our property, no more than 50 feet from my bedroom windows. The dogs are often left outside for extended periods of time and bark at anything they see, including but not limited to me, my grandchildren playing outside, or animals or neighbors that are out for a walk with their family on our peaceful cul-de-sac. Once one of the dogs starts barking, they all begin to bark. Non-stop, until the owner finally brings them back in the house which is often after an abnormally long time. It seems as though the owners either can't hear them, tune them out or choose to ignore the noise.

In the summer, I cannot mow, do yard work, BBQ or just sit on my deck without these dogs barking non-stop when they are kenneled. I would like to be able to leave my windows open when the weather is nice, which is currently inhibited by the constant barking. The barking occurs at any time – early in the morning and at night. If I'm watching TV, I have turn up the volume to drown out the sound as we are able to clearly hear the barking inside our home, on all levels.

There are also a number of other barking dogs on the south side of the creek that separate the two Apple Creek subdivisions. Although further away, it sounds like a similar situation; multiple dogs in a confined area excessively barking.

I had a conversation with my neighbor about it a couple years ago and he told me he'd take care of it. Nothing changed. I called him again a year ago and he acknowledged he knew it was a problem and assured me he was going to take care of it. Again, nothing has changed - in fact the problem has worsened.

The above events have forced me to write to you today. My last option is to bring this ongoing issue to the City Councils attention. I've checked the Cumming City Code and there is nothing written, that I can find, restricting the number of dogs and/or other pets that a resident can have. The only ordinance I find similar to addressing this is:

55.08 – Annoyance or Disturbance

I do not believe it's a good use of our tax dollars to be spent calling authorities or City Hall every time this occurs, which in my case, is on a daily basis. I'm sure you agree.

In closing, I have some questions for the City Council to consider:

1. What is to prevent any resident from having an unlimited number of dogs (or cats) at their residence? What is considered an excessive amount? 5, 10, 25? No limit?
2. As our community expands and more families are building new homes, are the chances of animal neglect, complaints, animals at large and even dog/cat bites going to increase without some restrictions or guidelines added to the city code? What is the liability to the City if this is not addressed?
3. Has any research been done to understand how other suburb communities (Norwalk, West Des Moines, Indianola, etc.) address this issue?

Thank you for your time and consideration to read and understand my concerns.

Respectfully,

Brian Reelitz
3040 N. Cattail Creek
Cumming, IA 50061

515-240-8346
brianreelitz@gmail.com

**OFFICIAL PUBLICATION
CITY OF CUMMING
Regular Council Meeting 4/13/2020
To be Approved at 5/11/20**

The Regular City Council Meeting of the City of Cumming was held via Zoom on Monday, April 13, 2020. The Meeting was called to order at 7:06 P.M. by Mayor Tom Becker. Present at Roll Call: Thomas Cackler, Brent Highfill, Charlie Ochanpaugh, Kathie Hungerford and Dino Goode. The Agenda was amended to remove a public comment. Motion made by Hungerford, seconded by Cackler to approve the agenda as amended. Approved 5-0.

Public Comment:

Letter to the Council was read.

Consent Items:

Motion made by Cackler, seconded by Hungerford to approve the Consent items: 3/30/20 Special Council Meeting Minutes, March 2020 IPERS Wage & Contribution Report, March 2020 Fund Balance Report, 3/13/20, 3/27/20 & 4/9/20 Calculation & Verification Journals, 3/16/20, 3/29/20 & 4/13/20 Accts Payable Claims Reports. Approved 5-0.

Expenditures:

Angie Ritchie	1 st Qtr Mileage & Zoom	180.67
Brent Highfill	1 st Qtr Mileage	22.66
Cardmember Service	March and April	259.08
Central Tank Coatings	Water Tower Base Paint	16,000.00
Century Link	Phone and Internet	242.18
Combined Systems Technology	Hardware/Software Support	1,342.48
GovOffice LLC	1/1-4/30 Web Hosting/Email	583.32
Impact Community Action	Donation	28.00
IA League of Cities	July Classes	912.00
IPERS	IPERS	385.37
IRS	FED/FICA Taxes	571.14
Jim's Johns Inc.	Delivery, March & April Rent	190.00
Koch Brothers	Contract Invoice	572.82
MidAmerican Energy	Utilities/Street Lights	693.48
MSA Professional Services	Professional Consulting	2,608.28
N/Warren Town & Country News	3/9, 3/11 & 3/30 Min/Notices	311.01
Office Depot	Office Supplies	100.22
Skinner Law Office PC	Legal Fees 2/1-4/6	5,443.39
Thomas Cackler	1 st Qtr Mileage	12.08
Treasurer, State of Iowa	1 st Qtr State Taxes	226.00
US Bank	Copier Lease	118.64
Veenstra & Kimm Inc.	Phase 3 Sewer 2/16-3/21 Inv.	12,452.96
Waste Connections, Inc.	Garbage & Recycling Feb/March	4,466.52
	General Fund Total	47,722.30
City of Des Moines	WRA Payment	3,223.00
Iowa One Call	Underground Line Loc.	18.00
	Sewer Total	3,241.00
Payroll	3/16, 3/30 & 4/13 PR/End of Qtr	3,780.80
Consulting	3/16, 3/30 & 4/13 Consulting PR	3,843.20
	Payroll Total	7,624.00
Paid Total		58,587.30

Action Items

- A. Motion by Goode, seconded by Highfill to approve **Resolution 2020-29** An Authorization for Payment of Monthly City Obligations. Approved 5-0.
- B. Pet Ordinance was discussed. Motion by Ochanpaugh, seconded by Goode to send this item to P&Z Approved 5-0.
- C. Street sweeping was discussed. More bids requested.
- D. Water Tower Painting Update was discussed.

Reports: Clerk – Updates on training burn

Upcoming City Council Meetings: Regular Council Meeting, May 11, 2020 at 7:00 p.m. at City Hall.

Motion made by Goode, seconded by Cackler to Adjourn at 7:55 pm. Approved 5-0.

Tom Becker, Mayor

Attest: Angie Ritchie, Deputy Clerk

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.09 Vicious Dogs
55.02 Animal Neglect	55.10 Rabies Vaccination
55.03 Livestock Neglect	55.11 Owner's Duty
55.04 Abandonment of Cats and Dogs	55.12 Confinement
55.05 Livestock	55.13 At Large: Impoundment
55.06 At Large Prohibited	55.14 Disposition of Animals
55.07 Damage or Interference	55.15 Pet Awards Prohibited
55.08 Annoyance or Disturbance	

55.01 **DEFINITIONS.** The following terms are defined for use in this chapter.

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(*Code of Iowa, Sec. 717B.1*)
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.
(*Code of Iowa, Sec. 717.1*)
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.
9. "Pet" means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster,

mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

55.02 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means that causes unjustified pain, distress or suffering.

(Code of Iowa, Sec. 717B.3)

55.03 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means that causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec. 717.2)

55.04 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

(Code of Iowa, Sec. 717B.8)

55.05 LIVESTOCK. It is unlawful for a person to keep livestock of any kind other than that which is allowed by this Code of Ordinances or except in compliance with the City's zoning regulations. See Chapter 56 for Urban Chickens for permit requirements.

55.06 AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

55.07 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

55.08 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles or other vehicles.

55.09 VICIOUS DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City. A dog is deemed to be vicious when it has attacked or bitten any person without provocation, or when propensity to attack or bite persons exists and is known or ought reasonably to be known to the owner.

55.10 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in State or federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

55.11 OWNER'S DUTY. It is the duty of the owner of any dog, cat, or other animal that has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

55.12 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after 10 days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Code of Iowa, Sec. 351.39)

55.13 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

55.14 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.15 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated

with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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City of Cumming
Planning & Zoning Commission Regular Meeting
October 22, 2019

The City of Cumming Planning and Zoning Commission held scheduled meeting on October 22, 2019 at 7:00PM. The meeting was held at the City Hall located at 649 N. 44th St. Cumming, IA.

