

**NOTICE OF REGULAR COUNCIL MEETING  
CUMMING CITY COUNCIL**

**September 28, 2020 – 7:00 p.m.**

**Cumming City Hall, 649 N 44<sup>th</sup> St., Cumming Iowa\***

This is a tentative agenda only, which is subject to change. The final City Council 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. **PUBLIC COMMENT**
- IV. **BOARDS AND COMMISSIONS REPORTS**
  - A. Park and Recreation
  - B. Planning and Zoning
- V. **CONSENT ITEMS**
  - A. 9/14/20 Regular Meeting Minutes
  - B. 8/25/20 Planning & Zoning Meeting Minutes
  - C. Claims to Be Approved
- VI. **PUBLIC HEARINGS**
  - A. **Public Hearing:** Amending the Code of Ordinances, City of Cumming, Iowa, by Amending Chapter 90, Water Service System
  - B. **Public Hearing:** Rezone Certain Property within the City limits of Cumming from A-1 Agriculture District to C-1 Highway Commercial District and Amend the Official Zoning Map of the City of Cumming, Iowa
  - C. **Public Hearing** on Proposed Development Agreement with Diligent GWC, LLC
- VII. **ACTION/DISCUSSION ITEMS**
  - A. **First Reading of Ordinance 2020-05** Amending the Code of Ordinances, City of Cumming, IA by Amending Provisions pertaining to Chapter 90 Water Service System with option to waive the second and third readings and motion for clerk to post
  - B. **First Reading of Ordinance 2020-06** Amending the Official Zoning Map of the City of Cumming, Iowa, as Established by the City Code of The City of Cumming, Chapter 165, Section 165.07 with option to waive the second and third readings and motion for clerk to post
  - C. **Resolution 2020-64** Resolution Approving Development Agreement with Diligent GWC, LLC, Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement
  - D. **Second Reading of Ordinance 2020-07** Amending the Code of Ordinances, City of Cumming, Iowa by Amending Chapter 122 Peddlers, Solicitors and Transient Merchants with option to waive the third reading and motion for clerk to post
  - E. **Resolution 2020-65** Fire and Emergency Medical Services Contract Agreement Pursuant to Iowa Code Section 28E Between the City of Cumming, Iowa and the City of Norwalk, Iowa.
  - F. **Resolution 2020-66** Resolution Directing the Clerk to Publish Notice of Hearing (October 12, 2020) on the Adoption of the Proposed "Code of Ordinances of the City of Cumming, Iowa"
  - G. **Resolution 2020-67** Resolution Awarding General Obligation Sewer Improvement Notes

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H. Beggars Night Discussion

**A. REPORTS:**

- A. Mayor
- B. Council
- C. Attorney
- D. City Administrator
- F. Deputy Clerk

**B. PUBLIC COMMENT**

**C. UPCOMING CITY COUNCIL MEETING:** Regular Meeting: October 12, 7:00 p.m. at City Hall

**D. 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: 818 4859 7604 Password: 473018** 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.

**OFFICIAL PUBLICATION  
CITY OF CUMMING  
Regular Council Meeting 9/14/2020  
To be Approved at 9/28/20 Regular Meeting**

The Regular City Council Meeting of the City of Cumming was held via Zoom and at City Hall on Monday, September 14, 2020. The Meeting was called to order at 7:00 P.M. by Mayor Pro Tem, Thomas Cackler. Present at Roll Call: Thomas Cackler, Brent Highfill, Kathie Hungerford, Dino Goode and Charlie Ochanpaugh. Mayor Tom Becker was absent. Motion by Goode, seconded by Hungerford, to approve the agenda as presented. Approved 5-0.

**Consent Items:**

Motion by Hungerford, seconded by Highfill to approve the consent items as presented. 8/31/20 Council Special Meeting Minutes, August IPERS Wage & Contribution Report, August 2020 Fund Balance Report, August 2020 Claims Paid & Summary of Receipts, Claims to be Approved, August Deposit Detail, August Building Permit Log, Commercial C Liquor License Renewal – Cumming Tap, and Appoint John Botts to the Planning & Zoning Board for a five-year term. Approved 5-0.

**Expenditures:**

N/Warren Town & County	Publications 6/23, 7/16, 8/27	\$ 385.74
Jim Johns Inc	6/23-7/20 & 7/21-8/17 Invoices	\$ 160.00
Cardmember Service	6/24-7/22 2020, 7/24-8/24	\$ 46.94
IA Workforce Development	HH Unemployment	\$ 203.04
Centurylink	Internet/Phone x 2	\$ 400.11
MidAmerican	Utilities/Street Lights	\$ 876.54
Iowa One Call	Invoices	\$ 105.30
CST	Antivirus	\$ 7.49
Contractor Sales/Service	Water Tower Lift	\$ 970.00
Office Depot	Office Supplies	\$ 111.25
Waste Connections	July 2020 Bill	\$ 2,251.64
Ben Schuh	2 <sup>nd</sup> Payment WT Project	\$ 7,860.00
Veenstra & Kimm	Engineering Costs	\$14,790.99
Veenstra & Kimm	Engineering Costs	\$16,891.86
City of Des Moines	WRA Payment	\$ 3,325.10
US Bank	Copier	\$ 118.64
Craig Olson	HTP Banner Reimbursement	\$ 42.79
Ben Schuh	License Agreement	\$ 7,500.00
Moret Services	Park Rut Repair, Mulch, Weed	\$ 5,400.00
Simmering Cory	Web Hosting Annual	\$ 450.00
HydraPak, LLC	HTP Waterbottles	\$ 501.00
Jerico Services	Dust Control	\$ 402.50
Bowen Design	HP Banner – FNF	\$ 60.00
<b>Accounts Payable Total</b>		<b>\$59,535.83</b>
August Payroll		\$ 3,675.00
IPERS		\$ 1,391.30
United States Treasury	Taxes	\$ 1,004.28
<b>Total Payroll/Liabilities Paid</b>		<b>\$ 6,070.58</b>
GENERAL		\$65,606.41
SEWER		\$ 3,325.10
<b>TOTAL</b>		<b>\$68,931.51</b>

## Action/Discussion Items

- A. **Public Hearing:** Amending the Code of Ordinances, City of Cumming, Iowa, by Amending Chapter 90, Water Service System opened at 7:08 p.m. Motion by Ochanpaugh, seconded by Highfill to close the Public Hearing at 7:11 p.m. Approved 5-0.
- B. Motion by Highfill, seconded by Goode to table the first reading of **Ordinance 2020-05** Amending the Code of Ordinances, City of Cumming, IA by Amending Provisions pertaining to Chapter 90 Water Service System until the next Council Meeting on September 28, 2020. Approved 5-0.
- C. **Public Hearing:** Rezone Certain Property within the City limits of Cumming from A-1 Agriculture District to C-1 Highway Commercial District and Amend the Official Zoning Map of the City of Cumming, Iowa opened at 7:12 p.m. Motion by Hungerford, seconded by Ochanpaugh to close the Public Hearing at 7:15 p.m.
- D. Friendly Amendment Motion by Hungerford to set a date for Public Hearing and rezone the entire Preliminary Plat 1 on September 28, 2020, seconded by Ochanpaugh to approve the amendment to **Ordinance 2020-06** Amending the Official Zoning Map of the City of Cumming, Iowa, as Established by the City Code of The City of Cumming, Chapter 165, Section 165.07. Approved 5-0.
- E. **Public Hearing:** Urban Renewal Plan Amendment was opened at 7:17 p.m. Motion by Highfill, seconded by Hungerford to close the Public Hearing at 7:26 p.m. Approved 5-0.
- F. Motion by Ochanpaugh, seconded by Goode to approve **Resolution 2020-60** Resolution to Approve Urban Renewal Plan Amendment for the Consolidated Cumming Urban Renewal Areas. Approved 5-0.
- G. **Public Hearing:** Amending the Code of Ordinances, City of Cumming, IA by Amending Provisions Pertaining to Chapter 122 Peddlers, Solicitors, and Transient Merchants opened at 7:28 p.m. Motion by Goode, seconded by Hungerford to close the Public Hearing at 7:29 p.m. Approved 5-0.
- H. Motion by Hungerford, seconded by Highfill to approve the first reading of **Ordinance 2020-07** Amending the Code of Ordinances, City of Cumming, Iowa by Amending Chapter 122 Peddlers, Solicitors and Transient Merchants with a friendly amendment to section 8C, change closing time to 9:30 p.m. from 10:30 p.m. without option to waive the second and third readings. Approved 5-0.
- I. Motion by Ochanpaugh, seconded by Hungerford to approve the third reading of **Ordinance 2020-02** An Ordinance Adopting the Code of Ordinances of the City of Cumming, Iowa and motion for clerk to post. Approved 5-0.
- J. Motion by Ochanpaugh, seconded by Goode to approve the third reading of **Ordinance 2020-03** Amending the Code of Ordinances, City of Cumming, IA by Amending Provisions pertaining to Chapter 55 Animal Protection and Control and motion for clerk to post. Approved 5-0
- K. Motion by Hungerford, seconded by Ochanpaugh to approve the third reading of **Ordinance 2020-04** Amending the Code of Ordinances, City of Cumming, IA by Amending Provisions pertaining to Chapter 69.09 Truck Parking Limited with motion for clerk to post. Approved 5-0
- L. Motion by Highfill, seconded by Ochanpaugh to approve **Resolution 2020-58** Depository Resolution. Approved 5-0.
- M. Motion by Goode, seconded by Highfill to approve **Resolution 2020-59** Resolution Approving the Street Finance Report for Fiscal Year 2019-2020. Approved 5-0.
- N. Motion by Hungerford, seconded by Ochanpaugh to approve **Resolution 2020-61** Approving and Authorizing Execution of an Agreement for Snow and Ice removal for the City of Cumming. Approved 5-0.
- O. Motion by Highfill, seconded by Ochanpaugh to approve **Resolution 2020-62** Resolution to Fix a Date (September 28, 2020) of Meeting at Which it is Proposed to Approve a Development Agreement with Diligent GWC, LLC, Including Annual Appropriation Tax Increment Payments Approved 5-0.
- P. Motion made by Ochanpaugh, seconded by Goode to approve **Resolution 2020-63** Resolution Requesting Reimbursement from the Iowa COVID-19 Government Relief Fund. Approved 5-0
- Q. Motion by Highfill, seconded by Hungerford to approve the sign repair/installation bid in the amount of \$350 from Dan Voss. Approved 5-0.
- R. N. Fernwood Drive – Drainage Issue Discussion was held.
- S. Beggars Night Discussion was held.

