

# City of Monticello, Iowa

www.ci.monticello.ia.us

Posted on October November 15, 2018 at 12:30 p.m.

Monticello City Council Regular Meeting November 19, 2018 @ 6:00 p.m.

Monticello Renaissance Center, 220 E. 1<sup>st</sup> Street, Monticello, Iowa

<b>Mayor:</b>	Brian Wolken	<b>City Administrator:</b>	Doug Herman
<b>City Council:</b>		<b>Staff:</b>	
<b>At Large:</b>	Dave Goedken	<b>City Clerk/Treas.:</b>	Sally Hinrichsen
<b>At Large:</b>	Brenda Hanken	<b>Public Works Dir.:</b>	Brant LaGrange
<b>Ward #1:</b>	Rob Paulson	<b>City Engineer:</b>	Patrick Schwickerath
<b>Ward #2:</b>	Johnny Russ, Mayor Pro Tem	<b>Police Chief:</b>	Britt Smith
<b>Ward #3:</b>	Chris Lux	<b>Ambulance Dir.:</b>	Dawn Brus
<b>Ward #4:</b>	Tom Yeoman		

## - Call to Order – 6:00 P.M.

- Pledge of Allegiance
- Roll Call
- Agenda Addition/Agenda Approval

**Open Forum:** If you wish to address the City Council on subjects pertaining to today's meeting agenda please wait until that item on the agenda is reached. If you wish to address the City Council on an item not on the agenda, please approach the lectern and give your name and address for the public record before discussing your item. Individuals are normally limited to speaking for no more than three (3) minutes on a topic and the Open Forum is by rule limited to a total of twenty (20) minutes.

**Consent Agenda** (These are routine items and will be enacted by one motion without separate discussion unless someone requests an item removed to be considered separately.)

<b>Approval</b> of Council Mtg. Minutes	October	15, 2018
<b>Approval</b> of Council Mtg. Minutes	November	05, 2018
<b>Approval</b> of Payroll	November	08, 2018
<b>Approval</b> of Bill List		
<b>Approval</b> of Treasurer's Report for October, 2018		
<b>Approval</b> of Transfer of Chamber Liquor License for March 2, 2019		

**Public Hearings:** None

**Motion:** None

## **Resolutions:**

1. **Resolution** appropriating funds necessary to meet the City's Obligation to Robert "Bud" Johnson under the Development Agreement dated February 15, 2010.
2. **Resolution** appropriating funds necessary to meet the City's Obligation to MC Industries under the Development Agreement dated August 2, 2010.
3. **Resolution** appropriating funds necessary to meet the City's Obligation to Innovative Ag. Services under the Development Agreement dated February 15, 2010.
4. **Resolution** appropriating funds necessary to meet the City's Obligation to Althoff Properties, LLC under the Development Agreement dated April 18, 2011.

5. **Resolution** appropriating funds necessary to meet the City's Obligation to Karde's Inc. under the Development Agreement dated March 17, 2014.
6. **Resolution** appropriating funds necessary to meet the City's Obligation to Boulder's Inn Monticello under the Development Agreement dated October 15, 2015 as amended November 20, 2017.
7. **Resolution** appropriating funds necessary to meet the City's Obligation to Menasha Corp. under the Development Agreement dated April 3, 2017.
8. **Resolution** to approve TIF Certification for FY 2020.
9. **Resolution** to approve Downtown Brick Paver Policy
10. **Resolution** to authorize City Administrator to proceed with process to amend Development Agreement between Orbis Mfg., a subsidiary of Menasha Corporation, to reflect terms and provisions related to expenses incurred Orbis related to the installation of a new section of City water main.

**Ordinances:**

11. **Ordinance** to Amend Chapter 50.10 Animal Protection and Control. (3<sup>rd</sup> Reading)
12. **Ordinance** to Amend Chapter 122 "Peddlers, Solicitors and Transient Merchants" to add provisions related to "Mobile Food Vending". (2<sup>nd</sup> Reading)
13. **Ordinance** to Amend Chapter 10, Urban Revitalization, adding section 10.10(3)

**Reports / Potential Action:**

- Budget Review Schedule
- City Tree Dump Discussion
- Trail Progress and Grant Update
- Fountain Park Update
- Hughes Garage Compliance Update
- Sycamore Street Project Update
- Law Suit Updates
  - Dave Lumpa law suit
  - Petersen law suit
  - Intlekofer law suit

**Adjournment:** Pursuant to §21.4(2) of the Code of Iowa, the City has the right to amend this agenda up until 24 hours before the posted meeting time.

Regular Council Meeting – Official  
October 15, 2018 – 6:00 P.M.  
Community Media Center

Mayor Brian Wolken called the meeting to order. Council present: Dave Goedken, Gary "Butch" Pratt, Rob Paulson, Johnny Russ and Chris Lux. Also present were City Administrator Doug Herman, City Clerk Sally Hinrichsen, Police Chief Britt Smith, Public Works Director Brant Lagrange, and City Engineer Casey Zwolinski. Council Member Tom Yeoman was absent.

Pratt moved to approve the agenda, adding Resolution requesting Alliant to remove two street lights at City Park, Goedken seconded, roll call unanimous.

Lux moved to approve the consent agenda, Russ seconded, roll call unanimous.

Bob Furino with Starlighters requested the use of the Community Building at no charge for Director Classes. Goedken moved to approve free use of the Community Building Auditorium for the Starlighters' Director classes for 5 sessions between January thru March, 2019, Russ seconded, roll call unanimous.

Pratt moved to approve Resolution #18-118 Approving FY 2017-2018 Annual Urban Renewal Report, Goedken seconded, roll call unanimous.

Herman reviewed the proposed repairs to the West Well as was discussed with Cahoy President Mike Whittenbaugh. Herman expressed his opinion that the proposed maintenance and repairs were appropriate and would lengthen the life of the west well. Herman stated the cost of the repairs to the west well could be added to the bond issue for North Sycamore Street Project. Herman stated the Council could decide to cover a portion of these repairs from the General Fund and not with bond proceeds. Goedken moved to approve Resolution #18-119 To Approve Maintenance & Repairs to West Well as proposed by Cahoy Group, seconded by Pratt, roll call unanimous.

Goedken moved to approve Resolution #18-120 Approving internal loan from the General Fund to the Water Operating Fund in an amount not to exceed \$106,000.00, seconded by Russ, roll call unanimous.

Goedken moved to approve Resolution #18-121 Related to the financing of a project to be undertaken by the City of Monticello, Iowa; establishing compliance with reimbursement bond regulations under the Internal Revenue Code, Russ seconded, roll call unanimous.

Herman reviewed Anderson Ladd proposal related to Berndes Center Floor installation differences between bid and actual floor installed. Herman recommended that City use the floor for a period of time before locking into the proposed solution, and depending upon wear between now and February, Council can consider other options. Goedken moved to table action to approve Anderson Ladd, Inc proposal for the Berndes Center and allow Herman to get more information regarding the flooring, Pratt seconded, roll call unanimous. Herman will put this issue on next agenda for review.

Regular Council Meeting – Official  
October 15, 2018

Herman reviewed the two lights he was looking to have removed from the City Park, one located near the dumpster by the side door of the Berndes Center and the other located near the Goettsch Shelter. Goedken moved to approve Resolution #18-122 entitled Street Lighting Resolution, Russ seconded, roll call unanimous. Herman will inform Alliant that the lights can be removed.

Herman reviewed proposed changes to the Ordinance related to Animal Protection and Control. Josephine Bunn, 702 S Sycamore requested the City do the "right" thing and lift the pit bull ban. Amy Bunn, 702 S Sycamore felt the City was opening the door to a law suit by banning pit bulls and felt the City should make the owner responsible and lift the pit bull ban. Preston Moore, Iowa State Director, The Humane Society of the United States read a letter to the Council. Wolken questioned how some insurance companies can ban coverage for Pit Bulls and Moore stated that private businesses can decide what they want to provide coverage for. Russ and Lux both stated that they personally would consider lifting the ban but that the Community members that have elected them want the ban to stay in place, so they have to put their personal feelings aside and do what the electors want. Goedken moved to introduce and move Ordinance #719 amending Chapter 50, by amending provisions pertaining to Animal Protection and Control, first reading and in title only, Paulson seconded, roll call unanimous.

Herman reported that he is looking at a few sites for a tree dump and yard waste facility after the City received a letter related to the City tree dump from the DNR. Herman located two possible sites and will reach out to the DNR for their input.

Zwolinski reported that the Taylor Construction has begun the shoulder work on the East 1<sup>st</sup> Street Bridge Project and that Eastern Iowa Concrete will be doing the paving.

LaGrange reported that the Baty Disc Golf Course drainage project is nearly complete.

Herman and LaGrange reported on the trail project. Eastern Iowa Concrete will be pouring the concrete upon completion of the E. 1<sup>st</sup> Street Bridge approaches. The Library Board attended a Park Board meeting to discuss applying for a REAP grant through the Iowa DNR to purchase Story Walk Boards to place along the Willow Park Trail, where they would put short storybook pages in for the kids to read along the trail. Council did not voice objections.

Herman reported that he has received one grant related to the Fountain Park project, that he had applied for another, and would be applying for more. City staff will be removing the pit where the pump was located and replacing it with a manhole.

Goedken inquired if repairs were going to be made to the water fountain at the City Park on Maple Street and if it is used. Wolken reported it is used by the concessions during the fair. Herman will contact Fair Manager John Harms for input.

Herman handed out information regarding food trucks regulations from Cedar Rapids. Holly Trevino, 17289 Co. Rd., questioned if others like Schwans and Mac Tools required a transient merchants permit. Smith stated that they were exempt as they are customer based and do not solicit business from others or set up for retail type business. Trevino asked if vendors that fill the factories vending machines were required to have a permit and Smith stated they are requested by the factory to fill the vending machines, so they would not. Trevino stated that

Regular Council Meeting – Official  
October 15, 2018

they setup their trailer at VJ's Great Pastimes last weekend and Smith stated that she would need a transient permit as they are soliciting business from customers and not just VJ's employees. Herman will draft an ordinance for consideration at the next Council meeting.

Pratt moved to adjourn at 7:26 P.M.

---

Brian Wolken, Mayor

---

Sally Hinrichsen, City Clerk

Regular Council Meeting – Official  
November 5, 2018 – 6:00 P.M.  
Community Media Center

Mayor Brian Wolken called the meeting to order. Council present: Dave Goedken, Gary "Butch" Pratt, Rob Paulson, Johnny Russ, Chris Lux and Tom Yeoman. Also present were City Administrator Doug Herman, City Clerk Sally Hinrichsen, Police Chief Britt Smith, Public Works Director Brant Lagrange, and City Engineer Patrick Schwickerath.

Lux moved to approve the agenda, Pratt seconded, roll call unanimous.

Yeoman moved to approve the consent agenda, Russ seconded, roll call unanimous.

Herman reviewed Pay Request #7 and Change Order #3 from Taylor Construction related to the 2017 E 1<sup>st</sup> Street Bridge Replacement Project. Yeoman moved to approve Resolution #18-123 Approving Pay Request #7 in the amount of \$48,889.94 and Change Order #3 in the amount of \$49,995 submitted by Taylor Construction, Inc. Re: 2018 E. 1<sup>st</sup> Street Bridge Replacement Project, seconded by Pratt, roll call unanimous.

Herman reviewed the proposed phases of the Fountain Renovation and Repair project. Phase 1 cost estimates total \$58,000 to repair fountain and Phase 2 cost estimates total \$43,000 for landscaping and hardscaping improvements. Herman stated the City was awarded a Parks to People grant in the amount of \$5,400 that must be spent this year and he has applied for a Community Foundation Grant, which will be awarded in December. Herman is also looking into other grants. Brenda Hanken, 291 Pine St, understood there were funds set aside for the fountain repairs and City staff reported that funds had not yet been allocated. Herman explained that the City would need to get competitive quotations due to the projected costs. Yeoman moved Resolution #18-124 to authorize City Administrator to move forward with Phase 1 of the Fountain Renovation and Repair project, Russ seconded. Goedken expressed interest in the City pursuing more fundraising before moving ahead. Roll call vote, Yeoman, Russ, and Lux voted aye and Goedken, Pratt and Paulson voted nay. Motion failed.

Lux moved Resolution #18-125 Approving Russell Stoneking and Nicole Monk-Stoneking Tax Abatement Application related to Residential Improvements constructed at 802 Northridge Drive, Monticello, Iowa, Russ seconded, roll call unanimous.

Herman reported the Berndes Center staff is happy with the flooring. Herman feels the City has a legal obligation to pay the contractor a fair sum for the work done to date even though the work was not completed exactly as it was supposed to be. Herman recommended a payment of \$95,770.50 with a retainer of 25% or \$31,923.50, being maintained. The Contractor is prepared to take corrective measures, however, the schedule at the Berndes Center will not allow the repairs to be performed until March, 2019. Goedken moved to approve Resolution #18-126 Approving a partial payment of \$95,770.50 to Anderson Ladd, Inc related to Berndes Center floor project, Pratt seconded. Roll call unanimous except Yeoman who voted nay. Motion carried. Yeoman explained that he felt more comfortable with a payment equal to 50% of the invoiced amount.

Herman reported the improvements to John Drive extension to serve the new JETS facility are completed to the satisfaction of the City. Goedken moved to approve Resolution #18-127 Accepting Dedication of the extension of John Drive and public improvements located within the right-of-way thereof, Lux seconded, roll call unanimous.

Herman reported that the City oversaw the final improvements to the street extension at a cost of approximately \$22,000. The Developer will reimburse the City that amount upon the sale of remaining lots. Goedken moved to approve Resolution #18-128 to accept the dedication of the extension of Grandview Avenue as set forth in the Final Plat of Willow Ridge 4<sup>th</sup> Addition and all infrastructure related thereto, Pratt seconded, roll call unanimous.

Herman reported that Whitney Boysen submitted two open records requests by e-mail to the City Administrator and that she has requested a waiver of fees related to the preparation of a response. Herman reviewed the two emails requests and stated it could take hours to review the email histories for the last five years, to fully and accurately respond. He contacted Infrastructure Technical Solutions (ITS), the City's IT provider, and they estimated a cost of \$100.00 per e-mail account search. Herman contacted the State Board that oversees Open Records regulations and they agreed that the City could charge Boysen for the efforts of ITS. Whitney Boysen, 307 S Locust, explained her request to include: 1) all police records from the last five years pertaining to the enforcement of the pit bull ban; 2) the salary information for those involved with each instance of enforcing the ban, including the officers, the city administrator and the dispatchers, and copies of all emails sent or received by members of the City Council, City Administrator, City Clerk and Police Chief, with the following terms used: Pit bull, Pitbull, Staffordshire, Bully, Dog and Emotional Support animal. Benda Hanken, 291 Pine St, suggested that the City give Boysen an estimate for the number of calls over the last 12 months and asked Boysen if that would be okay. Boysen replied that she wanted the number not an estimate. Tracy Tuel, Monticello stated she was unsure why Boysen wanted this information and asked Boysen to clarify what she wanted. Yeoman and Goedken asked Boysen if she had a pit bull in her home and she responded that she did not own a pit bull and did not have a pit bull in her household. Yeoman made the motion to approve Resolution #18-129 Authorizing City Administrator to contact Infrastructure Technical Solutions (ITS) to do the research for the City and to waive the cost related to the Open Records request, Pratt seconded. Roll call vote, Yeoman, Pratt, Paulson, Russ, Lux and Goedken voting nay. Motion failed. Herman stated that he would get a written estimate of the research costs and suggested putting it on a thumb drive to save Boysen the cost of copying. Once the estimated cost is determined Herman will contact Boysen to pay the cost in advance.

Herman reviewed the proposed Ordinance related to Animal Protection and Control. Jo Provencher, 145 N Maple suggested the City not "push" the pit bull ban and to enforce the leash law instead. Attorney Greg Clevenger, retained by the Denemarks, questioned how the ordinance pertained to emotional support animals that were pit bulls. Herman indicated that he would be in touch with him with more information. Terry Reynolds, 812 Northhaven Dr., stated that the breed doesn't affect which dog will bite and suggested it was time for a new animal ordinance that doesn't include a breed specific ban. Josh Schmit, 535 N Cedar, stated a lot of emotion is involved with this and stated that the Council needs to look at the ban with logic. He felt the ban was in place due to the bias of the unknown and didn't believe that it was right to keep something in place because of fear. He felt that the Council should look at statistics not fear and that lifting the ban would then make sense. Yeoman stated he was told by two

veterinarians in Monticello not to lift the ban. Goedken stated that he considers citizen's concerns and that he represents all citizens of Monticello. Herman stated that he was told that the Anamosa Police Department had a report of a Pit Bull bite shortly after they lifted their ban. Marcia Gomez, 417 Southaven suggested that the City enforce the laws in place now and not the breed ban. Tracy Tuel, Monticello, stated there is a lot of emotion both for and against the ban and stated that she was bit by a dog on a leash last year, which was not a Pit Bull. She felt by banning the breed the City was not accomplishing anything and that the decision needs to be built on facts and not opinions, as all dogs bite. Amy Bradley, 429 N Sycamore, looked into the Anamosa ordinance and if a dog bites it is removed from town. She suggested that dogs should be required to be licensed and chipped. She volunteers at the Jones County shelter, which has 5 or 6 Pit Bulls and they are the sweetest dogs. Boysen read a letter from Chris James, an Anamosa resident, who stated that Anamosa has had no dog bites since the ban was lifted. Herman stated that the Anamosa Police department advised Chief Smith that they did have a dog bite. Herman asked the Committee to meet November 14th at 4 PM, to review ordinance before the final reading to ensure that the Committee had no further recommendations. Preston Moore, Iowa State Director of the Humane Society of the United States questioned if the committee minutes were public record and if committee meeting was open to the public. Herman stated if the committee kept minutes they would be a public record and that because there would not be a quorum of the Council present, it was not required to be open to the public. Yeoman moved Ordinance #719 amending Chapter 50, by amending provisions pertaining to Animal Protection and Control, second reading and in title only, Pratt seconded, roll call unanimous.

Herman reviewed the proposed Ordinance related to Mobile Food Vending with the Council. Goedken stated he is getting a lot of feedback from people who are paying taxes who question whether the City should allow mobile food vending. Holly Trevino, 17289 Co. Rd., questioned who would have to pay fees and felt Monticello's fees were excessive when compared to other Cities of similar size. Herman explained that he looked at other Cities ordinances and that in some cases the fees are determined by resolution and not by ordinance. Yeoman moved to introduce and move Ordinance #720 by amending Chapter 122, "Peddlers, Solicitors and Transient Merchants", Pratt seconded. Roll call vote: Yeoman, Pratt, Lux and Russ voting aye and Goedken and Paulson voted nay. Motion carried. Goedken explained that he believed the distance a food vendor would need to stay away from a restaurant as proposed in the Ordinance was too close.

Herman reported that he is looking at a few sites for a tree dump and yard waste facility and is awaiting input from the DNR.

Herman reported that the Orbis project included an extension of a water main due to the increased water demands associated with their new building's sprinkler system. They have installed the water main through property purchased by Orbis off of 11<sup>th</sup> Street which already includes a city sanitary sewer main. Orbis has requested that the City cover the costs of the City water main extension which they have covered to date at a cost of \$79,342. Herman suggested that the City amend the Urban Renewal Plan so that the development agreement with Orbis could be modified to include the repayment of most or all of the requested expenses. Consensus of the Council was to have Herman proceed with the process required to amend the development agreement with Orbis.



Regular Council Meeting – Official  
November 5, 2018

Herman stated he arranged for B & J Excavating to install a culvert through a blockage along the old RR bed north of the Horsfield Concrete facility site and behind the Accent Construction Hwy 38 site which will allow for a better water flow to the river. Brian Monk donated most of the culvert as he had used culvert on hand.

Herman and LaGrange reported that the Baty Disc Golf Course drainage project is ready for concrete and expect that to start this week.

Herman reported that Red Hughes was able to get rid of all the tires he had been storing and expects to only have one more load of cars to remove.

Herman reviewed the proposed draft brick paver policy. Previously, the Council wanted to hold off on final approval of the policy until after the City installed the bricks in front of City hall. Herman will place on the next agenda.

Herman stated that the City Code requires that driveways within the City to be paved. Herman asked the Council where they stood with regard to unpaved driveways along Sycamore Street taking into account the planned reconstruction. Herman suggested a few options: 1) require driveways to be brought into compliance and work with the project contractor to do the work so that the costs of the driveway improvements could be included with the assessments allowing the property owner to pay off the assessment over ten years; 2) give owners a set time to bring the driveway into compliance using a contractor of their choice or 3) to concrete only the approach and sidewalk as part of the project and require compliance with the driveway upon the sale of the property. Schwickerath explained that the City would need to acquire access agreements for all work outside of the right-of-way. He explained potential elevation problems with 6 driveways that affect 11 property owners as 5 of the driveways are shared. Herman plans to schedule an open house for the property owners along North Sycamore Street to review the plans and ask questions.

Herman indicated that the Council had discussed N. Chestnut Street repairs or reconstruction and was looking for input or direction from the Council. Council discussed a concrete street with bricks or rock base with brick over the top. Schwickerath will work on cost estimates and specification options.

Herman briefly reviewed the fact that a lawsuit was filed against the City by Dave Lumpa. Herman will file appropriate responses.

Herman has asked Don Peters for advice on the Clock Tower and Community Building gable siding improvement plans, particularly related to colors and siding design. Peters initial reaction was that the siding should remain white.