The Meeting was called to order by Chair, Brad Hopkey, at 7:04PM.

I. ROLL CALL

Present: Brad Hopkey, Brent Highfill, Holly De Hamer, Ethan Roos, Karen McKinney, Matt Daniels

Absent: Jill Stanford (Arrived at 8:05PM)

II. APPROVAL OF AGENDA

McKinney moved – Highfill second – unanimously approved

III. CONSENT ITEMS

9/24/19 meeting minutes

Highfill moved – Roos second – unanimously approved

IV. ACTION/DISCUSSION ITEMS

A. Chapter 155 Building Regulations – updating to reference the building code used by our inspector.

Roos Moved – McKinney second – unanimously approved

B. Peddlers/Mobile Food Units/Special Event Permits – Rachele to talk to the building inspector about how to regulate inspecting and come back with costs.

We agreed to use Clive as a base with edits. Rachele to bring back a working copy at the next meeting.

Farmer's Markets/special events will be a separate ordinance.

UPCOMING PLANNING & ZONING MEETING

Regular meeting – November 19, 2019 at 7PM at City Hall

V. ADJOURN

McKinney moved – Highfill second – unanimously approved

Adjourned 8:30PM

Clive

CHAPTER 3**SOLICITORS AND MOBILE FOOD UNITS**

SECTION:

4-3-1: Purpose**4-3-2: Definitions****4-3-3: Solicitor Regulations And Requirements****4-3-4: Mobile Food Units****4-3-5: Unlawful Acts****4-3-6: Suspension Or Revocation Of License****4-3-7: Penalty****4-3-1: PURPOSE:**

The purpose of this chapter is to protect residents against fraud, protect them from intrusion into the privacy of their homes, and to ensure the safety of the residents by licensing and regulating solicitors and mobile food units. (Ord. 1030, 3-23-2017)

4-3-2: DEFINITIONS:

APPROVED EVENT: A larger event, such as a farmers' market, music festival, or similar activity that has been approved by the city through a public property special event permit, a temporary use permit (on private property) or a block party permit. An approved event would also include events within a city park with the approval of the director of leisure services or their designee.

CATERED EVENT: For the purposes of this title, any event where a business or entity has requested the mobile food unit to provide food for a targeted audience and where the food is served to the customers within a building, structure, or facility and not directly from the mobile food unit, or where the business or entity requesting the service is paying for the food in a single lump sum payment rather than individual patrons paying for their food themselves.

CATERING BUSINESS: A business, social or home catering service providing food and incidental services for a social affair, event, or for a private dwelling, which does not engage in the sale of food or beverage to individually paying patrons.

MOBILE FOOD UNIT: Any type of annually licensed food establishment that is a readily movable vehicle (on wheels), that is self-propelled (driven), or can be pulled or pushed to a location and used for the vending of food or beverage items to the public.

MOBILE FOOD UNIT CLASSIFICATION: The type of mobile food unit based upon the type of menu items being served and preparation and storage requirements for the defined menu items based upon the Iowa department of inspections and appeals mobile food unit guide.

MOBILE FOOD VENDOR: A person engaged in the business of selling food or beverages from a mobile food unit.

PERSON: Natural persons, corporations, firms, and organizations of any description, whether acting in person or through agents, employees, or other persons.

PUSHCART: A nonself-propelled mobile food unit that is pushed or pulled by the mobile food vendor to a location and serves a limited offering of food or beverage items.

SOLICITOR: Any person who initiates or attempts to initiate personal contact with other persons at or near residences or businesses, including upon private driveways, parking lots, or public sidewalks in an apparent effort to solicit or attempt to solicit monies or orders for goods, services, subscriptions, or merchandise to be delivered immediately or at a future date.

STATE LICENSING LEVEL CLASSIFICATION: The Iowa department of inspections and appeals has established four (4) classification levels for mobile food vendors that will be referenced as a part of this chapter. There are more requirements for each of the levels but in general the levels are as follows:

- A. Class I: Nonrefrigerated vending units that serve only intact, nonpotentially hazardous commercially prepackaged food and beverages. Examples include chips, crackers, cookies, soda, and sweets in manufacturer's packaging.
- B. Class II: Refrigerated or hot vending units that serve potentially and nonpotentially hazardous commercially prepackaged foods from an approved source. Examples include packaged sandwiches, ice cream bars, individually wrapped and cooked hot dogs. No cooking is allowed as part of a class II unit.
- C. Class III: Units that serve potentially and nonpotentially hazardous packaged food and unpackaged foods with limited assembly. These units are limited to precooked foods from an approved source that may be reheated on the unit. Examples include pushcart operations, packaged salads, hot dogs, shaved ice.
- D. Class IV: Units that serve potentially and nonpotentially hazardous foods that are prepared, cooked, cooled or reheated and assembled on the unit. Examples include self-contained mobile food units, food trucks and any units that are capable of preparing and producing food items from precooked and/or raw products (meat, fish, poultry, plant foods and dairy products) to finished product for consumption.

TRANSIENT MERCHANT: Any person who engages in a temporary or itinerant merchandising business selling direct to the public from a temporary location or structure through a temporary association with a local property owner or business owner. The term "transient merchant", does not include mobile food vendors. Transient merchants shall be regulated by the provisions of the temporary use permit regulations within title 11, "Zoning Regulations", of this code unless defined and regulated elsewhere within this code. (Ord. 1030, 3-23-2017)

4-3-3: SOLICITOR REGULATIONS AND REQUIREMENTS:

Any person defined in section 4-3-2 of this chapter as a "solicitor", shall comply with the following requirements:

- A. License Required: Any solicitor must procure a license as provided for herein. The term "person" as used herein includes natural persons, corporations, firms and organizations of any description, whether acting in person or through agents, employers, or other persons.
- B. Application For License; Fee: An application in writing shall be filed with the clerk for a solicitor license under this chapter. Such application shall set forth the applicant's name, permanent address, local address and business address, if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three (3) places where such business was conducted and the length of time sought to be covered by the license. A nonrefundable application fee of twenty dollars (\$20.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein. The applicant and each individual who is to be working for or on behalf of the applicant shall submit a copy of his or her state issued photo ID or photo driver's license, to be retained by the clerk, and a report of criminal history data obtained from the Iowa department of public safety. Solicitors whose business is limited to hanging information on residence doors (referred to herein as "door hangers") shall not be required to submit a report of criminal history data.
- C. License Fee: Each individual who is to be working for or on behalf of the applicant is required to pay the license fee. A license fee in the following amount shall be paid to the clerk, by the applicant, prior to the issuance of any license to cover the cost of issuance and policing during the licensing period:

All solicitors except door hangers:		
	1 day permit	\$ 20.00
	1 week permit (7 contiguous days)	100.00
Door hangers:		
	1 week permit (7 contiguous days)	30.00

D. Bond Required: Each applicant for a license required by this chapter shall, before the license is issued to the applicant, file with the clerk a personal surety bond in the amount of one thousand dollars (\$1,000.00), conditioned that the applicant shall comply with and observe the terms and conditions of all provisions of this code relating to solicitors, and will pay all costs, fines and penalties incurred on account of the applicant's failure to observe such provisions and will pay all damages resulting to any person by reason of such applicant's actions in violation of such terms and conditions. Notwithstanding the foregoing, solicitors whose business is limited to hanging information on residence doorknobs shall not be required to file a personal surety bond. (Ord. 1030, 3-23-2017)

E. License Issued: If the clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, the application and license fee paid, and the Clive police chief or designee has reviewed and approved said application, a license may be issued. The license shall authorize the applicant to engage in the activities of a "solicitor" as defined in section 4-3-2 of this chapter (specified limitations may be applied) for the period

stated in the license, provided that nothing herein shall authorize any act or practice which is contrary to any law or ordinance. Upon expiration of the license, a new application shall be made and a new license may be issued in the same manner as the original license. (Ord. 1041, 6-8-2017)

F. Display Of License: Each person licensed under this chapter shall keep such license in possession at all times while doing business in the city and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter.

