

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 1 - REGULATION OF BUSINESS AND VOCATIONS****ARTICLE 1****\*PEDDLERS, SOLICITORS AND TEMPORARY MERCHANTS**

**710.101 PURPOSE.** The purpose of this article 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 temporary merchants.

(Easterly vs. Inc. Town of Irwin, 99 Iowa 694, 68 N.W. 919 [1896])

**710.102 DEFINITIONS.** For use in this article, the following terms are defined:

(Town of Scranton vs. Henson, 151 Iowa 221, 130 N.W. 1079 [1911];

Davenport vs. Rice, 75 Iowa 74, 39 N.W. 191 [1888]; 68 Iowa 678 [1886])

1. "Peddler": shall mean 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": shall mean any person who solicits or attempts to solicit from house-to-house or upon the public street an order for goods, subscriptions, or merchandise to be delivered at a future date.

"Temporary Merchant": shall mean any merchant engaging in selling or offering for sale food, beverages, goods, wares or other merchandise from a stand, tent, truck, cart, trailer, mobile home or office, recreational vehicle, wagon, vehicle or other temporary structure on private property not considered a building constructed on a foundation.

**710.103 LICENSE REQUIRED.** Any person engaging in peddling or soliciting, or as a temporary merchant in this city without first obtaining a license as herein provided shall be in violation of this article.

1. Each peddler, solicitor or temporary merchant shall also obtain necessary licenses or permits as may be required by the City, County, State or Federal governing bodies.

2. Every person engaging in peddling, soliciting or as a temporary merchant shall at all times comply with all applicable City, County, State or Federal laws, rules and regulations.

(Easterly vs. Inc. Town of Irwin, 99 Iowa 694, 68 N.W. 919 [1896])

#### **710.104 LICENSE EXEMPTIONS.**

1. Club Members. Members of a local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America, and similar organizations.
2. Farmers & Gardners. Farmers and gardeners who offer for sale products personally raised or produced.
3. Students. Students representing the local school districts conducting projects sponsored by organizations recognized by the school.
4. Resale or Institutional Use. Persons customarily calling on business or institutions for the purposes of selling products for resale or institutional use.
5. Requested Call. Persons who are requested to come to the residence or business by the property owner or occupant.
6. Charitable Organizations. Authorized representatives of religious and charitable organizations recognized as such under the United States Internal Revenue Code desiring to solicit money or to distribute literature.
7. Store Fronts. Any local business which has a store front in the City of Estherville.
8. Community Events. Persons participating in a community event with the required registration.

**710.105 APPLICATION FOR LICENSE.** An application in writing shall be filed with the city clerk for a license under this article.

1. Such application shall set forth the following information and materials:
  - A. The applicant's full name, permanent address and phone number along with at least one form of official photo identification.

- B. The applicant's employer, if any, and the employer's address and the nature of the applicant's business.
- C. A detailed description of the items to be offered for sale.
- D. If operating a motor vehicle as part of a license issued under this article, proof of a current operator's license.
- E. Proof of valid food service license if selling, handling or preparing food or beverages for human consumption.
- F. Iowa Sales Tax Permit if required for such activity.
- G. Proof of insurance.
- H. Plans for disposal of liquid and solid refuse, waste, garbage, trash and other material used in connection with the license.
- I. If operating from a vehicle, the make, model, year, state of registration and license number of the vehicle.
- J. Date of permit requested.

2. In addition to those requirements listed in 710.105(1), temporary merchants must locate on private property in locations zoned commercial, light industrial or heavy industrial only. No temporary merchant may operate on public property except as part of a community event with the required registration or with City Council approval. In addition to the application information required in 710.105(1), temporary merchants shall set forth the following additional materials:

- A. The address of proposed location of temporary merchant.
- B. Written permission for use of the property from the owner.
- C. A detailed diagram and/or photograph of any signage to be used. Signage shall comply with Article 17, Volume 2 of the Estherville Code of Ordinances.

**710.106 LICENSE FEE.** The following license fee shall be paid to the City of Estherville, Iowa, prior to the issuance of any licenses.

(Memphis Steam Laundry Cleaner vs. Stone, 342 U.S. 389 [1952])

1. Peddlers, Solicitors and Temporary Merchants License Fee

- A. For up to three (3) months sales within the City of Estherville, Iowa: \$100.00 for initial sales person or temporary merchant unit.
- B. For each month in excess of three (3) months: \$25.00 per month.
- C. For assistant peddler and solicitors sales persons accompanying the applicant: \$50.00 for each additional sales person for the initial three (3) month license period.

**710.107 LICENSE ISSUED.** The City Clerk, upon review of the license application with the Police Department and any other appropriate department or agency, shall determine whether a license will be issued. A waiting period of not less than three (3) business days from the date on which the application is filed with the City Clerk shall be in effect to provide sufficient time for the City Clerk's fact gathering process to be completed. A license may be issued if the City Clerk finds:

- 1. That the information in the application is correct and accurate.
- 2. That neither the person submitting the application nor any person who may engage in any activity to be covered by the license has been convicted of a felony, and offenses involving sexual abuse or a crime requiring sex offender registration, or a misdemeanor involving theft, fraud, force, violence, deceit, soliciting or peddling.
- 3. That neither the person submitting the application nor any person who may engage in any activity to be covered by the license has had a solicitor's license, peddler's license, a transient merchant's license or a temporary merchant's license, suspended, revoked or denied by this or any other City in the last year.
- 4. The following factors shall also be taken into consideration in determining whether or not any license under this Article shall be issued:
  - A. Availability of parking, pedestrian, and vehicle access, utilities access, handicapped access and emergency vehicle access.
  - B. Likelihood of excessive noise or other adverse impacts on surrounding areas.

**710.108 DISPLAY OF LICENSE.** Each solicitor, peddler or temporary merchant shall at all times while doing business in this city keep in their possession the license provided for in Section 710.107 of this article, and shall, upon request of prospective customers, exhibit the license as evidence of compliance with all requirements of this article.

**710.109 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this article are not transferable in any situation and are to be applicable only to the person filing the application.

**710.110 TIME RESTRICTIONS.** All peddler's and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of nine (9) a.m. and five (5) p.m.

(City of Buffalo vs. Tinsman, 98 N.Y. Supp. 737 [1906])

**710.111 SUSPENSION AND REVOCATION OF LICENSE.** The Estherville Police Department has the authority to immediately suspend any license issued under this article for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of his business.
2. Violation of Law. The licensee has violated this article or has otherwise conducted his business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted his business in such manner as to harass or endanger the public welfare, safety, order, or morals.

After notice and hearing, the City Clerk may revoke any license issued under this article.

**710.112 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this article for a period of one year from the date of revocation.

RESERVED FOR FUTURE USE.

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**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 1 - REGULATION OF BUSINESS AND VOCATIONS****ARTICLE 2  
HOUSE MOVERS**

**710.201 PURPOSE.** The purpose of this article is to protect and preserve the public safety and well-being by licensing and regulating house and building movers.

**710.202 HOUSE MOVER DEFINED.** A “house-mover” shall mean any person who undertakes to move a building or similar structure with gross floor area over three hundred (300) square feet upon, over, or across the public streets, alleys, walks, or property using skids, jacks, dollies, or any method other than upon a properly licensed motor vehicle.

**710.203 DISTRICTS DEFINED.** The terms “Residential District” and “Multiple Family District” shall mean the residential district and multiple family district as the same are set forth in and upon the official zone plan map on file in the office of the community development director and by this reference said official zone plan map is made a part of this chapter.

**710.204 PERMIT REQUIRED.** It shall be unlawful to move any building or structure located within the City of Estherville of a gross floor area over three hundred (300) square feet without first filing an application to move building with the city AND obtaining written approval of said application from the city administrator or his designated representative and the chief of police. No permit shall be issued for, and no building or structure of any kind shall be moved into any district defined in Section 710.203, or from one place in such districts to another when such moving will result in or create an added burden or disadvantage to any resident in the district or detract from the appearance of the district.



**710.205 APPLICATION.** Application for a house mover's permit shall be made in writing to the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the police chief, administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.
4. Proposed Site. A plot plan showing the location of the building on the proposed site.
5. Picture. A picture of the building to be moved.

**710.206 BOND REQUIRED.** The applicant shall post with the clerk a penal bond in an amount, determined by the city administrator or his designated representative, to guarantee the permittee's payment for any damage done to the city or to public property, and all costs incurred by the city in the course of moving the building or structure. A certified check may be substituted in lieu of a bond.

**710.207 INSURANCE REQUIRED.** Each applicant shall also have filed a certificate of insurance indicating that he is carrying public liability insurance in effect for the duration of the permit covering himself and his agents and employees for the following minimum amounts:

1. Bodily Injury: \$1,000,000 per person; \$1,000,000 per accident.
2. Property Damage: \$500,000 per accident.

**710.208 PERMIT FEE.** A permit fee of twenty-five dollars (\$25) shall be payable at the time of filing the application with the city. A separate permit shall be required for each house, building, or similar structure to be moved.

**710.209 PERMIT ISSUED.** The city administrator or his designated representative shall issue all permits described in this article for moving buildings or other structures. In those instances where a building or structure of any kind is being moved into any district defined in Section 710.203 or from one place in such district to another, the city administrator or his designated representative shall give seven (7) days notice by one publication in a newspaper printed and published in Estherville, Iowa, reciting the time and place of hearing on the application for such permit. The city administrator or his designated representative may grant or deny the permit requested after holding the public hearing. If no written objections are filed on or before the date set for hearing, the permit may be issued without a hearing.

**710.210 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the permittee shall maintain flagmen at the closest intersection or other possible channels of traffic to the sides, behind, and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk, or public property, the permittee shall maintain adequate warning signs or flares at the intersections or channels of traffic to the sides, behind, and ahead of the building or structure.