**Reports:** Attorney – Kudos on the water tower project. City Administrator – Work on Orilla Road. Looking ahead to a 5-year plan. Council – Directed Clerk to price/obtain web cam/laptop for future meetings.

**Public Comment:** None

**Upcoming City Council Meeting:** Regular Council Meeting, Monday, September 28, 2020 at 7:00 p.m. at City Hall

Motion made by Highfill, seconded by Ochanpaugh to Adjourn at 8:15 pm. Approved 5-0.

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Robert Fagen, City Administrator

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Attest: Angie Ritchie, Deputy Clerk

**City of Cumming**  
**Planning and Zoning Commission Meeting**  
**August 25<sup>th</sup>, 2020 Minutes**

The Cumming Planning and Zoning Commission held scheduled meeting on August 25th, 2020 at 7:00 p.m at the Cumming City Hall  
The meeting was called to order by Chair, Don Paulin, at 7:00 p.m.

**I. ROLL CALL**

Present: Jill Stanford, Don Paulin, Matt Daniels, Karen McKinney, Holly De Hamer, Ethan Roos

Absent: none

**II. APPROVAL OF AGENDA**

Stanford moved – Roos second - unanimously approved

**IV. CONSENT ITEMS**

July 28th, 2020 Meeting Minutes

Stanford moved – Roos second - unanimously approved

**V. ACTION/DISCUSSION ITEMS**

- A. Farmers Markets: Discussion to clarify the application of the code to public events only.  
Daniels moved – De Hamer 2<sup>nd</sup> – unanimously approved
- B. No Parking: Council instructed us to look into no parking signs on the south side of Callison, Birch and Alice. There was a public comment discussion with a resident who has a business on Callison and found issue with forcing parking to the north side of the street. Roos motioned to table the topic until the next meeting pending more information about how no parking on either side of the street would affect the residence of the street. McKinney seconded – unanimously approved.
- C. C-1 Commercial Sign Regulations: discussion to consider a variance to our commercial sign code for a sign near the interstate. Currently the land where the sign would be is not zoned for commercial. No recommendation until the zoning is resolved.  
A sub-committee was formed to look into sign heights along the interstate corridor with Stanford, Roos and Daniels.
- D. Board Member Applicants: recommend John Botts to fill the vacant seat.  
Roos moved – Daniels second – unanimously approved
- E. Meeting Frequency: discussed whether we need to meet more then once a month. At this time we did not find a need to meet more often.

**VI. Upcoming Planning A Zoning Meeting**

- F. Regular meeting September 22, 2020 at 7:00 P.M. at City Hall

**VII. ADJOURN:**

McKinney moved – Stanford second – unanimously approved –Adjourned 8:27 PM

9:32 AM

09/23/20

**City of Cumming**  
**Claims To Be Approved**  
All Transactions

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Type	Date	Num	Name	Memo	Amount
Check	09/28/2020		Combined Systems ...	Inv. # 141714	-7.49
Check	09/28/2020		City of Des Moines	WRA Payment - Invoice # 116743	-3,325.10
Check	09/28/2020		US Bank	Copier Lease	-118.64
Check	09/28/2020		Skinner Law Office PC	Reimbursement for Hosting Fees	-193.39
Check	09/28/2020		Midamerican Energy	Invoices 503769643, 503813810	-742.11
Check	09/28/2020		City of Norwalk	FY21 Library Payment	-10,666.55
<b>Total</b>					<b>-15,053.28</b>

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# NOTICE OF PUBLIC HEARING

## CITY OF CUMMING

### AMENDING CHAPTER 90 WATER SERVICE SYSTEM

Notice is hereby given that the City Council of the City of Cumming, Iowa, will conduct a public hearing on Monday, September 14, 2020, 7:00 P.M., at City Hall, 649 N. 44<sup>th</sup> Street, Cumming, Iowa, to receive comments on the following:

Amending the City of Cumming's Code of Ordinances,  
Chapter 90 Water Service System

Additional information regarding this request may be obtained by contacting the Deputy Clerk at 515-981-9214.

Anyone wishing to comment on this matter should attend this hearing or submit written comments at any time prior to the hearing. Send comments to City of Cumming, P. O. Box 100, Cumming, IA, 50061



# NOTICE OF PUBLIC HEARING CITY OF CUMMING

## TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF CUMMING, IOWA BY REZONING CERTAIN PROPERTY WITHIN THE CITY LIMITS

Notice is hereby given that the City Council of the City of Cumming, Iowa, will conduct a public hearing on Monday, September 28, 2020, 7:00 P.M. at the Cumming City Hall, 649 N. 44<sup>th</sup> Street, Cumming, Iowa, to receive comments on the following:

Amend the official zoning map of the City of Cumming, Iowa, by rezoning certain property within the city limits from A-1 Agriculture District to C-1 Highway Commercial District described as follows:

A PARCEL OF LAND IN THE SE 1/4 OF SECTION 7, TOWNSHIP 77 NORTH, RANGE 25 WEST OF THE 5TH P.M., WARREN COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE SE CORNER OF SAID SECTION 7; THENCE S89°28'10"W, 724.78 FEET ALONG THE SOUTH LINE OF SAID SE 1/4 TO THE POINT OF BEGINNING; THENCE CONTINUING S89°28'10"W, 696.72 FEET ALONG SAID SOUTH LINE TO THE SE CORNER OF TRACT 'A' AS DEFINED IN THE WARRANTY DEED AND ACQUISITION PLAT RECORDED IN BOOK 2012, PAGE 8767 AT THE WARREN COUNTY RECORDER'S OFFICE; THENCE N03°28'00"W, 40.05 FEET ALONG THE EAST LINE OF SAID TRACT 'A' TO THE NE CORNER OF SAID TRACT 'A'; THENCE S89°28'10"W, 78.56 FEET ALONG THE NORTH LINE OF SAID TRACT 'A' TO A POINT; THENCE N82°31'51"W, 297.94 FEET ALONG SAID NORTH LINE TO THE NW CORNER OF SAID TRACT 'A', SAID NW CORNER ALSO BEING ON THE EAST RIGHT OF WAY LINE OF US INTERSTATE I-35 AS PRESENTLY ESTABLISHED; THENCE N45°52'51"W, 77.59 FEET ALONG SAID EAST RIGHT OR WAY LINE TO A POINT; THENCE N30°10'37"E, 223.32 FEET TO A POINT; THENCE N89°28'10"E, 1013.53 FEET ALONG A LINE THAT IS PARALLEL TO THE SOUTH LINE OF SAID SE 1/4 TO A POINT; THENCE S00°31'50"E, 328.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 7.62 ACRES MORE OR LESS INCLUDING 1.16 ACRES OF PUBLIC RIGHT OF WAY EASEMENT.

Additional information regarding this request may be obtained by contacting the Deputy Clerk at 981-9214.

Anyone wishing to comment on this request should attend this hearing or submit written comments at any time prior to the hearing. Send comments to City of Cumming, P.O. Box 100, Cumming, IA. 50061.

**PUBLIC HEARING  
CITY OF CUMMING**

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

The City Council of the City of Cumming, Iowa, will meet at the City Hall, on September 28, 2020, at 7 o'clock p.m., at which time and place proceedings will be instituted and action taken to approve a Development Agreement between the City and Diligent GWC, LLC (the "Developer"), in connection with the construction of public infrastructure necessary for the development of a residential subdivision in the Consolidated Cumming Urban Renewal Areas, including the construction of a park and recreational trails, which Agreement provides for certain financial incentives to the Developer in the form of annual appropriation incremental property tax payments in a total amount not exceeding \$1,500,000, as authorized by Section 403.9 of the Code of Iowa.

The agreement to make annual appropriation incremental property tax payments to the Developer will not be a general obligation of the City, but will be payable solely and only from incremental property tax revenues generated within the Consolidated Cumming Urban Renewal Areas. Some or all of the payments to the Developer under the Development Agreement will be subject to annual appropriation by the City Council.

Due to federal and state government recommendations in response to COVID-19 pandemic conditions, the meeting can alternatively be accessed via Zoom, which will be accessible at the following:

<https://us02web.zoom.us/j/81848597604?pwd=aTFZb0ZJeDM4Z0dmd2NqaUZ2RVdxQT09>

In addition to electronic access, written comments may be filed or made prior to the meeting and will be recorded in the minutes.

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

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

Angie Ritchie  
Deputy Clerk

# ORDINANCE 2020-05

## AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CUMMING, IOWA, BY AMENDING PROVISIONS PERTAINING TO CHAPTER 90 WATER SERVICE SYSTEM

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

**SECTION 1. SECTION ADDED.** Section 90.12 of the Code of Ordinances of the City of Cumming, Iowa, is added to Chapter 90, Water Service System.

### 90.12 SHARING OF MAIN COSTS.

Where there are properties being developed that are separated by public access or streets and the properties can be served by one water main, Des Moines Water Works shall determine the side of the street on which the main will be located. The cost of installation of the main shall be borne by the developer who first develops the adjacent public access. Any person, firm or corporation who develops the property on the opposite side of the public access shall be required to pay the developer who originally installed said main, one-half the per foot cost of the installation times the number of frontage feet owned by the person, firm or corporation desiring to make said connection, subject to the following:

1. The initial developer shall provide documentation of all costs related to installation of the main to the City prior to acceptance of final plat.
2. No reimbursement shall be made after the expiration of ten years from acceptance of the final plat.
3. Any person, firm or corporation which becomes insolvent or ceases to do business after the signing of an agreement contemplated by this policy shall not be entitled to reimbursement and any agreement shall become null and void.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed and Approved by the Council the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Tom Becker, Mayor

ATTEST:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk

First Reading:

Second Reading:

Third Reading:

I certify that the foregoing was published as Ordinance 2020-05 on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Angie Ritchie, Deputy Clerk

## CHAPTER 90

## WATER SERVICE SYSTEM

90.01 Definitions

90.02 Mandatory Connections

90.03 Water Service Provided by Des Moines Water Works

90.04 Permits

90.05 Fees and Charges

90.06 Collections and Liens

90.07 Compliance with Plumbing Code

90.08 Plumber Required

90.09 Failure to Maintain

90.10 Completion by the City

90.11 Operation of Curb Stop and Hydrants

**90.01 DEFINITIONS.** The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Des Moines Water Works" means the City water utility organized under Chapter 388, *Code of Iowa*, which is officially known as the Board of Water Works Trustees of the City of Des Moines, Iowa.
4. "Superintendent" means the Des Moines Water Works.
5. "Water main" means a water supply pipe provided for public or community use.
6. "Water service pipe" means the pipe from the water main to the building served.
7. "Water system" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

**90.02 MANDATORY CONNECTIONS.** All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

**90.03 WATER SERVICE PROVIDED BY DES MOINES WATER WORKS.** Water service to all customers, within and without the City, that are connected to the water system of the City shall be provided by the Des Moines Water Works, from and after January 1, 2007, pursuant to the terms of a Chapter 28E Agreement between the City and the Des Moines Water Works. All such service shall be provided directly by Des Moines Water Works as the water service provider to customer and shall be pursuant to the rates, fees, rules, and regulations established by the Des Moines Water Works from time to time.