G. Character Of Applicant:

1. Evidence Of Good Character And Business Responsibility: In order to be considered for a license, the applicant shall provide in addition to the application required under this section:

a. The names, addresses and phone numbers of at least two (2) residents of the city of Clive who are not the applicant's employer, coworker, agent or relative (within 2 separations) and will certify as to the applicant's good character and business responsibility; or

b. In the alternative, the applicant shall provide other available evidence which attests to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such reputation and business responsibility.

2. Investigation: Upon receipt of the complete application as required by this section and either the information required under subsection G1a or G1b of this section the police chief or a designee shall investigate the applicant as deemed necessary for the protection of the public health, safety, welfare and good.

3. Unsatisfactory Character And Business Responsibility: If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory such that would harm the public good, the police chief may endorse on such application disapproval and state reasons for disapproval and return the application to the city clerk who shall notify the applicant in writing that the application has been disapproved, state the reasons for the denial, and the applicant's right to appeal under subsection G5 of this section.

4. Satisfactory Character And Business Responsibility: If, as a result of such investigation, the applicant's character and business responsibility are found to be satisfactory, the police chief may endorse approval on the application and shall return the application to the city clerk and the license may be issued under subsection E of this section.

5. Right To Appeal: Any applicant whose application for license was disapproved as under subsection G3 of this section may appeal to the city council at its next regularly scheduled meeting by filing with the city clerk a written request for an appeal to the city council at least seven (7) days prior to the meeting. As a result of this appeal, the city council may affirm, modify or reverse the decision of the clerk not to issue the license. If the application for license is denied, the applicant is not eligible for the issuance of a license under this chapter for a period of one year from the date of notification that the license application was disapproved, was served in person or deposited in U.S. mail.

H. License Not Transferable: Licenses 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, for the period stated and approved in the license.

I. Hours To Do Business: All solicitor licenses shall provide that said licenses are in force and effect only between the following hours: Monday through Saturday, nine o'clock (9:00) A.M. to seven o'clock (7:00) P.M., and Sunday, one o'clock (1:00) P.M. to five o'clock (5:00) P.M. No soliciting shall occur on nationally recognized holidays. Any person found to be acting as a solicitor without a license, shall also be limited to these hours.

J. Solicitor License Exemptions:

1. Government Officers: Officers and employees of the United States, the state of Iowa, or any subdivision or agency thereof, while in the performance of their official duties.

2. Public Utilities: Representatives of any public utility lawfully doing business in the city, while acting in such capacity.

3. Route Salespersons: Route salespersons who call routinely on customers on a regular basis or on an established route.

4. Charitable Organizations: Any organization which is acting under the authority of chapter 504 of the code of Iowa, which has obtained tax exempt status under section 501(c)(3) of the internal revenue code, and if requested by the city to do so, provide documentation of 501(c)(3) status to the city.

5. Resale Or Institutional Use: Persons customarily calling on businesses or institutions for the purpose of selling products for resale or institutional use.

6. Nationally Recognized Nonprofit Organizations: Members of any Des Moines metro area Boy Scout, Girl Scout, Camp Fire, 4-H Club, FFA and similar nationally recognized nonprofit organizations, if the sales are to benefit the organization in its recognized operation and/or programs.

7. Community Improvement Or Benefit: Persons making door to door sales for the purpose of a community improvement or benefit, approved by the city council, on behalf of nonprofit, tax exempt organizations.

8. School Students: Students representing Des Moines metro area schools conducting projects sponsored by organizations and recognized by such schools.

9. Youth Sports Organizations: Des Moines metro area youth sports organizations.

10. Exercising Constitutional Rights: Persons going from house to house, door to door, business to business, street to street, or place to place where the activity is for the purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, press, and religion. This exemption may be lost if the person's exercise of these constitutional rights are merely incidental to a commercial activity. (Ord. 1030, 3-23-2017)

4-3-4: MOBILE FOOD UNITS:

A. Mobile Food Unit Licensing: It shall be unlawful for any person to engage in the sale of food or beverages to the public from a temporary or mobile facility within the corporate limits of the city of Clive without first obtaining a mobile food unit license from the city, in addition to any other state, federal, or county permits, certifications and licenses.

1. A mobile food unit license is an annual license that expires on April 15 each year and must be renewed prior to the first event after that date.

2. Each mobile food unit shall be licensed separately. No license transfer is allowed.

3. Although certain activities may be exempt from the licensing requirements of this chapter, any food service to the public in the city of Clive is expected to comply with all other local, county and state requirements for health inspections, licensing, safety and fire code requirements.

4. The following shall be exempt from this requirement:

a. Catering businesses.

b. Grilling and food preparation activities of brick and mortar establishments on the establishment's premises for immediate consumption by patrons or employees.

c. Concession stands associated with sports or recreational venues that have been approved as part of a site plan or permitted conditional use permit for the venue.

B. License/Inspection Fee(s): At the time of the submittal of a license application, the applicant shall pay to the city clerk the applicable license fee in addition to any applicable inspection fee(s).

1. The amount of the license and applicable inspections fee(s) shall be determined in accordance with an established fee schedule, which fee schedule may be modified from time to time with approval of the council.

2. Any licensee who surrenders their license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

C. Fire Department Inspection:

1. All mobile food units that have cooking facilities or use products with grease laden vapors (class III and class IV state licenses) shall be inspected by the fire department prior to initiation of business operations within the city.

2. Inspections are required annually and prior to issuance of a mobile food vending license. It shall be the obligation of the mobile food vendor to schedule the inspection with the fire department. Class I and II state license classifications are not required to meet this inspection requirement.

3. All class III and IV mobile food units shall have an acceptable fire suppression system, as determined by the Clive fire department.

4. Upon completion of the annual fire inspection, a certificate shall be issued to the applicant to verify completion of the fire inspection. Said certificate shall be kept in the vehicle during operation.

5. At the discretion of the Clive fire department, they may accept the inspection of the mobile food unit by another city's fire inspector to satisfy the annual inspection requirement. Applicant is obligated to contact the fire department to verify whether or not another community's inspection is adequate to fulfill obligation of city of Clive inspection requirements.

D. Mobile Food Unit Licensing Application:

1. **Filing:** Application requests shall be filed with the city clerk. No application request shall be accepted for filing and processing unless it conforms to the requirements of this title. This would include a complete and true application, all of the required materials and information prescribed, and is accompanied by the appropriate fees.

2. **Timely Submittal:** Unless otherwise provided herein, applications must be submitted not less than ten (10) calendar days prior to the proposed start date of the mobile food unit activities. The city reserves the right to reject any applications that have not been timely submitted to the city.

3. **Applicant's Responsibility:** Receiving approval of a mobile food unit license from the city shall not preclude, supersede, circumvent, or waive the applicant's responsibility to obtain any additional permits, licenses, and approvals for other applicable local, state, and federal regulations.

4. **Application Contents:** Application shall be made on a form provided by the city and shall include:

- a. Full name of the applicant.
- b. Applicant's contact information including mailing address, phone numbers and e-mail address.
- c. State health inspection certificate with the classification level of the state license.
- d. Description of the kitchen facilities, cooking facilities, preparation area, safety features (such as, but not limited to, suppression system) of the mobile food unit.
- e. Photographs of the mobile food unit from the front, side and back.
- f. Make, model and year of vehicle to be used and the license plate number.
- g. Overall size of the vehicle; length and width.
- h. Copy of fire department inspection certificate.
- i. Fee.