**710.211 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the approval of the city.

**710.212 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 710.210 of this article, the city is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on his bond.

**710.213 PROTECT PAVEMENT.** It shall be unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved shall be at least one inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the engineer or mayor as to such weight shall be final.

**710.214 ELECTRIC WIRES.** The holder of any permit to move a building shall see that all telephone, telegraph, and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same. The holder of the permit for moving a building shall give twenty-four (24) hours notice to the owner of any telephone, telegraph, or electric wires to remove such wires and the owner of such wires may either remove or direct the removal and replacing of such wires, and the holder of the permit shall pay the reasonable costs thereof.

**710.215 ROUTE TO BE APPROVED.** The permit holder shall submit for approval the proposed route upon which the structure is to be moved within the city to the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of this code.

**710.216 TRAFFIC CONTROL.** Arrangements shall be made with and approved by the police chief for proper traffic control measures and it shall be the responsibility of the permit holder to pay all cost of traffic control, removing and protecting electrical wires, and all other costs attributable to said structure being moved.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING**

**CHAPTER 1 - REGULATION OF BUSINESS AND VOCATIONS**

**ARTICLE 3  
RESERVED FOR FUTURE USE**

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 1 - REGULATION OF BUSINESS AND VOCATIONS****ARTICLE 4  
CABLE TELEVISION CODE**

**710.401 PURPOSE AND SCOPE.** The purpose of this code is to regulate cable television systems within the City of Estherville which operate pursuant to city franchise and to so regulate consistent with Federal Communications Commission rules and regulations and other applicable statutes, ordinances, or regulations.

**710.402 TERMS AND DEFINITIONS.** For the purpose of this code the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. The word "shall" is mandatory and not merely directory. The term "may" is directory and discretionary and not mandatory.

1. "Cable Television System": The term cable television system shall mean any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. "City": The term City shall mean the City of Estherville, a municipal corporation in the State of Iowa. When the context so requires, the term City shall mean and include the city, its officers, agents, employees, servants, and independent contractors.
3. "City Council": is the City Council of Estherville, Iowa.

4. "Converter": means an electronic device which converts signals to a frequency acceptable to a television receiver of a subscriber and by an appropriate selector permits a subscriber to view all cable television service which the subscriber is lawfully authorized to receive.
5. "Drop": means the cable that connects the ground block on the subscriber's residence to the nearest feeder cable of the system.
6. "FCC": means the Federal Communications Commission and any legally appointed, designated, or elected agent or successor.
7. "Franchise": The term franchise shall mean the rights, privileges, and authority granted by the City to the Grantee hereunder and shall include all of the terms and conditions of this article.
8. "Grantee": The term Grantee shall mean the cable television company awarded the right to provide cable television service to the citizens of Estherville, consistent with state and federal law. When the context so requires, the term Grantee shall mean and include the Grantee, its officers, agents, employees, servants, and independent contractors thereof.
9. "Gross Revenues": means all revenue received from cable television service directly by the Grantee from the operation of its system within Estherville. The term gross revenues shall not include franchise fees, any fees itemized and passed through as a result of franchise imposed requirements, or any taxes or fees on services furnished by Grantee imposed directly on any subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.
10. "Installation": means the connection of the system from feeder cable to the point of connection, including standard installations and custom installations.

11. "Lockout Device": means an optional mechanical or electrical accessory to a subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the cable television system.
12. "Pay Television": means the delivery over the system of pay-per-channel or pay-per-program audio-visual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.
13. "Person": is any person, firm, partnership, association, corporation, company, or other legal entity.
14. "Standard Installation": means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.
15. "Street": means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by the City.
16. "Subscriber": shall mean any person or entity lawfully receiving for any purpose the cable television service of a Grantee.

**710.403 FRANCHISE REQUIRED.** It shall be unlawful for any person to construct, operate, or maintain a cable television system in Estherville unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise ordinance. It shall also be unlawful for any person to provide cable television service in the City unless such person shall have first obtained and shall currently hold a valid franchise ordinance. All cable television franchises granted by Estherville shall contain the same substantive terms and conditions.



**710.404 GRANT OF AUTHORITY.** A Grantee subject to the provisions herein, shall have the nonexclusive right and privilege to construct, erect, operate, and maintain in and under the streets, alleys, public way, easements, highways, sidewalks, bridges, rights-of-way, and land and all extensions thereof, and additions thereto in the City; together with such wires, cables, underground conduits, manholes, and other television conductors, appurtenances, apparatus, and fixtures necessary to the maintenance and operation in the City of a cable television system for the interception, sale and distribution of television and radio signals, subject to the applicable ordinances in the city code.

The right to use and occupy said streets, alleys, public ways, and places for the purposes herein set forth shall not be exclusive and shall not restrict in any manner the City Council, or any other governing body of the City, in the exercise of any regulatory power which it now has or which may hereafter be authorized by the laws of the State of Iowa. The City reserves the right to grant a similar use of said streets, alleys, public ways, and places to any person at any time during the period of the franchise.

**710.405 TERRITORIAL AREA INVOLVED.** Any franchise granted pursuant to this article shall include the entire city limits of the City of Estherville, Iowa, as well as any area henceforth added thereto. Grantee will build into additional areas annexed by the City, as economic feasibility dictates provided there is a minimum of thirty (30) homes per cable mile.

**710.406 LIABILITY AND INDEMNIFICATION.**

1. The Grantee of a franchise under this article shall pay and by its acceptance of the franchise the Grantee specifically agrees that it will pay all damages and penalties which the City may legally be required to pay as a result of the granting of this franchise, which is engendered by the active negligence or other active involvement on behalf of Grantee.

These damages or penalties shall include, but shall not be limited to, damages arising out of copyright infringements and all other damages arising out of the installation, operation, or maintenance of the cable television system authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this franchise.

2. The Grantee shall defend the City with regard to all damages and penalties mentioned in subsection (1) above. Expenses shall include all out-of-pocket expenses, such as attorney fees, court costs, and the like, but Grantee shall have the sole responsibility and authority to elect the attorney who shall handle the disposition of any litigation or dispute or whose fees it becomes responsible under this paragraph.

In order to assert its right to be defended and indemnified, the City shall:

- (1) Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;
- (2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
- (3) Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph two (2) above.

3. The Grantee shall maintain, and by its acceptance of a franchise specifically agrees that it will maintain throughout the terms of the franchise liability insurance insuring the City and the Grantee with regard to all damages mentioned in subparagraph (1) above in the minimum amounts of:

- A. \$500,000 for bodily injury or death to any one person, within the limit, however, of \$1,000,000 for bodily injury or death resulting from any one accident.
- B. \$100,000 for property damage resulting from one accident.
- C. Workmen's Compensation coverage covering all of Grantee's employees.

4. The Grantee shall maintain, and by its acceptance of a franchise specifically agrees that it will maintain throughout the term of the franchise a faithful performance bond running to the City, with an acceptable surety approved by the City, in the penal sum of ten thousand dollars (\$10,000), conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of the franchise and in case of any breach of condition of the bond, the amount thereof shall be recoverable from the principal and sureties thereof by the City for all damages proximately resulting from the failure of the Grantee to well and faithfully observe and perform any provision of the franchise.
5. Each insurance policy and bond obtained by the Grantee in compliance with this section must be acceptable by the City and a certificate of such insurance coverage shall be provided to the City, together with the payment of required premiums upon request of the City during the term of this franchise.

**710.407 SIGNAL QUALITY REQUIREMENTS.**

1. The Grantee shall produce a picture, whether in black and white or in color, that is undistorted, free from ghost images, and accompanied with proper sound on typical standard production TV sets in good repair, and as good as the state of art allows. Such picture shall be reproduced in at least the same quality as received.
2. Transmit signals of adequate strength to produce good pictures with good sound at all outlets without causing cross-modulation in the cables or interfering with other electrical or electronic systems.
3. Limit failures attributable to Grantee's equipment outages to a minimum by locating and correcting malfunctions promptly, but in no event longer than 72 hours after notice with normal outages to be corrected as soon as feasible as dictated by the availability of necessary replacement equipment where required.

4. EMERGENCY STANDBY POWER. A Grantee shall provide standby power to the Estherville cable television system.
5. Demonstrate by instruments and otherwise to subscribers that a signal of adequate strength and quality is being delivered.
6. Shall be operating in conformance with FCC's technical standards, Title 47, Section 76.601 to 76.617, and shall carry on the system on allowable broadcast signals pursuant to the FCC's signal carriage rules.

**710.408 CARRIAGE OF SIGNALS.** A Grantee shall provide as part of its cable television service the signals of all television broadcast stations serving Estherville area and a number of additional television signals consistent with the rules and regulations of the FCC and all other applicable laws, rules, or regulations. Grantee may provide such automated video services and such audio services as it wishes and as are consistent with the terms of this chapter.

**710.409 PERMISSION - PRIVACY.**

1. Grantee shall not televise, tape, or in any way reproduce or show to the general public any school, civic, or private activities, either as a public service, or as a commercial activity, without the prior written approval of the entity involved.
2. SUBSCRIBER PRIVACY. No signals may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a pertinent statement that the subscriber is granting the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one year which shall be renewed at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber

without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV cable television activity planned for the purpose.

A. No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of names and addresses of such subscribers or any list that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to the company and its employees for internal business use, and also to the subscriber subject of that information, unless the company has received specific written authorization from the subscriber to make such data available.

B. Written permission from the subscriber shall not be required for the systems conducting system wide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing.