Pratt moved to adjourn at 8:18 P.M.

---

Brian Wolken, Mayor

---

Sally Hinrichsen, City Clerk

# PAYROLL - NOVEMBER 8, 2018

DEPARTMENT	GROSS PAY	OT PAY	COMP HRS. ACCRUED	COMP TOTAL	NET PAY
<b>AMBULANCE</b>	<b>Oct. 22 - Nov. 4, 2018</b>				
Jeremy Bell	\$ 435.60	\$ -	0.00	0.00	\$ 338.25
Brian Bronemann	154.92	-	0.00	0.00	132.51
Carter Bronemann	2,672.83	896.23	0.00	0.00	1,797.83
Dawn Brus	1,335.00	-	0.00	0.00	964.07
Johnathan Geiger	130.08	-	0.00	0.00	111.27
Drew Haag	265.60	-	0.00	0.00	224.19
Jessica Heasty	11.00	-	0.00	0.00	11.76
Ben Hein	69.12	-	0.00	0.00	59.12
Mary Intlekofer	1,868.91	8.31	0.00	107.13	1,246.95
Brandon Kent	1,860.60	-	0.00	0.00	1,207.32
Jim Luensman	675.58	-	0.00	0.00	508.74
Lori Lynch	1,910.44	49.84	0.00	0.00	1,264.03
Dave McNeill	221.48	-	0.00	0.00	187.46
Mandy Norton	112.12	-	0.00	0.00	95.90
Shelly Searles	1,860.61	-	0.00	0.00	1,395.82
Sabrina Strella	33.00	-	0.00	0.00	28.22
Brenda Surom	531.60	-	0.00	0.00	399.26
Chris Szymanowski	507.60	-	0.00	0.00	422.20
Chad Tatar	692.66	-	0.00	0.00	520.46
<b>TOTAL AMBULANCE</b>	<b>\$ 15,348.75</b>	<b>\$ 954.38</b>	<b>0.00</b>	<b>107.13</b>	<b>\$ 10,915.36</b>
<b>CEMETERY</b>	<b>Oct. 20 - Nov. 2, 2018</b>				
Dan McDonald	\$ 1,608.00	\$ -	0.00	0.00	\$ 1,138.03
<b>TOTAL CEMETERY</b>	<b>\$ 1,608.00</b>	<b>\$ -</b>	<b>0.00</b>	<b>0.00</b>	<b>\$ 1,138.03</b>
<b>CITY HALL</b>	<b>Oct. 21 - Nov. 3, 2018</b>				
Cheryl Clark	\$ 1,636.00	\$ -	0.00	5.00	\$ 1,080.13
Doug Herman	3,720.71	-	0.00	0.00	2,667.24
Sally Hinrichsen	2,427.38	-	0.00	0.00	1,611.64
Nanci Tuel	1,396.00	-	0.00	0.00	915.17
<b>TOTAL CITY HALL</b>	<b>\$ 9,180.09</b>	<b>\$ -</b>	<b>0.00</b>	<b>5.00</b>	<b>\$ 6,274.18</b>
<b>FIRE</b>					
Drew Haag	\$ 100.00	\$ -	0.00	0.00	\$ 85.54
Nick Kahler	60.00	-	0.00	0.00	51.32
Don McCarthy	125.00	-	0.00	0.00	106.93
Billy Norton	100.00	-	0.00	0.00	85.54
<b>TOTAL FIRE</b>	<b>\$ 385.00</b>	<b>\$ -</b>	<b>0.00</b>	<b>0.00</b>	<b>\$ 329.33</b>
<b>LIBRARY</b>	<b>Oct. 22 - Nov. 4, 2018</b>				
Molli Hunter	\$ 316.39	\$ -	0.00	0.00	\$ 268.28
Penny Schmit	1,004.70	4.69	0.00	0.00	734.32
Madonna Thoma-Kremer	920.01	-	0.00	0.00	567.61
Michelle Turnis	1,538.46	-	0.00	0.00	972.03
<b>TOTAL LIBRARY</b>	<b>\$ 3,779.56</b>	<b>\$ 4.69</b>	<b>0.00</b>	<b>0.00</b>	<b>\$ 2,542.24</b>
<b>MBC</b>	<b>Oct. 22 - Nov. 4, 2018</b>				
Jacob Oswald	\$ 1,846.15	\$ -	0.00	0.00	\$ 1,382.31
Shannon Poe	1,538.46	-	0.00	0.00	1,093.48

# PAYROLL - NOVEMBER 8, 2018

DEPARTMENT	GROSS PAY	OT PAY	COMP HRS. ACCRUED	COMP TOTAL	NET PAY
<b>TOTAL MBC</b>	\$ 3,384.61	\$ -	0.00	0.00	\$ 2,475.79
<b>POLICE</b>	<b>Oct. 22 - Nov. 4, 2018</b>				
Peter Fleming	\$ 503.76	\$ -	0.00	0.00	\$ 389.21
Dawn Graver	2,012.80	-	0.00	0.00	1,432.32
Erik Honda	2,076.46	117.02	0.00	0.00	1,532.11
John Klein	257.88	-	0.00	0.00	218.59
Jordan Koos	2,145.24	-	0.00	4.00	1,549.94
Travis McNally	335.84	-	0.00	0.00	274.28
Britt Smith	2,504.65	-	0.00	0.00	1,822.50
Madonna Staner	1,450.40	-	0.00	0.00	1,091.08
Brian Tate	2,109.24	-	0.00	0.00	1,437.36
Robert Urbain	1,518.60	-	0.00	0.00	1,109.75
<b>TOTAL POLICE</b>	<b>\$ 14,914.87</b>	<b>\$ 117.02</b>	<b>0.00</b>	<b>4.00</b>	<b>\$ 10,857.14</b>
<b>ROAD USE</b>	<b>Oct. 20 - Nov. 2, 2018</b>				
Billy Norton	\$ 1,608.00	\$ -	0.00	0.00	\$ 1,039.29
Wayne Yousse	1,826.69	60.30	0.00	0.00	1,272.28
<b>TOTAL ROAD USE</b>	<b>\$ 3,434.69</b>	<b>\$ 60.30</b>	<b>0.00</b>	<b>0.00</b>	<b>\$ 2,311.57</b>
<b>SANITATION</b>	<b>Oct. 20 - Nov. 2, 2018</b>				
Michael Boyson	\$ 1,572.00	\$ -	0.00	0.00	\$ 1,078.45
Nick Kahler	1,608.00	-	0.00	0.00	1,075.54
<b>TOTAL SANITATION</b>	<b>\$ 3,180.00</b>	<b>\$ -</b>	<b>0.00</b>	<b>0.00</b>	<b>\$ 2,153.99</b>
<b>SEWER</b>	<b>Oct. 20 - Nov. 2, 2018</b>				
Tim Schultz	\$ 1,668.00	\$ -	0.00	19.50	\$ 823.09
Jim Tjaden	1,936.00	-	0.00	0.00	1,383.73
<b>TOTAL SEWER</b>	<b>\$ 3,604.00</b>	<b>\$ -</b>	<b>0.00</b>	<b>19.50</b>	<b>\$ 2,206.82</b>
<b>WATER</b>	<b>Oct. 20 - Nov. 2, 2018</b>				
Brant LaGrange	\$ 2,070.89	\$ -	0.00	0.00	\$ 1,039.55
Jay Yanda	1,856.00	-	0.00	0.00	1,324.90
<b>TOTAL WATER</b>	<b>\$ 3,926.89</b>	<b>\$ -</b>	<b>0.00</b>	<b>0.00</b>	<b>\$ 2,364.45</b>
<b>TOTAL - ALL DEPTS.</b>	<b>\$ 62,746.46</b>	<b>\$ 1,136.39</b>	<b>0.00</b>	<b>135.63</b>	<b>\$ 43,568.90</b>

**ACCOUNTS PAYABLE ACTIVITY  
CLAIMS REPORT**

VENDOR NAME	REFERENCE	VENDOR TOTAL	CHECK#	CHECK DATE
ACCOUNTS PAYABLE CLAIMS				
	GENERAL			
	POLICE DEPARTMENT			
DIGITAL ALLY, INC.	PD EQUIP REPAIR/MAINT	145.00		
KONICA MINOLTA BUSINESS	PD OFFICE SUPPLIES	92.22		
BRIAN KRAMER	PD GROUNDS MAINTENANCE	30.00		
MCALEER WATER CONDITIONING INC	PD SOFTENER SALT	17.13		
MONTICELLO COMM SCHOOL DISTRCT	PD FUEL	956.58		
TCM BANK NA	PD MICROSOFT OFFICE DOCK	139.86		
TRI COUNTY PROPANE LLC	PD FUEL	55.32		
U.S. CELLULAR	PD CELL PHONES	184.12		
		=====		
	POLICE DEPARTMENT	1,620.23		
	STREET LIGHTS			
ALLIANT ENERGY-IES	416 E SECOND STREETLIGHTS	180.45		
		=====		
	STREET LIGHTS	180.45		
	AQUATIC CENTER			
ARCH CHEMICALS, INC.	POOL EQUIP REPAIR/MAINT	84.69		
		=====		
	AQUATIC CENTER	84.69		
	CEMETERY			
MONTICELLO COMM SCHOOL DISTRCT	CEMETERY FUEL	646.39		
		=====		
	CEMETERY	646.39		
	SOLDIER'S MEMORIAL BOARD			
MEDIACOM	SLDR MEM TELEPHONE	25.36		
		=====		
	SOLDIER'S MEMORIAL BOARD	25.36		
	MAYOR AND CITY COUNCIL			
CHRISTINA LUX	COUNCIL MILEAGE	13.08		
		=====		
	MAYOR AND CITY COUNCIL	13.08		
	CLERK/CITY ADMIN			
JOHN MONK	JANITORIAL SERVICES	200.00		

**ACCOUNTS PAYABLE ACTIVITY  
CLAIMS REPORT**

VENDOR NAME	REFERENCE	VENDOR TOTAL	CHECK#	CHECK DATE
	CLERK/CITY ADMIN	200.00		
	ATTORNEY			
LEXISNEXIS	ATTORNEY RESEARCH	72.00		
TCM BANK NA	ATTORNEY TRAINING	115.00		
	ATTORNEY	187.00		
	CITY HALL/GENERAL BLDGS			
BAKER PAPER CO INC	CH BUILDING SUPPLIES	32.64		
DATA TECHNOLOGIES INC	CH COMPUTER SUPPORT FEES	5,384.00		
FAREWAY STORES #840-1	CH BUILDING SUPPLIES	40.57-		
DOUG HERMAN	CH TRAVEL - NEIRL MEETING	70.97		
INFRASTRUCTURE TECHNOLOGY	CH MISC CONTRACT WORK	1,065.90		
JOHN DEERE FINANCIAL	CH BUILDING SUPPLIES	3.19		
KONICA MINOLTA BUSINESS	COPIER MAINTENANCE	309.13		
MEDIACOM	CH TELEPHONE	160.61		
	CITY HALL/GENERAL BLDGS	6,985.87		
	GENERAL	9,943.07		
	MONTICELLO BERNDES CENTER			
	PARKS			
ALLIANT ENERGY-IES	MBC ELECTRIC	912.74		
BAKER PAPER CO INC	MBC BUILDING SUPPLIES	144.00		
BOSS OFFICE SUPPLIES & SYS INC	MBC OFFICE SUPPLIES	11.08		
CENTRAL IOWA DISTRIBUTING INC	MBC BUILDING SUPPLIES	146.00		
ROBERT P CLAUSSEN	MBC BLDG REPAIR/MAINT	270.00		
MANDY HANKEN	MBC YOUTH BASKETBALL REFUND	25.00		
JOHN DEERE FINANCIAL	MBC TOOL SET	76.77		
JONES CO ECONOMIC DEVELOPMENT	MBC DAMAGE DEPOSIT REFUND	200.00		
KATHY MCDONNELL	MBC DAMAGE DEPOSIT REFUND	200.00		
JOHN MONK	JANITORIAL SERVICES	195.00		
MONTICELLO COMM SCHOOL DISTRCT	MBC FUEL	87.69		
MONTICELLO SPORTS	MBC ATHLETIC FIELD PAINT	96.00		
TCM BANK NA	MBC OFFICE SUPPLIES	9.99		
	PARKS	2,374.27		
	MONTICELLO BERNDES CENTER	2,374.27		
	FIRE			
	FIRE			
	FIRE SUPPLIES	59.77		

**ACCOUNTS PAYABLE ACTIVITY  
CLAIMS REPORT**

VENDOR NAME	REFERENCE	VENDOR TOTAL	CHECK#	CHECK DATE
MONTICELLO COMM SCHOOL DISTRICT	FIRE FUEL	287.44		
RADIO COMMUNICATIONS CO INC	FIRE RADIO REPAIR/MAINT, SUPP	231.82		
TOYNE, INC.	FIRE EQUIP REPAIR/MAINT	120.98		
		=====		
	FIRE	700.01		
		=====		
	FIRE	700.01		
	AMBULANCE			
	AMBULANCE			
AIRGAS USA, LLC	AMB MEDICAL SUPPLIES	65.55		
BOUND TREE MEDICAL, LLC	AMB MEDICAL SUPPLIES	65.85		
DAWN BRUS	AMB IEMSA CONFERENCE	488.89		
BRIAN KRAMER	AMB GROUNDS MAINTENANCE	30.00		
MCALEER WATER CONDITIONING INC	AMB SOFTENER SALT	17.12		
MONTICELLO COMM SCHOOL DISTRICT	AMB FUEL	744.41		
U.S. CELLULAR	AMB CELL PHONES	68.22		
		=====		
	AMBULANCE	1,480.04		
		=====		
	AMBULANCE	1,480.04		
	LIBRARY IMPROVEMENT			
	LIBRARY			
BAKER & TAYLOR BOOKS	LIB IMP BOOKS	76.98		
MONTICELLO EXPRESS INC	LIB IMP PROGRAMS/PROMOTIONS	329.60		
TCM BANK NA	LIB IMP PROGRAMS/PROMOTIONS	421.92		
		=====		
	LIBRARY	828.50		
		=====		
	LIBRARY IMPROVEMENT	828.50		
	LIBRARY			
	LIBRARY			
CULLIGAN TOTAL WATER	LIB BUILDING SUPPLIES	12.41		
FAREWAY STORES #840-1	LIB BUILDING SUPPLIES	23.32		
DENNIS J GRAY	LIB BLDG REPAIR/MAINT	35.00		
KONICA MINOLTA BUSINESS	LIB OFFICE SUPPLIES	295.82		
MEDIACOM	LIB TELEPHONE	118.34		
MICRO MARKETING LLC	LIB AUDIO RECORDINGS	19.99		
JOHN MONK	JANITORIAL SERVICES	160.00		
TCM BANK NA	LIB BOOKS	412.72		

**ACCOUNTS PAYABLE ACTIVITY  
CLAIMS REPORT**

VENDOR NAME	REFERENCE	VENDOR TOTAL	CHECK#	CHECK DATE
	LIBRARY	1,077.60		
	LIBRARY	1,077.60		
	AIRPORT			
	AIRPORT			
BAKER PAPER CO INC	AIRPORT BUILDING SUPPLIES	83.88		
JOHN DEERE FINANCIAL	AIRPORT EQUIP REPAIR/MAINT	4.58		
LAPORTE MOTOR SUPPLY	AIRPORT EQUIP REPAIR/MAINT	191.60		
MCALFEER WATER CONDITIONING INC	AIRPORT BUILDING SUPPLIES	55.55		
	AIRPORT	335.61		
	AIRPORT	335.61		
	ROAD USE			
	STREETS			
ALLIANT ENERGY-IES	STOP SIGNS - N MAIN ST	41.89		
CAMPBELL SUPPLY	DEEP CUT BAND SAW & GRINDER	61.61		
BRIAN CROWLEY	RU EQUIP REPAIR/MAINT	35.00		
GILLESPIE AUTO ELECTRIC INC	RU EQUIP REPAIR/MAINT	350.00		
JOHN DEERE FINANCIAL	RU SUPPLIES	261.35		
LAPORTE MOTOR SUPPLY	RU EQUIP REPAIR/MAINT	189.38		
DAVID B MCNEILL	RU SUPPLIES	12.83		
MONTICELLO COMM SCHOOL DISTRICT	RU FUEL	1,822.90		
MONTICELLO MACHINE SHOP INC	RU EQUIP REPAIR/MAINT	85.17		
	STREETS	2,860.13		
	ROAD USE	2,860.13		
	TRUST/SLAVKA GEHRET FUND			
	LIBRARY			
FAREWAY STORES #840-1	LIB GEHRET PROGRAMMING	108.63		
	LIBRARY	108.63		
	TRUST/SLAVKA GEHRET FUND	108.63		
	PARK IMPROVEMENT			
	CAPITAL PROJECTS			

**ACCOUNTS PAYABLE ACTIVITY  
CLAIMS REPORT**

VENDOR NAME	REFERENCE	VENDOR TOTAL	CHECK#	CHECK DATE
BEHREND'S CRUSHED STONE	WILLOW PARK TRAIL	6,244.35		
		<u>6,244.35</u>		
	CAPITAL PROJECTS	6,244.35		
		<u>6,244.35</u>		
	PARK IMPROVEMENT	6,244.35		
	CAPITAL IMPROVEMENT			
	AIRPORT			
SCOT MCELMEEL	CAP IMP - AIRPORT HANGAR AIP	8,016.00		
		<u>8,016.00</u>		
	AIRPORT	8,016.00		
		<u>8,016.00</u>		
	CAPITAL IMPROVEMENT	8,016.00		
	BATY DISC GOLF COURSE			
	PARKS			
MONTICELLO COMM SCHOOL DISTRICT TCM BANK NA	BATY DG FUEL	25.79		
	BATY DG GROUNDS SUPPLIES	468.97		
		<u>494.76</u>		
	PARKS	494.76		
		<u>494.76</u>		
	BATY DISC GOLF COURSE			
	MARY MAXINE REDMOND TRUST			
	LIBRARY			
TCM BANK NA	LIB REDMOND PROGRAMMING	11.99		
		<u>11.99</u>		
	LIBRARY	11.99		
		<u>11.99</u>		
	MARY MAXINE REDMOND TRUST	11.99		
	C.C. BIDWELL LIBRARY BOOK			
	LIBRARY			
BAKER & TAYLOR BOOKS	LIB BIDWELL BOOKS	734.86		
		<u>734.86</u>		
	LIBRARY	734.86		
		<u>734.86</u>		
	C.C. BIDWELL LIBRARY BOOK	734.86		
	WATER			



**ACCOUNTS PAYABLE ACTIVITY  
CLAIMS REPORT**

VENDOR NAME	REFERENCE	VENDOR TOTAL	CHECK#	CHECK DATE
	WATER			
CAMPBELL SUPPLY	DEEP CUT BAND SAW & GRINDER	39.27		
HAWKINS WATER TREATMENT	WATER SUPPLIES	5.00		
HUGHES GARAGE & AUTO SALES LLC	WATER VEHICLE REPAIR/MAINT	255.56		
HYGIENIC LABORATORY	WATER LAB TESTS	91.00		
JOHN DEERE FINANCIAL	WATER OSHA SUPPLIES	14.44		
LASLEY ELECTRIC LLC	WATER BLDG REPAIR/MAINT	49.99		
MONTICELLO COMM SCHOOL DISTRCT	WATER FUEL	388.01		
TCM BANK NA	WATER POSTAGE	20.15		
U.S. CELLULAR	WATER CELL PHONE	42.22		
		<u>905.64</u>		
	WATER	<u>905.64</u>		
	SEWER			
	SEWER			
ALLIANT ENERGY-IES	1105 E FIRST ST	3,597.17		
CAMPBELL SUPPLY	DEEP CUT BAND SAW & GRINDER	39.27		
HYGIENIC LABORATORY	SEWER LAB TESTS	1,185.00		
JOHN DEERE FINANCIAL	SEWER BLDG REPAIR/MAINT	45.61		
LAPORTE MOTOR SUPPLY	SEWER EQUIP REPAIR/MAINT	138.62		
MONTICELLO COMM SCHOOL DISTRCT	SEWER FUEL	388.04		
TCM BANK NA	SEWER POSTAGE	83.60		
TRI COUNTY PROPANE LLC	SEWER UTILITIES	474.84		
		<u>5,952.15</u>		
	SEWER	<u>5,952.15</u>		
	SANITATION			
	SANITATION			
JOHN DEERE FINANCIAL	SANITATION OSHA SUPPLIES	191.03		
MONTICELLO COMM SCHOOL DISTRCT	SANITATION FUEL	83.81		
REPUBLIC SERVICES	DUMPSTER COLLECTIONS	8,571.74		
		<u>8,846.58</u>		
	SANITATION	<u>8,846.58</u>		
	SANITATION	<u>8,846.58</u>		
**** SCHED TOTAL ****		50,914.19		

# ACCOUNTS PAYABLE ACTIVITY CLAIMS REPORT

VENDOR NAME	REFERENCE	VENDOR TOTAL	CHECK#	CHECK DATE
***** REPORT TOTAL *****		50,914.19		

**ACCOUNTS PAYABLE ACTIVITY  
CLAIMS FUND SUMMARY**

FUND	FUND NAME	TOTAL	CHECK#	DATE
001	GENERAL	9,943.07		
005	MONTICELLO BERNDES CENTER	2,374.27		
015	FIRE	700.01		
016	AMBULANCE	1,480.04		
030	LIBRARY IMPROVEMENT	828.50		
041	LIBRARY	1,077.60		
046	AIRPORT	335.61		
110	ROAD USE	2,860.13		
178	TRUST/SLAVKA GEHRET FUND	108.63		
313	PARK IMPROVEMENT	6,244.35		
332	CAPITAL IMPROVEMENT	8,016.00		
338	BATY DISC GOLF COURSE	494.76		
339	MARY MAXINE REDMOND TRUST	11.99		
502	C.C. BIDWELL LIBRARY BOOK	734.86		
600	WATER	905.64		
610	SEWER	5,952.15		
670	SANITATION	8,846.58		