5. **Character Of Applicant:** Upon receipt of the complete application as required by this chapter, the police chief or a designee shall investigate the applicant as deemed necessary for the protection of the public health, safety, welfare and good.

a. **Unsatisfactory Character And Business Responsibility:** If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory such that would harm the public good, the police chief may endorse on such application disapproval and state reasons for disapproval and return the application to the city clerk who shall notify the applicant in writing that the application has been disapproved, state the reasons for the denial, and the applicant's right to appeal under subsection D5c of this section.

b. **Satisfactory Character And Business Responsibility:** If, as a result of such investigation, the applicant's character and business responsibility are found to be satisfactory, the police chief may endorse approval on the application and shall return the application to the city clerk and the license may be issued.

c. **Right To Appeal:** Any applicant whose application for license was disapproved as under subsection D5a of this section may appeal to the city council at its next regularly scheduled meeting by filing with the city clerk a written request for an appeal to the city council at least seven (7) days prior to the meeting. As a result of this appeal, the city council may affirm, modify or reverse the decision of the clerk not to issue the license. If the application for license is denied, the applicant is not eligible for the issuance of a license under this chapter for a period of one year from the date of notification that the license application was disapproved, was served in person or deposited in U.S. mail.

6. **Applications Deemed Withdrawn:** Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the city and made reasonable progress within thirty (30) days from the last written notification from the city to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fees to begin a new review and approval process.

7. **Issuance Of License:** Upon completion of the review process and a determination of compliance with the applicable regulations, the city clerk will issue a mobile food unit license.

8. **Modification Of License After Issuance:** Should the mobile food vendor change the food or beverage being offered during the term of an issued license that would change the designation of the mobile food unit to a higher state licensing level classification, a new application and fire inspection shall be required.

E. **Mobile Food Units On Public Property:** No mobile food unit may be operated on public property except as part of an approved event under a public property special event permit issued by the city clerk's office or as authorized by the director of leisure services or their designee, within a city park or greenway. Requests for authorization to vend within a city park or greenway (not as part of a city permitted public property special event) may be submitted no less than five (5) days and no more than fifteen (15) days prior to the requested day of vending.

F. **Unattended Mobile Food Unit:** No mobile food unit shall be left unattended or stored on any site overnight, unless that property is under the ownership or control of (by way of a lease or other contractual agreement) the operator of the unit and is being done so in compliance with all other city code requirements or the mobile food unit is a participant in a multiple (contiguous) day, city permitted, public property special event. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to license revocation, municipal infraction, towing, or any other action legally allowed.

G. **Music And Sound Making Devices:** The use of music or sound making devices as a part of a mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.

H. **Mobile Food Unit Performance Standards:** Persons conducting business from a mobile food unit must do so in compliance with the following standards:

1. The mobile food vendor must obtain expressed written consent of the property owner or lessee to use the property on which they propose to operate. The written consent must be kept in the unit at all times that the unit is on the property. Written consent does not excuse or permit the violation of any other imposable regulations.

2. The operator of the mobile food unit shall display their city license in full view of the public in or on the unit.

3. Mobile food units shall only be allowed on nonresidential properties, except in the case of an approved residential block party or private catering arrangement, so long as it is in compliance with all other city code requirements related to residential property.

4. Mobile food units that are within three hundred feet (300') of a residential use or residentially zoned property, shall be limited to hours of operation between seven o'clock (7:00) A.M. and ten thirty o'clock (10:30) P.M.

5. A mobile food unit operating on nonresidential property (excluding those operating as part of city permitted "public property special event") may only do so during the usual posted business hours of the consenting business(es) of the property the mobile food unit is utilizing or during the posted hours of the city park being utilized. Mobile food units may enter a nonresidential property in order to set up to conduct business up to one-half ($1/2$) hour (30 minutes) prior to the usual posted opening time of the corresponding business or city park and must depart from the property no later than one-half ($1/2$) hour (30 minutes) after the usual posted closing time of the corresponding business or city park. In the case of operating a mobile food unit on nonresidential property where the corresponding business(es) does not have usual posted business operating hours or operates on a twenty four (24) hour type basis, the mobile food unit may not remain on the premises for longer than eighteen (18) hours and must depart for at least six (6) hours before reentering unless operating under an approved public property special event permit.

6. A mobile food unit operating on nonresidential property as part of a city permitted public property special event may only do so during the granted time period for the event.

7. Mobile food units must maintain a minimum separation between units of fifteen feet (15').

8. Mobile food unit operation is not a generally acceptable use of a nonresidential parking lot and may only be allowed if doing so does not diminish the usable number of parking spots within the lot to below the minimum threshold needed as established by the city site plan for the property. It is the joint responsibility of the property owner or lessee and mobile food unit owner to ensure that this provision is not violated. Exceptions to this rule may be applied for by way of a city approved temporary site plan amendment.

9. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.

10. The mobile food unit must be located on a paved surface, unless approved as part of a public property special event permit or through a temporary site plan amendment.

11. No mobile food unit may be located on a vacant property or lot with a vacant building. Exceptions to this rule may be granted by city staff after a review of the particular property and the vendor has been able to make arrangements to ensure safe and sanitary conditions. This would include, but is not limited to: employee access to restrooms, adequate access for fire and police personnel/vehicles, and that the site in general is free from hazards or dangerous conditions.

12. No mobile food unit may operate within one hundred feet (100') of a permanent restaurant or business offering food or beverage services unless they receive expressed written consent of the restaurant or business owner.

13. All mobile food units shall maintain a minimum separation from buildings, five feet (5') for state IA class I and II units and fifteen feet (15') for state IA class III and IV units, as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of the food unit shall not impede pedestrians entering or exiting a building.

14. The window or area where a patron orders and receives their purchase shall be located so as to not require a patron to stand, or create a line that may cause pedestrians to be in the public right of way, vehicle travel lane, including parking lot drive aisles, or similar situation that may create a potential safety hazard. Adequate safe space for patrons waiting for their order must be available on the property where the mobile food unit is located.

15. With the exception of pushcarts as allowed herein, no mobile food unit shall be placed on a public or private sidewalk. Pushcarts may locate on or adjacent to a private sidewalk or public sidewalk, including the Clive Greenbelt Trails, only as part of an approved public property special event permit. However, a minimum forty eight inch (48") open walkway must be maintained for passing pedestrians. The placement of the pushcart shall be in such a manner so as to minimize encroachment into the forty eight inch (48") walkway by patrons waiting in line for service from the pushcart.

16. Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than six inches (6") from the exterior of the unit. No freestanding signs, banners, flags, or similar items are allowed. Off premises signs directing patrons to the mobile food unit are prohibited.

17. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers.

18. The mobile food vendor shall keep the area around the mobile food unit clear of litter and debris at all times.

19. All mobile food units shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, or similar movement and access.

I. Property Owner/Lessee Responsibility: By allowing the mobile food unit on their property, the property owner or lessee jointly and severally with the vendor are responsible for compliance with this chapter and to ensure the safety of pedestrians and access of emergency vehicles to and around the site. Failure to do so could result in the property owner or lessee being party to any enforcement actions or penalties allowed by law. (Ord. 1030, 3-23-2017)

4-3-5: UNLAWFUL ACTS:

A. Fraudulent Representation/Harassment: No licensee shall falsely or fraudulently misrepresent the quality, character, or quantity of any article, item, or commodity offered for sale, or sell any unwholesome or tainted food or foodstuffs. No licensee shall harass, intimidate, coerce, or threaten any individual to induce a sale.