**710.410 NUMBER OF CHANNELS.** A Grantee's cable television system shall carry at least thirty-eight (38) television channels. Grantee shall use its best efforts to carry a broadcast signal originating in Des Moines, **(KCCI, WOI, or WHO)** subject to channel availability, "must carry," and "retransmission consent" regulations. City and Grantee shall use their best efforts to communicate with subscribers regarding the fact that signal quality is beyond the control of the cable operator.

**710.411 TWO-WAY COMMUNICATIONS.** A Grantee hereunder shall make available one (1) channel with technical capabilities that the same can be used for two-way communication, and such system shall be available for use, to the City for such adapted uses as computerized reading of usage meters, load management, or other appropriate purposes as may arise from time to time. The City or its utility department(s) shall be responsible for the installation at its own expense the necessary home terminal equipment needed for the services the City or its utility wishes to provide.

**710.412 POWER LOCATION.** The physical facilities required to generate the signal and reception required hereunder shall comply with all state and local zoning ordinances.

**710.413 NEW DEVELOPMENTS.** It shall be the policy of the City to liberally amend a franchise, upon application of a Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently, or economically to serve its customers, provided, however, that this section shall not be construed to require the City to make any such amendment.

**710.414 CONDITIONS OF STREET OCCUPANCY.**

1. All transmissions and distribution structures, lines, and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places. City approval shall be received prior to the location and placement of all facilities within any street or easement.
2. In case of disturbance of any street, sidewalk, alley, public way or paved area, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore such street, sidewalk, alley, public way, or paved area in as good a condition as before the work involving such disturbance was done, except that at the option of the City, such pavement restoration may be done by the City or under the supervision of the City at the expense of the Grantee.
3. If at any time during the period of a franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, a Grantee, upon

reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures as its own expense.

4. In case of fire, earthquake, flood, or other similar occurrence, the City may temporarily remove any of the Grantee's facilities or equipment, with advance notice to the Grantee being given as promptly as possible. The Grantee shall not be entitled to payment for any damage caused by this removal, unless the City acted with negligence or willful misconduct.

5. Any poles or other fixture placed in any public way by a Grantee shall be placed in such manner as not to interfere with the usual travel on such public way. The Grantee may erect its own poles only after receiving specific authorization to do so from the city administrator.

6. A Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than 10 days advance notice to arrange for such temporary wire changes.

7. A Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the City, such trimming may be done by the City or under its supervision and direction at the expense of the Grantee.

8. In all sections of the City where the cables, wires, or other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires, or other like facilities underground, but in all events service to residences shall be underground where any existing electrical and telephone service are underground.
9. Any property of a Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of a Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.
10. At the expiration of the term for which the franchise is granted, or upon its termination and cancellation, as provided for herein, the City shall have the right to require the Grantee to remove at its own expense all portions of the cable television system from all streets within the City.

**710.415 MAPS, PLATS, AND REPORTS.**

1. Any Grantee of authority hereunder shall file with the City utilities true and accurate as-built plans of its plant as constructed, including maps and plats of same, and shall after initial construction, provide to the City copies of all exhibit "A's" so as to keep the City adequately advised as to any extension or increase in the original system.

**710.416 SERVICE STANDARDS.** A Grantee shall put, keep, and maintain all parts of the system in good condition throughout the entire franchise period. Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request except for the underground lines serving the premises, consistent with federal law.

Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.



Grantee shall not allow its cable or other operations to interfere with television reception or persons not served by Grantee, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.

**710.417 FRANCHISE FEE.** Upon the granting of a franchise hereunder, a Grantee shall, after the system is operational, pay to the general fund of the City on or before the end of each calendar quarter a franchise fee of five percent (5%). Grantee shall execute a separate pole/trench agreement with the City's municipal utility to compensate the utility for use of facilities and installation of Grantee's cable in common trenches.

1. The franchise fee shall be based on Grantee's gross revenues for cable television operation in the City for the preceding calendar quarter.
2. The Grantee shall submit with each payment a report concerning the information upon which the fee owed the City was based and shall provide additional information or records as the City may reasonably request in order to review and determine the fee obligation.
3. Nothing in this ordinance shall waive, limit, or otherwise affect the right of the City to adopt ordinances or to enforce existing ordinances regarding, and to collect other fees and taxes permitted by law.

**710.418 COMMUNITY SERVICE.**

1. Grantee shall provide the following other services:
  - A. A local access channel from the cable television studio, the high school, middle school, Iowa Lakes Community College and, if requested, City Hall or some other public location.
  - B. A free drop at each municipal building, public and parochial school, Iowa Lakes Community College, Holy Family Health Services, senior citizens center, and other nonprofit institutions upon the City's request.

2. EMERGENCY BACK-UP SUPPORT. In times of emergency the Grantee will do all that it can to restore service as promptly as possible using additional outside assistance whenever necessary.

3. STATE OF THE ART TECHNOLOGY. A Grantee shall furnish the Estherville cable television system with a 450 Mhz System, capable of delivering sixty (60) channels.

**710.419 MAINTENANCE AND OPERATIONS.** A Grantee will assign two (2) trained cable technicians to the Estherville area. Grantee employees will provide routine maintenance, service calls, and supply the following maintenance support operations, if necessary.

1. They will test with appropriate instrumentation the performance capability of the system after completion of construction.
2. They will perform the annual measurements required by Section 76.609 of the FCC Rules and Regulations.
3. They will assist in correcting any problems found during the Section 76.609 measurements.
4. They will use appropriate sophisticated bench and field test equipment.
5. In the event of emergency problems caused by an act of God, they will be available in less than twenty-four (24) hours to assist in restoring service.
6. They will provide a supervisory engineering function to assure high performance standards.

**710.420 MAINTENANCE POLICY.** A Grantee's maintenance and complaint policies will include:

1. For every subscriber drop at the time of installation, the installer will record signal levels from four channels and make a subjective picture quality appraisal on all channels. These levels will be rechecked on a random basis by supervisory personnel.

2. Technical complaints will be acted upon as required by the Estherville franchise and federal regulations. Technical complaints involving more than one (1) home will be acted on immediately, 24-hours-a-day, seven-days-a-week. Technical complaints involving individual subscribers will be acted upon within the same business day.
3. The tests required by Section 76.609 of the FCC Rules and Regulations will be conducted on a skeleton basis once a year approximately 6 months after the complete 76.609 measurements are made.

#### **710.421 COMPLAINT PROCEDURE.**

1. Any Grantee shall designate an appropriate person to work with the City for the purpose of continuing administration and implementation and operation of complaint procedures.
2. RESERVED FOR FUTURE USE.
3. A Grantee shall maintain a repair and maintenance crew capable of responding to subscriber complaints or requests for service within twenty-four (24) hours after receipt of the complaint or request. No charge shall be made to the subscriber for this service unless subscriber negligence is in evidence.
4. A Grantee shall establish procedures for receiving, acting upon, and resolving subscriber complaints to the satisfaction of the City. The Grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system.
5. In the event that a customer complaint is not resolved to the mutual satisfaction of the customer or the Grantee, either the customer or the Grantee may request that the matter be presented to the City for a hearing and resolution.
6. When there have been similar complaints made or when there exists other evidence, which, in the judgment of the City casts doubt on the reliability or quality of cable service,

the City shall have the right and authority to receive the most current copies of Grantee's Proof of Performance Test and CLI Tests, both of which are required by Federal law. Such reports shall be delivered to the City no later than fourteen (14) days after the City formally notifies the Grantee and shall include the following information: what system component was tested, the equipment used, and procedures employed in said testing; the results of such tests; and any resolution required.

7. Said tests and analysis shall be supervised by a professional engineer mutually agreed upon by the City and the Grantee. The aforesaid engineer should sign all records of the special tests and forward to the City such records with a report interpreting the results of the tests and recommending actions to be taken by the City.

**710.422 RIGHT OF REVOCATION; MONETARY PENALTIES.** The City of Estherville shall have the right to rescind or revoke the franchise rights of a Grantee upon any violation by the Grantee of any material obligation or requirement contained herein or in the ordinance granting the franchise to the Grantee or upon the refusal to comply with any reasonable request made by the City Council concerning compliance with this article, or Grantee has practiced fraud or deceit upon the City or subscriber after written notice by the City to the Grantee, and continuation of such violation or refusal to comply by the Grantee.

Such written notice to the Grantee shall specify precisely the manner in which the Grantee is in violation, with respect to the franchise. The notice shall specify a reasonable amount of time within which the Grantee must correct the violation, but in no event shall the time period be less than thirty (30) days from the date of receipt of the notice to the Grantee. Grantee may contest the finding of a violation before the City Council and reserves its rights to further seek judicial relief.

The City reserves the right to levy fines upon the Grantee in a reasonable amount, not to exceed one hundred dollars (\$100) per violation, for immaterial breaches of the franchise agreement, subject to Grantee's right to due process herein.

**710.423 EMERGENCY USE OF FACILITIES.** In the case of an emergency or disaster, Grantee shall make available its facilities to the City or its designee for emergency use during any emergency or disaster period.

1. An emergency alert system shall be installed to permit the City to override all channels for emergency messages consistent with federal law. The cost of such installation shall be borne by the Grantee.
2. Such emergency use of the facility shall be in addition to the routine use by the municipal utilities otherwise provided for herein.

**710.424 RESTORATION OF STREETS.** In case of any disturbance of pavement, sidewalk, driveway, or other surfacing Grantee shall, at its own cost and expense and in a manner approved by the city administrator, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good a condition as before said work was commenced, except that at the option of the City, such pavement restoration may be done by the City or under the supervision of the City at the expense of the Grantee.

**710.425 PREFERENTIAL RATES PROHIBITED.** Grantee shall not, as to rates, charges, service facilities, rules, regulations, or in any other respects, make or grant any preference or advantage to any person nor subject any person to any prejudice or disadvantage; provided, however, this section shall not be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules, senior citizen discount or special promotional or marketing campaign.