City of Monticello - Monthly Summary - October 1st thru 31st, 2018

*Adrian*  
Date: 11/2/2018

Fund	Activity	Beginning Fund Balance	Revenue	Interest Earned	Transfers In	Expenses	Transfers Out	Ending Fund Balance	Cash on Hand	Clerk's Cash In Bank	Clerk's Cash In Bank	Investments	Investments	Ending Fund Balance
<b>GENERAL FUNDS:</b>														
	General	423446.31	414308.25	3422.88		82317.16	28750.00	730110.28	610.00	661701.64	47793.64	5.00	6452.18	730110.28
	Soldiers Memorial Board	11734.01	425.00	114.30		120.00		12039.01						12039.01
	Monticello Bernides Center	58422.78	5988.00			25570.99		38564.09	100.00	31087.29	7376.80			38564.09
	Dare	6383.88		11.92				6395.80		6395.80				6395.80
	Insurance Fund	18004.14		36.68		666.32		17373.50		7348.85	10024.65			17373.50
	Monticello Trees Forever	34564.20		64.58				34628.78		34628.78				34628.78
	Fire	247738.66	10873.50	195.70		2347.71		256460.15		14351.32	92108.83			256460.15
	Ambulance Operating	43567.93	23576.63	86.69	18750.00	33274.87		52706.38		22040.92	30665.46		150000.00	52706.38
	Hotel/Motel Tax Fund	6596.83		12.78		331.97		6217.62		6217.62				6217.62
	Earl F Lehmann Trust	237.62						237.62			237.62			237.62
	Street Bond	6000.00						6000.00		6000.00				6000.00
	Police Improvement	1780.55	207.00	3.32		10272.06		-8281.19		-8281.19				-8281.19
	Library Improvement	39402.81	1615.00	78.42		1409.98		39686.25		11665.54	28020.71			39686.25
	Library	-1923.73	20055.64		10000.00	10721.14		17410.77	75.00	17395.77				17410.77
	Equipment Ser-A-Side	105623.68		209.17				105832.85		50930.69	54902.16			105832.85
	Super Mac	1563.97		3.13		1475.64		91.46		-1474.71	1566.17			91.46
	Airport	43703.61	16902.38	75.30		3793.76		56887.53		56887.53				56887.53
	Revolving Loan Fund	37067.86		70.02				37137.88		31473.46	5864.42			37137.88
<b>SPECIAL REVENUE FUNDS:</b>														
	Road Use Tax	65956.07	34025.28			48968.19		644013.16		264013.16	380000.00			644013.16
	Employee Benefits	301302.30	127600.09	601.51		28642.84		400861.06		151528.99	249332.07			400861.06
	TIF Tax Collections	339820.60	188797.26	627.47				529245.33		406713.09	122532.24			529245.33
	Slavka Gehret Trust	204767.91		336.87				205048.82		-99172.35	204221.17		100000.00	205048.82
	Police Forfeiture Acct	830.73		1.55				832.28		832.28				832.28
<b>DEBT SERVICE FUNDS:</b>														
	Debt Service	109655.00	109318.58	206.43				219180.01		207821.97	11358.04			219180.01
	TIF - Debt Payments	0.00						0.00						0.00
	Park Improvements	18794.69		37.02				18831.71		4761.63	14070.08			18831.71
	Library Capital Improvements	4029.50		7.87				4037.37		4037.37				4037.37
	Ambulance Improvements	58028.37	2275.00	115.74				60419.11		14308.77	46110.34			60419.11
	TIF Projects	5089.49						5089.49		5089.49				5089.49
	Cemetery Improvements	42861.78		110.97				42972.75		3616.25	39356.50			42972.75
	Cap Imp - FACC	12333.70		24.73				12358.43			12358.43			12358.43
	Capital Improvements	-62902.75	5888.08			24800.27		-81814.94		-81814.94				-81814.94
	Youth Baseball & Softball	14547.75						-7962.44		-7962.44				-7962.44
	Low Income Housing	14547.75		29.17				14576.92			14576.92			14576.92
	MDC Funds	15838.53		28.50		308.89		-4003.68		-4003.68				-4003.68
	Baty Disc Golf Course	8586.62		17.21		48.77		8557.06		15387.37	170.77			15558.14
	Mary Maxine Redmond Trust	10905.74	100.00	21.30		130.92		10896.12		107.01	8450.05			8557.06
	Pocket Park	162576.80	258.00					162834.80		10896.12				10896.12
<b>PERMANENT FUNDS:</b>														
	Cemetery Perpetual Care	85803.81		172.06		334.14		85641.72		348.00	12486.80		150000.00	162834.80
	Charles S Bidwell Book Trust	40693.47		81.85				40775.32		-50114.65	85756.37		50000.00	85641.72
	Johna Mary Baker Trust	38929.65	37063.81	76.44		19044.95		57024.95		49125.56	7899.39			40775.32
	Water Operating	89810.70	960.00			1230.00		89540.70		7968.14	81572.56			89540.70
	Customer Deposits	4993.65	951.09	99.61				6044.35		5184.50	859.85			6044.35
	Water Capital Improvements	36032.73	49923.67	70.38		23779.68		62247.10		62247.10				62247.10
	Sewer Operating	109483.56	4194.38	303.75		2328.00		111653.69		110283.62	1370.07			111653.69
	Sewer Capital Improvements	65446.47	42088.39	120.41		44454.73		63200.54		63200.54				63200.54
	Sanitation	62310.92		122.09				62433.01		20893.10	41539.91			62433.01
	Sanitation Capital Improvements	-37477.99	2547.56			368.47		-35298.90		-35298.90				-35298.90
	Storm Water fund	0.00	865.07					0.00						0.00
<b>AGENCY FUNDS</b>														
	Self Funded Insurance	255.60	57.69					313.29		313.29				313.29
	Flex Spending	322.52	173.07					495.59		495.59				495.59
	Enterprise Flex Spending	3474518.91	1100668.42	7596.79	28750.00	367862.48	28750.00	4215101.64	785.00	2088994.20	1653040.81		456452.18	4215101.64
<b>TOTAL OF ALL FUNDS</b>														

City of Monticello  
 Cash On Hand By Bank  
 For October 31st, 2018

*ADMAN 11/12/2018*

Bank	Amount	Interest rate	Maturity date	Length of investment	Purpose
<b>F &amp; M Bank</b>					
Total by Bank	\$0.00				
<b>Citizens State Bank</b>					
Savings # 6025641	\$237.62	0.150	N/A		Earl F Lehmann Trust
Total by Bank	\$237.62				
<b>Dutrac Credit Union</b>					
Savings #227064-2	\$5.00		N/A		General Fund Slavka Gehret/Bidwell
CD #227064-2	\$150,000.00	3.100	4/15/2020		
Total by Bank	\$150,005.00				
<b>Regions Banks</b>					
Checking # 0002959379	\$5,586.83		N/A		Soldiers Memorial Soldiers Memorial
CD #89100344	\$6,452.18	0.05	1/18/2019	212 days	
Total by Bank	\$12,039.01				
<b>Fidelity Bank &amp; Trust</b>					
CD #129109	\$300,000.00	2.652	6/22/2019	12 months	Fire/Cem Perp Care
	\$300,000.00				
<b>Ohnward Bank &amp; Trust</b>					
General Ckg/Sweep #40002008	\$2,127,935.25	2.44	N/A		General Checking General Savings
Property Tax & Water #40001992	\$1,653,040.81	2.44	N/A		
Total by Bank	\$3,780,976.06				
<b>Total Cash on Hand- All Banks</b>	<b>\$4,243,257.69</b>				
Plus Petty Cash	\$785.00				Clerk's Office, Library, Aquatic Center and Berndes Center
Adjust Bank Error	\$0.00				
Plus Outstanding Credit Card Pymt	\$163.66				
Less Outstanding Checks	\$29,104.71				
Treasurer's Balance	\$4,215,101.64				

All of the accounts referenced above are "City" accounts, reported under the City Federal I.D. #. This is an all  
 Riverside Gardeners, Inc  
 Monticello Firefighters Organization, Inc  
 Monticello Emergency Medical Team  
 Friends of the Monticello Public Library  
 Monticello Youth Baseball & Softball Assn

City of Monticello  
Bank Reconciliation Report  
For the Month of October 2018

Bank Balance		
General Checking	\$2,127,935.25	
Property Tax & Water	\$1,653,040.81	
Soldiers Memorial Ckg	\$5,586.83	
Earl F Lehmann Trust	\$237.62	
DuTrac Savings	\$5.00	
	<hr/>	
Total Bank Balance		\$3,786,805.51
Plus (Minus) Adjustment:		
Bank Charge/Error	\$0.00	
	<hr/>	
Total Adjustment		\$0.00
Plus Outstanding Cedit Card Pymt:		
Credit Card Payments	\$163.66	
	<hr/>	
Total Outstanding Credit Card Pymts		\$163.66
Less Outstanding Checks:		
Financial/Payroll	\$29,104.71	
Soldiers Memorial	\$0.00	
Monticello Police Pistol	\$0.00	
	<hr/>	
Total Outstanding Checks		\$29,104.71
Plus Investments:		
Time Certificates	\$456,452.18	
Petty Cash	\$785.00	
	<hr/>	
Total Investments		\$457,237.18
Treasurer's Balance		<u>\$4,215,101.64</u>

Prepared By: Sally Hinrichsen 11-12-18  
Sally Hinrichsen, City Clerk

Reviewed by: Doug Herman 11/12/2018  
Doug Herman, City Administrator

City Council Meeting  
Prep. Date: 11/15/18  
Preparer: Doug Herman



Agenda Item: # 1-7  
Agenda Date: 11/19/18

**Communication Page**

**Agenda Items Description:** Resolution appropriating funds necessary to meet City's obligation to various developers pursuant to previously approved Development Agreements.

**Type of Action Requested:** Motion; Resolution; Ordinance; Report; Public Hearing; Closed Session

**Attachments & Enclosures:**

Resolutions

**Fiscal Impact:**

Budget Line Item:  
Budget Summary:  
Expenditure:  
Revenue:

**Synopsis:** Approval of annual appropriations for various developer agreements that call for annual appropriation.

**Background Information:** The City Council, in most cases, provides that all incentives set out in developer agreements are subject to annual appropriation by the City Council. The agreements include language that guides the Council with regard to the approval on annual appropriations, making clear that it is the intent of the City Council to annually appropriate those sums necessary for the City Council to meet its obligations under the agreements.

The following agreements include annual appropriations requirements and, therefore, all require approval at this time.

- Bud Johnson / Eastern Iowa Sports Facility:** Corrects last year's estimated appropriation, reducing it to "actual" rebate. Down from estimate of \$2,090 to actual of \$2,020 and appropriating \$2,020, the estimated amount for FY '20.
- MC Industries:** Corrects last year's estimated appropriation, increasing it to "actual" rebate. Up from estimate of \$7,478 to actual of \$8,372 and appropriating \$8,372, the estimated amount for FY '20.
- IAS:** Corrects last year's estimated appropriation, reducing it to "actual" rebate. Down from estimate of \$3,816 to actual of \$3,666 and appropriating \$3,384, the estimated amount for FY '20.

4. **Althoff Properties:** Corrects last year's estimated appropriation, reducing it to "actual" rebate. Down from estimate of \$5,164 to actual of \$4,894 and appropriating \$4,192, the estimated amount for FY '20.
5. **Kardes:** Corrects last year's estimated appropriation, reducing it to "actual" rebate. Down from estimate of \$55,176 to actual of \$53,768 and appropriating \$49,842, the estimated amount for FY '20.
6. **Boulders:** Corrects last year's estimated appropriation, reducing it to "actual" rebate. Down from estimate of \$69,138 to actual of \$42,457.13 and appropriating \$65,224, the estimated amount for FY '20.

The Development Agreements between the City and B & J Hauling & Excavation and Menasha Corp. will appear this time next year as the rebates will not kick in until the property has been subject to 100% assessment by the County Assessor.

**Recommendation:** I recommend that the Council approve the proposed Resolutions. (Each Resolution requires separate approval.)



# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

## RESOLUTION #

### **Resolution Appropriating funds necessary to meet the City's Obligation to Robert "Bud" Johnson under the Development Agreement dated February 15, 2010**

**WHEREAS,** The Council approved a Development Agreement with Robert "Bud" Johnson that provided tax rebate incentives tied to the development of the Eastern Iowa Sports Facility, by Resolution #13-98 dated February 15, 2010, and

**WHEREAS,** Robert "Bud" Johnson has constructed the Eastern Iowa Sports Facility as contemplated, and, therefore, the Council finds it appropriate to meet the City's obligation and or agreement to annually appropriate sums from the incremental taxation to be collected from new value created by the improvement to meet the tax rebate percentage set out within the Development Agreement, and

**WHEREAS,** The City, by way of Resolution #17-145, appropriated \$2,090 to meet the City's obligations under the eighth year tax rebate provisions, for FY '19, as set forth within the Development Agreement, said amount being based upon estimated valuations, and

**WHEREAS,** After final assessments and payment of taxes, the eighth year rebate was calculated to be \$2,020, resulting in the City's appropriation being long in the amount of \$70, this Resolution correcting the estimate to match the actual rebate, decreasing the appropriation from \$2,090 to \$2,020, and

**WHEREAS,** The Council finds that funds should be appropriated for FY '20 in the amount necessary to rebate sums consistent with the Development Agreement, for the ninth year of said rebates, calculated at the rate of 60% of the incremental taxes less protected levies during FY '20 eligible to be rebated in the estimated total amount of \$2,020, said estimate

being based upon the FY '18 valuation and consolidated tax rates, the exact rebate to be determined after the receipt of final assessment numbers and tax payments made by the developer.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Monticello does hereby formally appropriate funds necessary to meet the City's obligation to pay the ninth year, FY '20, of rebate payments to Robert "Bud" Johnson in the estimated amount of \$2,020 and hereby acknowledges the correction of the FY '19 total rebate by reducing the previously estimated sum of \$2,090 to the actual amount of \$2,020.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto. Done this 19<sup>th</sup> day of November, 2018.

---

Brian Wolken, Mayor

Attest:

---

Sally Hinrichsen, Monticello City Clerk

# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

## RESOLUTION #

### **Resolution Appropriating funds necessary to meet the City's Obligation to MC Industries under the Development Agreement dated August 2, 2010.**

**WHEREAS,** The Council approved a Development Agreement with MC Industries by Resolution #10-96 dated August 2, 2010, and

**WHEREAS,** The agreement provided for five Grant payments in the amount of \$20,000 each and property tax rebates over a period of ten (10) years at percentages and under conditions as set forth in the agreement, and

**WHEREAS,** The City, by way of Resolution #17-146, appropriated \$7,478 to meet the City's obligations under the seventh year tax rebate provisions, FY '19, of the agreement based upon estimated valuations, and

**WHEREAS,** After final assessments and payment of taxes, the seventh year rebate came in at \$8,372, resulting in the City's appropriation being short in the amount of \$894, this Resolution correcting the estimate to match the actual rebate, increasing the appropriation from \$7,478 to \$8,372, and

**WHEREAS,** The Council finds that funds should be appropriated for FY '20 in the amount necessary to rebate sums consistent with the Development Agreement, for the eighth year of said rebates, calculated at the rate of 70% of those taxes determined eligible to be rebated according to the terms of the Development Agreement, in the estimated total amount of \$8,372, said estimate being based upon the FY '18 valuation and consolidated tax rates, with the exact rebate to be determined after the receipt of final assessment numbers and tax payments made by the developer.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Monticello does hereby formally appropriate funds necessary to meet the City's obligation to pay the eighth year, FY '20, of rebate payments to MC Industries in the estimated amount of \$8,372 and hereby acknowledges the correction of the FY '19 total rebate by increasing the estimated sum of \$7,478 to the actual amount of \$8,372.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto. Done this 19<sup>th</sup> day of November, 2018.

---

Brian Wolken, Mayor

Attest:

---

Sally Hinrichsen, Monticello City Clerk

# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

## RESOLUTION #

### **Resolution Appropriating funds necessary to meet the City's Obligation to Innovative Ag. Services under the Development Agreement dated February 15, 2010.**

**WHEREAS,** The Council approved a Development Agreement with Innovative Ag. Services (IAS) by Resolution #10-18 dated February 15, 2010 that provided tax rebate incentives tied to the construction of a new IAS office building on their property, and

**WHEREAS,** IAS has constructed the new office building as contemplated, and, therefore, the Council finds it appropriate to meet the City's obligation and or agreement to annually appropriate sums from the incremental taxation collected on the new value created by the improvement to meet the tax rebate percentage set out within the Development Agreement, and

**WHEREAS,** The City, by way of Resolution #17-147, appropriated \$3,816 to meet the City's obligations under the seventh year tax rebate provisions, for FY '19, as set forth within the Development Agreement, said amount being based upon estimated valuations, and

**WHEREAS,** After final assessments and payment of taxes, the seventh year rebate was calculated to be \$3,666, resulting in the City's appropriation being long in the amount of \$150, this Resolution correcting the estimate to match the actual rebate, decreasing the appropriation from \$3,816 to \$3,666.

**WHEREAS,** The Council finds that funds should be appropriated for FY '20 in the amount necessary to rebate sums consistent with the Development Agreement, for the eighth year of said rebates, calculated at the rate of 60% of the incremental property taxes less protected levies eligible to be rebated in the estimated total amount of \$3,384, said estimate being based upon the FY '18 valuation and consolidated tax rates, the exact

rebate to be determined after the receipt of final assessment numbers and tax payments made by the Developer.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Monticello does hereby formally appropriate funds necessary to meet the City's obligation to pay the eighth year, FY '20, of rebate payments to Innovative Ag. Services (IAS) in the estimated amount of \$3,384 and hereby acknowledge the correction of the FY '19 total rebate by reducing the previously estimated sum of \$3,816 to the actual amount of \$3,666.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto. Done this 19<sup>th</sup> day of November, 2018.

---

Brian Wolken, Mayor

Attest:

---

Sally Hinrichsen, Monticello City Clerk

# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

## RESOLUTION #

### **Resolution Appropriating funds necessary to meet the City's Obligation to Althoff Properties, LLC per Development Agreement dated April 18, 2011**

**WHEREAS,** The Council approved a Development Agreement with Althoff Properties, LLC, also known as Maryville Partnership, by Resolution #11-56 dated April 18, 2011, and

**WHEREAS,** The agreement provided for property tax rebates over a period of twenty (20) years at percentages and under conditions as set forth in the agreement, and

**WHEREAS,** The agreement provided that the City would rebate to Althoff 80% of property taxes to be paid by Althoff during the seventh year the property was subject to taxation and paid to the City, and the Council by Resolution #17-148 appropriated \$5,164 to satisfy said obligation, based upon estimated valuations, and

**WHEREAS,** After final assessments and payment of taxes, the seventh year rebate came in at \$4,894, resulting in the City's appropriation being long in the amount of \$270, and it is necessary to correct the past Resolution decreasing the appropriation from \$5,164 to \$4,894.

**WHEREAS,** Based upon information obtained from the Jones County Auditor it is estimated that the City's tax rebate obligations under the Development Agreement for the eighth year, FY 2020, will total approximately \$4,192, same being equal to 70% of the property taxes paid by Althoff during FY 2020 and paid to the City, the exact amount of said rebate to be determined after the final assessment on the property has been approved and taxes paid.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Monticello does hereby formally appropriate funds necessary to meet the City's obligation to pay the eighth year, FY '20, of rebate payments to

Althoff in the estimated amount of \$4,192 and hereby acknowledges the correction of the FY '19 total rebate by reducing the previously estimated sum of \$5,164 to the actual amount of \$4,894.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto. Done this 19<sup>th</sup> day of November, 2018.

---

Brian Wolken, Mayor

Attest:

---

Sally Hinrichsen, Monticello City Clerk



# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

## RESOLUTION #

### **Resolution Appropriating funds necessary to meet the City's Obligation to Kardes Inc. per Development Agreement dated March 17, 2014**

**WHEREAS,** The Council approved a Development Agreement with Kardes Inc by Resolution #14-31 dated March 17, 2014, and

**WHEREAS,** The agreement provided for six Grant payments of \$20,000 each, in addition to property tax rebates on the improvements over a period of ten (10) years, at percentages set forth in the agreement, and

**WHEREAS,** The City, by way of Resolution #17-149, appropriated \$55,176 to meet the City's obligations for fifth grant payment and third year tax rebate payments in FY '19 based upon estimated valuations, and

**WHEREAS,** After final assessments and payment of taxes, the third year rebate, not including the predetermined \$20,000 grant, came in at \$33,768, with a total appropriation of \$53,768 for FY19, resulting in the City's overall being long in the amount of \$1,408, this Resolution correcting the estimate to match the actual rebate, decreasing the appropriation from \$55,176 to \$53,768, which includes the 5<sup>th</sup> grant payment, and

**WHEREAS,** The Council finds that funds should be appropriated for FY '20 in the amount necessary to rebate sums consistent with the Development Agreement, including the sixth and final grant payment of \$20,000 and fourth year rebates calculated at the rate of 80% of those taxes determined eligible to be rebated according to the terms of the Development Agreement, in the estimated total amount of \$29,842, said estimate being based upon the FY '18 valuation and consolidated tax rates,

with the exact rebate to be determined after the receipt of final assessment numbers and tax payments made by the developer.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Monticello does hereby formally appropriate funds necessary to meet the City's obligation to pay the sixth and final grant and the fourth year of rebate payments for FY '20 to Kardes Inc. in the estimated amount of \$49,842 and hereby acknowledges the correction of the FY '19 total rebate by decreasing the previously estimated sum of \$55,176 to the actual payment of \$53,768.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto. Done this 19<sup>th</sup> day of November, 2018.