B. Failure To Maintain Licenses And Permits: Failure of any applicant to maintain the appropriate county, state and federal licenses and permits, during the term of the local license or permits shall be considered an unlawful act and subject to revocation or any other penalties available to the city. (Ord. 1030, 3-23-2017)

4-3-6: SUSPENSION OR REVOCATION OF LICENSE:

A. Any license issued under the provisions of this chapter may be suspended or revoked by the city as follows:

1. Grounds: The city clerk or clerk's designee may suspend or revoke any license issued under this chapter, for any of, but not limited to, the following reasons:

a. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.

b. The licensee has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.

c. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.

d. The city clerk has received and investigated three (3) or more found complaints during the licensed period related to the manner in which the licensee is conducting business.

2. Notice Of Suspension Or Revocation; Right To Appeal: The clerk or clerk's designee shall cause notice of the license revocation to be served in person by a city official or by mail to the licensee's local address, which notice shall specify the reason(s) for such action, at which time operations of the licensee must cease within the corporate limits of the city of Clive. The licensee may appeal the revocation of the license to the city council at its next regularly scheduled meeting by filing with the clerk a written request for an appeal to the city council at least seven (7) days prior to the meeting. The city council may affirm, modify or reverse the decision of the clerk to revoke such license. If a license is revoked, no refund of any license fee paid shall be made. Upon the revocation of a license, the licensee is not eligible for

the issuance of a new license under this chapter for a period of one year from the date the license revocation is served in person or deposited in the U.S. mail. (Ord. 1030, 3-23-2017)

4-3-7: PENALTY:

Unless another penalty is expressly provided by this chapter for any particular provision or section, violations of this chapter are simple misdemeanors subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days and may also be punishable as municipal infractions subject to a civil penalty as set forth in the schedule of civil penalties in title 1, chapter 4, article A of this code. Each day a municipal infraction occurs and/or is permitted to exist constitutes a separate offense. Police officers, code enforcement officers and the police chief's designees shall have the authority to issue citations for violations of this chapter, and shall have the discretion to enforce this chapter as either a simple misdemeanor or municipal infraction. (Ord. 1030, 3-23-2017)

CHAPTER 125

SPECIAL EVENTS

Norwalk

125.01 Purpose	125.09 Insurance Requirement
125.02 Definitions	125.10 Permit Expiration
125.03 Permit Required; Food and Health Regulations	125.11 Obstruction of Traffic Prohibited
125.04 Application for a Special Event Permit	125.12 Exhibiting Permit
125.05 Decision by City Council	125.13 Contractual Arrangements
125.06 Coordination of Application	125.14 Revocation or Suspension of Permit
125.07 Permit Fee	125.15 Appeals
125.08 Seasonal Permits	125.16 Peddler, Solicitor and Transient Merchant Permits

125.01 PURPOSE.

The purpose of this chapter is to ensure that special events are promoted and staged in a manner which preserves the safety of both our citizens and visitors to our City; to ensure that all promoters of these events are treated fairly and in accordance with their particular needs in the promotion of the event; to promote the economic well-being of our community through the orderly attraction of people to these events; and to ensure City personnel adequate opportunity to prepare for and provide services for the events so as to provide them the maximum opportunity for success.

125.02 DEFINITIONS.

For the purpose of this chapter certain terms and words are hereby defined.

1. "Special event" means an event sponsored by an individual, organization, club, group, partnership or corporation in which the public is invited to attend and which requires the use of public streets, public property as a staging area for promotion of the event, or requires the use of public resources to maintain the health, safety and welfare of the public.
2. "Special event area" means a place designated by the special event promoter as provided in this chapter where the general public is invited to gather for an event and where the area of interest of the promoter will be promoted and/or celebrated and where, in connection with the special event, there may be displays, speeches, the performance of music or the arts, games, and other similar celebrations, and the sale and/or distribution of literature, antiques, crafts, curios, art or artifacts, food, and other similar items, all under the sponsorship of a "special event promoter" as defined in this section. The area designated as a special event area may include property which is privately owned, provided that the inclusion of private property within the special event area shall not be construed as requiring the owner of the private property to participate in or otherwise allow the property to be used in the special event without his, her or its consent, or as prohibiting the owner of the private property from using the private property in a manner otherwise allowed by law.
3. "Special event merchant" means an individual, organization, club, group, partnership or corporation which engages in the sale of items within a "special event area" as defined in this section through the permission of the special event promoter.
4. "Special event promoter" means an individual, organization, club, group, partnership or corporation which organizes, sponsors, promotes or makes space available for a special event or is otherwise considered the organizer of the special event.

125.03 PERMIT REQUIRED; FOOD AND HEALTH REGULATIONS.

1. No individual, organization, club, group, partnership or corporation shall act as a special event promoter within the City without first obtaining a permit therefor as provided in this chapter.
2. Special event promoters granted a permit hereunder and special event merchants selling pursuant to that permit shall comply with all applicable State food and health rules and regulations.

125.04 APPLICATION FOR A SPECIAL EVENT PERMIT.

1. A special event promoter shall file with the City Clerk an application for a special event permit at least thirty (30) days prior to the event. The City Council may grant authority to a special event promoter to hold a special event in a designated special event area. The application shall be on a form furnished by the City Clerk and shall contain information concerning the requested dates and hours of the event, other information required by this chapter, and such other information as may be reasonable in relation to the event for which the permit is requested.

(Ord. 19-21 – Jan. 20 Supp.)

2. The special event promoter shall provide, at the time of application, a preliminary map or drawing showing the area to be designated as the special event area. Upon approval of the application for a special event permit, the special event promoter shall provide the City Clerk a detailed map of the designated special event area, showing any booths, trailers, stages, or other facilities which will be temporarily erected, constructed or parked as a part of the event. The detailed map shall be furnished according to the following schedule:

- A. One week in advance of a one-day event
- B. Two (2) weeks in advance of a two-day event
- C. Three (3) weeks in advance of a three-day event
- D. Four (4) weeks in advance of a four-day event

3. At the time of application for the special event permit, the special event promoter shall make a request for any necessary street or right-of-way closings. Public right-of-way barricades must be attended in order to allow authorized personnel to enter and exit the special event area. It shall be the responsibility of the special event promoter to arrange for the personnel who will attend the barricades. If off-duty police officers are requested for this purpose, then the special event promoter shall be responsible for the cost of their services.

125.05 DECISION BY CITY COUNCIL.

The City Council shall approve or deny the permit application in its sole discretion based upon the facts and comments presented to it and the overall effect the special event would have on the City and/or its citizens.

125.06 COORDINATION OF APPLICATION.

1. Upon receipt of an application for a special event permit, the City Clerk shall refer the application to the Police Chief, the Public Works Director, the Fire Chief, the Parks and Recreation Director and such other City personnel as may be appropriate for the coordination of street closings, barricades, and City personnel and service requirements. If the Police Chief deems it necessary for the protection of the public good, the Police Chief shall conduct an investigation of the special event promoter and the proposed special event. The Chief shall submit findings and any other comments to the City Clerk. The City Clerk shall submit the Chief's comments to the City Council for its consideration in making a final decision on the application.

2. Upon review of a special event promoter's application, all affected Department Directors shall attach their comments to the application and return the application to the City Clerk. The City Clerk shall submit the Directors' comments to the City Council for its consideration in making a final decision on the application.

3. Any permit approved by the Council will also include all comments from City Departments and will be provided to the applicant for compliance.

125.07 PERMIT FEE.

The special event promoter shall pay a fee in the amount set out in the schedule of rates and fees contained in Chapter 177 of this Code of Ordinances. The fee shall be paid upon issuance of the permit and shall be

nonrefundable. The special event promoter may charge a special event merchant a fee for participation in the special event. This fee shall be separate from the permitting requirements of the City. The permit fee may be waived by the City Council if the special event is sponsored by the City of Norwalk.

125.08 SEASONAL PERMITS.

A special event promoter who coordinates and sponsors an event which occurs on a regular basis throughout a specific time period, at least one day a week for a minimum for four (4) consecutive weeks; not to exceed a maximum of twenty-four (24) weeks in any twelve (12) month period, shall pay a fee in the amount shown in the fee schedule in Chapter 177 for a seasonal permit.