**710.426 ASSIGNING FRANCHISE.** Any Grantee hereunder shall not sell, transfer, or encumber its system or its franchise, without first securing the approval of the City Council; however, Grantee is hereby specifically authorized to assign or encumber its system and franchise for the purpose of financing the construction or operation of its system in the City. If Grantee shall decide to sell its system and franchise, the City is given the right of first refusal to purchase the system and franchise for their fair market value as determined by the existing offers from other bona fide purchasers.

**710.427 COMPLIANCE WITH FCC PERMIT STANDARDS.** Pursuant to applicable FCC standards, the following recitations and provisions are set forth:

1. Grantee's legal character, financial, technical, and other qualifications and the adequacy and feasibility of its construction arrangements have been approved by the City Council after consideration in a full public proceeding affording due process to all interested persons.

**710.428 CITY RIGHTS IN FRANCHISE.**

1. The right is hereby reserved to the City or the City Council to adopt, in addition to the provisions contained herein and in all ordinances granting a cable television franchise, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.
2. The City shall have the right, during the life of any cable television franchise to install and maintain free of charge upon the poles of the Grantee any wire and pole fixtures necessary for a police or public works alarm system, on the condition that such wire and pole fixtures do not interfere with the cable television system's operations of the Grantee.

3. The City shall have the right to inspect all construction or installation work performed subject to the provisions of any cable television franchise and make such inspections as it shall find necessary to insure compliance with the terms of said cable television franchise and other pertinent provisions of law.

**710.429 CABLE TELEVISION COMMISSION.** There shall be established by separate ordinance a Cable Television Commission which shall have authority to regulate and control all local broadcast programming including all programming by Iowa Lakes Community College and the Estherville Public Schools.

Additionally, the Cable Television Commission shall be responsible for periodically evaluating the performance of all cable television companies operating within the City of Estherville, Iowa. All such evaluations shall be submitted to the City Council as further specified in the ordinance establishing the Cable Television Commission.

**710.430 SEVERABILITY.** If any section, sentence, clause, or phrase of this article is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remainder of this article, and any portions in conflict are hereby repealed. Provided, however, that in the event that the FCC declares any section invalid, then such section or sections shall be renegotiated by the City and the Grantee.

RESERVED FOR FUTURE USE.



**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 1 - REGULATION OF BUSINESS AND VOCATIONS****ARTICLE 5  
CABLE TELEVISION COMMISSION**

**710.501 CABLE TELEVISION COMMISSION.** There shall be a City Cable Television Commission, hereinafter referred to as the commission, consisting of five (5) members, who shall be citizens of the city and qualified by knowledge or experience to act in matters pertaining to local television programming and in evaluating the performance of all cable television companies operating within the city, who shall not hold any elective office in the city government. Members of the Cable Television Commission shall be appointed by the mayor and approved by the City Council.

**710.502 TERM OF OFFICE.** Except for the initial commission memberships, term of office of the members of the commission shall be five years. The terms of not more than one-third of the members will expire in any one year.

**710.503 VACANCIES.** If any vacancy shall exist on the commission caused by resignation, or otherwise, a successor for the remainder of said term shall be appointed in the same manner as the original appointee.

**710.504 COMPENSATION.** All members of the commission shall serve without compensation, except for their actual expenses, which shall be subject to the approval of the council.

**710.505 POWERS AND DUTIES.** The commission shall have and exercise the following powers and duties:

1. Selection of Officers. The commission shall choose annually at its first regular meeting one of its members to act as chairman and another as vice-chairman, who shall perform all the duties of the chairman during his absence or disability.

2. Adopt Rules and Regulations. The commission shall adopt such rules and regulations governing its organization and procedures as it may deem necessary, subject to the approval of the City Council.
3. Annual Report. The commission shall each year make a report to the mayor and City Council on its proceedings.
4. Appointment of Assistants. Subject to the approval of the City Council, it may appoint such assistants as it may deem necessary and prescribe and define their respective duties.
5. Programming of all Local Broadcasting. It shall have full power and authority to select and schedule the programming of all local broadcasting, including all programming aired on all Estherville cable television system(s) by Iowa Lakes Community College and the Estherville Public Schools.
6. Evaluation of Cable Television Companies. It shall biannually evaluate the performance of all cable television companies operating within the City of Estherville. Such evaluation shall be reported in writing to the City Council. Such evaluation shall include but not be limited to:
  - A. State-of-the-Art Technology. The commission shall compare the “state-of-the-art technology” being offered to cable television subscribers within the City of Estherville to that of cable television subscribers whose systems are similar in size and located in non-metropolitan areas, elsewhere in the country.
  - B. Signal Quality.
  - C. Programming. The commission shall evaluate and compare the selection and quality of programming.
  - D. Maintenance and Operations. The commission shall evaluate the quality

of maintenance and operations of all cable television systems operating within the City of Estherville.

7. Custodian of Equipment. The commission shall be the custodian of all city owned cable television equipment and, subject to the approval of the City Council, shall adopt such rules and regulations governing the use of such equipment.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 2  
CIGARETTE PERMITS**

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

1. "Cigarette": shall mean any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. It also shall mean cigarette papers, wrappers, and tubes except cigars.

(Code of Iowa, 2015, Sec. 453A.1 [4])

2. "Retailer": shall mean every individual, firm, corporation, or other association that sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.

(Code of Iowa, 2015, Sec. 453A.1 [22])

3. "Place of Business": shall include any place where cigarettes are sold or where cigarettes are stored by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.

**720.2 PERMIT REQUIRED.** No retailer shall distribute, sell, or solicit the sale of any cigarettes within the city without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

**720.3 APPLICATION.** A completed application on forms provided by the state department of revenue and accompanied by the fee provided in Section 720.4 shall be filed with the clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the council in June. If a renewal application is not timely filed, and a special council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(O.A.G., 1922, p. 460; Code of Iowa, 2015, Sec. 98.13 [5 & 9])

**720.4 FEES.** The fee for issuing or renewing a cigarette permit shall be as follows:

(Code of Iowa, 2015, Sec. 453A.13[3])

<u>FOR PERMITS ISSUED OR RENEWED DURING:</u>	<u>FEE:</u>
July, August, or September-----	\$75.00
October, November, or December-----	\$56.25
January, February, or March-----	\$37.50
April, May, or June-----	\$18.75

**720.5 ISSUANCE.** The council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, and shall certify its action in issuing a permit to the state department of revenue.

**720.6 PERMITS NOT TRANSFERABLE.** A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes his place of business, the council, if it decides to issue a new permit to him, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

**720.7 EXPIRATION.** Permits expire on June 30 of each year.

**720.8 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the city, except during April, May, or June, as follows:

(Code of Iowa, 2015, Sec. 453A.13 [4])

<u>PERMITS SURRENDERED DURING:</u>	<u>AMOUNT OF REFUND:</u>
July, August, or September-----	\$56.25
October, November, or December-----	\$37.50
January, February, or March-----	\$18.75

**720.9 REVOCATION.** The council, after notice and hearing, shall revoke a permit if it finds the retailer has substantially violated the provisions of this chapter or Chapter 453A, Code of Iowa, 2015, or if grounds exist that would be sufficient for refusal to issue such a permit. The clerk shall give five (5) days written notice to the retailer by mailing a copy of the notice by certified mail to the place of business as it appears on his application for a permit. The notice shall state the reason for the contemplated revocation and the time and place at which he may appear and be heard. The hearing shall be held at the regular meeting place of the council. If the retailer or employee of a retailer has violated Section 453A.2, 453A.36(6) or 453A.39 of the 2015 Code of Iowa, then in such event an additional civil penalty shall be assessed as follows:

1. For a first violation: Three hundred dollars (\$300).
2. For a second violation within a period of two years: One thousand five hundred dollars (\$1,500) or thirty (30) day license suspension of the retailer's permit.
3. For a third violation within a period of three years: Assessed a civil penalty in the amount of one thousand five hundred dollars and thirty (30) day license suspension.
4. For a fourth violation within a period of three years: Assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500) and the retailer's permit suspended for a period of sixty (60) days.
4. For a fifth violation within a period of four years: The retailer's permit shall be revoked.

(Code of Iowa, 2015, Sec. 453A.22)

**720.10 RENEWAL AFTER REVOCATION.** Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown the council.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 3 - FRANCHISES****\*ARTICLE 1  
NATURAL GAS FRANCHISE**

**730.101 FRANCHISE GRANTED.** The City of Estherville, Iowa (hereinafter referred to as "Grantor"), hereby grants a non-exclusive franchise to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware limited liability corporation (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over, above or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public easements as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof, subject to prior City approval as to location thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, poles, communication devices, conduits and all other apparatus and appliances necessary or convenient for transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

**730.102 TERM.** The rights and privileges granted hereunder shall remain in effect for a period of twenty five (25) years from the effective date of this Ordinance. The franchise granted hereunder shall remain in effect for a period of fifteen (15) years from the effective date of this Ordinance (the "Initial Term"), and for an additional ten (10) years after the expiration of the Initial Term, unless Grantor, through its Clerk, notifies Grantee in writing at least 180 days before the expiration of the Initial Term, that Grantor, for good cause relating to default of any material

\*Revised 6-5-17; Ord. No. 749 (All of Article 1)

obligation hereunder, desires not to renew the franchise and specifies the reasons for non-renewal.