---

Brian Wolken, Mayor

Attest:

---

Sally Hinrichsen, Monticello City Clerk

# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

## RESOLUTION #

### **Resolution Appropriating funds necessary to meet the City's Obligation to Boulders Inn Monticello under the Development Agreement dated October 5, 2015; as amended November 20, 2017.**

**WHEREAS,** The Council approved a Development Agreement with Boulders Inn Monticello by Resolution #15-86 dated October 5, 2015, and amended agreement by Resolution #17-137 dated November 20, 2017, and

**WHEREAS,** The agreement provided for two Grant payments of \$18,400 each related to the land purchase, with both having previously been paid, the first in May, 2016 and the second in May, 2017, and

**WHEREAS,** The agreement provided for grant payments related to Hotel/ Motel Tax Receipts, payable over ten (10) years, at percentages set forth in the agreement; as amended, modified the rebate schedule from an annual payment schedule to a bi-annual payment schedule the schedule will be slightly modified to match the bi-annual rebate periods with the Hotel/ Motel Tax reporting periods by Boulders and allow Boulders to submit their Hotel/Motel tax report to the City, which will create one seven (7) month rebate, from 6/1/2017 through 12/31/2017, after which all rebates will be based upon six (6) month schedules (1/1 through 6/30 and 7/1 through 12/31) but for the last rebate period which will end on May 31, 2026, and

**WHEREAS,** In addition, the agreement provided for to property tax rebates on the improvements over a period of ten (10) years at percentages set forth in the agreement, and

**WHEREAS,** Based upon estimated completion dates of the Hotel, same being the subject of the Development Agreement, tax rebates were not to begin until FY' 19, as the first tax rebate is to be made after the property has been fully valued and assessed. The occupancy permit was issued on May 16, 2016 and the first year of grant payments related to Hotel/Motel Tax receipts, payable over eleven (11) years at percentages set forth in the agreement, as amended, began in FY '17, and

**WHEREAS,** The City, by way of Resolution #17-150, appropriated \$69,138.00 to meet the City's obligations related to the second year grant payment of Hotel/Motel Taxes in FY '18 and first year tax rebate payments in FY '19 based upon the FY '17 valuation and consolidated tax rates, with the exact rebate to be determined after the receipt of final assessment numbers and tax payments made by the developer, and

**WHEREAS,** After final payment of Hotel/Motel Taxes, the second year Hotel/Motel Tax grant payment, which was paid January 2018 totaled \$9,233.13 for period June 1, 2017 to December 31, 2017, resulting in the City's total appropriation being long in the amount of \$17,543.49, for FY '18. In addition, after final assessments and payment of taxes, the first year tax rebate, totaled \$33,224.00 resulting in the City's total appropriation being long in the amount of \$26,680.87, for FY '19. This Resolution corrects the estimated appropriation for FY '19 to match the actual FY '18 grant payment and FY '19 rebate payments, decreasing the appropriation from \$69,138 to \$42,457.13, and

**WHEREAS,** The Council finds that funds should be appropriated for FY '20 in the amount necessary to rebate sums and to meet grant obligations consistent with the Development Agreement in the following estimated amounts:

1. \$32,000 to meet the City's third year obligations to related to the collection and payment of Hotel/Motel Taxes by Boulders from January 1, 2018 to June 30, 2018, with the exact amount of the Hotel/Motel Tax rebate to be determined after the receipt of proof of the collection and payment of said taxes by Boulders to the State of Iowa, and
2. \$33,224 to be rebated according to the terms of the Development Agreement, calculated at the rate of 90% of those taxes determined eligible for rebate, said estimate being based upon the FY '18 valuation and consolidated tax rates, with the exact rebate to be determined after the receipt of final assessment numbers and tax payments made by the developer.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Monticello does hereby formally appropriate funds necessary to meet the City's obligation to pay the third year, FY '18, of Hotel/Motel Tax grant and first year of rebate payments for FY '20 to Boulders Inn Monticello in the estimated amount of \$65,224, and hereby acknowledges the correction of the FY '19 total grant and rebate by reducing the previously estimated sum of \$69,138 to the actual amount of \$42,457.13.

**IN TESTIMONY WHEREOF,** I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto. Done this 19<sup>th</sup> day of November, 2018.

---

Brian Wolken, Mayor

Attest:

---

Sally Hinrichsen, Monticello City Clerk

City Council Meeting  
Prep. Date: 11/15/18  
Preparer: Doug Herman



Agenda Item: # 8  
Agenda Date: 11/19/18

*"The City of Flags and Flowers"  
Communication Page*

**Agenda Items Description:** Resolution to approve TIF certification for FY 2020.

**Type of Action Requested:** Motion; Resolution; Ordinance; Report; Public Hearing; Closed Session

**Attachments & Enclosures:**

Proposed Resolution

**Fiscal Impact:**

Budget Line Item:  
Budget Summary:  
Expenditure:  
Revenue:

**Synopsis:** Sally files TIF Certification annually with County Auditor. Council should discuss and give direction on amount of TIF to certify.

**Background Information:** For a number of years the maximum amount of increment was collected by the County on our behalf and deposited into our TIF fund. The City may collect the maximum every year so long as the total City collections do not exceed the total City obligations. We have only certified the TIF necessary to meet our obligations over the last few years, usually certifying approximately \$700,000 to \$750,000.

When TIF is de-certified one year, it can be certified the next, etc., it is an annual decision.

When TIF is "certified" the dollars go into our TIF fund, not our general fund. This is good for the TIF fund, as those funds can be used for eligible TIF projects, however, if we continually deposit all TIF, or "increment", into the TIF fund the General Fund deposits will not grow, and it will be difficult to meet inflationary increases without looking at deductions to staff or services. For example, if a house in a TIF district was worth \$100,000 when it went into the TIF district and is now worth \$250,000, the taxes on the original \$100,000 will get divided amongst all the taxing entities normally, with the City, County, School, Kirkwood, etc. getting their piece. The taxes on the new value or "Increment" of \$150,000 will, IF CERTIFIED, go to the City TIF fund. The taxes on the new value or "Increment" will, IF DE-CERTIFIED, be divided just like the pre-TIF value of \$100,000, amongst all the various taxing entities, which includes the City of Monticello General Fund.

TIF increment does not affect certain protected levies, such as the City and School Debt Service levies and the school PPEL (Physical Plant and Equipment Levy). These levies are applied and collected against all assessed value and will not change whether we certify or de-certify a portion of the "Increment". The Certification / De-Certification decision only has a direct impact on our general fund.

In the last four years the Council has certified \$750,000 (FY '19) and \$700,000 (FY '16, '17, and '18) and propose to certify \$730,000 this year to meet our obligations. Total increment available for collection is in the neighborhood of \$2 million.

**Staff Recommendation:** Sally and I recommend that the Council approve a TIF certification of \$730,000 for FY 2020.

# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

RESOLUTION #

## Approving FY 2020 TIF Certification

**WHEREAS,** The City of Monticello is required to prepare and file a TIF certification with the County Auditor on an annual basis, and

**WHEREAS,** The purpose of the TIF certification is to identify the sums that need to be collected for deposit into the City TIF fund so that the TIF fund can meet its' debt obligations, with the caveat that the funds collected and on hand by the City cannot exceed the total outstanding balance of TIF related debt and obligations, and

**WHEREAS,** The City Council has reviewed the proposal of the City Administrator and City Clerk with regard to a proposed TIF certification, and finds that the City should certify the intent to collect \$730,000.00 in increment, de-certifying for FY 2020 the balance of increment that could be collected.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Monticello, Iowa does hereby authorize the City Clerk to request the certification of TIF in such an amount as to bring about the collection and deposit into the City TIF fund the sum of \$730,000.00 for FY 2020.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto. Done this 19<sup>th</sup> day of November, 2018.

---

Brian Wolken, Mayor

Attest:

---

Sally Hinrichsen, Monticello City Clerk

City Council Meeting  
Prep. Date: 11/15/18  
Preparer: Doug Herman



Agenda Item: # 9  
Agenda Date: 11/19/18

**Agenda Item Description:** Resolution to approve Downtown Brick Paver Policy.

**Type of Action Requested:** Motion; Resolution; Ordinance; Report; Public Hearing

**Attachments & Enclosures:**

Proposed Policy
Proposed Resolution

**Fiscal Impact:**

Budget Line Item:	
Budget Summary:	
Expenditure:	
Revenue:	

**Synopsis:** The Council originally discussed a “Brick Paver Policy” in April and again in May. (4/2/2018 and 5/21/2018) Action was delayed in May until after the City took steps to install bricks in front of City Hall. There has been talk of replacing the colored strip of concrete adjacent to the curb downtown with pavers for some time. Proposed Resolution would set policy that replacement of colored concrete with City Pavers is required in place of colored concrete when removed.

**Background Information:** When the downtown streetscape was done in the 1990’s the colored strip of concrete was installed, as opposed to bricks, as a cost savings measure.

Over the years, with work done to brick streets, and with some brick intersections removed, the City has a certain quantity of bricks available for use by property owners to replace the colored strip of concrete. (Bricks were removed from the intersection of Grand and Washington this year.) There will likely be additional bricks recovered from brick intersection/street work moving forward.

The bricks installed in place of the colored concrete adjacent to the Pocket Park were well received and have held up well so far. You can find numerous locations around downtown where the colored strip was removed for one reason or another and when it was put back it was not put back with matching colored concrete, in many cases not even coming close to matching. (It really looks worse than if it were not put back in color at all.) If this strip is in brick they can be removed and replaced while maintaining the consistent look and will also carry forward the historical significance of the bricks in Monticello.

Bricks have now been installed in front of the Brian Monk project on W. 1<sup>st</sup> Street and in front of the Community Building / Renaissance Center.

The proposed policy includes terms and provisions related to the following:



1. Will City provide the bricks at no charge?
2. Will City assist with the costs of brick placement? (Pay so much a lineal foot?)
3. If a property owner is removing one section of colored concrete in their walk should that be a trigger to require the removal of the entirety of their colored strip for replacement with brick pavers?
4. Should the area to be replaced with pavers extend down S. Cedar and up N. Cedar or should the focus be on 1<sup>st</sup> Street?
5. Would City downtown loan be available to property owners who are incurring expense to replace sidewalk?

Brick Pavers of a similar nature can be bought, however, that would be additional expense. (Josh Iben wanted to do some research but thought \$7.00 sf would be about right) Josh also estimated that it would cost no more than \$400 to install a 100' strip of pavers. (The base would need to be installed correctly and could cause additional expense)

It has been determined that the colored strip in the downtown is not tied to the non-colored concrete and it can, therefore, be removed without hurting the balance of the sidewalk. That removal would be followed by some excavation by a small mini ho bucket to remove base that is not up to par for paver placement.

Josh also recommended that the City require the use of clean rock as a base under all sidewalks as it can be installed in a manner that will significantly reduce movement of sidewalks during the freeze and thaw. (Preferred over road rock, sand, etc.)

**Recommendation:** I recommend that the Council consider the Resolution approving the proposed Brick Paver Policy.

# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

RESOLUTION #18-\_\_

## **Resolution to approve Downtown Brick Paver Policy**

**WHEREAS,** In the 1990's the City of Monticello invested in a downtown streetscape that included a colored strip of concrete on the back of the curb in place of brick pavers as a cost savings measure, and

**WHEREAS,** Over the years the colored strip has faded and has, in many locations throughout the downtown, been removed and replaced with non-matching colored concrete, and

**WHEREAS,** The City authorized the installation of brick pavers in lieu of the colored strip in front of the Pocket Park and same have held up for two winters and have been well received by the public, and

**WHEREAS,** Additional Brick Pavers have been installed in front of a recently constructed commercial building on West 1<sup>st</sup> Street as well as the Monticello Community Building and Renaissance Center, and

**WHEREAS,** The City has undertaken various street repair projects that have created a stockpile of pavers and more projects are planned that will create an additional number of old City brick pavers that could be used to replace sections of the colored concrete and new pavers that are similar or that would emulate the old pavers can be purchased, and

**WHEREAS,** The City Council finds that the replacement of the colored concrete strip would be a significant improvement to the appearance of the downtown and should be promoted and required under certain circumstances, and

**WHEREAS,** The City Council has previously directed the City Administrator to draft a policy for consideration by the Council to included terms and provisions that will fulfill the Council's desire to see the colored strip of concrete converted to brick pavers, and

**WHEREAS,** The City Administrator has presented a draft policy for approval and the Council finds, after a review of said draft policy that same should be approved and implemented immediately.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Monticello, Iowa does hereby approve the Policy Re: Downtown Brick Pavers and directs the City Administrator to put all property owners on notice of the adoption of this policy, providing them a copy of same.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto. Done this 19<sup>th</sup> day of November, 2018.

---

Brian Wolken, Mayor

Attest:

---

Sally Hinrichsen, Monticello City Clerk

**CITY OF MONTICELLO**  
**POLICY Re: Downtown Brick Pavers**

**Subject:** Required use of Brick Pavers in lieu of colored concrete strip in area immediately behind the curb in designated areas.

**Effective Date:** \_\_\_\_\_

**PURPOSE:**

The purpose of this Policy is to provide direction and to put on notice all owners of property subject to this policy as a result of their ownership of property potentially impacted by this policy.

**SCOPE:**

This policy applies to all owners of property located on 1<sup>st</sup> Street (East and West) between \_\_\_\_\_ and \_\_\_\_\_ streets and to all owners of property located on Cedar Street located between \_\_\_\_\_ and \_\_\_\_\_ streets.

**PROCEDURE:**

**Partial or Total Sidewalk Removal:** In the event any property subject to this policy chooses to or is otherwise required to remove any portion of the sidewalk abutting their property, whether the colored or non-colored portion, for any reason, the property owner shall be required to remove and replace the entirety of the existing colored strip of concrete located between the back of curb and the non-colored sidewalk panels with brick pavers.

- 1. Brick Pavers:** The City of Monticello will provide necessary brick pavers at no cost to the contractor of owner's choice for installation. The installation shall follow a specification provided by the City. The owner shall obtain a permit from the City prior to paver installation. After removal of the colored strip, and prior to the installation of the brick pavers, the City shall be given notice so that an inspection may take place to insure that the prep work was performed consistent with City specifications. The final installation will also be subject to inspection and approval by the City or its' designee. In the event the City runs out of historic City of Monticello brick pavers the City will purchase and provide a substitute paver deemed by the City to be the closest possible match to the historic City of Monticello pavers.
- 2. Additional Cost:** Due to the fact that the City is requiring the installation of pavers as noted above and the owner will incur expense associated therewith, the City will pay the owner the sum of \$3.50 per square foot (Approximately ½ of the estimated installation cost) of the total square foot of area over which brick pavers have been installed.

3. **Downtown Loan:** The downtown loan fund will be made available to all property owners subject to this policy and sums may be borrowed from the City to cover the property owner's share of project costs at 0% for five (5) years after the completion of a promissory note and mortgage, with the mortgage to be recorded at the expense of the property owner. (Project Costs shall include removal costs, subgrade and other concrete preparation work, and costs associated with installation of both sidewalk repair and paver installation.)
4. **Adjacent Property Owner Paver Installation:** If and when a property owner's property is bounded on each side by a property that has installed brick pavers as contemplated herein said property owner, so bounded, shall have one year from the completion of the most recent neighboring property paver installation to see to the installation of pavers on their property frontage, regardless of a need on their part to otherwise repair or replace any portion of their sidewalk or colored sidewalk border. In the event said property owner does not complete the installation of pavers as required herein the City, after notice and an opportunity for hearing, shall see to the completion of the paver project with the costs associated therewith being assessed against the property.
5. **Replacement Sunset:** Upon the passage of five (5) years from the Council approval of this Policy the Council will inspect those areas covered by the requirements of this policy and determine how many of the covered sidewalks have not replaced the colored concrete strip with pavers as contemplated herein. It is anticipated that the property owners who have not converted their colored concrete strip frontage to pavers by that time will be given a timeline within which to complete said work. It is also contemplated, but not mandated by this policy, that the Council may work with willing property owners on a bid package so that one contractor may bid on more than one frontage, potentially bringing down the overall project cost due to the additional quantities involved.
6. **Maintenance:** After installation the property owner shall be obligated to maintain the frontage with the historic brick pavers, or other brick pavers approved by the City, at owner's cost.

*(Other: Should the City agree to collect and dispose of removed concrete? Only if the colored strip is removed or if all concrete is removed?)*

This Policy was reviewed and approved by the City Council in session on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ as Resolution # \_\_\_\_\_, same to take effect immediately.

---

**Brian Wolken, Mayor**

**City Council Meeting**  
**Prep. Date:** 11/15/18  
**Preparer:** Doug Herman



**Agenda Item:** 10  
**Agenda Date:** 11/19/2018

**Communication Page**

**Agenda Items Description:** Resolution to authorize City Administrator to proceed with process to amend Development Agreement between Orbis Mfg., a subsidiary of Menasha Corporation, to reflect terms and provisions related to expenses incurred Orbis related to the installation of a new section of City water main.

**Type of Action Requested:** Motion; **Resolution;** Ordinance; Report; Public Hearing; Closed Session

**Attachments & Enclosures:**

Proposed Resolution

**Fiscal Impact:**

Budget Line Item:  
Budget Summary:  
Expenditure:  
Revenue:


**Synopsis:** Based upon discussion in the Reports section of recent meeting it is the understanding of the City Admin. that the Council wishes to proceed with an amendment to the Development Agreement between the City and Orbis to address the costs associated with City Water Main improvements made by Orbis.

**Background Information:** The Resolution merely authorizes/directs the City Administrator to begin to work through the process of amending the Development Agreement with Orbis. The purpose of the amendment will be to consider whether or not additional incentives / tax rebates or grants are appropriate based upon the expenditures made by Orbis to install a new City Water Main near their project. The water main is, in the opinion of City Staff and the City Engineer, a beneficial improvement to the City Water System. In addition, the City will be given easement rights necessary to repair and maintain the water main and nearby sewer main in the future. (It does not appear that an easement currently exists for the sewer main, however, that issue has not been fully researched. The new written easement will solve that issue and make additional research unnecessary.)

Note: Any proposed amendments to the Development Agreement will be considered at a yet to be scheduled Public Hearing and thereafter considered for approval by the City Council.

**Staff Recommendation:** I recommend that the Council approve the proposed Resolution authorizing the City Admin. to proceed with the Development Agreement amendment process.

# The City of Monticello, Iowa

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF MONTICELLO, IOWA

## RESOLUTION #

Authorizing City Administrator to proceed with process to amend Development Agreement between Orbis Mfg., a subsidiary of Menasha Corporation, to reflect terms and provisions related to expenses incurred Orbis related to the installation of a new section of City water main.

**WHEREAS**, The Council approved a Development Agreement with Orbis Manufacturing, a subsidiary of Menasha Corporation by Resolution #17-35 dated April 3, 2017, and

**WHEREAS**, During the course of the Orbis project it was determined that the project, and the area in general, would be benefited by the installation of additional City water main, connecting two current dead end water mains, and

**WHEREAS**, The additional water main was added with the plans associated therewith being reviewed and approved by the City Engineer in advance of the installation of said improvements, and

**WHEREAS**, Orbis has requested that the City Council consider amendments to the previously approved Development Agreement to provide further incentives to Orbis to offset their investment in City infrastructure, and

**WHEREAS**, The Council finds it appropriate to begin the process to consider amendments to the previously approved Development Agreement.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Monticello does hereby authorize and direct the City Administrator to begin the process necessary to formally consider amendments to the previously approved Development Agreement between the City of Monticello and Orbis.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the City of Monticello, Iowa to be affixed hereto.  
Done this 19<sup>th</sup> day of November, 2018.

Attest:

\_\_\_\_\_  
Brian Wolken, Mayor

\_\_\_\_\_  
Sally Hinrichsen, Monticello City Clerk

**City Council Meeting**  
**Prep. Date:** 11/14/18  
**Preparer:** Doug Herman



**Agenda Item:** ||  
**Agenda Date:** 11/19/2018

**Communication Page**

**Agenda Items Description:** Ordinance to amend Chapter 50.10 Animal Protection and Control. (3<sup>rd</sup> Reading)

**Type of Action Requested:** Motion; Resolution; **Ordinance**; Report; Public Hearing; Closed Session

**Attachments & Enclosures:**

Proposed Ordinance
E-mail from Vet. Jayme Freye (2/3 attachments)
AVMA Article (The Dangerous Dog Debate)

**Fiscal Impact:**

Budget Line Item:	
Budget Summary:	
Expenditure:	
Revenue:	

**Synopsis:** Potential amendments to Ordinance associated with Animal Protection and Control.

**Background Information:** A committee of Chief Smith, myself, as well as Councilpersons Lux, Goedken, and Pratt met to discuss and make recommendations related to potential changes or amendments to Chapter 50 provisions associated with Animal Protection and Control, specifically related to the “Pitbull” ban, to provisions associated with “vicious dog” and “aggressive dog”, and considerations associated with whether or not a “Pitbull” may be maintained within the City limits if said animal is an emotional support animal. The Ordinance has passed its first two readings.