**90.04 PERMITS.** Before any person makes a connection with the public water system, a written permit must be obtained from the Des Moines Water Works as provided in its rules and regulations.

**90.05 FEES AND CHARGES.** Fees and charges for permits, taps, connections, and all other services, including system development fees, shall be established by, and collected by, the Des Moines Water Works.

**90.06 COLLECTIONS AND LIENS.** The Des Moines Water Works shall have, and may exercise, all authority for collection of water rates and charges granted by law, including discontinuing service and imposition of liens as provided by law.

**90.07 COMPLIANCE WITH PLUMBING CODE.** The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the International Plumbing Code.

**90.08 PLUMBER REQUIRED.** All installations of water service pipes and connections to the water system shall be made by a plumber licensed by the State, except that Des Moines Water Works shall be allowed to make routine service line repairs in connection with water main repairs.

**90.09 FAILURE TO MAINTAIN.** When any portion of the water service pipe, which is the responsibility of the property owner, becomes defective or creates a nuisance, and the owner fails to correct such nuisance, the Des Moines Water Works may do so, and the City may assess the costs thereof to the property.

**90.10 COMPLETION BY THE CITY.** Should any excavation be left open or only partly refilled for 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with, and in the same manner as, general property taxes.

**90.11 OPERATION OF CURB STOP AND HYDRANTS.** It is unlawful for any person, except the Des Moines Water Works or authorized City personnel, to turn water on at the curb stop, and no person, unless specifically authorized by the City or the Des Moines Water Works, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

**90.12 SHARING OF MAIN COSTS.**

Where there are properties being developed that are separated by public access or streets and the properties can be served by one water main, Des Moines Water Works shall determine the side of the street on which the main will be located. The cost of installation of the main shall be borne by the developer who first develops the adjacent public access. Any person, firm or corporation who develops the property on the opposite side of the public access shall be required to pay the developer who originally installed said main, one-half the per foot cost of the installation times the number of frontage feet owned by the person, firm or corporation desiring to make said connection, subject to the following:

4. The initial developer shall provide documentation of all costs related to installation of the main to the City prior to acceptance of final plat.
5. No reimbursement shall be made after the expiration of ten years from acceptance of the final plat.
6. Any person, firm or corporation which becomes insolvent or ceases to do business after the signing of an agreement contemplated by this policy shall not be entitled to reimbursement and any agreement shall become null and void.

[The next page is 405]

Prepared by and Return to:  
Angie Ritchie, Deputy Clerk, 649 N. 44<sup>th</sup> St., PO Box 100, Cumming, IA 50061

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## **ORDINANCE 2020-06**

### **AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CUMMING, IOWA, AS ESTABLISHED BY THE CITY CODE OF THE CITY OF CUMMING, CHAPTER 165, SECTION 165.07**

**BE IT ENACTED** by the City Council of the City of Cumming, Iowa:

**SECTION 1. SECTION ONE.** The official Zoning Map of the City of Cumming, Iowa is hereby amended in accordance with Section 165.07 of the City Code, and the zoning district designation for the following described property is changed from A-1 Agriculture District to C-1 Highway Commercial District:

#### **PROPERTY DESCRIPTION**

A PARCEL OF LAND IN THE SE 1/4 OF SECTION 7, TOWNSHIP 77 NORTH, RANGE 25 WEST OF THE 5TH P.M., WARREN COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE SE CORNER OF SAID SECTION 7; THENCE S89°28'10"W, 724.78 FEET ALONG THE SOUTH LINE OF SAID SE 1/4 TO THE POINT OF BEGINNING; THENCE CONTINUING S89°28'10"W, 696.72 FEET ALONG SAID SOUTH LINE TO THE SE CORNER OF TRACT 'A' AS DEFINED IN THE WARRANTY DEED AND ACQUISITION PLAT RECORDED IN BOOK 2012, PAGE 8767 AT THE WARREN COUNTY RECORDER'S OFFICE; THENCE N03°28'00"W, 40.05 FEET ALONG THE EAST LINE OF SAID TRACT 'A' TO THE NE CORNER OF SAID TRACT 'A'; THENCE S89°28'10"W, 78.56 FEET ALONG THE NORTH LINE OF SAID TRACT 'A' TO A POINT; THENCE N82°31'51"W, 297.94 FEET ALONG SAID NORTH LINE TO THE NW CORNER OF SAID TRACT 'A', SAID NW CORNER ALSO BEING ON THE EAST RIGHT OF WAY LINE OF US INTERSTATE I-35 AS PRESENTLY ESTABLISHED; THENCE N45°52'51"W, 77.59 FEET ALONG SAID EAST RIGHT OR WAY LINE TO A POINT; THENCE N30°10'37"E, 223.32 FEET TO A POINT; THENCE N89°28'10"E, 1013.53 FEET ALONG A LINE THAT IS PARALLEL TO THE SOUTH LINE OF SAID SE 1/4 TO A POINT; THENCE S00°31'50"E, 328.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 7.62 ACRES MORE OR LESS INCLUDING 1.16 ACRES OF PUBLIC RIGHT OF WAY EASEMENT.

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

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

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

Passed by the Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and approved this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Tom Becker, Mayor

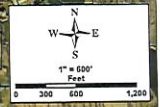
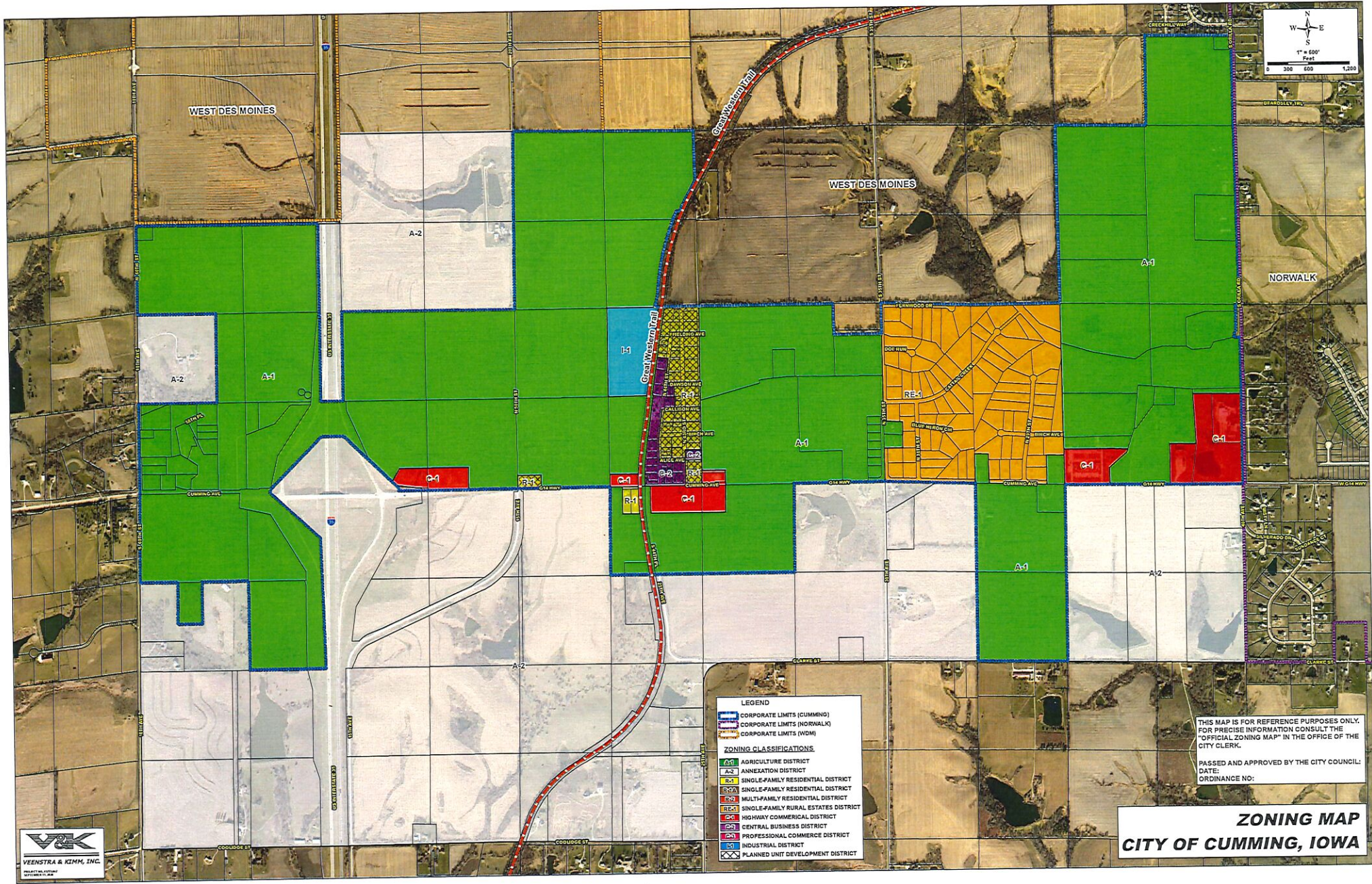
Attest:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk

First Reading:  
Second Reading:  
Third Reading:

I certify that the foregoing was published as Ordinance 2020-06 on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Angie Ritchie, Deputy Clerk



**LEGEND**

- CORPORATE LIMITS (CUMMING)
- CORPORATE LIMITS (NORWALK)
- CORPORATE LIMITS (WDM)

**ZONING CLASSIFICATIONS**

- A-1 AGRICULTURE DISTRICT
- A-2 ANNEXATION DISTRICT
- R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT
- RE-1 SINGLE-FAMILY RESIDENTIAL DISTRICT
- R-2 MULTI-FAMILY RESIDENTIAL DISTRICT
- RE-2 SINGLE-FAMILY RURAL ESTATES DISTRICT
- C-1 HIGHWAY COMMERCIAL DISTRICT
- C-2 CENTRAL BUSINESS DISTRICT
- C-3 PROFESSIONAL COMMERCE DISTRICT
- I-1 INDUSTRIAL DISTRICT
- PUD PLANNED UNIT DEVELOPMENT DISTRICT

THIS MAP IS FOR REFERENCE PURPOSES ONLY.  
 FOR PRECISE INFORMATION CONSULT THE  
 "OFFICIAL ZONING MAP" IN THE OFFICE OF THE  
 CITY CLERK.