125.09 INSURANCE REQUIREMENT.

1. The approval by the City Council of an application for a special event permit shall be contingent upon the special event promoter providing the City a certificate of liability insurance coverage naming the City as an "also insured" in a minimum amount of one million dollars (\$1,000,000.00). Upon receipt of the certificate of insurance the City Clerk shall issue the permit to the special event promoter.

2. Any employee, either on or off duty, utilizing City resources to maintain the safety and well being of the special event (as approved at the time the special event is approved) shall be construed as operating in the official capacity of the City and will follow all work rules and regulations adopted by the City, State and Federal government.

125.10 PERMIT EXPIRATION.

A special event permit as issued shall set forth the time period for which the permit is issued. The time period for which the permit is effective shall include a reasonable period for cleanup. The permit shall expire at the end of the time period specified in the permit.

125.11 OBSTRUCTION OF TRAFFIC PROHIBITED.

The special event for which a permit is issued shall be conducted within the designated special event area. The special event shall not be conducted in such a manner as to hinder or obstruct the free passage of pedestrian or vehicular traffic outside of the designated special event area.

125.12 EXHIBITING PERMIT A special event promoter shall be required to provide a copy of its permit to each special event merchant for exhibit by the special event merchant during the term of the permit period.

125.13 CONTRACTUAL ARRANGEMENTS.

The special event promoter shall be solely responsible for any contractual arrangements between itself and any special event merchants and/or private property owners operating or located within the designated special event area.

125.14 REVOCATION OR SUSPENSION OF PERMIT.

A permit issued under the provisions of this chapter may be revoked or suspended by the Police Chief, without notice, for any of the following causes:

1. Fraud, misrepresentation, or an incorrect statement contained in the application for permit, or made in the course of promoting the special event.
2. Failure to comply with any provision of this chapter.
3. Promoting the special event in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

125.15 APPEALS.

Any person aggrieved by the action of the Police Chief in revoking or suspending a permit or by the action of the City Council in the denial of a permit may appeal to the City Council. Such appeal shall be taken by filing with the City Clerk, within fourteen (14) days after the notice of the action complained of, a written statement setting forth fully the grounds for such appeal. The City Clerk shall set a time and place for hearing on such appeal and notice of such hearing shall be mailed, postage prepaid, to the appellant at its last known address at

least five (5) days prior to the date set for hearing. The decision of the City Council regarding an appeal shall be final.

125.16 PEDDLER, SOLICITOR, AND TRANSIENT MERCHANT PERMITS.

A special event promoter may, in its application for a special event permit, request the City Council to temporarily limit the areas within the City for which a peddler, solicitor or transient merchant permit provided under Chapter 122 of this Code of Ordinances may be issued to an applicant thereunder during the time period for which a permit is issued under this chapter. In making its request, the special event promoter shall suggest particular areas within the City limits which the special event promoter believes would be appropriate for the issuance of peddler, solicitor or transient merchant permits during the time period in question. If the City Council agrees with the suggested limitation of areas for which a peddler, solicitor or transient merchant permit may be issued during the time period for which a permit is issued under this chapter, the City Council shall adopt a resolution providing for the modification of the issuance of peddler, solicitor and transient merchant permits as requested in the application hereunder. In adopting its resolution, the City Council shall be required to find that the permitted special event is of City-wide interest, promotes the well-being and reputation of the City, and that the issuance of a peddler, solicitor or transient merchant permit on a City-wide basis concurrent with the permitted special event would detract from the benefits provided by the permitted special event. If the City Council adopts the resolution as previously required, the exclusion for yard sales contained in the second to the last sentence of the definition of "transient merchant" set forth in Section 122.02(3) of this Code of Ordinances shall not be available during the time period for which the issuance of a peddler, solicitor or transient merchant permit is so restricted.

(Ch. 125 – Ord. 10-10 – May 11 Supp.)

15. Chapter 106 – Solid Waste Collection.

Standard Fees.

Normal

Container Size	Monthly Fee
48-gallon toter-cart	\$11.50
96-gallon toter-cart	\$12.50

Additional Toter-Carts. A customer may obtain an additional toter-cart and pay an additional fee in accordance with the following:

Container Size	Monthly Fee
All extra toter-carts	\$7.00 each

The fee for the additional toter-cart shall not be waived unless the cart is returned to the City.

Solid Waste Collection **Increase July 1, 2015**

Standard Fees.

Container Size	Monthly Fee
48-gallon toter-cart	\$12.00
96-gallon toter-cart	\$13.00

(Ord. 14-19 – Jan. 17 Supp.)

16. Chapter 119 – Massage Establishments and Therapists.

New Business Permit Fee \$75.00

Massage Therapists Fee \$25.00

(Ord. 19-05 – May 19 Supp.)

17. Chapter 121 – Cigarette and Tobacco Permits.

FOR PERMITS GRANTED DURING	FEE
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

18. Chapter 122 – Peddlers, Solicitors and Transient Merchants.

License application fee \$25.00

Refundable bond \$20.00

License fees

Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.

Peddlers or Transient Merchants.

For up to 7 days \$ 10.00

For up to 30 days \$ 50.00

For up to 180 days \$100.00

(Ord. 19-04 – May 19 Supp.)

19. Chapter 123 – House Movers.

Permit fee \$100.00

20. Chapter 125- Special Events.

The special event promoter shall pay a fee of \$50.00 upon issuance of the permit and shall be nonrefundable. The special event promoter may charge a special event merchant a fee for participation in the special event. This fee shall be separate from the permitting requirements of the City. The permit fee may be waived by the City Council if the special event is sponsored by the City of Norwalk.

21. Chapter 135 – Street Use and Maintenance.

Excavation permit fee \$25.00

22. Chapter 141 – Closing Public Thoroughfares.

Street closure permit fee \$50.00

23. Chapter 145 – Site Grading Regulations.

Site grading permit fee \$25.00 per acre

Not to exceed a maximum fee of \$125.00

24. Chapter 155 – Building Code.

Building permits shall be charged a fee based on a Permit Fee Multiplier formula. The building permit fee to be charged equals Gross Floor Area times Square Foot Construction Cost times Permit Fee Multiplier. The permit fee multiplier for the City shall be .0052.

The square foot construction cost shall be in accordance with the International Code Council's February 2012 Square Foot Construction Costs table.

(Ord. 13-09 – Jan. 14 Supp.)

25. Chapter 156 – Plumbing Code.

Applications for building permits shall be charged on a flat-fee system for all building permit applications. The City reserves the right to charge additional fees when deemed necessary by the Development Services Director or Building Official. The flat-fee schedule is as follows:

New housing residential plumbing permit applicants shall be charged a flat-fee of eighty dollars (\$80.00). Residential remodel plumbing permit applications shall be charged a flat fee of thirty-five dollars (\$35.00).

All commercial plumbing permit applicants shall be charged a flat-fee of sixty dollars (\$60.00). The applicant shall then be charged in addition, per fixture as shown in the Plumbing Permit Fixture Fee Schedule.

Plumbing Permit Fixture Fee Schedule

DIVISION 4. - FARMERS' OR PUBLIC MARKET

Des Moines

Sec. 102-556. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Farmers' or public market means a sale of products, the majority of which have been produced in the state, including but not limited to raw fresh vegetables, fruit, honey, herbs, flowers, plants, nuts, baked goods or handcrafted items which conform to all applicable city, county or state health and safety provisions, particularly state department of agriculture and land stewardship regulations, and which are offered for sale by any person, business, or organization on a portion of or entirely on a public street, sidewalk, alley, park or public place during set hours, no more than two days per week within a one-year period.

Market manager means a person who or organization which holds a farmers' or public market permit and who organizes the participants of the market, promulgates regulations for the conduct of the market consistent with section 102-564 of this division, and generally is responsible for the operation of the market.