The attached Ordinance sets forth certain amendments that I will summarize below:

1. 50.10(2)(c)(3)(q) has been determined to include more language than necessary and may create confusion and will, therefore, be proposed to be amended to delete the unnecessary language.
  - a. This same section has been proposed to be amended to add language to clarify the Council position on Emotional Support Animal “Pitbull” varieties, making it clear that Pitbulls will not be allowed to remain in the City Limits even if the owner presents evidence or argument that their Pitbull is an Emotional Support Animal if that “certification” was not in place by a date certain.
2. 50.10(16)(H) has been recommended for addition, making it possible for the Police Chief to direct that an animal be removed from the City limits if it has caused/created a serious injury. As the Ordinance is presently written a dog will be deemed a vicious dog if it is found to have bitten once in an unprovoked manner. Once designated a “vicious dog” the animal is subject to “confinement” as set out within 50.10(16)(D) but not removal. 50.10(16)(H) permits removal and provides an opportunity to request a hearing with the City Council.



I have spent additional time investigating model Pit bull ban Ordinances and have proposed significant additional language to the draft ordinance, not only setting out what I would refer to as the general reasoning behind pit bull ban ordinances as well as Ordinance language.

After the second reading the committee, but for Pratt, met to review the Ordinance before presentation for the 3<sup>rd</sup> Reading. Based upon that meeting a few final amendments to the Ordinance have been proposed:

1. Extending the date for “certification” of a pit bull as an emotional support animal to be excepted from the pit bull ban to a date after the initially proposed date of October 10, 2018.
2. The 1<sup>st</sup> and 2<sup>nd</sup> draft indicated that an agreement would be entered between excepted pit bull owners and the City. In lieu of that agreement terms were included in the ordinance to set forth the expectations of those that were allowed to maintain a pit bull as an ESA under the Code. Those provisions that apply to exempt pit bulls are as follows:
  1. The pit bull when not in a secure temporary enclosure as defined in subdivision (2)(d) and outside any residence shall at all times be on a leash of no greater than six (6) feet in length measured from one end of the leash to the other when said leash is laid out flat. Leashes that may be extended to greater lengths, even if maintained at six (6) feet, shall not be permitted due to the risk that said leash may suffer a malfunction and unintentionally extend to a greater length.
    - a. Any person put in control of a pit bull under this exception on a leash must be physically capable of controlling, managing, and restraining as necessary said pit bull. In the event said person loses control the Administrative Official may make a finding that the pit bull was at large and take appropriate action hereunder.
  2. If the pit bull is moved to a home outside the City limits the pit bull may not return at a later day to the City limits.
  3. If a pit bull is determined to have bitten any person, documented or not, whether in the household of the owner and whether or not within the City limits of the City of Monticello, the exception granted herein shall end and the pit bull shall be removed from the community permanently within seven (7) days of the owner being given notice of the required removal by the Administrative Official.
  4. This exception is for the current pit bull owned by the owner and shall not apply to any replacement pit bull or additional pit bull. No additional or replacement pit bull will be allowed as an exception to the pit bull ban.
  5. If at any time the pit bull for which this exception is granted is found or allowed to be at large in the community the exception granted herein shall end and the pit bull shall be removed from the City limits permanently within seven (7) days of the animal being found or allowed to be at large.
  6. The Owner must provide proof that they have insurance coverage for the pit bull in the minimum amount of \$500,000 per covered occurrence and must provide it to the City Clerk’s office on an annual basis. Any lapse in coverage shall result in the end of the exception made herein and the pit bull must then be removed from the City limits permanently within seven (7) days’ notice from the Administrative Official.

7. The pit bull must be spayed or neutered at owner's expense with proof provided to the City Clerk's Office unless a licensed veterinarian states in writing that a pit bull is unfit to undergo the required surgical procedure because of an extreme health condition of the animal. Such extreme health condition shall include, but not be limited to: severe cardiovascular compromise, bleeding disorder, respiratory disease and hepatic disease. The old age of an animal shall not, of itself, constitute an extreme health condition for purposes of this section.
3. Other minor language corrections to the Code and elimination of terms/provisions deemed duplicative or unnecessary.

I have not attached all of the attachments received from Jayme Freye as some were quite long and didn't add much if anything to the portions I have attached. (And you all have access to the full documents.) I also did not include Tom Yeoman's recent e-mail attachment as it was lengthy and you all received that in an e-mail too. In the attachments to this Communication Page I have underlined or marked certain areas and made some notes that I think are relevant.

*Keeping in mind that the purpose of this Ordinance amendment was to address whether or not pit bulls that were appropriately "papered" as Emotional Support Animals would be allowed to remain in the community as an exception to the pit bull ban and tightening dog bite / injury rules. While there has been ample discussion and argument by presenters in chambers that the pit bull ban should be lifted, the lifting of the ban was not the genesis or basis for the proposed amendments. With that said, the Council has the freedom to amend the Ordinance by lifting the ban if the Council chooses to do so. Because the Ordinance passed its first two readings unanimously with many on the Council indicating that they have received significant feedback from residents, outside of the chambers, that they wish the ban to stand, it does not appear that the elimination of the ban has the support of the Council at this time. Those objecting to the Ordinance have argued that those that want the ban to remain are uninformed and that the Council should not take into account public sentiment as the public is uninformed; that the Council is acting on fear and opinion and not fact. I would suggest that approval of the 3<sup>rd</sup> reading is important at this time as without it the ESA pit bulls in town, believed to number 3, are all violating the City Code and subject to immediate removal with the owners subject to potential fines. This ordinance protects those three known owners/animals.*

*If and/or when the Council believes it appropriate to consider a ban lift it may do so. To consider a ban lift as part of this Ordinance amendment seems unfair to the alleged uninformed residents that wish the ban to remain. If the Council at some point wishes to consider the lifting of the pit bull ban the public should be so informed in advance so that those that want the ban to remain are informed of the possible action giving them an opportunity to do more than voice their position to Councilpersons and staff, whether that means e-mails, letters, or personal pleas at Council meetings.*

**Staff Recommendation:** I recommend that the Council approve the 3<sup>rd</sup> Reading as amended and proposed. (The Council may, in its discretion, take up the pit bull ban

**ORDINANCE NO. 683**

**An Ordinance Amending the Monticello Code of Ordinances, by amending Provisions  
Pertaining to Animal Protection and Control**

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

**SECTION 1.** Amendments to Chapter 50, Section 10:

Chapter 50.10(2)(E) "Owner" shall be renumbered 50.10(2)(F) but otherwise unchanged

Chapter 50.10(2)(C)(3)(q) currently read as follows:

Staffordshire terrier breed of dog; the American pit bull terrier breed of dog; the American Staffordshire terrier breed of dog; dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known a pit bulls, pit bull dogs or pit bull terriers; or any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier; any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers or combination of any of these breeds.

Chapter 50.10(2)(C)(3)(q), which is commonly known as the Pit Bull ban, shall be deleted from the Code of Ordinances and replaced with new, albeit similar but more detailed language at 50.10(E) based upon the following rationale:

**FINDINGS BY THE CITY COUNCIL**

**WHEREAS**, the breeds of dogs known as "pit bulls" include any American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds; and

**WHEREAS**, the breeds of dogs known as "pit bulls" have been selectively bred for the purpose of bull baiting, bear baiting, and dog fighting for hundreds of years; and

**WHEREAS**, over the course of the history of "pit bulls", owners and breeders have selectively bred these dogs in order to increase their tendencies to engage in behaviors that are greatly valued in the fighting ring, such as, but not limited to, their ability to initiate in surprise attacks, cause massive damage to their opponent, withstand the infliction of great amounts of pain and force to maintain a tenacious attack for a long period of time, and be willing to fight to the death; and

**WHEREAS**, owners and breeders have no reasonable and ethical manner to selectively breed "pit bulls" so as to reduce these dangerous behavioral tendencies, and

**WHEREAS**, animal behavioral experts have verified that “pit bulls” engaged in dog fighting which display aggressive behaviors towards humans are no longer killed, but such behaviors are now continued in breeding lines as the owners have an economic incentive to sell such dogs to irresponsible or unsuspecting individuals, therefore resulting in the leaking of human aggressive “pit bulls” into the general dog population; and

**WHEREAS**, the characteristics selectively bred into or otherwise commonly found in those dogs include: 1) A diminished tendency to bark, growl, or otherwise display behavioral or body language signals that would warn their prey of an intent to immediately attack, resulting in victims being caught by surprise and being placed in a reduced capacity to defend themselves against attack, exposing the victim to an increased risk of having more severe injuries inflicted upon them than those inflicted by other breeds; and 2) Once engaged in an attack, a higher tendency to be tenacious and never quitting the attack, with a willingness to fight to the death, which results in more severe injuries than those inflicted by other breeds; and 3) The increased tendency to be able to continue with an attack notwithstanding the infliction of great pain, including, but not limited to, being shot or hit with great force, which makes it difficult for a person or animal to fight off a pit bull attack, or for a third party to come to the rescue of the pit bull’s victim; and 4) An increased tendency to engage in bite, hold, and tear attack methods, where the pit bull will jump up and bite deeply into its victim’s body, holding its bite, and shaking its head back and forth, tearing the flesh, muscle, and blood vessels of the victim, which has resulted in extremely painful, horrific, and grotesque injuries to human victims, described by medical experts as more similar to injuries suffered as a result of shark attacks; and

**WHEREAS**, a combination of these characteristics listed above have been determined to result in the increased likelihood that should a pit bull attack, there is a higher likelihood of serious bodily injuries or death being inflicted upon its victim, which makes pit bulls uniquely more dangerous, even to their owners, as compared to other breeds of dogs; and

**WHEREAS**, increasing the exposure of pit bull owners to civil and/or criminal liability, after an attack has occurred, would have little deterrent effect upon those owners who are “irresponsible”, as they, by definition, lack of care for consequences and therefore present the greatest risk of engaging in dangerous negligent or reckless management techniques with their pit bulls; and

**WHEREAS**, this Council determines that a governmental policy designed to accept the occurrence of serious pit bull maulings and to only provide for governmental response after a mauling is not as preferable as a policy that also provides an objectively reliable method to prevent such pit bull attacks and maulings in the first place; and

**WHEREAS**, other cities across America have found that pit bulls are so dangerous to humans and other animals that special legislation restricting or prohibiting their ownership has been enacted; and

**WHEREAS**, in 1897 the United States Supreme Court ruled that domesticated pets are considered as qualified legal property, and “might be destroyed or otherwise dealt with, as in the judgment of the legislature is necessary for the protection of its citizens”; and

**WHEREAS**, ~~many the State Supreme Courts of New Mexico, Kansas, and Colorado~~ have upheld pit bull restrictions as being constitutional as rationally related to legitimate government interests, and

**WHEREAS**, many Insurance Providers do not provide liability coverage for the breeds identified herein (Pit Bulls generally) under standard homeowner and/or renters policies, and

**WHEREAS**, the mere possession of pit bulls poses a significant threat to the health, welfare and safety of our citizens; and

**WHEREAS**, the Council believes, after balancing the interests involved, it is necessary to prohibit, subject to certain exceptions with certain restrictions, pit bulls in order to protect human health, welfare and safety within the City of Monticello

Chapter 50.10(E) shall, based upon the above rationale, read as follows:

50.10(E) Pit bulls prohibited

1. It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city any pit bull.
2. Definitions.
  - a. Administrative Official: The City Administrator or the Police Chief, or their designee, shall be the administrative official with the legal managerial authority over the policies and procedures and day to day operation, oversight, and enforcement of this Chapter. ~~of the municipal animal care and control agency.~~
  - b. An "owner," for purposes of this chapter, is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.
  - c. A "pit bull," for purposes of this chapter, is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dogs of mixed or other breeds whose lineage includes those breeds of dog regardless of the percentage of lineage.
  - d. A "secure temporary enclosure," for purposes of this chapter, is a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a "door" for removal of the pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner that the pit bull cannot exit the enclosure on its own or have the capacity to bite any person either handling or in close proximity to the enclosure.
3. Exceptions. The prohibition in subsection (1) of this section shall not apply in the following enumerated circumstances.

a. The ~~Administrative Official~~ ~~City's municipal animal control agency~~, or their properly authorized agent, may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this chapter.

b. Any non-profit animal welfare organization lawfully operating an animal shelter in the city may temporarily hold any pit bull that it has received or otherwise recovered.

c. A person may temporarily transport into and hold in the city a pit bull only for the purpose of showing such pit bull in a place of public exhibition, contest or show sponsored by a bona fide dog club association or similar organization, where ~~the event sponsor provides~~ sufficient evidence of a valid liability insurance policy for the event, providing \$1,000,000.00 in liability coverage to the members of the attending public and the City. However, the sponsor of the exhibition, contest, or show ~~must receive written permission from the Administrative Official, must obtain any other permits or licenses required by city ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public.~~ The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the city to and from the place of exhibition, contest, or show, ~~shall~~ keep the pit bull confined in a "secure temporary enclosure" as defined in subdivision (2)(d).

d. Except as provided in subdivision (c), above, the owner of a pit bull may temporarily transport a pit bull continuously through the city, only if such pit bull is being transported either from a point outside the city directly to a destination outside the city, or between a point outside the city to an airport, train station or bus station within the city. During such Interjurisdictional transportation, the owner may only stop in the city where such stoppage is necessary and solely related to the continuing ability of the owner to continue said transportation, including, but not limited to the refueling or repair of a motor vehicle. The pit bull must be maintained at all times inside a secure temporary enclosure, as defined in subdivision (2)(d), which may include inside of the passenger compartment of a private motor vehicle, with all accessible windows closed.

e. The owner of any pit bull which received certification or other formal recognition as an Emotional Support Animal, ~~with evidence of said certification or recognition having been provided to the City on or before November 19<sup>th</sup>, 2018 the date on which the third reading of this Ordinance was passed~~ ~~October 1, 2018~~ shall be allowed to keep such pit bull within the city consistent with the ~~following terms and conditions of an agreement between said owner and the City, same to be approved by Resolution of the City Council~~

Formatted: Superscript

1. ~~The pit bull when not in a secure temporary enclosure as defined in subdivision (2)(d) and outside any residence shall at all times be on a leash of no greater than six (6) feet in length measured from one end of the leash to the other when said leash is laid out flat. Leashes that may be extended to greater lengths,~~

Formatted: Indent: Left: 1.5"

even if maintained at six (6) feet, shall not be permitted due to the risk that said leash may suffer a malfunction and unintentionally extend to a greater length.

a. Any person put in control of a pit bull under this exception on a leash must be physically capable of controlling, managing, and restraining as necessary said pit bull. In the event said person loses control the Administrative Official may make a finding that the pit bull was at large and take appropriate action hereunder.

2. If the pit bull is moved to a home outside the City limits the pit bull may not return at a later day to the City limits.

3. If a pit bull is determined to have bitten any person, documented or not, whether in the household of the owner and whether or not within the City limits of the City of Monticello, the exception granted herein shall end and the pit bull shall be removed from the community permanently within seven (7) days of the owner being given notice of the required removal by the Administrative Official.

4. This exception is for the current pit bull owned by the owner and shall not apply to any replacement pit bull or additional pit bull. No additional or replacement pit bull will be allowed as an exception to the pit bull ban.

5. If at any time the pit bull for which this exception is granted is found or allowed to be at large in the community the exception granted herein shall end and the pit bull shall be removed from the City limits permanently within seven (7) days of the animal being found or allowed to be at large.

6. The Owner must provide proof that they have insurance coverage for the pit bull in the minimum amount of \$500,000 per covered occurrence and must provide it to the City Clerk's office on an annual basis. Any lapse in coverage shall result in the end of the exception made herein and the pit bull must then be removed from the City limits permanently within seven (7) days' notice from the Administrative Official.

7. The pit bull must be spayed or neutered at owner's expense with proof provided to the City Clerk's Office unless a licensed veterinarian states in writing that a pit bull is unfit to undergo the required surgical procedure because of an extreme health condition of the animal. Such extreme health condition shall include, but not be limited to: severe cardiovascular compromise, bleeding disorder, respiratory disease and hepatic disease. The old age of an animal shall not, of itself, constitute an extreme health condition for purposes of this section.

f. The Police Chief is authorized to immediately impound any pit bull found in the city which does not fall within the exceptions or meet the requirements listed in subsection (3), above. The owner shall be assessed all fees associated with the

impoundment. Any Owner so impacted shall be given appeal rights substantially consistent with those set forth within the following paragraph, 3(g).

g. When the Police Chief has impounded any pit bull dog pursuant to this section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner may request that the City collect a DNA sample to be used for genetic testing purposes. While waiting for genetic testing results the owner shall continue to follow all requirements set out within subsection (3) above, maintain the animal in their home or of out of the home on a leash of no longer than 6' and under the physical control of an adult at all times. If the genetic/DNA results indicate any percentage of pit bull the owner will be directed to remove the animal from the City limits within seven (7) days. The owner may request a hearing by the filing of a petition, same to be filed no later than seven (7) days after their receipt of genetic testing results from the Administrative Official. The Petition shall be filed with the Police Chief. Such petition shall include the name and address, including mailing address, of the petitioner. The Police Chief will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than seven (7) days prior to the schedule hearing date. The hearing will be held before a panel of at least three City Councilpersons and the Police Chief. Any evidence the petitioner wishes to be considered shall be submitted under oath or on affirmation either in writing or orally at the hearing. The panel shall make a final determination whether the dog is a pit bull as defined in subsection (2)(c) of this section. Such final determination shall be considered a final order of the City subject to judicial review pursuant to the applicable rules of legal procedure. The procedures in this subsection (g) shall not apply and the owner is not entitled to such a hearing with respect to any dog which was impounded as the immediate result of an attack or bite as defined in this code. In those instances, the dog shall be handled and the procedures governed by the provisions for dogs involved in a bite or attack. If a hearing is not requested and the animal is not removed from the City, the Police Chief, or designee, may see to the removal of the animal by impoundment and shall assess all fees related thereto to the owner.

(h) If the dog is found not to be a pit bull, the dog shall be released to the owner, if not having been allowed to remain in the owner's possession during DNA testing. If the dog is found to be a pit bull, it shall be immediately removed from the City limits, and in no case later than seven (7) days and the owner shall reimburse the City for all costs associated with DNA testing.

(i) A DNA test will not be required and impoundment not made under the following circumstances:

1. The owner voluntarily executes a waiver to an administrative hearing on the classification of the dog as a pit bull, pursuant to subsection (f) above.



2. The owner produces credible evidence that the pit bull is to be permanently taken out of the city, maintained at a specified lawful location, and the pit bull will not return to the city illegally.

3. Where the owner or their immediate family has committed a prior violation of this section, or the pit bull had been previously identified as a pit bull and/or impounded and released pursuant to this subsection, the following provisions shall apply:

(i) The owner shall pay a non-refundable payment of \$250.00 for the costs of the administrative review of this matter; and

(ii) The owner shall submit their petition in writing only, and any factual claims shall be supported by sworn affidavits of witnesses.

(iii) The pit bull may be released only where the owner is able to prove by clear and convincing evidence that the presence of the pit bull was either legal, due to circumstances that amount to a lawful exemption as listed in subsection (3) above, or the pit bull's presence in the city was not due to a voluntary act or the failure of the owner to take reasonable efforts to prevent the violation, such as the fact the pit bull was stolen or taken without legal authority by a known party.

(iv) The negligence or recklessness of the owner or the owner's agent, in causing or allowing the violation of this section, will not amount to sufficient cause for the pit bull's release.

~~4. A micro chip emitting an electronic signal carrying a unique identifying code shall also be subcutaneously implanted in the pit bull.~~

~~5. The owner and any proposed transferee of ownership and possession acknowledge that should the pit bull be found within the city in the future, in violation of this section, the pit bull will be destroyed; and~~

~~6. The pit bull is spayed or neutered before its release, unless a licensed veterinarian states in writing that a pit bull is unfit to undergo the required surgical procedure because of an extreme health condition of the animal. Such extreme health condition shall include, but not be limited to: severe cardiovascular compromise, bleeding disorder, respiratory disease and hepatic disease. The old age of an animal shall not, of itself, constitute an extreme health condition for purposes of this section. The Police Chief may authorize the secured transportation of the pit bull to a licensed veterinarian to perform this procedure, if necessary; and~~

7. ~~The pit bull has no known history of behavioral problems and does not display any problematic behavioral traits so as to warrant the Director's confidence that the pit bull will not pose a danger or nuisance to the public's health, safety, or welfare; and~~

8. ~~The owner pays all the costs of impoundment, tattooing, microchipping, transportation, and all associated veterinarian costs, including sterilization~~

**SECTION 2.** Amendments to Chapter 50, Section 10:

Chapter 50.10(16)(H) "Removal" shall be added and shall read as follows:

If the Police Chief determines that an animal has bitten in such a manner as to cause a serious injury, defined as meaning either the breaking of the skin above the shoulders, or any injury at or below the shoulders causing heavy bleeding, damage beneath the skin, or stitches, the Police Chief shall be authorized to impound the animal immediately and if refused access by the owner to impound the animal shall then be subject to impoundment after the receipt of a Court Order by the Police Chief and will also be subject to Civil Penalties under the City Municipal Infraction Code in the amount of \$100 per day that the animal is not allowed to be impounded by the Police Chief. The owner of the animal may file a written petition with the Police Chief for a hearing concerning the "serious injury" determination no later than seven (7) days after the first impoundment attempt. Such petition shall include the name and address, including mailing address, of the petitioner. The Police Chief will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. Where no written request from the owner for a hearing is received by the Police Chief within seven (7) days of impoundment, the animal ~~shall may be euthanized~~ be destroyed. The hearing, if any, will be held before a panel of at least three City Councilpersons and the Police Chief. Any facts which the petitioner wishes to be considered shall be submitted under oath or affirmation either in writing or orally at the hearing. The panel shall make a final determination whether the injury fits the definition of "serious injury" as defined herein. Such final determination shall be considered a final order of the City subject to judicial review pursuant to the applicable rules of legal procedure.