PASSED AND APPROVED BY THE CITY COUNCIL:  
 DATE:  
 ORDINANCE NO:

**ZONING MAP  
 CITY OF CUMMING, IOWA**



**RESOLUTION 2020-64  
CITY OF CUMMING**

**Resolution Approving Development Agreement with Diligent GWC, LLC,  
Authorizing Annual Appropriation Tax Increment Payments and Pledging  
Certain Tax Increment Revenues to the Payment of the Agreement**

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

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

**WHEREAS**, an agreement (the “Agreement”), between the City and Diligent GWC, LLC (the “Developer”) has been prepared, pursuant to which the Developer would undertake the construction of public infrastructure necessary for the development of a residential subdivision in the Urban Renewal Area, including the construction of a park and recreational trails (the “Project”); and

**WHEREAS**, under the Agreement, the City would provide annual appropriation tax increment payments to the Developer in a total amount not exceeding \$1,500,000; and

**WHEREAS**, this City Council, pursuant to Section 403.9 of the Code of Iowa, has published notice, has held a public hearing on the Agreement on September 28, 2020, and has otherwise complied with statutory requirements for the approval of the Agreement; and

**WHEREAS**, Chapter 15A of the Code of Iowa (“Chapter 15A”) declares that economic development is a public purpose for which a City may provide grants, loans, tax incentives, guarantees and other financial assistance to or for the benefit of private persons; and

**WHEREAS**, Chapter 15A requires that before public funds are used for grants, loans, tax incentives or other financial assistance, a City Council must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

**WHEREAS**, Chapter 15A requires that in determining whether funds should be spent, a City Council must consider any or all of a series of factors;

**NOW, THEREFORE**, It Is Resolved by the City Council of the City of Cumming, Iowa, as follows:

Section 1. Pursuant to the factors listed in Chapter 15A, the City Council hereby finds that:

(a) The Project will add diversity and generate new opportunities for the Cumming and Iowa economies; and

(b) The Project will generate public gains and benefits, particularly in the creation of new jobs and housing opportunities, which are warranted in comparison to the amount of the proposed property tax incentives; and

Section 2. The City Council further finds that a public purpose will reasonably be accomplished by entering into the Agreement and providing the incremental property tax payments to the Developer as provided for therein.

Section 3. The Agreement is hereby approved and the Mayor and City Clerk are hereby authorized and directed to execute and deliver the Agreement on behalf of the City, in substantially the form and content in which the Agreement has been presented to this City Council, and such officers are also authorized to make such changes, modifications, additions or deletions as they, with the advice of bond counsel, may believe to be necessary, and to take such actions as may be necessary to carry out the provisions of the Agreement.

Section 4. All payments by the City under the Agreement shall be subject to annual appropriation by the City Council, in the manner set out in the Agreement. As provided and required by Chapter 403 of the Code of Iowa, the City's obligations under the Agreement shall be payable solely from a subfund (the "Diligent GWC, LLC Subfund") which is hereby established, into which shall be paid that portion of the income and proceeds of the Urban Renewal Tax Revenue Fund attributable to property taxes derived from the property as described as follows:

Parcel M and Parcel N, of the Plat of Survey, recorded in Book 2016, Page 9567, City of Cumming, Warren County, Iowa, EXCEPT Great Western Crossing Plat 1, an Official Plat in the City of Cumming, Warren County, Iowa, AND EXCEPT a parcel of land in said Parcel M that is more particularly described as follows:

Commencing at the S  $\frac{1}{4}$  corner of Section 8, Township 77 North, Range 25 West of the 5<sup>th</sup> P.M., in the City of Cumming, Warren County, IA; thence N 89 degrees 20' 24" E, 346.50 feet to a point; thence, N 00 degrees 29'25" W to the point of beginning on the north right of way line of Hwy. G-14; thence, N 00 degrees 39'36" W, 188.57 feet to a point; thence, N 26 degrees 12'48" E, 100.63 feet to a point; thence, N 11 degrees 54' 21" E, 118.49 feet to a point; thence, N 00 degrees 38' 06" W, 65.00 feet to a point; thence, N 89 degrees 27' 18" E, 506.25 feet to a non-tangent point; thence, Southerly along a curve to the left with a radius of 530.00 feet, a Length of 52.44 feet, at a chord bearing of S 10 degrees 07' 51" E to a point of tangency; thence, S 12 degrees 57'55" E, 42.63 feet to a point; thence, S 10 degrees 06' 10" E, 100.12 feet to a point of curvature; thence, southerly on a curve to the right with a radius of 465.00 feet, a length of 101.24 feet, and a chord bearing of S 06 degrees 43' 40" E to a point of tangency; thence,

S 00 degrees 29'25" E, 82.21 feet to a point of curvature; thence Southwesterly along a curve to the right with a radius of 25.00 feet, a length of 39.27 feet, and a chord bearing of S 44 degrees 30' 35" W to a point of tangency; thence, S 89 degrees 30' 35" W, 597.42 feet along the north right of way line of Hwy. G-14 to the point of beginning, containing 5.266 acres more or less.

Section 5. The City hereby pledges to the payment of the Agreement the Diligent GWC, LLC Subfund and the taxes referred to in Subsection 2 of Section 403.19 of the Code of Iowa to be paid into such Subfund, provided, however, that no payment will be made under the Agreement unless and until monies from the Diligent GWC, LLC Subfund are appropriated for such purpose by the City Council.

Section 6. After its adoption, a copy of this resolution shall be filed in the office of the County Auditor of Warren County to evidence the continuing pledging of the Diligent GWC, LLC Subfund and the portion of taxes to be paid into such Subfund and, pursuant to the direction of Section 403.19 of the Code of Iowa, the County Auditor shall allocate the taxes in accordance therewith and in accordance with the tax allocation ordinance referred to in the preamble hereof.

Section 7. All resolutions or parts thereof in conflict herewith are hereby repealed.

Passed and approved September 28, 2020.

\_\_\_\_\_  
Tom Becker, Mayor

Attest:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk

•••••

On motion and vote the meeting adjourned.

\_\_\_\_\_  
Tom Becker, Mayor

Attest:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk

## DEVELOPMENT AGREEMENT

This Agreement is entered into between the City of Cumming, Iowa (the "City") and Diligent GWC, LLC (the "Developer") as of the \_\_\_\_ day of \_\_\_\_\_, 2020 (the "Commencement Date").

WHEREAS, the City has established the Consolidated Cumming Urban Renewal Areas (the "Urban Renewal Area") and has adopted a tax increment ordinance for the Urban Renewal Area; and

WHEREAS, the Developer owns certain property in the Urban Renewal Area, the legal description of which is set out in Exhibit A hereto (the "Property"), and the Developer has proposed to undertake the development of a residential subdivision (the "Housing Project") on the Property, including the construction of certain public infrastructure improvements in connection therewith (the "Infrastructure Project"); and

WHEREAS, the Infrastructure Project will minimally include the construction of a park and recreational trails; and

WHEREAS, the Developer has requested that the City provide tax increment financing assistance for the Infrastructure Project; and

WHEREAS, the City Council is willing to provide tax increment financing assistance to the Developer in order to assist in paying the cost of the Infrastructure Project; and

WHEREAS, the Iowa Urban Renewal law requires that any project related to housing which receives tax increment financing assistance must also generate funds to be used to provide assistance related to housing for low and moderate income families; and

WHEREAS, the base valuation of the Property for purposes of calculating Incremental Property Tax Revenues (as herein defined) under this Agreement and Section 403.19 of the Code of Iowa is \$ \_\_\_\_\_ (the "Base Valuation"); and

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

NOW THEREFORE, the parties hereto agree as follows:

**A. Developer's Covenants:**

**1. Housing Project, Subdivision, and Infrastructure Project Construction.**

The Developer agrees to construct the Housing Project on the Property. The Developer shall submit to the City a detailed site plan (the "Site Plan") for the development of the Housing Project. Upon approval by the City Council, the Site Plan shall be attached hereto as Exhibit B. The Developer agrees to construct the Housing Project in substantial conformance with the Site Plan and to substantially complete such construction by no later than \_\_\_\_\_,

20\_\_\_. Prior to beginning construction of the Housing Project, the Developer will subdivide the Property in accordance with applicable ordinances and regulations.

**2. Infrastructure Project Construction and Costs.** The Developer agrees to cause the construction of the Infrastructure Project in accordance with the timeline and specifications set forth on Exhibit C hereto. Prior to constructing the Infrastructure Project, the Developer will submit copies of all engineering documents related to the proposed Infrastructure Project to the City. The City may request reasonable changes in such documents, to ensure compliance with any applicable ordinances or regulations.

The City shall retain all rights to inspect the Infrastructure Project for quality of work and full compliance with City Code. Nothing in this subsection shall be interpreted as limiting the City's rights to not accept the work if the Infrastructure Project is not completed to the satisfaction of the City.

Upon completion of the Infrastructure Project, provided that (i) such improvements are of the type ordinarily dedicated to the City in connection with housing development projects; (ii) the City confirms to the Developer in writing that such completed improvements meet City requirements; and (iii) the City accepts such Infrastructure Project in accordance with State law, the Developer will provide the City with either a deed, dedication or permanent easement to the improvements and related right-of-way comprising the Infrastructure Project, as the case may be, which shall thereafter be maintained by the City.

**3. Infrastructure Project Costs Documentation.** Upon completion of the Infrastructure Project, the Developer agrees to provide documentation (the "Costs Documentation") detailing the costs (the "Infrastructure Costs") incurred in the completion thereof. Such Infrastructure Costs may include all infrastructure-related land acquisition costs, cost of designing and constructing the Infrastructure Project, landscaping and grading all land for the Infrastructure Project, interest expense and other costs of financing the Infrastructure Project, and other reasonably related costs of carrying out the Infrastructure Project, including legal fees as provided for in this Agreement. The Infrastructure Costs shall not include such costs as are incurred in the completion of the Housing Project.