**730.103 FRANCHISE FEES OR TAXES.** Grantor may, during the term of this franchise, in its discretion, in compliance with and as authorized by state law, after public hearing and upon a majority vote of a majority of the members of the Grantor's City Council then present, pass an ordinance imposing a franchise fee on Grantee's customers located within Grantor's corporate limits; provided, however, that the franchise fee shall not be effective, and Grantee shall not be obligated to collect and pay same, unless and until: (1) it is satisfactory to Grantee with respect to its compatibility with Grantee's billing system; (2) the form of assessment and collection of the franchise fee is based on either: (a) a percentage of Grantee's gross receipts of regulated sales or transportation revenues collected from Grantee's customers within Grantor's corporate limits; (b) a volumetric fee based upon Grantee's delivery of energy within Grantor's corporate limits; or (c) a flat fee collected on a nondiscriminatory basis from each of Grantee's customers within Grantor's corporate limits; and (3) Grantor has imposed a franchise fee on all other parties supplying energy within Grantor's corporate limits, calculated in the same manner as the franchise fee imposed on Grantee's customers.

**730.104 GOVERNING RULES AND REGULATIONS.** The franchise granted hereunder is subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by state or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided here-



under, then Grantee and Grantor shall renegotiate the terms of this Ordinance in accordance with the action taken. In determining the rights and duties of the Grantee, the terms of this Ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

**730.105 PROVISION FOR INADEQUATE ENERGY SUPPLIES.** If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

**730.106 CONSTRUCTION AND MAINTENANCE OF GRANTEE'S FACILITIES.** Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

Grantee agrees that for the term of this franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance and will fix its excavations within a commercially reasonable time period, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Within a reasonable

time thereafter, Grantee shall request and Grantor shall issue any permits or authorizations required by Grantor for the actions conducted by Grantee during the emergency situation.

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee as soon as practical in advance of the actual commencement of the work, considering reasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

**730.107 EXTENSION OF GRANTEE'S FACILITIES.** Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria as approved by the Iowa Utilities Board make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

**730.108 RELOCATION OF GRANTEE'S FACILITIES.** If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, unless otherwise reimbursed by federal, state or local legislative act or governmental agency, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference with Grantor's facilities.

If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference with such project, then Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment.

Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. If alternative public right-of-way space is available, Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of way until it (a) if applicable, receives the reasonable cost of relocating the same and (b) obtains a reasonable public right-of-way, dedicated utility easement, or private easement alternative location for such facilities.

**730.109 CONFIDENTIAL INFORMATION.** Grantor acknowledges that certain information it might request from Grantee pursuant to this Ordinance may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under state or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

**730.110 FORCE MAJEURE.** It shall not be a breach or default under this Ordinance if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute,

ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and (4) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

**730.111 HOLD HARMLESS.** Grantee, during the term of this Ordinance, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or equipment; provided, however, that Grantee need not save Grantor harmless from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

**730.112 SUCCESSORS AND ASSIGNS.** All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors and assigns.

**730.113 NO THIRD PARTY BENEFICIARIES.** This Ordinance constitutes a franchise agreement between the Grantor and Grantee. No provision of this Ordinance shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

**730.114 SEVERABILITY.** If any clause, sentence or section of this Ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

**730.115 NON WAIVER.** Any waiver of any obligation or default under this Ordinance shall not be construed as a waiver of any future defaults, whether of like or different character.

**730.116 REPEAL CONFLICTING ORDINANCES.** This Ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to the franchise granted by Grantor hereunder, and the same shall supersede all prior ordinances relating thereto, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 627 of the City of Estherville, Iowa, is hereby repealed as of the effective date hereof.

**730.117 EFFECT AND INTERPRETATION OF ORDINANCE.** The captions that precede each section of this Ordinance are for convenience and/or reference only and shall not be taken into consideration in the interpretation of any of the provisions of this Ordinance.

**730.118 EFFECTIVE DATE AND ACCEPTANCE.** This Ordinance shall become effective and be a binding contract between the Grantor and Grantee upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon Grantee's acceptance by written instrument, within sixty (60) days of passage by the city council, and filing with the Clerk of the City of Estherville, Iowa. The Clerk of the City of Estherville, Iowa shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

**EDITOR'S NOTE**

Title VII, Chapter 1 of the City Code of Estherville, Iowa, granting a natural gas franchise to the Northern Natural Gas Company was adopted on December 4, 1961; approved at a special election held on January 29, 1962; and the company's letter of acceptance was filed on January 30, 1962. (Repealed by Ordinance No. 496)

Title VII, Chapter 3, Article 1 of the City Code of Estherville, Iowa, (Ordinance No. 496) granting a natural gas franchise to Peoples Natural Gas Company was adopted on September 2, 1986; approved at a special election held on September 23, 1986; and the company's letter of acceptance was filed on October 13, 1986. (Repealed by Ordinance No. 627)

Title VII, Chapter 3, Article 1 of the City Code of Estherville, Iowa, (Ordinance No. 627) granting a natural gas franchise to Aquila, Inc., a Delaware corporation, was adopted on July 15, 2002, and the company's acceptance statement was filed on August 9, 2002. (Repealed by Ordinance No. 749)

Title VII, Chapter 3, Article 1 of the City Code of Estherville, Iowa, (Ordinance No. 749) granting a natural gas franchise to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware limited liability corporation, was adopted on June 5, 2017, and the company's acceptance statement was filed on August 4, 2017.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 3 - FRANCHISES****ARTICLE 2  
CABLE TELEVISION FRANCHISE**

**730.201 RENEWAL OF FRANCHISE.** Triax Midwest Associates, L P, (hereinafter referred to as "Grantee"), its successors and assignees be and are hereby granted the right, franchise, and authority for a period of ten (10) years from and after the effective date of this Ordinance, to acquire, construct, and operate a cable television system over, under, and upon property of the City of Estherville, (hereinafter referred to as "City"), and to sell and supply to individuals, firms, and corporations, public or private, at any and all places, within the corporate limits of the City, as said limits are or hereinafter made be established, television and radio signals, subject to the conditions and restrictions as hereinafter provided and subject to Title VII, Chapter 1, Article 4 of the Code of Ordinances of the City of Estherville, Iowa, hereinafter referred to as the "Cable Television Code" and subject further to all applicable federal and state laws and regulations now in force or hereinafter enacted.

**730.202 AGREEMENT AND WAIVER.** Grantee agrees to abide by all provisions of this franchise and all other applicable ordinances of the City, including, but not limited to, the Cable Television Code as presently enacted and as it may hereafter be amended by the City.

**730.203 NONEXCLUSIVE FRANCHISE.** This franchise shall not be exclusive and shall neither restrict the City Council in the exercise of its regulatory power nor prevent it from granting any other cable television system franchise or franchises pursuant to the terms of the Cable Television Code.

**730.204 SUBSCRIBER RATES AND CHARGES.** Grantee shall be allowed to charge the rates and charges for its services as allowed by federal, state, and local regulations; however, a Grantee must first give notice to the City Council before increasing rates and charges for services in excess of five percent (5%) in any twelve (12) month period consistent with federal law. Any increase in rates and charges shall be made only in accordance with the procedures set forth in federal laws presently enacted or as it may hereafter be amended. Customers and the City will be notified thirty (30) days in advance of changes.

**730.205 ACCESS CAPITAL GRANT.** Grantee shall provide a Capital Grant in the amount of \$10,000. This Grant is payable to the City prior to the execution of the franchise renewal. This grant shall not be recovered by a separate charge on subscriber's monthly bill.

**730.206 FRANCHISE FEE.** A franchise fee shall be paid by the Grantee to the City in accordance with the pertinent provisions of the Cable Television Code as presently enacted and as it may hereafter be amended by the City.

**730.207 OBSERVANCE OF FCC REGULATIONS.** Grantee shall comply with all applicable rules and regulations of the FCC which are now in effect or which may hereafter be promulgated.

**730.208 TECHNICAL STANDARDS.** In connection with the operation of a cable television system, Grantee shall render its services in accordance with those technical standards already enacted by the City and those reasonable technical standards applied by the FCC. Grantee shall maintain two (2) trained cable technicians assigned to the Estherville area.

**730.209 ASSIGNMENT OR TRANSFER OF FRANCHISE.** Grantee shall not sell, transfer or assign this franchise without the prior approval of the City by ordinance. For the purpose of this paragraph, "assign" or a "transfer" shall not be deemed to include any (1) transfer to an entity which is affiliated with the Company through common control, ownership or otherwise, (2)



transfer of a portion of all of the control of the Company or any of its affiliates, (3) restructuring of the Company or any of its affiliates, and (4) security interest or collateral assignment of the Cable System or the Grantee's rights to secure repayment of indebtedness.

**730.210 FORFEITURE AND TERMINATION.** If Grantee shall fail to comply with any of the provisions of this franchise, or default in any of its obligations hereunder, except for causes beyond the reasonable control of Grantee, and shall fail within thirty (30) days after written notice from the City to commence and, within a reasonable time, complete the correction of such default or noncompliance, the City shall have the right to revoke this franchise and all rights of Grantee hereunder in accordance with the following procedures:

Procedures for Revocation.

- (a) City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. Together with the notice required herein, City shall provide Grantee with written findings of fact which are the basis of the revocation.
- (b) Grantee shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in paragraph (A) above. City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
- (c) After the public hearing and upon written determination by City to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.
- (d) During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.
- (e) Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined, the initial notice shall become void.

**730-211 SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this ordinance shall be held invalid or unconstitutional or in conflict with FCC Rules and Regulations,

the remaining provisions shall remain in full force and effect unless any such change resulting therefrom would, in the opinion of the City, materially alter the terms of this ordinance. In the event the City finds that such change materially alters the terms of this ordinance, the City shall notify the Grantee of its finding and shall set the matter for hearing and upon such hearing, the parties shall mutually agree to amend the terms of this franchise to the extent possible to counter the effect of such holding.