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

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

**SECTION 5. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this 19<sup>5</sup><sup>th</sup> day of ~~November~~October, 2015~~8~~.

\_\_\_\_\_  
Mayor ~~Brian Wolken~~Dena Himes

ATTEST:

\_\_\_\_\_  
Sally Hinrichsen, City Clerk

I, Sally Hinrichsen, Monticello City Clerk, do hereby certify that the above and foregoing Ordinance # \_\_\_\_ was published in the Monticello Express on the \_\_\_\_ day of \_\_\_\_\_, 2018.

Signed and dated this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Sally Hinrichsen, City Clerk

**ORDINANCE NO. 683**

**An Ordinance Amending the Monticello Code of Ordinances, by amending Provisions  
Pertaining to Animal Protection and Control**

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

**SECTION 1.** Amendments to Chapter 50, Section 10:

Chapter 50.10(2)(E) "Owner" shall be renumbered 50.10(2)(F) but otherwise unchanged

Chapter 50.10(2)(C)(3)(q) currently read as follows:

Staffordshire terrier breed of dog; the American pit bull terrier breed of dog; the American Staffordshire terrier breed of dog; dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known a pit bulls, pit bull dogs or pit bull terriers; or any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier; any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers or combination of any of these breeds.

Chapter 50.10(2)(C)(3)(q), which is commonly known as the Pit Bull ban, shall be deleted from the Code of Ordinances and replaced with new, albeit similar but more detailed language at 50.10(E) based upon the following rationale:

**FINDINGS BY THE CITY COUNCIL**

**WHEREAS**, the breeds of dogs known as "pit bulls" include any American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds; and

**WHEREAS**, the breeds of dogs known as "pit bulls" have been selectively bred for the purpose of bull baiting, bear baiting, and dog fighting for hundreds of years; and

**WHEREAS**, over the course of the history of "pit bulls", owners and breeders have selectively bred these dogs in order to increase their tendencies to engage in behaviors that are greatly valued in the fighting ring, such as, but not limited to, their ability to initiate in surprise attacks, cause massive damage to their opponent, withstand the infliction of great amounts of pain and force to maintain a tenacious attack for a long period of time, and be willing to fight to the death; and

**WHEREAS**, owners and breeders have no reasonable and ethical manner to selectively breed "pit bulls" so as to reduce these dangerous behavioral tendencies, and

**WHEREAS**, animal behavioral experts have verified that “pit bulls” engaged in dog fighting which display aggressive behaviors towards humans are no longer killed, but such behaviors are now continued in breeding lines as the owners have an economic incentive to sell such dogs to irresponsible or unsuspecting individuals, therefore resulting in the leaking of human aggressive “pit bulls” into the general dog population; and

**WHEREAS**, the characteristics selectively bred into or otherwise commonly found in those dogs include: 1) A diminished tendency to bark, growl, or otherwise display behavioral or body language signals that would warn their prey of an intent to immediately attack, resulting in victims being caught by surprise and being placed in a reduced capacity to defend themselves against attack, exposing the victim to an increased risk of having more severe injuries inflicted upon them than those inflicted by other breeds; and 2) Once engaged in an attack, a higher tendency to be tenacious and never quitting the attack, with a willingness to fight to the death, which results in more severe injuries than those inflicted by other breeds; and 3) The increased tendency to be able to continue with an attack notwithstanding the infliction of great pain, including, but not limited to, being shot or hit with great force, which makes it difficult for a person or animal to fight off a pit bull attack, or for a third party to come to the rescue of the pit bull’s victim; and 4) An increased tendency to engage in bite, hold, and tear attack methods, where the pit bull will jump up and bite deeply into its victim’s body, holding its bite, and shaking its head back and forth, tearing the flesh, muscle, and blood vessels of the victim, which has resulted in extremely painful, horrific, and grotesque injuries to human victims, described by medical experts as more similar to injuries suffered as a result of shark attacks; and

**WHEREAS**, a combination of these characteristics listed above have been determined to result in the increased likelihood that should a pit bull attack, there is a higher likelihood of serious bodily injuries or death being inflicted upon its victim, which makes pit bulls uniquely more dangerous, even to their owners, as compared to other breeds of dogs; and

**WHEREAS**, increasing the exposure of pit bull owners to civil and/or criminal liability, after an attack has occurred, would have little deterrent effect upon those owners who are “irresponsible”, as they, by definition, lack of care for consequences and therefore present the greatest risk of engaging in dangerous negligent or reckless management techniques with their pit bulls; and

**WHEREAS**, this Council determines that a governmental policy designed to accept the occurrence of serious pit bull maulings and to only provide for governmental response after a mauling is not as preferable as a policy that also provides an objectively reliable method to prevent such pit bull attacks and maulings in the first place; and

**WHEREAS**, other cities across America have found that pit bulls are so dangerous to humans and other animals that special legislation restricting or prohibiting their ownership has been enacted; and

**WHEREAS**, in 1897 the United States Supreme Court ruled that domesticated pets are considered as qualified legal property, and “might be destroyed or otherwise dealt with, as in the judgment of the legislature is necessary for the protection of its citizens”; and

**WHEREAS**, ~~many~~ the State Supreme Courts of ~~New Mexico, Kansas, and Colorado~~ have upheld pit bull restrictions as being constitutional as rationally related to legitimate government interests, and

**WHEREAS**, many Insurance Providers do not provide liability coverage for the breeds identified herein (Pit Bulls generally) under standard homeowner and/or renters policies, and

**WHEREAS**, the mere possession of pit bulls poses a significant threat to the health, welfare and safety of our citizens; and

**WHEREAS**, the Council believes, after balancing the interests involved, it is necessary to prohibit, subject to certain exceptions with certain restrictions, pit bulls in order to protect human health, welfare and safety within the City of Monticello

Chapter 50.10(E) shall, based upon the above rationale, read as follows:

50.10(E) Pit bulls prohibited

1. It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city any pit bull.
2. Definitions.
  - a. Administrative Official: The City Administrator or the Police Chief, or their designee, shall be the administrative official with the legal managerial authority over the policies and procedures and day to day operation, oversight, and enforcement of this Chapter. ~~of the municipal animal care and control agency.~~
  - b. An "owner," for purposes of this chapter, is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.
  - c. A "pit bull," for purposes of this chapter, is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dogs of mixed or other breeds whose lineage includes those breeds of dog regardless of the percentage of lineage.
  - d. A "secure temporary enclosure," for purposes of this chapter, is a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a "door" for removal of the pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner that the pit bull cannot exit the enclosure on its own or have the capacity to bite any person either handling or in close proximity to the enclosure.
3. Exceptions. The prohibition in subsection (1) of this section shall not apply in the following enumerated circumstances.

a. ~~The Administrative Official City's municipal animal control agency, or their properly authorized agent, may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this chapter.~~

b. Any non-profit animal welfare organization lawfully operating an animal shelter in the city may temporarily hold any pit bull that it has received or otherwise recovered.

c. A person may temporarily transport into and hold in the city a pit bull only for the purpose of showing such pit bull in a place of public exhibition, contest or show sponsored by a bona fide dog club association or similar organization, where the event sponsor provides sufficient evidence of a valid liability insurance policy for the event, providing \$1,000,000.00 in liability coverage to the members of the attending public and the City. However, the sponsor of the exhibition, contest, or show must receive written permission from the Administrative Official, must obtain any other permits or licenses required by city ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the city to and from the place of exhibition, contest, or show, ~~shall~~ keep the pit bull confined in a "secure temporary enclosure" as defined in subdivision (2)(d).

d. Except as provided in subdivision (c), above, the owner of a pit bull may temporarily transport a pit bull continuously through the city, only if such pit bull is being transported either from a point outside the city directly to a destination outside the city, or between a point outside the city to an airport, train station or bus station within the city. During such Interjurisdictional transportation, the owner may only stop in the city where such stoppage is necessary and solely related to the continuing ability of the owner to continue said transportation, including, but not limited to the refueling or repair of a motor vehicle. The pit bull must be maintained at all times inside a secure temporary enclosure, as defined in subdivision (2)(d), which may include inside of the passenger compartment of a private motor vehicle, with all accessible windows closed.

e. The owner of any pit bull which received certification or other formal recognition as an Emotional Support Animal, ~~with evidence of said certification or recognition having been provided to the City on or before November 19<sup>th</sup>, 2018 the date on which the third reading of this Ordinance was passed October 1, 2018~~ shall be allowed to keep such pit bull within the city consistent with the following terms and conditions of an agreement between said owner and the City, same to be approved by Resolution of the City Council

Formatted: Superscript

1. The pit bull when not in a secure temporary enclosure as defined in subdivision (2)(d) and outside any residence shall at all times be on a leash of no greater than six (6) feet in length measured from one end of the leash to the other when said leash is laid out flat. Leashes that may be extended to greater lengths,

Formatted: Indent: Left: 1.5"

even if maintained at six (6) feet, shall not be permitted due to the risk that said leash may suffer a malfunction and unintentionally extend to a greater length.

a. Any person put in control of a pit bull under this exception on a leash must be physically capable of controlling, managing, and restraining as necessary said pit bull. In the event said person loses control the Administrative Official may make a finding that the pit bull was at large and take appropriate action hereunder.

2. If the pit bull is moved to a home outside the City limits the pit bull may not return at a later day to the City limits.

3. If a pit bull is determined to have bitten any person, documented or not, whether in the household of the owner and whether or not within the City limits of the City of Monticello, the exception granted herein shall end and the pit bull shall be removed from the community permanently within seven (7) days of the owner being given notice of the required removal by the Administrative Official.

4. This exception is for the current pit bull owned by the owner and shall not apply to any replacement pit bull or additional pit bull. No additional or replacement pit bull will be allowed as an exception to the pit bull ban.

5. If at any time the pit bull for which this exception is granted is found or allowed to be at large in the community the exception granted herein shall end and the pit bull shall be removed from the City limits permanently within seven (7) days of the animal being found or allowed to be at large.

6. The Owner must provide proof that they have insurance coverage for the pit bull in the minimum amount of \$500,000 per covered occurrence and must provide it to the City Clerk's office on an annual basis. Any lapse in coverage shall result in the end of the exception made herein and the pit bull must then be removed from the City limits permanently within seven (7) days' notice from the Administrative Official.

7. The pit bull must be spayed or neutered at owner's expense with proof provided to the City Clerk's Office unless a licensed veterinarian states in writing that a pit bull is unfit to undergo the required surgical procedure because of an extreme health condition of the animal. Such extreme health condition shall include, but not be limited to: severe cardiovascular compromise, bleeding disorder, respiratory disease and hepatic disease. The old age of an animal shall not, of itself, constitute an extreme health condition for purposes of this section.

f. The Police Chief is authorized to immediately impound any pit bull found in the city which does not fall within the exceptions or meet the requirements listed in subsection (3), above. The owner shall be assessed all fees associated with the



impoundment. Any Owner so impacted shall be given appeal rights substantially consistent with those set forth within the following paragraph, 3(g).

g. When the Police Chief has impounded any pit bull dog pursuant to this section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner may request that the City collect a DNA sample to be used for genetic testing purposes. While waiting for genetic testing results the owner shall continue to follow all requirements set out within subsection (3) above ~~maintain the animal in their home or of out of the home on a leash of no longer than 6' and under the physical control of an adult at all times~~. If the genetic/DNA results indicate any percentage of pit bull the owner will be directed to remove the animal from the City limits within seven (7) days. The owner may request a hearing by the filing of a petition, same to be filed no later than seven (7) days after their receipt of genetic testing results from the Administrative Official. The Petition shall be filed with the Police Chief. Such petition shall include the name and address, including mailing address, of the petitioner. The Police Chief will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than seven (7) days prior to the schedule hearing date. The hearing will be held before a panel of at least three City Councilpersons and the Police Chief. Any evidence the petitioner wishes to be considered shall be submitted under oath or on affirmation either in writing or orally at the hearing. The panel shall make a final determination whether the dog is a pit bull as defined in subsection (2)(c) of this section. Such final determination shall be considered a final order of the City subject to judicial review pursuant to the applicable rules of legal procedure. The procedures in this subsection (g) shall not apply and the owner is not entitled to such a hearing with respect to any dog which was impounded as the immediate result of an attack or bite as defined in this code. In those instances, the dog shall be handled and the procedures governed by the provisions for dogs involved in a bite or attack. If a hearing is not requested and the animal is not removed from the City, the Police Chief, or designee, may see to the removal of the animal by impoundment and shall assess all fees related thereto to the owner.

(h) If the dog is found not to be a pit bull, the dog shall be released to the owner, if not having been allowed to remain in the owner's possession during DNA testing. If the dog is found to be a pit bull, it shall be immediately removed from the City limits, and in no case later than seven (7) days and the owner shall reimburse the City for all costs associated with DNA testing.

(i) A DNA test will not be required and impoundment not made under the following circumstances:

1. The owner voluntarily executes a waiver to an administrative hearing on the classification of the dog as a pit bull, pursuant to subsection (f) above.

2. The owner produces credible evidence that the pit bull is to be permanently taken out of the city, maintained at a specified lawful location, and the pit bull will not return to the city illegally.

3. Where the owner or their immediate family has committed a prior violation of this section, or the pit bull had been previously identified as a pit bull and/or impounded and released pursuant to this subsection, the following provisions shall apply:

(i) The owner shall pay a non-refundable payment of \$250.00 for the costs of the administrative review of this matter; and

(ii) The owner shall submit their petition in writing only, and any factual claims shall be supported by sworn affidavits of witnesses.

(iii) The pit bull may be released only where the owner is able to prove by clear and convincing evidence that the presence of the pit bull was either legal, due to circumstances that amount to a lawful exemption as listed in subsection (3) above, or the pit bull's presence in the city was not due to a voluntary act or the failure of the owner to take reasonable efforts to prevent the violation, such as the fact the pit bull was stolen or taken without legal authority by a known party.

(iv) The negligence or recklessness of the owner or the owner's agent, in causing or allowing the violation of this section, will not amount to sufficient cause for the pit bull's release.

4. ~~A micro chip emitting an electronic signal carrying a unique identifying code shall also be subcutaneously implanted in the pit bull.~~

5. ~~The owner and any proposed transferee of ownership and possession acknowledge that should the pit bull be found within the city in the future, in violation of this section, the pit bull will be destroyed; and~~

6. ~~The pit bull is spayed or neutered before its release, unless a licensed veterinarian states in writing that a pit bull is unfit to undergo the required surgical procedure because of an extreme health condition of the animal. Such extreme health condition shall include, but not be limited to: severe cardiovascular compromise, bleeding disorder, respiratory disease and hepatic disease. The old age of an animal shall not, of itself, constitute an extreme health condition for purposes of this section. The Police Chief may authorize the secured transportation of the pit bull to a licensed veterinarian to perform this procedure, if necessary; and~~

~~7. The pit bull has no known history of behavioral problems and does not display any problematic behavioral traits so as to warrant the Director's confidence that the pit bull will not pose a danger or nuisance to the public's health, safety, or welfare; and~~

~~8. The owner pays all the costs of impoundment, tattooing, microchipping, transportation, and all associated veterinarian costs, including sterilization~~

**SECTION 2.** Amendments to Chapter 50, Section 10:

Chapter 50.10(16)(H) "Removal" shall be added and shall read as follows:

If the Police Chief determines that an animal has bitten in such a manner as to cause a serious injury, defined as meaning either the breaking of the skin above the shoulders, or any injury at or below the shoulders causing heavy bleeding, damage beneath the skin, or stitches, the Police Chief shall be authorized to impound the animal immediately and if refused access by the owner to impound the animal shall then be subject to impoundment after the receipt of a Court Order by the Police Chief and will also be subject to Civil Penalties under the City Municipal Infraction Code in the amount of \$100 per day that the animal is not allowed to be impounded by the Police Chief. The owner of the animal may file a written petition with the Police Chief for a hearing concerning the "serious injury" determination no later than seven (7) days after the first impoundment attempt. Such petition shall include the name and address, including mailing address, of the petitioner. The Police Chief will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. Where no written request from the owner for a hearing is received by the Police Chief within seven (7) days of impoundment, the animal shall may be euthanized~~be destroyed~~. The hearing, if any, will be held before a panel of at least three City Councilpersons and the Police Chief. Any facts which the petitioners wishes to be considered shall be submitted under oath or affirmation either in writing or orally at the hearing. The panel shall make a final determination whether the injury fits the definition of "serious injury" as defined herein. Such final determination shall be considered a final order of the City subject to judicial review pursuant to the applicable rules of legal procedure.

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

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

**SECTION 5. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this 19<sup>5</sup><sup>th</sup> day of ~~November~~October, 2015~~8~~.

\_\_\_\_\_  
Mayor ~~Brian Wolken~~Dena Himes

ATTEST:

\_\_\_\_\_  
Sally Hinrichsen, City Clerk

I, Sally Hinrichsen, Monticello City Clerk, do hereby certify that the above and foregoing Ordinance # \_\_\_\_  
was published in the Monticello Express on the \_\_\_\_ day of \_\_\_\_\_, 2018.

Signed and dated this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Sally Hinrichsen, City Clerk

## Doug Herman

---

**From:** Jayme Freye <jayme.freye@gmail.com>  
**Sent:** Sunday, November 11, 2018 9:04 AM  
**To:** bwolken; rpaulson@ci.monticello.ia.us; jruss; clux; tyeoman; dgoedken; Butch Pratt; Doug Herman  
**Subject:** Ordinance related to Animal Protection and Control  
**Attachments:** Dog Bite Risk and Prevention The Role of Breed.pdf; dog\_bite\_risk\_and\_prevention\_bgnd.pdf; A community approach to dog bite prevention.pdf

November 9, 2018

To Whom It May Concern:

My name is Dr. Jayme Freye. I am a resident and business owner in Monticello. I have worked as a veterinarian in Monticello since I graduated from Iowa State School of Veterinary Medicine in 2014. Recently, I have been asked to state my opinion on the Ordinance related to Animal Protection and Control. After taking time to reflect on my personal and professional experiences and research the issue I am attaching an article issued by the American Veterinary Medical Association. The AVMA is a not-for-profit association representing more than 91,000 veterinarians working in private and corporate practice, government, industry, academia, and uniformed services. The AVMA acts as a collective voice for its membership and for the profession.

I would like to highlight a few areas of the article that I believe are the most relevant:

- 1.
2. Policies that target specific dog breeds for increased regulation or outright bans have proven ineffective in
3. improving public safety. The American Veterinary Medical Association (AVMA) is opposed to breed-specific legislation and instead advocates for specific strategies that have proven effectiveness in reducing the incidence of dog bites.
- 4.
- 2.
3. While breed-specific laws may look good on the surface, they are an overly simplistic approach to a complex
4. social problem. There are several major problems with breed-specific legislation:
5.
  - 6.
  - a.
  - b. Breed-specific laws can be difficult to enforce, especially when a dog's breed can't easily be determined or
  - c. if it is of mixed breed. It is extremely difficult to determine a dog's breed or breed mix simply by looking at it. Studies show that even people very familiar with dog breeds cannot reliably determine the primary breed of a mutt. Because of this, breed-specific
  - d. legislation frequently focuses on dogs with a certain appearance or physical characteristics, instead of an actual breed, making the laws inherently vague and difficult to enforce.
  - e.
- 7.

- 3.
4. Breed-specific legislation is discriminatory against responsible owners and their dogs. Breed bans assume all
5. dogs of a specific breed are likely to bite, instead of acknowledging that most dogs are not a problem. Breed-specific laws can lead to the euthanasia of innocent dogs that fit a certain "look," and to responsible pet owners being forced to move or give up
6. dogs that have never bitten or threatened to bite. Furthermore, breed-specific ordinances may be in violation of a dog owner's right to equal protection.

7.

- 4.
5. Breed bans do not address the social issue of irresponsible pet ownership. Any dog can bite, regardless of breed.
6. Dogs are more likely to become aggressive when they are unsupervised, unneutered, and not socially conditioned to live closely with people or other dogs. Breed bans rarely assign appropriate responsibilities to dog owners. Breed-specific legislation deemphasizes
7. the importance of responsible pet ownership, and diverts attention and resources away from proven solutions, such as socialization and training, and licensing and leash laws.
- 8.
- 9.

- 5.
6. It is not possible to calculate a bite rate for a breed or to compare rates between breeds because the data
7. is often inconsistent or incomplete. Statistics on injuries caused by dogs are often used to demonstrate the "dangerousness" of particular breeds. However, such arguments are seriously flawed because:
- 8.