The Costs Documentation will be accompanied by invoices, and such other documentation as is reasonably requested by the City, confirming that the Infrastructure Costs detailed in such Costs Documentation were in fact incurred in the installation of the Infrastructure Project and that such costs are of an amount reasonably to have been expected with respect to such installation. The Developer will include a cover page in the form attached hereto as Exhibit D with its submittal of the Costs Documentation.

**4. Developer's Certifications - TIF Estimates.** The Developer agrees to certify to the City by no later than October 15 of each year during the Term (as hereinafter defined) beginning October 15, 2022, the estimated amount of Incremental Property Tax Revenues anticipated to be paid with respect to the taxable incremental property valuation for the Property in the fiscal year immediately following such certification (the "Developer's Estimate"). Each Developer's Estimate shall then be divided into two figures: (1) 33.13% shall

be designated as the "LMI Amount" (see Section B.5 below); and (2) 66.87% shall be designated as the "Projected Payments Amount."

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

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

## **5. Default Provisions.**

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

- 1) Failure by the Developer to complete construction of the Housing Project pursuant to the terms and conditions of this Agreement.
- 2) Failure by the Developer to complete construction of the Infrastructure Project pursuant to the terms and conditions of this Agreement.
- 3) Failure by the Developer to comply with Sections A.3 and A.4 of this Agreement.

**B. Notice and Remedies.** Whenever any Event of Default described in this Agreement occurs, the City shall provide written notice to the Developer describing the cause of the default and the steps that must be taken by the Developer in order to cure the default. The Developer shall have thirty (30) days after receipt of the notice to cure the default or to provide assurances satisfactory to City that the default will be cured as soon as reasonably possible beyond said thirty (30) day deadline if not practicable to cure the default within said thirty (30) day deadline. If the Developer fails to cure the default or provide assurances, City shall then have the right to:

- 1) Pursue any action available to it, at law or in equity, in order to enforce the terms of this Agreement.
- 2) Withhold the Payments under Section B.2 of this Agreement, such right being additional to the right of annual appropriation as set forth in Section B.3 below.

**6. Legal and Administrative Costs.** The Developer hereby acknowledges that the City will cover the initial payment of legal fees and administrative costs (the "Actual Admin

Costs”) incurred by the City in connection with the drafting, negotiation and authorization of this Agreement, including the necessary amendment to the Urban Renewal Area. Furthermore, the Developer agrees that the City shall first receive an amount (the “Admin Withholding Amount”) equal to the lesser of (1) \$8,000 or (2) the Actual Admin Costs from such initial Incremental Property Tax Revenues as become available with respect to the Property prior to funding the Payments (as hereinafter defined) in order to recover some or all of the Actual Admin Costs.

**B. City’s Covenants:**

1. **Review of Costs Documentation.** The City staff will review the Cost Documentation upon receipt from the Developer. If the City determines the costs set forth in the Costs Documentation are costs reasonably incurred in the construction of the Infrastructure Project, the City shall record a summary of the date, amount and nature of the costs (the “Accepted Infrastructure Costs”) on the Summary of Accepted Public Infrastructure Costs attached hereto as Exhibit F, and such summary shall be the official record of the Infrastructure Costs for purposes of tallying the Maximum Payment Total, as defined in Section B.2 of this Agreement.

If the City determines the Infrastructure Costs set forth in the Costs Documentation are not costs reasonably incurred in the construction of the Infrastructure Project, the City shall notify the Developer of such determination within fifteen (15) days of such determination in order to allow an opportunity for the Developer to cure the noted deficiencies.

2. **Payments.** In recognition of the Developer’s obligations set out above, the City agrees to make ten (10) annual economic development tax increment payments (the “Payments” and individually, each a “Payment”) to the Developer during the Term (as hereinafter defined) pursuant to Chapters 15A and 403 of the Code of Iowa, provided, however, that the total Payments over said Term shall not exceed an amount (the “Maximum Payment Total”) equal to the lesser of (i) \$1,500,000; or (ii) the Accepted Infrastructure Costs, as recorded on Exhibit D, and all Payments under the Agreement shall be made subject to annual appropriation by the City Council as hereinafter set forth.

Prior to funding any Payments under this Agreement, the City will first withhold from the Incremental Property Tax Revenues an amount equal to the Admin Withholding Amount. Once an amount equal to the Admin Withholding Amount has been withheld by the City, the Payments shall be made as hereinafter set forth.

Each Payment shall be in an amount which represents the Incremental Property Tax Revenues received by the City with respect to the incremental valuation of the Property resulting from the Housing Project during the twelve (12) months immediately preceding such payment date reduced by the LMI Amount as set forth in Section A.4 above and Section B.5 below.

It is assumed that the new valuation from the Housing Project will go on the property tax rolls as of January 1, 2022. Accordingly, the Payments will be made on June 1 of each fiscal year, beginning on June 1, 2024 and continuing to, and including, June 1, 2033, or until such earlier date upon which total Payments equal to the Maximum Payment Total have been made.

**3. Security and Annual Appropriation.** The Payments shall not constitute general obligations of the City, but shall be made solely and only from Incremental Property Tax Revenues received by the City from the Warren County Treasurer which are attributable to the Property with the Housing Project thereon.

Each of the Payments shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the Term (as hereinafter defined) of this Agreement, beginning in the 2022 calendar year, the City Council shall consider the question of obligating for appropriation to the funding of the Payments due in the following fiscal year, an amount of Incremental Property Tax Revenues to be collected in the following fiscal year equal to or less than the most recently submitted Projected Payments Amount (the "Appropriated Amount").

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payment scheduled to become due in the following fiscal year, and the Developer will have no rights whatsoever to compel the City to make such Payment or to seek damages relative thereto or to compel the funding of such Payment in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payment shall not render this Agreement null and void, and the Developer shall make the next succeeding submission of the Developer's Estimate as called for in Section A.4 above, provided however that no Payment shall be made after June 1, 2033.

**4. Payment Amounts.** Each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for the Payment due on June 1, 2024, the amount of such Payment would be determined by the Appropriated Amount determined for certification by December 1, 2022), provided, however, that no Payment shall exceed the amount of Incremental Property Tax Revenues (excluding allocations of "back-fill" or "make-up" payments from the State of Iowa for property tax credits or roll-back) received by the City from the Warren County Treasurer attributable to the taxable valuation of the Property minus the then-effective LMI Amount.

**5. Low and Moderate Income Set Aside.** On each Payment date, the City shall retain from then-accumulated Incremental Property Tax Revenues received with respect to the Property an amount equal to such accumulated Incremental Property Tax Revenues multiplied by the minimum percentage required by Section 403.22 of the Code of Iowa. As of the date of this Agreement, the applicable minimum percentage is 33.13%.

The funds retained shall be used by the City in the provision of assistance to low and moderate income families, pursuant to Section 403.22 of the Code of Iowa. The Developer may apply to the City for all or a portion of the funds set aside for assistance to low and moderate income families, provided the Developer can document to the satisfaction of the City that housing units which are located on the Property are occupied or reserved to be occupied by families which meet the required income limits of state law. The City reserves the right to allocate funds retained under this Section B.5 in any lawful manner of its choosing.

**6. Certification of Payment Obligation.** In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section



B.3 above, then the City Clerk will certify by December 1 of each such year to the Warren County Auditor (for purposes of Section 403.19 of the Code of Iowa) an amount equal to the most recently obligated Appropriated Amount for the funding of the Payment, plus the corresponding LMI Amount, due in the next succeeding fiscal year.

**C. Administrative Provisions:**

1. **Assignment.** This Agreement may not be amended or assigned by either party without the prior written consent of the other party. However, the City hereby gives its permission that the Developer's rights to receive the economic development tax increment payments hereunder may be assigned by the Developer to a private lender, as security on a credit facility taken in connection with the Housing Project and/or the Infrastructure Project, without further action on the part of the City.

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

3. **Term.** The term (the "Term") of this Agreement shall commence on the Commencement Date and end on the date on which the last Payment is made by the City to the Developer under Section B.2 above.

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

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

CITY OF CUMMING, IOWA

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

Attest:

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

DILIGENT GWC, LLC

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

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

Parcel M and Parcel N, of the Plat of Survey, recorded in Book 2016, Page 9567, City of Cumming, Warren County, Iowa, EXCEPT Great Western Crossing Plat 1, an Official Plat in the City of Cumming, Warren County, Iowa, AND EXCEPT a parcel of land in said Parcel M that is more particularly described as follows:

Commencing at the S  $\frac{1}{4}$  corner of Section 8, Township 77 North, Range 25 West of the 5<sup>th</sup> P.M., in the City of Cumming, Warren County, IA; thence N 89 degrees 20' 24" E, 346.50 feet to a point; thence, N 00 degrees 29' 25" W to the point of beginning on the north right of way line of Hwy. G-14; thence, N 00 degrees 39' 36" W, 188.57 feet to a point; thence, N 26 degrees 12' 48" E, 100.63 feet to a point; thence, N 11 degrees 54' 21" E, 118.49 feet to a point; thence, N 00 degrees 38' 06" W, 65.00 feet to a point; thence, N 89 degrees 27' 18" E, 506.25 feet to a non-tangent point; thence, Southerly along a curve to the left with a radius of 530.00 feet, a Length of 52.44 feet, at a chord bearing of S 10 degrees 07' 51" E to a point of tangency; thence, S 12 degrees 57' 55" E, 42.63 feet to a point; thence, S 10 degrees 06' 10" E, 100.12 feet to a point of curvature; thence, southerly on a curve to the right with a radius of 465.00 feet, a length of 101.24 feet, and a chord bearing of S 06 degrees 43' 40" E to a point of tangency; thence, S 00 degrees 29' 25" E, 82.21 feet to a point of curvature; thence Southwesterly along a curve to the right with a radius of 25.00 feet, a length of 39.27 feet, and a chord bearing of S 44 degrees 30' 35" W to a point of tangency; thence, S 89 degrees 30' 35" W, 597.42 feet along the north right of way line of Hwy. G-14 to the point of beginning, containing 5.266 acres more or less.

**EXHIBIT B**  
**SITE PLAN FOR HOUSING PROJECT**

**EXHIBIT C**  
**TIMELINE AND SPECIFICATIONS FOR INFRASTRUCTURE PROJECT**

**EXHIBIT D**  
**FORM OF COVER PAGE FOR INFRASTRUCTURE PROJECT COSTS  
DOCUMENTATION**

Date submitted: \_\_\_\_\_

Submitted by: \_\_\_\_\_

Contact information: \_\_\_\_\_

Index of Invoices/Statements Attached to substantive request:

\_\_\_\_\_  
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\_\_\_\_\_

I, the undersigned hereby certify that the costs shown on the documents referred in the index above are legitimate costs reasonably incurred in the undertaking of the Infrastructure Project.