(C91, § 23-20.08; O.13,023)

Cross reference— Definitions generally, § 1-2.

Sec. 102-557. - Required.

No person shall conduct a farmers' or public market, as defined in section 102-556 of this division, without first having obtained a permit as provided in sections 102-558 and 102-559 of this division. This shall not apply to activities sponsored by and held at the state fairgrounds.

(C91, § 23-20.09; O.13,023)

Sec. 102-558. - Application.

Any person applying for a permit to conduct a farmers' or public market shall make written application to the city manager's office at least 30 days prior to the first proposed date for the market. No permit shall be issued unless an application containing the following information is first completed:

- (1) The name, address and phone number of the applicant and/or market manager he or she represents.
- (2) The proposed location of the market and the names of any businesses which the market will front.
- (3) If such businesses are not participating in the market, a copy of the notice sent to such businesses of the market, its location and duration.
- (4) The proposed dates of the market and its hours of operation.
- (5) The number of vendors involved in the market, their names, and permanent addresses.
- (6) The type of merchandise to be sold.
- (7) A certificate of insurance demonstrating compliance with all insurance requirements. The amount and type of liability insurance to be required shall be determined by the city's finance director or designee and are hereby, by reference, made a part of the permit application form.

(C91, § 23-20.10; O.13,023, 13,737, 15,104)

Sec. 102-559. - Issuance.

Upon the city clerk determining that a person or organization applying for farmers' or public market permit has complied with the terms of section 102-558 of this division; the chief of police, the city engineer, and, if a market is held in a park, the director of park and recreation and the park and recreation board agree that the proposed sale will not reasonably disrupt pedestrian and vehicular traffic in the area of the market; that no other application has been submitted which proposes a similar geographic location for the market; that the city ordinances will be obeyed in the conduct of the market; and upon payment of the appropriate fees, the city clerk shall issue a permit to conduct a farmers' or public market. If the permit is denied, the city clerk shall state the reason therefor on the face of the application and shall so inform the applicant. No farmers' or public market permit shall be issued for a market within any residential zone of the city.

(C91, § 23-20.11; O.13,023)

Sec. 102-560. - Appeal of denial.

Any farmers' or public market permit denial may be appealed to the city council within ten days of the denial by submitting a written request for appeal to the city clerk. The city council shall consider the denial at its next regular meeting and shall either affirm the denial or direct the city clerk to issue the permit upon receipt of the appropriate fees. The city council shall base its decision upon a review of the application, the reasons for denial, and any statements from interested parties. If more than one application has been submitted which proposes a farmers' or public market in similar geographic locations, the council shall consider the following criteria to determine which application to grant:

- (1) Experience in managing a farmers' or public market.
- (2) For what purpose the proceeds of the farmers' or public market will be used.

(C91, § 23-20.12; O.13,023)

Sec. 102-561. - Duration.

The farmers' or public market permit shall be issued in the name of the market manager and contain the dates of the sale and shall be valid through December 31 of the year in which the market is held.

(C91, § 23-20.13; O.13,023)

Sec. 102-562. - Fee.

- (a) The applicant for a farmers' or public market permit shall pay a permit fee to the city clerk at the time of filing the application in the amount set in the schedule of fees adopted by the city council by resolution.
- (b) In the event the application is withdrawn by the applicant or denied either initially or on appeal, either all or a portion of such fee in an amount set in the schedule of fees adopted by the city council by resolution shall be retained by the city to defray the administrative costs incurred.

(C91, § 23-20.14; O.13,023, 13,737; 14,174)

Sec. 102-563. - Market manager's responsibilities.

- (a) Under this division, the market manager's responsibilities shall be to:
 - (1) Contact the city engineer to arrange for the appropriate signs and/or barriers to control traffic and/or parking in the area of the market, including but not limited to obtaining street closing permits and any

CHAPTER 7

PUBLIC PROPERTY SPECIAL EVENT PERMITS

SECTION:

7-7-1: Applicability

7-7-2: Purpose And Intent

7-7-3: Definitions

7-7-4: Application And Permit Required

7-7-5: Application Requirements

7-7-6: Permit Review Process

7-7-7: Fees Required

7-7-8: Insurance Required

7-7-9: Appeal Procedure

7-7-10: Permit Revocation

7-7-11: Violations

7-7-12: Penalties

7-7-13: Exemptions

*Clive
Farmer's Markets
are considered
Special Events*

7-7-1: APPLICABILITY:

The following regulations shall apply to special event permit applications submitted to the city. (Ord. 996, 1-22-2015)

7-7-2: PURPOSE AND INTENT:

The public right of way in possession of the city is primarily for the use of the public. These regulations prescribe the condition through which special events of limited duration may be permitted to occur within the city that involve a request from an individual or organization to use city property or right of way in the conduct or promotion of the event, thereby creating an anticipated significant impact to the city property or right of way, such as increased vehicle or pedestrian traffic or the closure of a public street, and it is advisable or necessary to include city staff in the preparation, planning, coordination, and approval of the requested special event to promote the health, safety, and welfare of the general public and of the event participants or attendees. (Ord. 996, 1-22-2015)

7-7-3: DEFINITIONS:

The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CITY: The city of Clive in the county of Polk and the county of Dallas, in the state of Iowa.

CITY PROPERTY: The land owned and maintained by the city.

PERSON: Any natural person, his or her heirs, executors, administrators or assigns, firm, partnership, association, corporation, company or organization, its or their successors or assigns, or the agent of any of them.

SPECIAL EVENT: Any organized and advertised gathering for the purpose of entertainment, recreation, competition, public rally, parade or public march, or festival purposes that will impact city services or public right of way.

STREET: That portion of the public right of way normally used for vehicular traffic and including the abutting sidewalk. (Ord. 996, 1-22-2015)

7-7-4: APPLICATION AND PERMIT REQUIRED:

A special event permit shall be required for all events that relate to the stated purpose and intent of this chapter. A special event permit must be timely applied for and issued by the city prior to the commencement of the event. It shall be unlawful for any person or organization to engage, sponsor, or participate in any event described herein without having first applied for and obtained a permit in accordance with this chapter. Receiving approval of a special event permit from the city shall not preclude, supersede, circumvent, or waive the applicant's responsibility to obtain any additional permits, licenses, and approvals for other applicable local, state and federal regulations. The city reserves the right to impose special guidelines and restrictions for any special event based upon the nature of the proposed event, the proposed location of the event, and the anticipated attendance of the event. The city also reserves the right to temporarily suspend other city code requirements for any special event based upon the particular event details. (Ord. 996, 1-22-2015)

7-7-5: APPLICATION REQUIREMENTS:

For any special event defined or described within this chapter, the following information, at a minimum, shall be submitted with the application to the city:

A. A written application for a special event permit shall be submitted to the city on a form provided by the city. The application must set forth the following information regarding the proposed special event:

1. The name, address, phone number, and e-mail address of the applicant(s) and sponsor(s) of the event and contact person(s).
2. If the proposed special event would be conducted for, on behalf of, or by an organization, the name, address and phone number of the headquarters of the organization and the authorized responsible heads of such organization.
3. The date(s) and duration of time for the proposed special event, specifically identifying the date(s) and duration of time for which the requested use of the city property or right of way would occur.
4. An accurate description of that portion of the city property or right of way proposed to be used, including a detailed map. The map should depict the requested location of any activities, structures, tents, barricades, parking, traffic control devices and personnel, signage, trash collection, and portable restroom facilities necessary for the proposed event.
5. The estimated number of participants or attendees.
6. The proposed type of special event, described in detail, including a description of the planned activities and the proposed location.
7. Whether the applicant has obtained or will obtain required permits for any of the following: the sale of alcoholic beverages, tents or inflatables, amplified sound, fireworks, temporary signs, and any applicable building permits.