**730.212 EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication as required by law and after the receipt by the city clerk of the following:

1. A written statement from Grantee, which must be received within thirty (30) days of the publication of this ordinance, stating that Grantee unconditionally accepts the franchise and covenants to faithfully comply with and abide by all the provisions, terms, and conditions of this ordinance.

#### EDITOR'S NOTE

Ordinance No. 463 granting a franchise to Sammons Communications, Inc., was adopted by the council on March 15, 1982. Voters approved the franchise on April 20, 1982. Letter of acceptance was filed by the company on April 14, 1982, and received on April 19, 1982.

July 6, 1987, the council approved the transfer of ownership from Sammons Communications, Inc., to Vantage Cable, Inc.

Resolution No. 666 approving Vantage Cable, Inc., sale to Triax Communications was adopted by the council on May 27, 1988.

Ordinance No. 544 granting a five-year renewal of the franchise to Triax Midwest Associates, LP, was adopted by the council on April 6, 1992.

Ordinance No. 596 granting a ten-year renewal of the franchise to Triax Midwest Associates, LP, was adopted by the council on July 6, 1998.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 3 - FRANCHISES****ARTICLE 3  
FRANCHISE REQUIRED**

**730.301 FRANCHISE REQUIRED.** No persons or other entity shall erect, maintain, and operate plants and systems for electric light and power, hearing, telephone, telegraph, cable television, district telegraph and alarm, cable communication system of any type, motor bus, trolley bus, street railway or other public transit, waterworks, or gasworks within the City without a franchise from the City.

**730.302 USER FEE.** Any person or other entity operating in violation of Section 1 hereof shall pay a user fee to the City of five percent (5) of gross revenue derived from any sales through the distribution system within the City. Said payment shall be considered rent for use of public right-of-ways and grants no rights to any person or other entity.

**730.303 ORDINANCE.** No franchise or permit shall give or grant an individual or entity the privilege to operate or provide non-municipal services unless granted by ordinance.

**730.304 AUTHORITY TO EJECT.** Any person or other entity providing such services without a franchise may be ejected from public property. In addition, the City reserves to itself all rights and remedies it may have at law, in equity or otherwise against such persons or other entities.

RESERVED FOR FUTURE USE.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 4  
FAIR HOUSING**

**740.1** It shall be an unfair or discriminatory practice for any owner, or person acting for an owner, of rights to housing or real property, with or without compensation, including but not limited to persons licensed as real estate brokers or salesmen, attorneys, auctioneers, agents, or representatives by power of attorney or appointment, or any person acting under court order, deed or trust, or will:

1. To refuse to sell, rent, lease, assign, or sublease, or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of, or to otherwise make unavailable or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, religion, sex, national origin or ancestry, age, marital status, or disability of such person.
2. To discriminate against any person because of the race, color, creed, religion, sex, national origin or ancestry, age, marital status, or disability of such person in the terms, conditions, or privilege of the sale, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion, or interest therein or in the provision of services or facilities in connection therewith.
3. To directly or indirectly advertise or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion, or interest therein, by persons of any particular race, color, creed, religion, sex, national origin or ancestry, age, marital status, or disability is unwelcome, objectionable, not acceptable, or not solicited.

4. To represent to any person because of the race, color, creed, religion, sex, national origin or ancestry, age, marital status, or disability of such person that any real property or housing accommodation or any part, portion, or interest therein is not available for inspection, sale, rental, lease, assignment, or sublease when it is in fact so available.

5. For profit, to induce or attempt to induce any person to sell, rent, lease, assign, or sublease any real property or housing accommodation or part, portion, or interest therein by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, religion, sex, national origin or ancestry, age, marital status, or disability.

**740.2** It shall be an unfair and discriminatory practice to deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization or other service, organization, or facility relating to the business of selling or renting real property or housing accommodations or any part, portion, or interest therein, or to discriminate against any person in the terms or conditions of such access, membership, or participation on account of race, color, creed, religion, sex, national origin, or ancestry, age, marital status, or disability.

**740.3** The provisions of Sections 740.1 and 740.2 of this chapter shall not apply to:

1. Any bona fide religious institution with respect to any qualifications it may impose based on religion, when such qualifications are related to a bona fide religious purpose.
2. The restriction of the rental of rooms in a rooming house, dormitory, or residence hotel to one sex if such housing accommodation is regularly occupied on a permanent, as opposed to transient, basis by the majority of its guests, or the restriction to one sex of rooms rentals in housing accommodations with shared sleeping or bath facilities.

**740.4** The foregoing chapter will constitute and be construed as a statement of policy of the City of Estherville, Iowa.

RESERVED FOR FUTURE USE.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 5****TAX REDUCTION FOR NEW  
BUSINESS OR INDUSTRY**

**750.1 PURPOSE.** This ordinance does hereby provide for a partial exemption from property taxation of the actual assessed value added to the industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), of the 2015 Code of Iowa.

**750.2 NEW CONSTRUCTION.** New construction as referred to herein means new buildings and structures and includes new buildings and structures which are construed as additions to existing buildings and structures.

**750.3 RECONSTRUCTION.** New construction does not include reconstruction or refitting of an existing building or structure which does not constitute complete replacement, unless such reconstruction or refitting is required due to economic obsolescence and reconstruction is necessary to implement recognized industry standards for the specific process or products and the reconstruction is necessary for the owner to continue to competitively manufacture or process those products, an exemption for such reconstruction shall receive prior approval from the City Council of the City of Estherville, Iowa, upon the recommendation of the Iowa Development Commission.

**750.4 NEW MACHINERY AND EQUIPMENT.** The exemption shall also apply to new machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), paragraph



e of the 2015, Code of Iowa, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

**750.5 AMOUNT OF EXEMPTION.** The actual assessed value added to industrial real estate for the reasons specified in this ordinance is eligible to receive a partial exemption from taxation for a period of five years. "Actual Assessed Value Added" as used in this ordinance means the actual assessed value added as of the first year for which the exemption is received, except that actual assessed value added by improvements to machinery and equipment means actual assessed value as determined by the assessor as of January first of each year for which the exemption is received. The amount of the actual assessed value added which is eligible to be exempt from taxation shall be as follows:

1. For the first year, 75%
2. For the second year, 60%
3. For the third year, 45%
4. For the fourth year, 30%
5. For the fifth year, 15%

**750.6 APPLICATION.** An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the county assessor by February first of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms provided by the county assessor which shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Iowa State Department of Revenue.

A person may submit a proposal to the City Council of the city to receive prior approval for eligibility for a tax exemption for new construction if the new construction is in conformance with

the zoning plans for the city. The prior approval shall also be subject to the hearing requirements of this ordinance, and a person or firm submitting a proposal for prior approval shall pay the cost of publication of required hearing notices, in an amount not to exceed fifty dollars (\$50). Such prior approval shall not entitle the owner to exemptions from taxation until the new construction has been completed and found to be qualified industrial real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the City Council to approve or reject.

**750.7 ENACTMENT.** This ordinance may be enacted not less than thirty (30) days after holding a public hearing in accordance with Section 362.3 of the 2015, Code of Iowa.

**750.8 LIMITATION ON TAX EXEMPTIONS.** A property tax exemption under this ordinance shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law, and the granting of an exemption under this ordinance, for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

**750.9 DURATION AND REPEAL.** The partial exemption shall be available until such time as this ordinance is repealed by the City Council of the City of Estherville, Iowa, and when in the opinion of the City Council continuation of the exemption granted by this ordinance ceases to be of benefit to the city, the City Council may repeal this ordinance, but all existing exemptions shall continue until their expiration.

**750.10 LEGAL AUTHORITY.** The exemptions herein granted are authorized under Chapter 427B, 2015, Code of Iowa and subject to the interpretation thereof and to the Administrative Rules of the Iowa State Department of Revenue.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 5A****EXEMPTION FOR NEW CONSTRUCTION  
BY ESTHERVILLE FOODS, INC.**

**750A.1 PURPOSE.** This ordinance is enacted in accordance with Section 427B.4 of the 2015 Code of Iowa and Title VII, Chapter 5 of the Code of Ordinances of the City of Estherville, Iowa, to provide a partial exemption from property taxation for actual assessed value added to the industrial real estate, new construction and the acquisition of or improvement to machinery and equipment assessed as real estate as currently proposed by Estherville Foods, Inc. for construction within the city limits of Estherville, Iowa.

**750A.2 DEFINITIONS.** Terms new construction, reconstruction and new machinery and equipment eligible for tax reduction herein shall meet the definition requirements contained in Chapter 427B, Divisions I and II of the 2015 Code of Iowa and Title VII, Chapter 5, of the Code of Ordinances of the City of Estherville, Iowa.

**750A.3 AMOUNT OF EXEMPTION.** The actual assessed value added to industrial real estate meeting the requirements of this ordinance is eligible to receive a partial exemption from taxation for a period of five years as follows:

1. For the first year seventy-five percent.
2. For the second year sixty percent.
3. For the third year forty-five percent.
4. For the fourth year thirty percent.
5. For the fifth year fifteen percent.
6. For the years thereafter zero percent.

subject to the filing of an application for exemption by the owner of the property with the County Assessor by February 1 of the assessment year in which the value added is first assessed for taxation.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 5B****PARTIAL EXEMPTION FOR NEW INDUSTRIAL  
CONSTRUCTION BY HEARTLAND TRANSPORT, INC.**

**750B.1 PURPOSE.** This ordinance is enacted in accordance with Section 427B.4 of the 2015 Code of Iowa and Title VII, Chapter 5 of the Code of Ordinances of the City of Estherville, Iowa, to provide a partial exemption from property taxation for actual assessed value added to the industrial real estate, new construction and the acquisition of or improvement to machinery and equipment assessed as real estate as currently proposed by Heartland Transport, Inc., for construction within the city limits of Estherville, Iowa.