DILIGENT GWC, LLC

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

Title: \_\_\_\_\_

Reviewed and accepted by the City of Cumming, Iowa this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

City Administrator

**EXHIBIT E**  
**DEVELOPER'S ESTIMATE WORKSHEET**

- (1) Date of Preparation: October \_\_\_\_\_, 20\_\_\_\_.
- (2) Assessed Taxable Valuation of Property as of January 1, 20\_\_\_\_:  
\$ \_\_\_\_\_.
- (3) Base Taxable Valuation of Property (determined as of January 1, 2020):  
\$ \_\_\_\_\_.
- (4) Incremental Taxable Valuation of Property (2 minus 3):  
\$ \_\_\_\_\_ (the "TIF Value").
- (5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):  
\$ \_\_\_\_\_ per thousand of value.
- (6) The TIF Value (4) factored by the Adjusted Levy Rate (5).  
\$ \_\_\_\_\_ x \$ \_\_\_\_\_ /1000=\$ \_\_\_\_\_ (the "TIF Estimate")
- (7) Subtract anticipated property tax credits from the TIF Estimate (6 minus 7) =  
\$ \_\_\_\_\_ (the "Available TIF Estimate")
- (8) Developer's Estimate = \$ \_\_\_\_\_ (Available TIF Estimate)  
x .6687 = \$ \_\_\_\_\_ (Projected Payments Amount)  
x .3313 = \$ \_\_\_\_\_ (Estimated LMI Amount)

**EXHIBIT F**  
**SUMMARY OF ACCEPTED INFRASTRUCTURE COSTS**

Date of Cost	Amount of Cost	Nature of Cost	Date Accepted by City

# **NOTICE OF PUBLIC HEARING**

## **CITY OF CUMMING**

### **AMENDING CHAPTER 122 PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS**

Notice is hereby given that the City Council of the City of Cumming, Iowa, will conduct a public hearing on Monday, September 14, 2020, 7:00 P.M., at City Hall, 649 N. 44<sup>th</sup> Street, Cumming, Iowa, to receive comments on the following:

Amending the City of Cumming's Code of Ordinances,  
Chapter 122 Peddlers, Solicitors, and Transient Merchants

Additional information regarding this request may be obtained by contacting the Deputy Clerk at 515-981-9214. Anyone wishing to comment on this matter should attend this hearing or submit written comments at any time prior to the hearing. Send comments to City of Cumming, PO Box 100, Cumming, IA, 50061



# RECOMMENDATION BY THE PLANNING & ZONING COMMISSION

Recommendation:  Aye {Yes} <sup>How Many</sup> 5  Nay {No} <sup>How Many</sup> 0

~~Adopt~~ Recommend City Council Adopt Revised  
Chapter 122: Peddlers, Solicitors and Transient Merchants  
New Section 122.10 regarding Mobile Food vendors and  
Revisions to 122.05 Registration fees and 122.06 Transient Merchant  
Bond.

## Further Review Requested:

By Mayor/City Council  By City Attorney  By City Planner

## Additional Information:

One change to ordinance presented to P&Z, 122.10(b)(m)  
changed from 1 allowable sign to 2 signs

## Requested Action To Be Taken By The City Council:

Motion  
 Resolution  
 Ordinance

Date:

7/28/2020

Signature:

Carlene K. W. [Signature]

Chair/Vice Chair/Secretary

City Attorney

## ORDINANCE 2020-07

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CUMMING, IOWA, BY AMENDING PROVISIONS PERTAINING TO CHAPTER 122 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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

**SECTION 1. SECTION MODIFIED,** Section 122.06 of the Code of Ordinances of the City of Cumming, Iowa is repealed and the following adopted in lieu thereof:

#### **122.06 TRANSIENT MERCHANT BOND.**

1. Except as provided in paragraph (3) below, no transient merchant license shall be issued until the applicant has delivered to the city clerk a cash bond for no less than \$200.00. The bond shall be held to indemnify and pay the city any penalties or costs incurred in the enforcement of any of the sections of this article and indemnify or reimburse any purchaser of goods, wares, merchandise or stock for any judgment which may be obtained by a purchaser for damages in any action commenced within three months from the date of purchase, due to misrepresentations as to the kind, quality or value of such goods, wares, merchandise or stock, whether the misrepresentations were made by the owner or by his or her servants, agents or employees, either at the time of making the sale or through any advertisement of any character, printed or circulated, with reference to such stock of goods, wares or merchandise or any part thereof.
2. A single bond may be used for all licenses obtained by the same transient merchant.
3. The balance of the bond shall be released by the city clerk and returned to the applicant upon request by the applicant at any time more than four months after expiration of all transient merchant licenses for which the cash bond was provided, unless the city clerk has received notice of a pending action in the state or federal courts seeking a judgment upon a claim eligible for payment from the bond. Except as otherwise provided by court order, the city clerk shall not release any bond during the pendency of any such action.

**SECTION 2. SECTION ADDED.** Section 122.10 of the Code of Ordinances of the City of Cumming, Iowa, is added to Chapter 122, Peddlers, Solicitors and Transient Merchants.

#### **122.10 MOBILE FOOD AND BEVERAGE VENDORS**

1. 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 located on public property within the corporate limits of the City of Cumming without first obtaining a mobile food unit license from the city, in addition to any other state, federal, or county permits, certifications and licenses. Mobile food units located on private property are allowed with a transient merchant permit.

- A. A mobile food unit license is an annual license that expires on April 15 each year and must be renewed at least 5 days prior to the first event after that date.
- B. Each mobile food unit shall be licensed separately. No license transfer is allowed.
- C. Although certain activities may be exempt from the licensing requirements of this chapter, any food service to the public in the City of Cumming shall comply with all other local, county and state requirements for health inspections, licensing, safety and fire code requirements.
- D. The following shall be exempt from this requirement:

(1) Catering businesses.

(2) Grilling and food preparation activities, including mobile food units, of brick and mortar establishments on the establishments' premises for immediate consumption by patrons or employees.

(3) Concession stands associated with sports or recreational venues that have been approved as part of a site plan.

2. License Fee: At the time of the submittal of a license application, the applicant shall pay to the city clerk's office the applicable license and permit fees in addition to any application fees.

A. The city council shall establish the amount of the license fee by resolution.

B. 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.

3. Fire Department Inspection:

A. All mobile food units that have cooking facilities with grease laden vapors (class III and class IV state licenses) shall be inspected by the Norwalk fire department prior to initiation of business operations within the city. However, at the discretion of the city clerk's office the city may accept the inspection of the mobile food unit by another Iowa Fire Department.

B. Inspections are required annually and prior to submittal of a license application to the city. It shall be the obligation of the mobile food vendor to schedule the inspection with the fire department.

C. Upon completion of the annual fire inspection, if the fire department determines that the mobile food unit passes the inspection, the Fire Chief or his/her designee shall sign the mobile food unit vendor license application and identify any conditions for operation as deemed appropriate as a result of said inspection.

4. Mobile Food Unit Vendor Annual Licensing Application:

A. License Required: All mobile food vendors operating on public property within the City of Cumming must obtain a mobile food vendor license from the city.

Exception: Community events sponsored by or approved by City Council. Application requests shall be filed with the city clerk's office on the form provided by the city. 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 and all of the required materials and information prescribed, accompanied by the appropriate fees.

B. Submission Time Frame: Applications must be submitted not less than five (5) business 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. The city clerk shall have the discretionary right to accept an application made less than five (5) business days prior to desired start date.

C. Additional Approvals: 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.

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

(1) Full name of the applicant.

(2) Applicant's contact information including mailing address, phone numbers and e-mail address.

(3) State health inspection certificate with the classification level of the state license identified.

(4) Description of the kitchen facilities, cooking facilities, preparation area, safety features (suppression system, etc.) of the mobile food unit.

- (5) Photographs of the mobile food unit.
- (6) Make, model and year of vehicle to be used.
- (7) County, state and license plate number.
- (8) The length and width of the vehicle.
- (9) Fire department signature on application confirming a passing fire department inspection.
- (10) Application and license fee(s)

E. 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.

F. 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. The license shall be placed in the upper left (passenger side) of the front windshield or the left front side of a trailer or cart to aid in the visual verification of the licensing for that year.

G. 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.

5. Mobile Food Units on Public Property: No mobile food unit may be operated on public property except as approved by the city clerk's office.

6. Unattended Mobile Food Unit: No mobile food unit shall be left unattended on any site overnight, unless that property is under the ownership of the operator of the unit and in compliance with all other city code requirements. No mobile food unit shall be allowed to be stored on a site that is not zoned appropriately for storage and warehousing and/or having received prior city council approval through an entitlement process. 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.

7. 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.

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

A. The mobile food vendor must obtain expressed written consent of the property owner to use the business 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.

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

C. Mobile food units 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 nine o'clock (9:00) P.M.

D. Mobile food units shall be limited to a maximum duration of 12 hours per day on any site, unless part of an approved event permit. A mobile food unit shall be at one location a maximum of five (5) consecutive days per week.

E. Only one mobile food unit shall be allowed on a property, unless part of an approved event or the property has received a multiple vendor permit. Mobile food units not under a multiple vendor permit and on adjacent properties must maintain a minimum separation between units of twenty (20) feet.

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

G. The mobile food unit must be located on a paved surface, unless approved by the city clerk's office.

H. No mobile food unit may be located on a vacant property or lot with a vacant building.

I. No mobile food unit may operate within two hundred feet (200') of a permanent restaurant or business that primarily engages in food services without the written permission of that business.

J. No alcoholic beverages may be sold as a part of a mobile food unit.

K. Except in zone C-2 any mobile food unit shall maintain a minimum fifteen-foot (15') separation from a building as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of the mobile food unit shall not impede pedestrian entering or exiting of a building. In zone C-2 the distance shall be seven (7) feet.

L. Mobile food vendors shall be placed no closer than 15' from a front property line.

M. 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. Only two off premise signs directing patrons to the mobile food unit is allowed.

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

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

P. 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 and fire department connections, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, etc.

Q. No mobile food unit shall be parked in or otherwise impact access to/from ADA parking stalls.

9. Other Licenses and Permits to Be Maintained: 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.

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

A. Grounds: The city clerk may suspend any license issued under this chapter, pending the outcome of an administrative hearing, for any of the following reasons:

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

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

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

(4) 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.