B. After the initial filing of the application, city staff may request additional information from the applicant to determine whether a special event permit should be issued, including, but not limited to, a crowd control plan.

C. All other applications must be submitted not less than thirty (30) calendar days prior to the proposed start date of the special event, unless the city decides to waive the deadline. The city reserves the right to reject any applications that have not been timely submitted to the city.

D. Before the city decides to approve the special event permit, the city may require the applicant to provide notice of the proposed event to all affected neighboring property owners and known tenants. The city may also require the applicant to petition or canvass affected neighboring property owners and known tenants to ascertain whether there is sufficient support for the proposed event. Alternatively, the city may elect to provide the notification to the affected neighboring property owners and known tenants itself and the applicant shall then be responsible for reimbursing the city for the incurred costs. (Ord. 996, 1-22-2015)

7-7-6: PERMIT REVIEW PROCESS:

A. A team of city staff that consists of representatives from the following departments: fire/EMS, public works, city clerk, community development, leisure services, and police shall review special event applications, identify potential issues and concerns, and work with the applicant to propose possible solutions to resolve those identified issues and concerns. Additional city staff from other departments may assist with the review depending upon the details of the proposed event.

B. The leisure services department shall review special event permit applications for events held exclusively within a city park or greenway in accordance with city park policies, rules and regulations that do not require city staff from multiple departments as part of the planning or execution of the event and do not cause anticipated significant impact to nearby public streets or other city property.

C. City staff shall consider, at a minimum, the following criteria in reviewing the special event permit application. City staff reserves the right to consider additional criteria in its review as deemed necessary.

1. Whether the applicant provided all the necessary information.

2. Whether the applicant obtained necessary permits or provided information necessary to apply for required permits involving the sale of alcoholic beverages, tents or inflatables, amplified sound, fireworks, temporary signs, and any applicable building permits.
 3. Whether the applicant previously held events of similar size and scope within the city, and if they have held previous events were they conducted in a manner that the city would be willing to allow the event to be held again. Have all fees associated with the previous event been paid in full and in a timely manner.
 4. Whether the date, time, size, or location of the event would substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic in the vicinity of the event's location.
 5. Whether the event would unduly interfere with proper access for fire and police protection and other emergency services.
 6. Whether the estimated number of participants, attendees or the size or type of event or equipment is sufficiently large enough to require the closing of a public street, or if there is an alternative available to closing a public street.
 7. Whether another special event permit has already been granted for substantially the same date, time, or location within the city.
 8. Whether the size or time of the event would require so great a diversion of the city police department as to prevent normal police protection throughout the city or at another previously scheduled event in the city.
 9. Whether city personnel necessary to regulate and monitor the event can reasonably be made available.
 10. Whether the event is reasonably likely to cause injury to persons or property and if there is adequate planning for crowd control of participants or attendees.
 11. Whether adequate sanitation or other health facilities will be available at the event.
 12. Whether there is a sufficient number of parking places within a reasonable distance to accommodate the number of vehicles expected.
 13. Whether the time, size or nature of the event is compatible with the normal activity at that location.
 14. Whether the proposed use or event will likely have a significant adverse environmental impact.
 15. Whether negative police reports or other reports of past activities held or sponsored by the applicant or in the same location merit a recommendation of denial.
 16. If required, whether the applicant has obtained the necessary approval of neighboring residents or businesses.
 17. Whether sufficient negative impact from the event on neighboring properties or individuals warrant denial of the application.
 18. Whether the applicant, including its employees, agents and volunteers have violated city code provisions or city policies at past events.
 19. Whether the applicant has timely paid the city all fees due and owed under any city code provision or city policy.
- D. The approval or denial of a completed application by the city review team shall be made to the applicant as soon as reasonably practicable.
- E. Where the applicant seeks or where the city staff recommends lane closure(s) of arterial or collector streets within the city, as those streets have been classified by the DOT, such permit may be issued only by the city council. City staff shall be responsible for the issuance of all other special event permits unless otherwise provided in this chapter. (Ord. 996, 1-22-2015)

7-7-7: FEES REQUIRED:

- A. The applicant for a special event permit shall pay the applicable nonrefundable application fee in the amount set in the schedule of fees the city council has adopted by resolution. The application fee must be paid at the time of submittal of the application.
- B. If the permitted event will require the use of any city equipment, facilities, or services, the applicant shall pay the estimated costs for the use of the city equipment, facilities, or services in advance of the event if the city requests advanced payment be made, or the city may direct the applicant to pay the actual costs for the use of the city equipment, facilities, or services following the event within thirty (30) calendar days of billing by the city.

C. Where the applicant requests or city staff recommends city sponsorship/cosponsorship of an event which would include full or partial waiver of application and related fees, the proposed fee waiver must receive city council approval. All other applications may be approved through city staff review, unless otherwise provided in this code. (Ord. 996, 1-22-2015)

7-7-8: INSURANCE REQUIRED:

A. The applicant shall be responsible for obtaining insurance coverage for the special event, in types and amounts as determined by the city. The applicant shall also provide the city with a certificate of insurance, naming the city as an additional insured, sufficiently in advance of the scheduled event.

B. The applicant must also sign a hold harmless and indemnification agreement with the city in which the applicant holds the city harmless and indemnifies the city of any negligent, reckless, or intentional act attributable to the applicant or the applicant's officials, employees, agents, or volunteers. (Ord. 996, 1-22-2015)

7-7-9: APPEAL PROCEDURE:

A. City staff's decision to approve or deny a special event permit or deny city sponsorship of an event may be appealed to the city council by making a written request to the city clerk. The appeal will be placed on the agenda for the next available council meeting.

B. After receiving the appeal and considering any submitted comments, the city council shall affirm, reverse, or modify the decision of city staff. The decision of the city council shall be the final determination as to whether or not the city approves the special event permit. (Ord. 996, 1-22-2015)

7-7-10: PERMIT REVOCATION:

A special event permit for any event in progress may be revoked and the event terminated by the chief of police, fire chief, city manager, or their respective designees, if the safety of the public is imminently endangered by activities generated during the event or weather conditions at the time of the event, the participants or attendees engage in violent or destructive behavior causing injury to person or damage to property, or if there is a major violation of the conditions of the permit such that the standards of issuance have not been satisfied. (Ord. 996, 1-22-2015)

7-7-11: VIOLATIONS:

No person shall violate any of the provisions of this chapter, and specifically shall not commit any of the following unlawful acts:

A. No person shall hold, sponsor, or be in charge of any activity for which a special event permit is required without possessing a valid special event permit.

B. No person shall violate any condition placed upon a special event permit.

C. No person shall provide false or inaccurate information on a written application for a special event permit. (Ord. 996, 1-22-2015)

7-7-12: PENALTIES:

Any person who violates or resists the enforcement of any of the provisions of this chapter shall be guilty of a simple misdemeanor or a municipal infraction punishable by a civil penalty of five hundred dollars (\$500.00) for the initial offense and seven hundred fifty dollars (\$750.00) for each repeat offense. Any person who violates a provision of this chapter after having previously been found guilty of violating the same provision of this chapter at the same location, shall be guilty of a repeat offense. Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including, but not limited to, any order for abatement or injunctive relief from the court in the same action or as a separate action. (Ord. 996, 1-22-2015)

7-7-13: EXEMPTIONS:

A. Nothing in this chapter shall be construed as requiring a special event permit for the following:

1. Funeral processions.

2. Events conducted entirely on the property of a church, educational institution, college or university campus. However, this type of event may require a temporary site plan that would need to be approved through the community development department with the city.

3. Events conducted on city owned property subject to a contract, lease, or agreement. However, this type of event may require a temporary site plan that would need to be approved through the community development department with the city.

4. Events conducted entirely on property containing an occupied private residence. (Ord. 996, 1-22-2015)