9.
  10.
    - a.
    - b. the breed of a biting dog is often not known or is inaccurately reported;
    - c.
    - d.
    - e.
    - f. the actual number of bites that occur in a community is not known, especially if they did not result in serious
    - g. injury;
    - h.
    - i.
    - j. the number of dogs of a particular breed or combination of breeds in a community is not known because it is
    - k. rare for all dogs in a community to be licensed;
    - l.
    - m.
    - n. statistics often do not consider multiple incidents caused by a single animal; and
    - o.
    - p.
    - q.
    - r. breed popularity changes over time, making comparison of breed-specific bite rates unreliable.

t. s.  
11.

Governmental policies aimed at reducing the incidence of dog bites need to look far beyond breed to identify effective solutions. The AVMA recommends the following strategies:

- 
- Enforcement of generic, non-breed-specific dangerous dog laws, with an emphasis on chronically irresponsible owners
- 
- 
- Enforcement of animal control ordinances such as leash laws, by trained animal care and control officers
- 
- 
- Prohibition of dog fighting
- 
- 
- Encouraging neutering for dogs not intended for breeding
- 
- 
- School-based and adult education programs that teach pet selection strategies, pet care and responsibility, and bite prevention
- 

I am also including a document written by a task force aimed at dog bite prevention. I would be happy to work with the City Council to come up with a community driven approach to decrease dog bite incidents.

Sincerely,

Dr. Jayme Freye



---

*Literature Review on the Welfare Implications of  
The Role of Breed in Dog Bite  
Risk and Prevention*

(May 15, 2014)

---

#### **BREEDS IMPLICATED IN SERIOUS BITE INJURIES**

In a range of studies, the breeds found to be highly represented in biting incidents were German Shepherd Dog,<sup>1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,50</sup> mixed breed,<sup>1,4,6,8,10,11,12, 19,17, 20,50</sup> pit bull type,<sup>5,9,13,16, 21,20,22,23,24,25,26,27</sup> Rottweiler,<sup>15, 18,22,24, 25, 28</sup> Jack Russell Terrier,<sup>21,23,26</sup> and others (Chow Chow,<sup>7,23</sup> Spaniel,<sup>14,26</sup> Collie,<sup>3,29</sup> Saint Bernard,<sup>20</sup> and Labrador Retriever<sup>2</sup>).

If you consider only the much smaller number of cases that resulted in very severe injuries or fatalities,<sup>21,23</sup> pit bull-type dogs are more frequently identified. However this may relate to the popularity of the breed in the victim's community, reporting biases and the dog's treatment by its owner (e.g., use as fighting dogs<sup>21</sup>). It is worth noting that fatal dog attacks in some areas of Canada are attributed mainly to sled dogs and Siberian Huskies,<sup>56</sup> presumably due to the regional prevalence of these breeds. See Table 1 for a summary of breed data related to bite injuries.

#### **CONTROLLED STUDIES**

The prevalence of particular dog breeds can also change rapidly over time, often influenced by distinct peaks of popularity for specific breeds. It seems that increased popularity is sometimes followed by increases in bite reports in some large breeds. For example there was a distinct peak in American Kennel Club registration of Rottweilers<sup>30</sup> between 1990 and 1995, and they come at the top of the list of 'biting breeds' for the first time in studies of bites causing hospitalization in the late 90s and early 2000s.<sup>25,28,15,58</sup> While it must be noted that other fad breeds such as Dalmatians and Irish setters do not seem to make similar appearances, any estimate of breed-based risk must take into account the prevalence of the breed in the population at the time and place of serious biting events.<sup>17,31</sup>

For example, researchers can compare well-documented bite cases with matched control households. Using this method, one study found that the breeds disproportionately involved in bite

This peer-reviewed summary has been prepared by the American Veterinary Medical Association Animal Welfare Division. While principally a review of the scientific literature, it may also include information gleaned from proprietary data, legislative and regulatory review, market conditions, and scholarly ethical assessments. It is provided as information and its contents should not be construed as official AVMA policy. Mention of trade names, products, commercial practices or organizations does not imply endorsement by the American Veterinary Medical Association.



injuries requiring medical attention in the Denver area (where pit bull types are not permitted) were the German Shepherd Dog and Chow Chow.<sup>64</sup>

Other studies use estimates of breed prevalence that do not relate specifically to the households where the bites occurred, such as general community surveys, breed registries, licensed dogs or animal shelter populations (See Table 2.). A study in Rome, Italy where *molloser* dogs like mastiff are reputed to be the most dangerous dogs, found they were not disproportionately involved in biting incidents when taking into account their prevalence in the community.<sup>32</sup> These prevalence referenced studies attribute higher risk to the German Shepherd Dog and crosses<sup>60,61,62,63,64</sup>, and various other breeds (mixed breed,<sup>62,63</sup> Cocker spaniel,<sup>61,65</sup> Chow Chow,<sup>64,65</sup> Collie,<sup>61</sup> Doberman,<sup>60</sup> Lhasa Apso,<sup>44,65</sup> Rottweiler,<sup>49</sup> Springer Spaniel,<sup>43</sup> Shih Tsu,<sup>43</sup> and Poodle<sup>62</sup>).

#### AGGRESSIVE BREEDS

Based on behavioral assessments and owner surveys the breeds that were more aggressive towards people were small to medium-sized dogs such as the collies, toy breeds and spaniels.<sup>33,34,35,36,37</sup> For example, a survey of general veterinary clientele in Canada (specifically practices in New Brunswick, Novia Scotia, and Prince Edward Island) identified Lhasa Apso, Springer spaniel and Shih Tsu as more likely to bite.<sup>43</sup>

While small dogs may be more aggressive their size means they are less likely to inflict serious bite injury except on vulnerable individuals or as part of a pack attack, which also allows dogs to seriously or injury healthy older children or adults.<sup>38,39</sup> Referrals for aggression problems more closely approximate the breeds implicated in serious bite attacks, probably because owners are more likely to seek treatment for aggression in dogs that are large enough to be dangerous. Larger dogs (regardless of breed) are implicated in more attacks on humans<sup>40</sup> and other dogs.<sup>41</sup>

Certain large breeds are notably under-represented in bite statistics such as large hounds and retrievers (e.g., Labrador Retrievers and Golden Retrievers)<sup>35,43</sup>—although even these breeds may have known aggressive subtypes.<sup>42</sup> Results relating to German Shepherd Dogs are mixed,<sup>36,43</sup> suggesting there may be particularly high variability in this breed, perhaps depending on regional subtypes or ownership factors.

#### PIT BULL TYPES

Owners of pit bull-type dogs deal with a strong breed stigma,<sup>44</sup> however controlled studies have not identified this breed group as disproportionately dangerous. The pit bull type is particularly ambiguous as a “breed” encompassing a range of pedigree breeds, informal types and appearances that cannot be

reliably identified. Visual determination of dog breed is known to not always be reliable.<sup>45</sup> And witnesses may be predisposed to assume that a vicious dog is of this type.

It should also be considered that the incidence of pit bull-type dogs' involvement in severe and fatal attacks may represent high prevalence in neighborhoods that present high risk to the young children who are the most common victim of severe or fatal attacks. And as owners of stigmatized breeds are more likely to have involvement in criminal and/or violent acts<sup>46</sup>—breed correlations may have the owner's behavior as the underlying causal factor.

### BREED BANS

Most serious dog bite injuries (requiring hospital treatment) in the United States are the victim being a young child<sup>34</sup> and the dog being un-neutered and familiar (belonging to the family, a family friend or neighbor).<sup>32,47,48,54</sup> Therefore responsible ownership and supervision is key to minimizing the risk of dog bites in communities.

While some study authors suggest limiting ownership of specific breeds might reduce injuries (e.g., pit bull type,<sup>49</sup> German Shepherd Dog<sup>50</sup>) it has not been demonstrated that introducing a breed-specific ban will reduce the rate or severity of bite injuries occurring in the community.<sup>8,51</sup> Strategies known to result in decreased bite incidents include active enforcement of dog control ordinances,<sup>52</sup> and these may include ordinances relating to breed.<sup>53</sup>

### CONCLUSION

Maulings by dogs can cause terrible injuries<sup>47</sup> and death—and it is natural for those dealing with the victims to seek to address the immediate causes. However as Duffy et al (2008) wrote of their survey based data: "The substantial within-breed variation... suggests that it is inappropriate to make predictions about a given dog's propensity for aggressive behavior based solely on its breed." While breed is a factor, the impact of other factors relating to the individual animal (such as training method, sex and neutering status), the target (e.g. owner versus stranger), and the context in which the dog is kept (e.g. urban versus rural) prevent breed from having significant predictive value in its own right. Also the nature of a breed has been shown to vary across time, geographically, and according to breed subtypes such as those raised for conformation showing versus field trials.<sup>37</sup>

Given that breed is a poor sole predictor of aggressiveness and pit bull-type dogs are not implicated in controlled studies it is difficult to support the targeting of this breed as a basis for dog bite prevention. If breeds are to be targeted a cluster of large breeds would be implicated including the German shepherd and shepherd crosses and other breeds that vary by location.



Overall: nearly identical provisions to 1st article.  
 JH

# Dog Bite Risk and Prevention: The Role of Breed

## Literature Review

May 15, 2014

This peer-reviewed summary has been prepared by the American Veterinary Medical Association Animal Welfare Division. While principally a review of the scientific literature, it may also include information gleaned from proprietary data, legislative and regulatory review, market conditions, and scholarly ethical assessments. It is provided as information and its contents should not be construed as official AVMA policy. Mention of trade names, products, commercial practices or organizations does not imply endorsement by the American Veterinary Medical Association.

.pdf version

### Breeds Implicated in Serious Bite Injuries

In a range of studies, the breeds found to be highly represented in biting incidents were German Shepherd Dog,<sup>1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,13,17,18,50</sup> mixed breed,<sup>1,4,6,8,10,11,12,19,17, 20,50</sup> pit bull type,<sup>5,9,13,16,21,20,22,23,24,25,26,27</sup> Rottweiler,<sup>15,18,22,24,25,28</sup> Jack Russell Terrier,<sup>21,25,26</sup> and others (Chow Chow,<sup>7,23</sup> Spaniel,<sup>14,23</sup> Collie,<sup>3,29</sup> Saint Bernard,<sup>20</sup> and Labrador Retriever<sup>2</sup>).

If you consider only the much smaller number of cases that resulted in very severe injuries or fatalities,<sup>21,23</sup> pit bull-type dogs are more frequently identified. However this may relate to the popularity of the breed in the victim's community, reporting biases and the dog's treatment by its owner (e.g., use as fighting dogs<sup>21</sup>). It is worth noting that fatal dog attacks in some areas of Canada are attributed mainly to sled dogs and Siberian Huskies,<sup>55</sup> presumably due to the regional prevalence of these breeds. See Table 1 for a summary of breed data related to bite injuries.

### Controlled Studies

The prevalence of particular dog breeds can also change rapidly over time, often influenced by distinct peaks of popularity for specific breeds. It seems that increased popularity is sometimes followed by increases in bite reports in some large breeds. For example there was a distinct peak in American Kennel Club registration of Rottweilers<sup>30</sup> between 1990 and 1995, and they come at the top of the list of 'biting breeds' for the first time in studies of bites causing hospitalization in the late 90s and early 2000s.<sup>25,28,15,58</sup> While it must be noted that other fad breeds such as Dalmatians and Irish setters do not seem to make similar appearances, any estimate of breed-based risk must take into account the prevalence of the breed in the population at the time and place of serious biting events.<sup>17,31</sup>

For example, researchers can compare well-documented bite cases with matched control households. Using this method, one study found that the breeds disproportionately involved in bite injuries requiring medical attention in the Denver area (where pit bull types are not permitted) were the German Shepherd Dog and Chow Chow.<sup>64</sup>

Other studies use estimates of breed prevalence that do not relate specifically to the households where the bites occurred, such as general community surveys, breed registries, licensed dogs or animal shelter populations (See Table 2.). A study in Rome, Italy where *molloser* dogs like mastiff are reputed to be the most dangerous dogs, found they were not disproportionately involved in biting incidents when taking into account their prevalence in the community.<sup>32</sup> These prevalence referenced studies attribute higher risk to the German Shepherd Dog and crosses<sup>60,61,62,63,64</sup>, and various other breeds (mixed breed,<sup>62,63</sup> Cocker spaniel,<sup>61,65</sup> Chow Chow,<sup>64,65</sup> Collie,<sup>51</sup> Doberman,<sup>60</sup> Lhasa Apso,<sup>44,65</sup> Rottweiler,<sup>49</sup> Springer Spaniel,<sup>43</sup> Shih Tsu,<sup>43</sup> and Poodle<sup>62</sup>).

## Aggressive Breeds

Based on behavioral assessments and owner surveys the breeds that were more aggressive towards people were small to medium-sized dogs such as the collies, toy breeds and spaniels.<sup>33,34,35,36,37</sup> For example, a survey of general veterinary clientele in Canada (specifically practices in New Brunswick, Nova Scotia, and Prince Edward Island) identified Lhasa Apso, Springer spaniel and Shih Tsu as more likely to bite.<sup>43</sup>

While small dogs may be more aggressive their size means they are less likely to inflict serious bite injury except on vulnerable individuals or as part of a pack attack, which also allows dogs to seriously or injury healthy older children or adults.<sup>38,39</sup> Referrals for aggression problems more closely approximate the breeds implicated in serious bite attacks, probably because owners are more likely to seek treatment for aggression in dogs that are large enough to be dangerous. Larger dogs (regardless of breed) are implicated in more attacks on humans<sup>40</sup> and other dogs.<sup>41</sup>

Certain large breeds are notably under-represented in bite statistics such as large hounds and retrievers (e.g., Labrador Retrievers and Golden Retrievers)<sup>35,43</sup>—although even these breeds may have known aggressive subtypes.<sup>42</sup> Results relating to German Shepherd Dogs are mixed,<sup>36,43</sup> suggesting there may be particularly high variability in this breed, perhaps depending on regional subtypes or ownership factors.

## Pit Bull Types

Owners of pit bull-type dogs deal with a strong breed stigma,<sup>44</sup> however controlled studies have not identified this breed group as disproportionately dangerous. The pit bull type is particularly ambiguous as a "breed" encompassing a range of pedigree breeds, informal types and appearances that cannot be reliably identified. Visual determination of dog breed is known to not always be reliable.<sup>45</sup> And witnesses may be predisposed to assume that a vicious dog is of this type.

It should also be considered that the incidence of pit bull-type dogs' involvement in severe and fatal attacks may represent high prevalence in neighborhoods that present high risk to the young children who are the most common victim of severe or fatal attacks. And as owners of stigmatized breeds are more likely to have involvement in criminal and/or violent acts<sup>46</sup>—breed correlations may have the owner's behavior as the underlying causal factor.

## Breed Bans

Most serious dog bite injuries (requiring hospital treatment) in the United States are the victim being a young child<sup>54</sup> and the dog being un-neutered and familiar (belonging to the family, a family friend or neighbor).<sup>32,47,48,54</sup> Therefore responsible ownership and supervision is key to minimizing the risk of dog bites in communities.

While some study authors suggest limiting ownership of specific breeds might reduce injuries (e.g., pit bull type,<sup>49</sup> German Shepherd Dog<sup>50</sup>) it has not been demonstrated that introducing a breed-specific ban will reduce the rate or severity of bite injuries occurring in the community.<sup>8,51</sup> Strategies known to result in decreased bite incidents include active enforcement of dog control ordinances,<sup>52</sup> and these may include ordinances relating to breed.<sup>53</sup>

## Conclusion

Maulings by dogs can cause terrible injuries<sup>47</sup> and death—and it is natural for those dealing with the victims to seek to address the immediate causes. However as Duffy et al (2008) wrote of their survey based data: "*The substantial within-breed variation...suggests that it is inappropriate to make predictions about a given dog's propensity for aggressive*

*behavior based solely on its breed.*" While breed is a factor, the impact of other factors relating to the individual animal (such as training method, sex and neutering status), the target (e.g. owner versus stranger), and the context in which the dog is kept (e.g. urban versus rural) prevent breed from having significant predictive value in its own right. Also the nature of a breed has been shown to vary across time, geographically, and according to breed subtypes such as those raised for conformation showing versus field trials.<sup>37</sup>

Given that breed is a poor sole predictor of aggressiveness and pit bull-type dogs are not implicated in controlled studies it is difficult to support the targeting of this breed as a basis for dog bite prevention. If breeds are to be targeted a cluster of large breeds would be implicated including the German shepherd and shepherd crosses and other breeds that vary by location.

### See Also:

National Animal Control Association Guideline Statement: "*Dangerous and/or vicious animals should be labeled as such as a result of their actions or behavior and not because of their breed.*"

## Summary Tables

**Table One**

**Studies of Serious Dog Bite Injury by Breed**

Period	Data Source	N	Country	Top Two Breeds Identified	Ref
1971	US Dept. Health	843	United States (VA)	mixed breed German Shepherd Dog	1
1971-1974	Hospital records	50	South Africa	German Shepherd Dog Labrador Retriever	2
1973-1976	US Dept. Health	2618	United States (AL)	German Shepherd Dog Collie	3
1979-1982	Health Dept. Severe attacks	16	United States (SC)	pit bull type Saint Bernard	21
1981-1983	US Reservations	772	United States	mixed breed unspecified pedigree	19
1982	Hospital Records	420	Canada	German Shepherd mixed breed	54
1982-1989	Hospital records	146	United Kingdom	pit bull type Jack Russell Terrier	22
1987-1988	HASS	487	United Kingdom	mixed breed German Shepherd Dog	4
1979-1998	Fatalities	27	United States	pitt bull type Rottweiler	23
1969-2007	Fatalities	5	New Zealand	pitt bull type -	55
1989	Hospital records	168	United States	German Shepherd Dog pit bull type	5
1989	Hospital records	75	United Kingdom	German Shepherd Dog mixed breed	6
1991	Animal control records	357	United States	German Shepherd Dog Chow Chow	7
1991+1994	Hospital records	198	United Kingdom	German Shepherd Dog mixed breed	8
1989-1996	Hospital records	1109	United States (CA)	pit bull type German shepherd	9
1990-2007	Fatalities	28	Canada	mixed breed husky	56



# JAVMAnews

---

November 15, 2017

## The dangerous dog debate

### Breed bans are popular, but do they make the public safer?

By R. Scott Nolen

Posted Nov. 1, 2017



Around 7 p.m. on June 17, 2007, Colleen Lynn was making her way through her Beacon Hill neighborhood in Seattle on a final training run for an upcoming half-marathon. Ahead, a woman walking a dog on a leash stepped off the sidewalk and onto the parking strip with the dog so Lynn could pass. But, as Lynn neared, the dog suddenly turned and sprang at her, striking her in the chest and knocking her to the sidewalk. Confused, she instinctively shielded her face with her right arm, which the dog seized, shaking it and dragging Lynn down the sidewalk. The other woman jerked the leash hard, causing the dog to release Lynn, who fled down the street screaming for help.

"I didn't understand what was happening," recalled Lynn, an independent web consultant and designer. "Those moments of being on my back and being dragged ... I really did think I was going to die." The attack was over in

seconds. Lynn had been bitten twice, sustaining several puncture wounds and a fractured ulna that required surgery.

Police and animal control reports identify the dog that attacked Lynn as a sexually intact, adult male pit bull named Bull. Records show that in April 2006, Bull escaped his owner's yard and chased a man walking with his dog. The man and dog fled to a nearby porch, where the resident reportedly informed the man that Bull had recently cornered her in her own backyard. Bull's owner was cited for not having a dog license and received a verbal warning for the leash law violation.

To avoid criminal charges for the attack on Lynn, Bull's owner consented to having the dog euthanized.

Lynn is not the same person she was before the attack. She grew up loving dogs. She still loves dogs, but says the attack felt like a betrayal.

**Breed-specific laws strengthen existing dangerous dog laws by targeting some of those prime offenders."**

*Colleen Lynn, founder, DogsBite.org, a nonprofit that advocates for dog-bite victims*

"I had no negative experiences with pit bulls or any dog prior to the attack. That a dog was capable of this just wasn't part of my world," Lynn said. Four months later, she launched DogsBite.org. Originally intended as a website to educate the public about dangerous dog breeds, DogsBite.org has evolved into a national organization that also advocates for dog-bite victims and for preventing serious attacks. The organization's website includes victim testimonies, a tally of U.S. dog-bite fatalities, and an overview of breed-specific legislation throughout the country.

Breed-specific laws ban or restrict ownership of dog breeds believed to be responsible for the most serious attacks on people. Pit bull-type dogs are the poster child of breed laws, but they can also apply to Rottweilers, Doberman Pinschers, and other large breeds. The American Kennel Club explained in a statement to *JAVMA News* that "pit bull" is a term commonly used to describe a particular type of dog—many being of mixed breeding—that has some ancestry relating to breeds in the United States, such as Staffordshire Bull Terriers and American Staffordshire Terriers. The AKC said "pit bull" is also used sometimes to describe mixes or breeds not registered with the AKC with names such as American Pit Bull Terrier or American Bully. "AKC does not consider Pit Bulls to be purebred dogs, and we register no such dogs," the organization said.

Nearly 90 million dogs are owned as pets in this country, according to the American Pet Products Association. Those relationships are usually peaceful, but not always. More than 4.5 million people are bitten by dogs annually in the United States, according to the Centers for Disease Control and Prevention. The agency attributed over 300 deaths to dog attacks between 1979 and 1996, most of them children's. An analysis by the Agency for Healthcare Research and Quality found roughly 316,000 emergency room visits and 9,500 hospitalizations in 2008 were dog bite-related. DogsBite.org reports 31 dog bite-related human fatalities occurred in 2016 and a total of 392 deaths from 2005 through 2016.