B. Notice: The city clerk shall have the licensee served with notice either in person or by regular mail to the licensee's address shown on the license application notifying them of the license suspension, the specific reason(s) for such action, and date and time of hearing with the city clerk to review the particulars of the suspension. The licensee shall be prohibited from any further activities covered by the license until such time that the hearing has been held and a determination of suspension and revocation resolved.

C. Hearing: A hearing shall be conducted by the city clerk not more than five (5) business days after he/she has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this chapter. Should the licensee or his/her authorized representative fail to appear without good cause, the city clerk may proceed with the hearing and make his/her findings.

D. Revocation: After the city clerk has reviewed the facts, he/she shall revoke a license if he/she finds by the preponderance of the evidence that a violation has occurred. The revocation shall be effective immediately.

E. Appeal: If the city clerk revokes or refuses to issue a license, the licensee or the applicant shall have a right to a hearing before the municipal code hearing officer as provided in Section 122.15 of this code. The municipal code hearing officer may reverse, modify, or affirm the decision of the city clerk.

F. Effect of Revocation: Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this chapter for a period of one year from the date of the revocation or denial. There shall be no refund of any fees for any revocation.

11. 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) and may also be punishable as municipal infractions subject to a civil penalty as set forth in 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.

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

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

Passed and Approved by the Council the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Tom Becker, Mayor

ATTEST:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk

First Reading: 9/14/20

Second Reading:

Third Reading:

I certify that the foregoing was published as Ordinance 2020-07 on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Angie Ritchie, Deputy Clerk

## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose  
122.02 Definitions  
122.03 Registration Required  
122.04 Registration Requirements  
122.05 Registration Fee

122.06 Transient Merchant Bond  
122.07 Time Restriction  
122.08 Exemptions  
122.09 Charitable and Nonprofit Organizations  
122.10 Mobile Food and Beverage Vendors

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

**122.02 DEFINITIONS.** For use in this chapter the following terms are defined:

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 REGISTRATION REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first registering with the City as herein provided is in violation of this chapter.

**122.04 REGISTRATION REQUIREMENTS.** The registration shall be in writing, filed with the Clerk, and shall set forth the following information:

1. The person's name, permanent and local address and business address if any, driver's license number and vehicle description.
2. The person's employer, if any, and the employer's address, the nature of the business and the length of time such business will be carried on in the City.
3. The names of all people who are to be working within the City and their vehicle descriptions and license numbers.

**122.05 REGISTRATION FEE.** A registration fee of \$25.00 per day, per person, shall be paid at the time of registration to cover the cost of investigating the facts stated therein.

**122.06 TRANSIENT MERCHANT BOND.**

1. Except as provided in paragraph (3) below, no transient merchant license shall be issued until the applicant has delivered to the city clerk a cash bond for no less than \$200.00. The bond shall be held to



indemnify and pay the city any penalties or costs incurred in the enforcement of any of the sections of this article and indemnify or reimburse any purchaser of goods, wares, merchandise or stock for any judgment which may be obtained by a purchaser for damages in any action commenced within three months from the date of purchase, due to misrepresentations as to the kind, quality or value of such goods, wares, merchandise or stock, whether the misrepresentations were made by the owner or by his or her servants, agents or employees, either at the time of making the sale or through any advertisement of any character, printed or circulated, with reference to such stock of goods, wares or merchandise or any part thereof.

2. A single bond may be used for all licenses obtained by the same transient merchant.

3. The balance of the bond shall be released by the city clerk and returned to the applicant upon request by the applicant at any time more than four months after expiration of all transient merchant licenses for which the cash bond was provided, unless the city clerk has received notice of a pending action in the state or federal courts seeking a judgment upon a claim eligible for payment from the bond. Except as otherwise provided by court order, the city clerk shall not release any bond during the pendency of any such action.

**122.07 TIME RESTRICTION.** Peddlers and solicitors shall conduct business in the City only during daylight hours.

**122.08 EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Norwalk Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

**122.09 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa*, or political candidates for State, local or Federal office desiring to solicit money or to distribute literature are exempt from the requirements of Sections 122.04 and 122.05. All such organizations or individuals are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, and the period during which such activities are to be carried on.

**122.10 MOBILE FOOD AND BEVERAGE VENDORS**

1. 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 located on public property within the

corporate limits of the City of Cumming without first obtaining a mobile food unit license from the city, in addition to any other state, federal, or county permits, certifications and licenses.

Mobile food units located on private property are allowed with a transient merchant permit.

A. A mobile food unit license is an annual license that expires on April 15 each year and must be renewed at least 5 days prior to the first event after that date.

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

C. Although certain activities may be exempt from the licensing requirements of this chapter, any food service to the public in the City of Cumming shall comply with all other local, county and state requirements for health inspections, licensing, safety and fire code requirements.

D. The following shall be exempt from this requirement:

(1) Catering businesses.

(2) Grilling and food preparation activities, including mobile food units, of brick and mortar establishments on the establishments' premises for immediate consumption by patrons or employees.

(3) Concession stands associated with sports or recreational venues that have been approved as part of a site plan.

2. License Fee: At the time of the submittal of a license application, the applicant shall pay to the city clerk's office the applicable license and permit fees in addition to any application fees.

A. The city council shall establish the amount of the license fee by resolution.

B. 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.

3. Fire Department Inspection:

A. All mobile food units that have cooking facilities with grease laden vapors (class III and class IV state licenses) shall be inspected by the Norwalk fire department prior to initiation of business operations within the city. However, at the discretion of the city clerk's office the city may accept the inspection of the mobile food unit by another Iowa Fire Department.

B. Inspections are required annually and prior to submittal of a license application to the city. It shall be the obligation of the mobile food vendor to schedule the inspection with the fire department.

C. Upon completion of the annual fire inspection, if the fire department determines that the mobile food unit passes the inspection, the Fire Chief or his/her designee shall sign the mobile food unit vendor license application and identify any conditions for operation as deemed appropriate as a result of said inspection.

4. Mobile Food Unit Vendor Annual Licensing Application:

A. License Required: All mobile food vendors operating on public property within the City of Cumming must obtain a mobile food vendor license from the city.

Exception: Community events sponsored by or approved by City Council. Application requests shall be filed with the city clerk's office on the form provided by the city. 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 and all of the required materials and information prescribed, accompanied by the appropriate fees.

B. Submission Time Frame: Applications must be submitted not less than five (5) business 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. The city clerk shall have the discretionary right to accept an application made less than five (5) business days prior to desired start date.

C. Additional Approvals: 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.

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

- (1) Full name of the applicant.
- (2) Applicant's contact information including mailing address, phone numbers and e-mail address.
- (3) State health inspection certificate with the classification level of the state license identified.
- (4) Description of the kitchen facilities, cooking facilities, preparation area, safety features (suppression system, etc.) of the mobile food unit.
- (5) Photographs of the mobile food unit.
- (6) Make, model and year of vehicle to be used.
- (7) County, state and license plate number.
- (8) The length and width of the vehicle.
- (9) Fire department signature on application confirming a passing fire department inspection.
- (10) Application and license fee(s)

E. 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.

F. 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. The license shall be placed

in the upper left (passenger side) of the front windshield or the left front side of a trailer or cart to aid in the visual verification of the licensing for that year.

G. 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.

5. Mobile Food Units On Public Property: No mobile food unit may be operated on public property except as approved by the city clerk's office.

6. Unattended Mobile Food Unit: No mobile food unit shall be left unattended on any site overnight, unless that property is under the ownership of the operator of the unit and in compliance with all other city code requirements. No mobile food unit shall be allowed to be stored on a site that is not zoned appropriately for storage and warehousing and/or having received prior city council approval through an entitlement process. 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.

7. 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.

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

A. The mobile food vendor must obtain expressed written consent of the property owner to use the business 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.

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

C. Mobile food units 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.

D. Mobile food units shall be limited to a maximum duration of 12 hours per day on any site, unless part of an approved event permit. A mobile food unit shall be at one location a maximum of five (5) consecutive days per week.

E. Only one mobile food unit shall be allowed on a property, unless part of an approved event or the property has received a multiple vendor permit. Mobile food units not under a multiple vendor permit and on adjacent properties must maintain a minimum separation between units of twenty (20) feet.

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

G. The mobile food unit must be located on a paved surface, unless approved by the city clerk's office.

H. No mobile food unit may be located on a vacant property or lot with a vacant building.

I. No mobile food unit may operate within two hundred feet (200') of a permanent restaurant or business that primarily engages in food services without the written permission of that business.

J. No alcoholic beverages may be sold as a part of a mobile food unit.

K. Except in zone C-2 any mobile food unit shall maintain a minimum fifteen foot (15') separation from a building as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of the mobile food unit shall not impede pedestrian entering or exiting of a building. In zone C-2 the distance shall be seven (7) feet.

L. Mobile food vendors shall be placed no closer than 15' from a front property line.

M. 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. Only two off premise signs directing patrons to the mobile food unit is allowed.

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

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

P. 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 and fire department connections, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, etc.

Q. No mobile food unit shall be parked in or otherwise impact access to/from ADA parking stalls.

9. Other Licenses And Permits To Be Maintained: 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.

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

A. Grounds: The city clerk may suspend any license issued under this chapter, pending the outcome of an administrative hearing, for any of the following reasons:

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

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

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

(4) 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.

B. Notice: The city clerk shall have the licensee served with notice either in person or by regular mail to the licensee's address shown on the license application notifying them of the license suspension, the specific reason(s) for such action, and date and time of hearing with the city clerk to review the particulars of the suspension. The licensee shall be prohibited from any further activities covered by the license until such time that the hearing has been held and a determination of suspension and revocation resolved.

C. Hearing: A hearing shall be conducted by the city clerk not more than five (5) business days after he/she has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this chapter. Should the licensee or his/her authorized representative fail to appear without good cause, the city clerk may proceed with the hearing and make his/her findings.

D. Revocation: After the city clerk has reviewed the facts, he/she shall revoke a license if he/she finds by the preponderance of the evidence that a violation has occurred. The revocation shall be effective immediately.

E. Appeal: If the city clerk revokes or refuses to issue a license, the licensee or the applicant shall have a right to a hearing before the municipal code hearing officer as provided in Section 122.15 of this code. The municipal code hearing officer may reverse, modify, or affirm the decision of the city clerk.

F. Effect of Revocation: Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this chapter for a period of one year from the date of the revocation or denial. There shall be no refund of any fees for any revocation.