**750B.2 DEFINITIONS.** Terms new construction, reconstruction and new machinery and equipment eligible for tax reduction herein shall meet the definition requirements contained in Chapter 427B, Divisions I and II of the 2015 Code of Iowa and Title VII, Chapter 5, of the Code of Ordinances of the City of Estherville, Iowa.

**750B.3 AMOUNT OF EXEMPTION.** The actual assessed value added to industrial real estate meeting the requirements of this ordinance is eligible to receive a partial exemption from taxation for a period of five years as follows:

1. For the first year seventy-five percent.
2. For the second year sixty percent.
3. For the third year forty-five percent.
4. For the fourth year thirty percent.
5. For the fifth year fifteen percent.
6. For the years thereafter zero percent.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 6 - TAX INCREMENT FINANCING DISTRICTS****ARTICLE 1  
URBAN RENEWAL AREA NO. 1 (INDUSTRIAL PARK AREA)**

**760.101 PURPOSE.** The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Estherville Industrial Park Urban Renewal Area of the City of Estherville, Iowa, each year by and for the benefit of the state, city, county, school districts, or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Estherville to finance projects in such area.

**760.102 DEFINITIONS.** For use within this ordinance, the following terms shall have the following meanings

1. "City": shall mean the City of Estherville, Iowa.
2. "County": shall mean the County of Emmet, Iowa.
3. "Urban Renewal Area": shall mean the Estherville Industrial Park Urban Renewal Area of the City of Estherville, Iowa, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on September 5, 1989:
  - A. Murray's First Addition
  - B. Estherville Industrial Park No. 1
  - C. Estherville Industrial Park No. 2 (Also known as Lot 8, Auditor's Plat #13-87)
  - D. The South 33 feet of the NW ¼, Section 13, T99N, R34W
  - E. SW ¼, Section 13, T99N, R34W
  - F. Outlot 22, Woods Addition
  - G. That portion of Section 14-99-34 which is bounded by Outlot 22 of Woods Addition, Seventh Avenue South, Estherville Industrial Park No. 2 (Lot 8, Auditor's Plat #13-87) and the C&NW Railroad right-of-way.

**760.103 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA.**

After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the city, the county and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the municipality certifies to the county auditor the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue, or on the assessment roll last equalized prior to the date of initial adoption of the urban renewal plan if the plan was adopted prior to July 1, 1972, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid. However, the municipality may choose to divide that portion of the taxes which would be produced by levying the municipality's portion of the total tax rate levied by or for the municipality upon the total sum of the assessed value of the taxable property in the urban renewal area, as shown on the assessment roll as of January 1 of the calendar year preceding the effective date of the ordinance and if the municipality so chooses, an affected taxing entity may allow a municipality to divide that portion of the taxes which would be produced by levying the affected taxing district's portion of the total tax rate levied by or for the affected taxing entity upon the total sum of the assessed value of the taxable property in the urban renewal area, as shown on the assessment roll as of January 1 of the calendar year preceding the effective date of the ordinance. This choice to divide a portion of the taxes shall not be construed to change the effective date of the

division of property tax revenue with respect to an urban renewal plan in existence on July 1, 1994.

2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the city to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the city to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the city for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the city to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 6 - TAX INCREMENT FINANCING DISTRICTS****ARTICLE 2  
URBAN RENEWAL AREA NO. 2 (FORMER MORRELL PROPERTY)**

**760.201 PURPOSE.** The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Estherville Urban Renewal Area No. 2 of the City of Estherville, Iowa, each year by and for the benefit of the state, city, county, school districts, or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Estherville to finance projects in such area.

**760.202 DEFINITIONS.** For use within this ordinance, the following terms shall have the following meanings:

1. "City": shall mean the City of Estherville, Iowa.
2. "County": shall mean the County of Emmet, Iowa.
3. "Urban Renewal Area": shall mean the Estherville Urban Renewal Area No. 2, the boundaries of which are set out below, such area having been identified originally in the Urban Renewal Plan approved by the City Council by resolution adopted on July 2, 1990, and amended by the City Council by resolution adopted on April 5, 1999:
  - A. "That portion of the NE  $\frac{1}{4}$ , Section 15, T99N, R34W, lying between South 1<sup>st</sup> Street and the Union Pacific Railroad R.O.W. and
  - B. That portion of the NW  $\frac{1}{4}$ , Section 14, T99N, R34W, lying between South 1<sup>st</sup> Street and the Union Pacific Railroad R.O.W., all within the City of Estherville, Emmet County, Iowa."



**760.203 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA.** After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the city, the county, and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1, 1998, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll as of January 1, 1998, shall be used in determining the assessed valuation of the taxable property in the Urban Renewal Area on the effective date.
2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the city to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the city to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed

valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the city for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the city to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 6 - TAX INCREMENT FINANCING DISTRICTS****ARTICLE 3  
URBAN RENEWAL AREA NO. 3 (FAREWAY PROJECT)**

**760.301 PURPOSE.** The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Estherville Urban Renewal Area No. 3 of the City of Estherville, Iowa, each year by and for the benefit of the state, city, county, school districts, or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Estherville to finance projects in such area.

**760.302 DEFINITIONS.** For use within this ordinance the following terms shall have the following meanings:

1. "City": shall mean the City of Estherville, Iowa.
2. "County": shall mean the County of Emmet, Iowa.
3. "Urban Renewal Area": shall mean the Estherville Urban Renewal Area No. 3 of the City of Estherville, Iowa, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on August 17, 1992:
  - A. "All of Block 2 of Binford's Addition; and Lots 7, 8, and 9, Block 7 of Stalford & Jarvis Addition; and the platted right-of-way of South 12<sup>th</sup> Street between Central Avenue and 1<sup>st</sup> Avenue South, all within the City of Estherville, Emmet County, Iowa."

**760.303 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA.**

After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County, and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1, 1991, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll as of January 1, 1991, shall be used in determining the assessed valuation of the taxable property in the Urban Renewal Area on the effective date.
2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation

of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 6 - TAX INCREMENT FINANCING DISTRICTS****ARTICLE 4  
URBAN RENEWAL AREA NO. 4 (HIGHWAY 4 SOUTH)**

**760.401 PURPOSE.** The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Estherville Urban Renewal Area No. 4 of the City of Estherville, Iowa, each year by and for the benefit of the state, city, county, school districts, or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Estherville to finance projects in such area.

**760.402 DEFINITIONS.** For use within this ordinance the following terms shall have the following meanings:

1. "City": shall mean the City of Estherville, Iowa.
2. "County": shall mean the County of Emmet, Iowa.
3. "Urban Renewal Area": shall mean the Estherville Urban Renewal Area No. 4 of the City of Estherville, Iowa, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on August 17, 1992:

- A. All of Sections 23, 24, and 25, T99N, R34W lying west of the west fork of the Des Moines River all within Emmet County, Iowa.

**760.403 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA.** After the effective date of this ordinance, the taxes levied on the

taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County, and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1, 1991, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll as of January 1, 1991, shall be used in determining the assessed valuation of the taxable property in the Urban Renewal Area on the effective date.
2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without imitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (1) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing

districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection (2) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.



**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 6 - TAX INCREMENT FINANCING DISTRICTS****ARTICLE 5  
URBAN RENEWAL AREA NO. 5 (HOMESTEAD COOPERATIVE)**

**760.501 PURPOSE.** The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Estherville Urban Renewal Area No. 5, each year by and for the benefit of the state, city, county, school districts, or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by the City of Estherville to finance projects in such area.

**760.502 DEFINITIONS.** For use within this ordinance the following terms shall have the following meanings:

1. "City": shall mean the City of Estherville, Iowa.
2. "County": shall mean the County of Emmet, Iowa.
3. "Urban Renewal Area": shall mean the Estherville Urban Renewal Area No. 5, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on February 7, 1994:
  - A. Lots 85, 86, 87, 88, 105, 106, 107 & 108 of Auditor's Plat No. 11-73, in the City of Estherville, Emmet County, Iowa.

**760.503 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA.** After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa,

the City, the County, and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1, 1993, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll as of January 1, 1993, shall be used in determining the assessed valuation of the taxable property in the Urban Renewal Area on the effective date.
2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in

subsection (1) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection (2) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 6 - TAX INCREMENT FINANCING DISTRICTS****ARTICLE 6  
URBAN RENEWAL AREA NO. 6 (HY-VEE PROJECT)**

**760.601 PURPOSE.** The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Estherville Urban Renewal Area No. 6, each year by and for the benefit of the state, city, county, school districts, or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by the City of Estherville to finance projects in such area.

**760.602 DEFINITIONS.** For use within this ordinance the following terms shall have the following meanings:

1. "City": shall mean the City of Estherville, Iowa.
2. "County": shall mean the County of Emmet, Iowa.
3. "Urban Renewal Area": shall mean the Estherville Urban Renewal Area No. 6, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on November 15, 1999:
  - A. Block 8, Stalford & Jarvis Addition and the right-of-way of North 12<sup>th</sup> Street adjacent to and west of said Block 8 in Estherville, Emmet County, Iowa.

**760.603 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA.** After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of

Iowa, the City, the County, and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.
2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing

district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (1) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection (2) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 7  
TAX EXEMPTION FOR SPECULATIVE BUILDINGS**

**770.101 PURPOSE.** This ordinance does hereby provide for an exemption from property tax in accordance with Section 427.1(27) of the Code of Iowa for new construction of shell buildings by Community Development organizations for speculative purposes or the portion of the value added to buildings being reconstructed or renovated by Community Development organizations in order to become speculative shell buildings.

**770.102 EFFECTIVE DATE.** The exemption or partial exemption shall be allowed and shall be effective for the assessment year in which the building is first assessed for property taxation or the assessment year in which the reconstruction or renovation first adds value and all subsequent years until the property is leased or sold unless sooner terminated by ordinance of the City Council of the City of Estherville, Iowa.

**770.103 APPLICATION.** An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the Community Development organization with the local assessor by January 1<sup>st</sup> of the assessment year in which the value added is first assessed for taxation. Application for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue. The Community Development organization may submit a proposal to the City Council of the City of Estherville, Iowa, to receive prior approval for eligibility for a tax exemption on new construction. The City Council, by ordinance, may give its prior approval of a tax

a tax exemption for new construction if the new construction is in conformance with the zoning plans for the City. The prior approval shall also be subject to the hearing requirements of Section 362.3 of the 2015 Code of Iowa, and a person or firm submitting a proposal for prior approval shall pay the cost of publication of required hearing notices, in amount not to exceed fifty dollars (\$50). Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the City Council of the City of Estherville, Iowa, to approve or reject.

**770.104 DEFINITIONS.** For purposes of this subsection, the following definitions apply:

1. "Community Development organization": means an organization, which meets the membership requirements of subparagraph 2, formed within a city or county or multi-community group for one or more of the following purposes:
  - A. To promote, stimulate, develop, and advance the business prosperity and economic welfare of the community, area, region, and its citizens.
  - B. To encourage and assist the location of new business and industry.
  - C. To rehabilitate and assist existing business and industry.
  - D. To stimulate and assist in the expansion of business activity.
2. For purposes of this definition, a Community Development organization must have at least fifteen (15) members with representation from the following:
  - A. A representative from government at the level or levels corresponding to the Community Development organization's area of operation.
  - B. A representative from a private sector lending institution.
  - C. A representative of a community organization in this area.



D. A representative of business in the area.

E. A representative of private citizens in the community, area, or region.

3. "New Construction": means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. "New Construction" also includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for Community Development organizations to market a building or structure as a speculative shell building, which determination must receive prior approval from the City Council of the city or county board of supervisors of the county.

4. "Speculative Shell Building": means a building or structure owned and constructed or reconstructed by a Community Development organization without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line.

**770.105 DURATION AND REPEAL.** The exemption herein shall be available until such time as this ordinance is repealed by the City Council of the City of Estherville, Iowa, and when in the opinion of the City Council continuation of the exemption granted by this ordinance ceases to be of benefit to the city, the City Council may repeal this ordinance.

**770.106 LEGAL AUTHORITY.** The exemption herein granted is authorized under Section 427.1(27), 2015 Code of Iowa and subject to the interpretation thereof and to the administrative rules of the Iowa State Department of Revenue.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 8  
HOTEL/MOTEL TAX**

**780.101 TAX IMPOSED.** There is imposed a seven percent (7%) hotel and motel tax upon the gross receipts from the renting of any and all rooms, apartments or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the gross receipts from the renting of sleeping rooms in dormitories and memorial unions of all universities and colleges located in the state and guests of a religious institution if the property is exempt under Section 427.1, Subsection 8, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

(Code of Iowa, 2015, Sec. 423A.4)

**780.102 DEFINITIONS.** "Renting" and "rent," as used in this chapter, include any kind of direct or indirect charge for the use of rooms, apartments or sleeping quarters. However, the tax imposed in this chapter does not apply to the gross receipts from the renting of a room, apartment or sleeping quarters while rented by the same person for a period of more than thirty-one (31) consecutive days.

(Code of Iowa, 2015, Sec. 423A.2)

**780.103 EFFECTIVE DATE OF TAX.** The hotel and motel tax as set forth in this chapter shall be imposed on all gross rent receipts received on or after July 1, 2005.

**780.104 COLLECTION.** The tax imposed in this chapter shall be remitted by the person or company liable for same to the Iowa State Director of Revenue in the manner required by state law.

(Code of Iowa, 2015, Sec. 423A.1)

**780.105 RESTRICTIONS ON USE OF REVENUES.** The revenue derived from the tax imposed by this chapter shall be accounted for as follows:

1. All revenue received by the City from this tax shall be deposited in the General Fund of the City.
2. The City shall allocate each year fifty percent (50%) of the total hotel/motel tax revenues to the Estherville Area Chamber of Commerce to be used at their sole discretion for the development, improvement, promotion, and encouragement of tourism in the City of Estherville, Iowa, as set forth in Section 422A.2 of the 2015, Code of Iowa, as amended, and annual report shall be made by the Chamber of Commerce to the City Council on July 1<sup>st</sup> of each year specifying disbursements made by the Chamber from the hotel/motel tax revenue.
3. Fifty percent (50%) of the revenues generated by the hotel/motel tax revenues shall be used by the City of Estherville, Iowa, to fund capital improvement projects such as park facilities, recreation facilities, their maintenance/repair, and other projects which encourage tourism within the City of Estherville, Iowa.

**TITLE VII - SOCIAL AND ECONOMIC WELL BEING****CHAPTER 9  
TAX EXEMPTION FOR NEW HOME CONSTRUCTION**

**790.101 PURPOSE.** This plan is prepared in conformance with Section 404.2 of the 2015 Code of Iowa for the purpose of providing incentives and outlining procedures to enhance the potential for residential development in the Revitalization Area. Planning goals include revitalizing the area through the promotion of new construction on vacant land, stabilizing and increasing the tax base, and providing overall aesthetic improvement.

**790.102 DEFINITIONS.** For use within this ordinance the following terms shall have the following meanings:

1. "City": shall mean the City of Estherville, Iowa.
2. "Estherville Residential Revitalization Area": shall mean all property within the City limits that is assessed as residential property.

**790.103 DESCRIPTION OF THE AREA.** The revitalization area shall be known as the Estherville Residential Revitalization Area (the "Revitalization Area"), and the legal description of real property to be included within the Revitalization Area as follows:

All property within the City is hereby designated as a revitalization area under the Act, which shall be known as the Estherville Urban Revitalization Area.

**790.104 DESIGNATION CRITERIA.** In accordance with Subsection 5 of Section 404.1 of the 2015 Code of Iowa, the City Council of the City has designated the Revitalization Area as appropriate for public improvements related to housing and residential development, or construction of housing and residential development including single or multi-family housing.

**790.105 PRESENT ZONING AND PROPOSED LAND USE.** The property within the Revitalization Area is zoned for residential purposes, and new residential development is proposed in the Revitalization Area.

**790.106 PROPOSALS FOR EXPANDING CITY SERVICES.** The City proposes that, as it becomes financially feasible, the provision of municipal services to the Revitalization Area will be expanded and improved to meet the demands of new residential development.

**790.107 ELIGIBLE IMPROVEMENTS.** Eligible property improvements, as used in this plan, is limited to new residential construction on vacant land or on land with existing structures, located within the Revitalization Area. Actual value added by new construction, as used in this plan, means the actual value added as of the first year for which the exemption was received. In order to be eligible for tax abatement, the increase in actual value of the property must be at least 10%. All new construction, in order to be considered eligible, must be completed in conformance with all applicable regulations of the City of Estherville, and must be completed during the time the Revitalization Area is designated by ordinance as a revitalization area.

**790.108 TIME FRAME.** Eligibility for tax abatement under this plan will exist after the date of the adoption of the ordinance designating the Revitalization Area, until, in the opinion of the City Council, the desired level of revitalization has been attained or economic conditions are such that the continuation of the exemption granted would cease to be of benefit to the City, in which case the City Council may repeal the ordinance, pursuant to Section 404.7 of the 2015 Code of Iowa. In the event the ordinance is repealed, all exemptions granted prior to such repeal shall continue until their expiration.

**790.109 EXEMPTIONS.** All qualified real estate assessed as residential property is eligible to receive an exemption from taxation on the first \$75,000 of actual value added by the new construction for a period of five years.

**790.110 APPLICATION PROCEDURES.** An application shall be filed for each new exemption claimed. The property owner must apply to the City for an exemption by February 1<sup>st</sup> of the assessment year for which the exemption is first claimed. The application shall contain, but not be limited to, the following information: the nature of the improvement, its cost, and the estimated or actual date of completion of the improvement.

**790.111 APPROVAL OF APPLICATIONS.** The City Council shall approve all applications submitted for completed projects if:

1. The project, as determined by the City Council, is in conformance with this plan;
2. The project is located within the Revitalization Area; and,
3. The improvements were made during the time the Revitalization Area was designated by ordinance as a revitalization area.

All approved applications shall be forwarded to the County Assessor for review, pursuant to Section 404.5 of the 2015 Code of Iowa. The County Assessor shall make a physical review of all properties with approved applications. The County Assessor shall determine the increase in actual value for tax purposes due to the improvements and notify the applicant of the determination, which may be appealed to the local board of review pursuant to Section 441.37 of the 2015 Code of Iowa. After the initial tax exemption is granted, the County Assessor shall continue to grant the tax exemption for the time period specified on the approved application. The tax exemptions for the succeeding years shall be granted without the owner(s) having to file an application for succeeding years.

**790.112 OTHER SOURCES OF REVITALIZATION FUNDS.** The City anticipates no federal or state grants or loans for improvements in the Revitalization Area at this time other than those of conventional lending institutions at normal market rates.

However, it is not the intention of the City to prohibit the use of other appropriate federal or state revitalization or incentive programs within the area.

**790.113 RELOCATION PROVISIONS.** The City does not anticipate the displacement or relocation of any persons, families, or businesses as a result of the improvements to be made in the Revitalization Area.

**790.114 OWNERS OF PROPERTY AND ASSESSED VALUATION.** The names and addresses of the owners of the property located within the Revitalization Area, along with their assessed valuations, are shown on the attached list.