11. 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) and may also be punishable as municipal infractions subject to a civil penalty as set forth in 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.

**Resolution 2020-65**  
City of Cumming

Approval an Authorization of a 28E Intergovernmental Agreement between the City of Cumming  
and the City of Norwalk Regarding Fire Protection and Emergency Medical Services

**WHEREAS**, the City of Cumming is in need of Fire Protection and Emergency Medical Services (EMS) for its residents, and is empowered and required by State Law to provide for such services, and

**WHEREAS**, the City of Norwalk has an established Fire/EMS department and has agreed to provide such services consistent with the level required by the Iowa Code to the City of Cumming, and

**WHEREAS**, The City of Cumming shall pay the City of Norwalk for consideration of providing such services an amount equal to eighty-four and one-half cents \$0.845 (October 1, 2020-June 30, 2021) one dollar eight and one quarter cents \$1.0825 (July 1, 2021-June 30, 2022) one dollar and thirty-two cents \$1.32 (July 1, 2022-June 30, 2023) for fire protection and emergency medical services, per thousand dollars of net assessed value of taxable property for the given fiscal tax years, and

**WHEREAS**, The full text of the agreement is found in a document entitled "*Fire and Emergency Medical Services Contract Agreement Pursuant to Iowa Code Section 28E Between the City of Cumming, Iowa and City of Norwalk, Iowa*", and the City of Cumming entered into the 28<sup>th</sup> day of September, 2020, and

**WHEREAS**, Chapter 28E of the Code of Iowa provides for governmental bodies to enter into agreements for joint cooperation in the matters of mutual benefits, and

**WHEREAS**, the City Council, City of Cumming, Iowa, does believe it is in the best interest of the City of Cumming, Iowa, to extend said contract for Fire/Emergency Medical Services until June 30, 2023, and

**THEREFORE, BE IT RESOLVED**, by the City Council that the Mayor and City Clerk are hereby authorized, and directed to execute and attest, respectively, said 28E Intergovernmental Agreement for Fire Protection and Emergency Medical Services, for and on behalf of the City of Cumming, Iowa.

Passed and approved this 28<sup>th</sup> day of September, 2020.

\_\_\_\_\_  
Tom Becker, Mayor

Attest:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk

This Fire and Emergency Medical Services contract agreement (hereinafter "Agreement") is made and entered into as of this 28<sup>th</sup> day of September, 2020, by and between the City of Cumming, an Iowa municipal corporation; and the City of Norwalk, an Iowa municipal corporation.

WHEREAS, the cities of Cumming and Norwalk have previously entered into Fire/Emergency Medical Services contracts, most recently dated December 9, 2019; and

WHEREAS, the cities of Cumming and Norwalk desire to reaffirm and extend the terms and conditions of the Fire/Emergency Medical Services contract for a new 3 year term pursuant to Iowa Code 28E.31.

NOW, THEREFORE, the parties to this Agreement hereby convent and agree as follows:

## **ARTICLE 1. GENERAL**

**Section 1. Purpose.** In recognition of the need to protect life and property from the devastating effects of fire and/or medical emergency, the purpose of this Agreement is for the City of Norwalk to provide for fire protection and emergency medical services for all property within the City of Cumming, except as may be provided herein.

**Section 2. Term.** The term of this Agreement shall commence October 1, 2020. This agreement shall thereafter remain in full force and effect for a term of three years, but may be amended or terminated prior to the expiration of the three year term resolution by the City Council of Cumming or the City Council of Norwalk, or as may otherwise be provided in this Agreement.

**Section 3. No Separate Legal Entity or Property Disposition.** No separate legal entity is created by this Agreement and no personal property shall be acquired by the City of Cumming or the City of Norwalk. The City of Norwalk will own, maintain, house and staff the fire protection and other emergency equipment used under this Agreement.

## **ARTICLE 2. FIRE ENFORCEMENT AND EMERGENCY MEDICAL SERVICES AGREEMENT**

**Section 1. Fire Enforcement and Emergency Medical Services.** The City of Norwalk agrees to provide fire suppression protection and emergency medical response services for all property within the City of Cumming consistent with the level of service required by the Iowa Code unless the required service is unavailable or otherwise engaged at the time.

**Section 2. Mutual Aid.** In the event the required service is unavailable or otherwise engaged at the time, Norwalk shall follow its normal procedures to invoke its mutual aid agreements with other departments.



**Section 3. Compensation.** The City of Cumming agrees to pay the amounts below for fire and rescue services, per thousand dollars of net assessed value of taxable property within the City of Cumming as determined by Warren County levy authority. This amount shall be payable bi-annually on a fiscal year basis. In addition to the compensation herein, the City of Norwalk reserves the right to charge the individual user of the services provided pursuant to fee schedules outlined in the Norwalk Code.

October 1, 2020 – June 30, 2021: \$0.845/\$1,000 of net assessed value of taxable property

July 1, 2021 – June 30, 2022: \$1.0825/\$1000 of net assessed value of taxable property

July 1, 2022 – June 30, 2023: \$1.32/\$1000 of net assessed value of taxable property

### **ARTICLE 3. REVIEW**

**Section 1. Review Authority.** Fire protection personnel shall work under the supervision of the Norwalk Fire Chief and equipment furnished by the City of Norwalk. Disaster assistance shall be provided in accordance with the City of Cumming Emergency Operations Plan. The Norwalk Fire Chief shall provide to the City of Cumming timely reports or attendance at council meetings as needed or requested. A Fire Advisory Board shall be created for strictly advisory and communication purposes and shall not be responsible for the administration or operations of the Fire Department.

### **FILING AND RECORDING**

This Agreement and the Resolution approving this Agreement from the cities of Cumming and Norwalk shall be filed within ten days of later date of approval by the approving entities. Pursuant to Iowa Code 28E.8, this Agreement shall also be filed with the Iowa Secretary of State and recorded in the Office of the Warren County Recorder.

IN WITNESS WHEREOF, the City of Cumming and the City of Norwalk have caused this Agreement to be executed by their respective Council and Board.

City of Cumming, Iowa

\_\_\_\_\_

By: Robert Fagen  
It's: City Administrator

\_\_\_\_\_

By: Angie Ritchie  
It's: Deputy Clerk

STATE OF IOWA    )  
                          ) SS:  
WARREN COUNTY    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public and for the State of Iowa, personally appeared Robert Fagen and Angie Ritchie, to me personally known, who, being by me duly sworn, did say that they are the City Administrator and Deputy Clerk respectively, of the City of Cumming, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution adopted by the City Council under Roll Call No. 2020-XX on the 28<sup>th</sup> day of September, 2020 and Robert Fagen and Angie Ritchie acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the City of Cumming, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for said State

City of Norwalk, Iowa

\_\_\_\_\_  
By: Tom Phillips  
It's: Mayor

\_\_\_\_\_  
By: Lindsey Offenburger  
It's: City Clerk

STATE OF IOWA     )  
                                  ) SS:  
WARREN COUNTY    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public and for the State of Iowa, personally appeared Tom Phillips and Lindsey Offenburger, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the City of Norwalk, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution adopted by the City Council under Roll Call No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2020 and Tom Phillips and Lindsey Offenburger acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the City of Norwalk, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for said State

**RESOLUTION 2020-66**

**RESOLUTION DIRECTING THE CLERK TO PUBLISH NOTICE OF HEARING ON THE ADOPTION OF THE PROPOSED "CODE OF ORDINANCES OF THE CITY OF CUMMING, IOWA"**

**WHEREAS**, the City Council has caused to be prepared and filed with the City Clerk copies of the proposed "CODE OF ORDINANCES OF THE CITY OF CUMMING, IOWA," and,

**WHEREAS**, an official copy of the proposed "CODE OF ORDINANCES OF THE CITY OF CUMMING, IOWA," is now on file for public inspection in the office of the City Clerk of Cumming, Iowa,

**NOW THEREFORE BE IT RESOLVED** that a public hearing will be held at City Hall on the 12<sup>th</sup> day of October, 2020, at 7 o'clock p.m., at which time and place the Council will consider arguments for or against the adoption of the proposed "CODE OF ORDINANCES OF THE CITY OF CUMMING, IOWA," or amendments thereto.

**BE IT FURTHER RESOLVED** that the Clerk be authorized and directed to cause to be published notice of such hearing one time not less than seven days nor more than twenty (20) days prior to the date herein established for hearing as by law provided.

Passed and approved this 28<sup>th</sup> day of September, 2020.

\_\_\_\_\_  
Tom Becker, Mayor

Attest:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk

RESOLUTION NO. 2020-67

Resolution Awarding General Obligation Sewer Improvement Notes

WHEREAS, the City of Cumming (the "City"), in Warren County, State of Iowa, heretofore proposed to enter into a loan agreement (the "Loan Agreement"), pursuant to the provisions of Section 384.24A of the Code of Iowa, and to borrow money thereunder in a principal amount not to exceed \$650,000 for the purpose of paying the costs, to that extent, of constructing sanitary sewer extensions and improvements (the "Project"), and pursuant to law and duly published noticed published notice of the proposed action has held a hearing thereon on July 13, 2020; and

WHEREAS, the City Council has made provision and has authorized a term sheet (the "Term Sheet") for use by Piper Sandler & Co. (the "Placement Agent") in negotiating the Loan Agreement and providing for the private placement of \$450,000 General Obligation Sewer Improvement Notes; and

WHEREAS, upon due consideration and advice from the Placement Agent, the proposal of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (the "Lender"), is the best, such bid proposing the lowest interest cost to the City for the Notes;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Cumming, Iowa, as follows:

Section 1. The City Council hereby determines to enter into a Loan Agreement in the future with the Lender and orders that the Notes be issued at such time, in evidence thereof. The City Council further declares that this resolution constitutes the "additional action" required by Section 384.24A of the Code of Iowa.

Section 2. The proposal of the Lender referred to in the preamble is hereby accepted, and the private placement of the Loan agreement and the Notes are hereby awarded to the Lender on the terms reported by the Placement Agent.

Section 3. Further action with respect to the issuance of the Notes and final approval of the Loan Agreement is hereby adjourned to the City Council meeting to be held on October 12, 2020.

Section 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved September 28, 2020.

\_\_\_\_\_  
Tom Becker, Mayor

Attest:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk

•••••

At the conclusion of the meeting, and upon motion and vote, the City Council adjourned.

\_\_\_\_\_  
Tom Becker, Mayor

Attest:

\_\_\_\_\_  
Robert Fagen, City Administrator/Clerk