DogsBite.org's claim that pit bull-type dogs were responsible for 65 percent of the deaths during that 12-year period is disputed by some groups as inaccurate and misleading. The American Veterinary Society of Animal Behavior, for example, says identifying a dog's breed accurately is difficult, even for professionals, and visual recognition is known to not always be reliable.

**"Pit bull" is a term commonly used to describe a particular type of dog—many being of mixed breeding—that has some ancestry relating to breeds in the United States. ... "Pit bull" is also used**

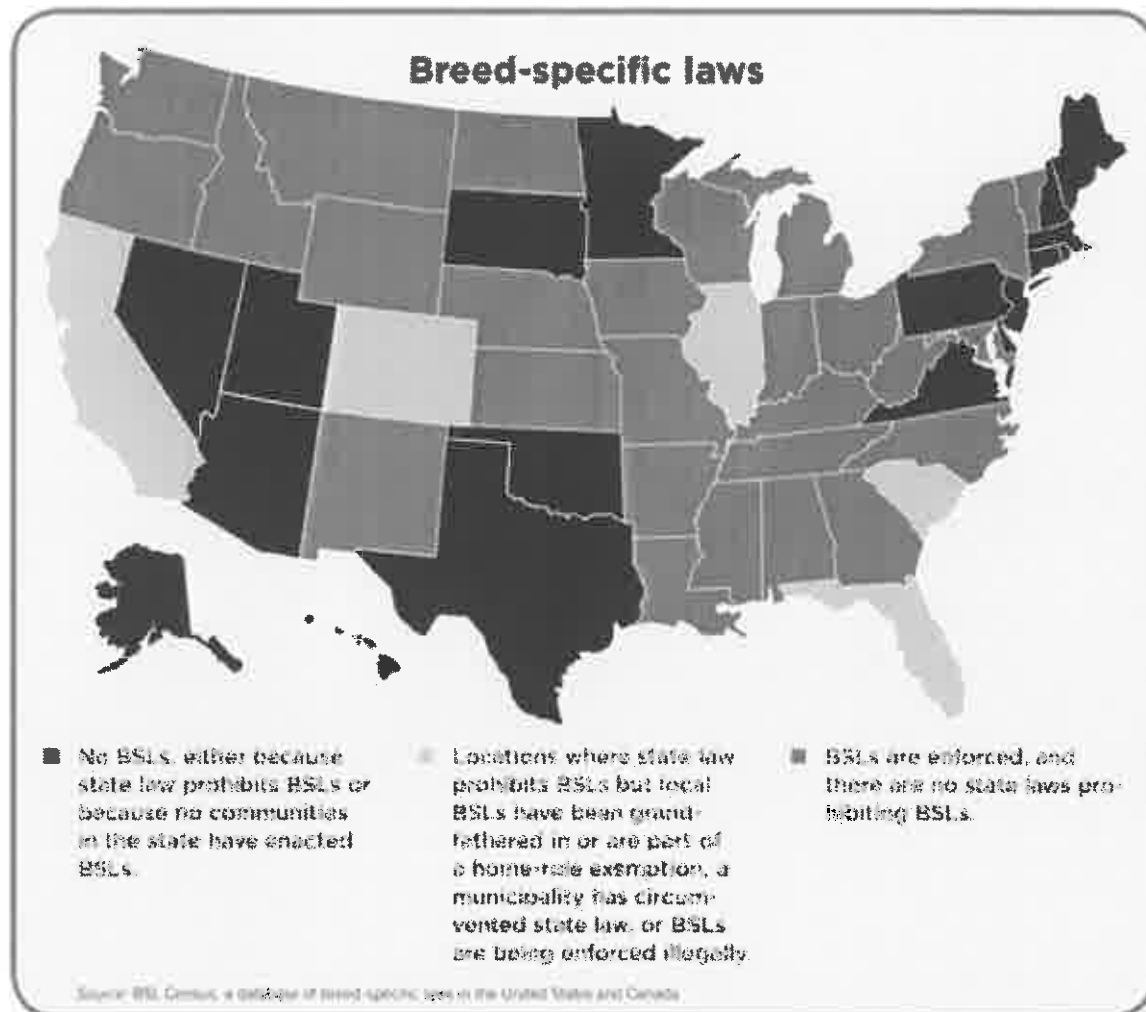
That's partly why the CDC stopped collecting breed data in dog-attack fatalities after 1998. Julie Gilchrist, a pediatrician and epidemiologist with the CDC, explained the challenges of studying dog bites during a presentation at the 2001 AVMA Annual Convention. "There are enormous difficulties in collecting dog bite data," Dr. Gilchrist said. "No centralized reporting system for dog bites exists, and incidents are typically relayed to a number of entities,

sometimes to describe mixes or breeds not registered with the AKC. ...

*Statement from the American Kennel Club*

such as the police, veterinarians, animal control, and emergency rooms, making meaningful analysis nearly impossible. Moreover, a pet dog that bites an owner or family member might go unreported if the injury isn't serious."

Breed restrictions emerged and proliferated during the 1980s as news reports increasingly portrayed pit bull-type dogs as an apex predator, one on which no other animals prey. Sports Illustrated highlighted a story on dogfighting in its July 27, 1987, issue with a cover featuring a snarling dog under the headline "Beware Of This Dog: The Pit Bull Terrier." Hollywood, Florida, enacted the nation's first breed-specific ordinance in 1980 after a pit bull-type dog scalped a 7-year-old boy and mangled his face. That law, which required owners of such dogs to prove they possessed \$25,000 in personal liability insurance, was overturned two years later; the judge cited a lack of evidence that pit bull-type dogs were more dangerous than other dogs.



[View larger](#)

However, more than 900 cities currently have some form of breed-specific legislation on the books. The U.S. Army, Air Force, and Marines ban pit bull-type dogs and certain breeds from privatized housing domestically and abroad. Breed bans have also been implemented in two Canadian provinces as well as in the United Kingdom, Ireland, Spain, Turkey, and New Zealand.

Communities reeling after a vicious dog attack may respond by prohibiting or strictly regulating what is assumed to be the responsible breed as a quick fix to a legitimate problem, according to Rebecca Wisch, associate editor and clinical staff attorney with the Animal Legal and Historical Center at Michigan State University College of Law. "Breed-specific laws give people a sense of security," she explained, adding that owners of a banned breed sometimes email MSU's



animal law center. "These people face either having to get rid of a dog they consider a family member or move out of the city. That's a pretty tall order for some people," Wisch said.

Over the years, the legality of breed laws has been challenged in numerous jurisdictions, but state and federal courts have repeatedly shown their willingness to let the ordinances stand.

"The usual arguments are breed-specific laws are unconstitutionally vague, or they violate the owner's right to due process or equal protection," Wisch said. "The courts are pretty comfortable shutting down those arguments as long as the legislation is rationally related to the stated goal of protecting the public from dog attacks."

**I'm opposed to breed-specific legislation. I want my team and my officers to be as objective as possible."**

*Robert C. Leinberger Jr., president, National Animal Care and Control Association*

While the legal questions are mostly settled, debate over the effectiveness of such laws and regulations is not. Critics—who are many—say breed bans discriminate against responsible dog owners and malign select breeds as inherently vicious, a claim not supported by a 2014 AVMA report ("The Role of Breed in Dog Bite Risk and Prevention") that found pit bull-type dogs not to be excessively aggressive.

Opposition to breed bans has been expressed by the AVMA and CDC, along with the American Bar Association, Humane Society of the United States, and American Society for the Prevention of Cruelty to Animals. The Obama administration even took sides in the debate, describing breed-specific laws as "a bad idea" in August 2013 after an online petition calling for federal breed bans garnered more than 30,000 signatures. A handful of states, including Massachusetts, Nevada, and Connecticut, pre-emptively adopted laws prohibiting their towns and counties from regulating dogs according to breed.



Pit bull-type dogs weren't always so notorious. Stubby was a mascot of the U.S. Army's 102nd Infantry, 26th Yankee Division, during World War I. He deployed with the troops Feb. 5, 1918, to the front lines in France. Stubby was injured during his first battle from gas exposure, sensitizing him to the noxious odor. Stubby later alerted troops to a gas attack while they slept. The dog also had a talent for locating wounded men, barking until paramedics arrived or leading the lost soldiers back to the safety of the trenches. He even caught a German soldier. Stubby was promoted to the rank of sergeant for his heroism, the first dog to be given rank in the U.S.

Robert C. Leinberger Jr. has been dealing with dangerous dogs as an animal control officer for 26 years. In addition to being animal control supervisor for Richmond, Virginia, Leinberger is president of the National Animal Care and Control Association, which opposes breed-specific laws.

"Dangerous and/or vicious animals should be labeled as such as a result of their actions or behavior and not because of their breed," according to an NACA statement.

Leinberger says breed laws are too narrowly focused and don't account for such important factors as the owner's treatment of the dog and compliance with vaccination and licensing ordinances. Virginia law doesn't recognize breed as a determining criterion for whether a dog is a public threat. That is for a court to decide. A "dangerous" dog in Virginia, Leinberger explained, is one that attacked a companion animal, injuring or killing it, or bit a person without causing serious injury. A local court will mandate a dangerous dog be neutered and microchipped, and possibly wear a muzzle

Armed Forces. By war's end, Sgt. Stubby had served in 17 battles. He visited the White House twice and met presidents Harding and Coolidge. Sgt. Stubby was awarded several medals for his heroism, including a medal from the Humane Society of the United States presented by Gen. John Pershing, commanding general of the United States Armies. Stubby died in 1926. His skin was mounted on a plaster cast and is on display at the Smithsonian's National Museum of American History. (Courtesy of the Smithsonian's National Museum of American History)

in public. The owner must buy personal liability insurance and post warning signs on the property. A dog that kills or seriously injures a person is declared to be "vicious" and ordered to be euthanized.

"Personally and professionally, I'm opposed to breed-specific legislation," Leinberger said. "I want my team and my

officers to be as objective as possible during their investigations and not having to worry 'Is that a Doberman? Is that a Pekingese? Is that a pit bull or a Weimaraner?' I want them to look at the merits of the case: This dog, whatever it is, got loose, attacked a person or another animal, and caused injury. I want them to look at that, rather than having to prejudge the animal and taint the case."

Colleen Lynn says breed-specific ordinances aren't meant to prevent each of the 4.5 million dog bites that occur each year. Rather, they aim to prevent the smaller number of maulings and severe injuries, for which the victim is often a child. A 2016 study she cited of 1,161 pediatric dog-bite victims in Atlanta found pit bull-type dogs were 2.5 times as likely as other dogs to bite in multiple anatomic locations. Additionally, children bitten by pit bull-type dogs were three times as likely to need surgery as were those bitten by other dogs.

"The mission of DogsBite.org is to reduce serious dog attacks," Lynn said. "Breed-specific laws strengthen existing dangerous dog laws by targeting some of those prime offenders."

Both sides of the debate have evidence supporting their positions. After ownership of pit bull-type dogs was banned in Sioux City, Iowa, in 2008, public health records show the number of bites by them dropped from 24 in 2007 to four in 2015. Similarly, in Springfield, Missouri, where owners of pit bull-type dogs have been required since 2006 to license, neuter, and microchip their dogs and post warning signs on their property, the number of bites by such dogs fell from 34 cases in 2005 to 16 in 2016. Prior to the ordinance, the city euthanized "hundreds" of unwanted pit bull-type dogs each year. That number dropped to 26 in 2016.

However, in 2008 the Dutch government revoked a 15-year nationwide ban on ownership of pit bull-type dogs after a study concluded the law was ineffective. Researchers in a Canada-wide study published in 2013 found no difference between the number of dog bites in municipalities with and without breed-specific legislation.

Breed "absolutely" influences a dog's behavior and is one of several factors that shape an animal's temperament, explained Dr. Sagi Denenberg, a diplomate of the American College of Veterinary Behaviorists and the European College of Animal Welfare and Behavioral Medicine.

"No one bred a Golden Retriever to look golden. They bred dogs that can swim and spend a lot of time in the water without getting cold. We essentially bred dogs for thousands of years for their behavior," said Dr. Denenberg, an instructor and researcher at Bristol Veterinary College in the United Kingdom. Environment, the owner, and the quality of maternal care a dog receives as a puppy also greatly impact the dog's personality.

Dr. Denenberg believes people have forgotten that aggression is a normal canine behavior. A dog expresses aggression when it hunts or protects resources, as when a person too near a food bowl receives a warning growl. "These are normal behaviors. The problem is that aggression is unacceptable for us as owners," he said. "Every dog has its limit, and if they're pushed far enough, they bite. Some dogs have to be pushed really, really far before they show aggression, whereas other dogs show it much sooner, but each dog has the potential to be dangerous."

Find AVMA resources on dog bites, including statistics, research, and an alternative to breed-specific legislation at "A Community Approach to Dog-Bite Prevention". Additional information is available at www.DogsBite.org and www.AVSAB.org.

AVMA appears to give some credit to dogsbite.org  
Copyright © 2018 American Veterinary Medical Association

City Council Meeting  
Prep. Date: 11/15/18  
Preparer: Doug Herman



Agenda Item: # 12  
Agenda Date: 11/19/2018

*Communication Page*

**Agenda Items Description:** Ordinance Amending Chapter 122 “Peddlers, Solicitors and Transient Merchants” to add provisions related to “Mobile Food Vending”. (2<sup>nd</sup> Reading)

**Type of Action Requested:** Motion; Resolution; **Ordinance**; Report; Public Hearing; Closed Session

**Attachments & Enclosures:**

Draft Ordinance

**Fiscal Impact:**

Budget Line Item:

Budget Summary:

Expenditure:

Revenue:

**Synopsis:** Proposed amendments to Chapter 122 to add significant conditions and provisions associated with mobile food vending.

**Background Information:** The draft ordinance is very long, unfortunately, but there is a lot to consider when thinking about all that could come up with food carts being legalized, if you will, in Monticello. From parking to safety, to competition with brick and mortar businesses or special chamber / City events, there is a lot to consider and cover. The proposed provisions have been built into Chapter 122, the Chapter dealing with Peddlers, Solicitors, and Transient Merchants. One issue has been related to the appropriate license fee. The Ordinance includes a provision which provides that the Council will set the licensure fees by Resolution. You may do it that way or you may choose license fees to add to the Ordinance. If you like the ability to set fees by Resolution I would propose that we modify the draft ordinance between this reading and the next to remove the fee structure for peddlers, solicitors, and transient merchants as well and approve those fees by Resolution as well. The benefit of setting fees by Resolution is that it is easier for those fees to be changed in the future.

If the 2<sup>nd</sup> reading passes I would like to have some input from the City Council with regard to a fee structure, said fees to be approved by Resolution. As a reminder, current “Transient Merchant” fees are as follows:

1. Transient Merchants
  - A. For each period of one to seven days \$ 100.00
  - B. For each additional period of one to seven days \$ 100.00
  - C. For up to six (6) months \$1,000.00
  - D. For more than (6) months but less than one year \$1,500.00

2. Days shall be accrued during the course of the calendar year, commencing January 1<sup>st</sup> of each year and fees shall be based upon the sum of accrued days and desired additional days of permitted sales/solicitation.

**Recommendation:** I recommend that the Council introduce and approve the 2<sup>nd</sup> reading of the proposed Ordinance. (I recognize that there is a lot to review and would suggest that you spend more time on it between now and the next meeting and reach out to me with questions or changes in the meantime. This is a work in progress and until the 3<sup>rd</sup> reading has no effect but to put the public on notice that the Council is moving forward with a draft Ordinance.)

ORDINANCE NO. \_\_\_\_\_

An Ordinance amending the Monticello Code of Ordinances, by amending Chapter 122 “Peddlers, Solicitors and Transient Merchants”

**BE IT ENACTED** by the City Council of the City of Monticello, Iowa, that the following provisions are Chapter 122 are hereby amended to set out provisions and regulations associated with the operation of a Mobile Food Unit by a Mobile Food Vendor.

- A. Chapter 122 shall, with the passage of this Ordinance be retitled “Peddlers, Solicitors, Transient Merchants, and Mobile Food Vendors”
- B. Current section 122.02 “Definitions” shall be amended by adding section 4, “Mobile Food Vendors”, and subsections (a)(1) to (37) which shall read as follows:

122.02(4) “Mobile Food Vendor” means the person, corporation, entity, or group obtaining the license to prepare, market or sell food from a mobile vending unit or food stand.

(a) Definitions associated with “Mobile Food Vendors”

1. Angled parking space — means a parking space which is oriented at an acute angle with the curb and direction of approach.
2. Bustaurant — means a mobile food vending unit in a converted bus or similar vehicle which includes an eat-in restaurant. This type of mobile food vending unit contains a mobile kitchen and facilitates the preparation, marketing, and sale of food that is whole unprocessed, packaged, prepared and/or not potentially hazardous.
3. City Block — means the entire right-of-way of a public street extending from the centerline of an intersecting street or the lateral centerline of any river bridge, to the centerline of the next intersecting street or the lateral centerline of any river bridge, whichever is closer.
4. City Park — means a parcel of land, owned, operated as, and designated as a park by the City of Monticello.
5. Event Venue — means an establishment on a parcel of land which is operated solely or primarily to host specialized events, generally occurring weekly, or throughout a month, but not occurring daily. These specialized events may be exclusive to said establishment and are not prevalent throughout the City. The City of Monticello Zoning Administrator shall make the determination if a venue is an Event Venue.

6. Food — means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
7. Food Cart — means a non-self-propelled vehicle food establishment which facilitates the preparation, marketing, and sale of food that is whole and unprocessed, prepared, packaged, and/or non-potentially hazardous or commissary-wrapped foods maintained at proper temperatures or precooked foods that require limited assembly, such as frankfurters.
8. Food and Drug Administration (FDA) — means the Department of the United States government responsible for monitoring trading and safety standards in the food and drug industries.
9. Food, Packaged — means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.
10. Food, Prepared — means food that is packaged and also includes food which is cooked or handled in some way, altering an unprocessed wholefood by mechanical or human processing which would occur in accordance with USDA or FDA regulations and is then consumed at a later time.
11. Food, Potentially Hazardous — means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less.
12. Food Stand — means any article, device, fixture or equipment that is used as a place to provide food and includes, but is not limited to, food tents, food shacks, food pods or food booths that are non-motorized, with or without a mobile kitchen, and facilitates the preparation, marketing, and sale of food that is whole unprocessed, prepared and/or not potentially hazardous. Food stands are not lawfully permitted as a permanent structure.
13. Food trailer. See food truck.
14. Food truck — means a self-propelled, or non-self-propelled vehicle or trailer, which is operable and is currently licensed through a North American Department of Motor Vehicles. A food truck contains a

mobile kitchen and facilitates the preparation, marketing, and sale of food that is whole unprocessed, packaged, prepared and/or not potentially hazardous.

15. Food, Unprocessed Whole — means products which are not potentially hazardous raw food and do not have a post-harvest human or mechanical required element of preparation prior to safe human consumption. Generally these items are whole fruits or vegetables.
16. Food wagon. See food truck.
17. Hard-Surfaced — means a surface that is comprised of Portland Cement Concrete (PCC), Asphalt Cement Concrete (ACC), or other paved, or seal coated surface.
18. Intermittent Sales — means food sales which occur from a mobile vending unit which is only stopped when making a sale. Stops for sales are generally less than five (5) minutes in total duration.
19. Market — means an establishment consisting of at least five (5) vendors where people may gather, indoors or outside, a permanent structure is on site, offering food that is prepared on site, for consumption on site. Non-food goods and other prepared and packaged food, prepared on site is offered for sale as a function of the establishment.
20. Mobile Food Vendor — means the person, corporation, entity, or group obtaining the license to prepare, market or sell food from a mobile vending unit or food stand.
21. Mobile Food Vendor Sales — means an exchange of prepared, packaged, or prepared food for American currency at a set price, not for goodwill donation or for free.
22. Mobile Food Vendor license — means the document issued by the Office of the City Clerk granting permission for a person, corporation, entity, or group to sell unprocessed whole food, prepared food or prepackaged food from a mobile vending unit or food stand.
23. Mobile Food Vending Unit — means a food establishment that is self-contained, with the exception of grills and smokers, and readily movable, such as a food cart, bustaurant, or food truck.
24. Parking Manager — means the City of Monticello Police Department or designated agent thereof who manages parking spaces within the corporate limits.
25. Private Property — means a lot or defined area of land which is not in the ownership of a local, state, or federal government entity.

26. Public Alley — means the public right-of-way and service area at the rear or sometimes side of buildings, generally more narrow than the street.
27. Public Right-of-Way — means an easement over land reserved for transportation purposes including public roadways, parking, sidewalks, and alleys.
28. Restaurant — means a retail business licensed to serve food and beverages for on-premises consumption and that uses a kitchen on the premises for food preparation. These establishments may include entertainment, dancing, and the serving of alcoholic beverages if permitted by applicable state or local law and any required licenses or permits have been acquired. For the purposes of this Chapter, a restaurant must also derive at least 25% of their revenue from the sale of food, not alcohol, for immediate consumption on the premises and be located on the street level.
29. Seasonal Sales — See Temporary Sales.
30. Servicing Area — means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.
31. Sight Triangle — means an area on a corner lot, measured from the point of the lot where two property lines meet street right-of-way. From this point of intersection, 30 feet in each direction along two property lines, then the two lines are connected by a straight line, forming a triangle.
32. Special Event — means an event or celebration for which a permit is granted by the City Council or Office of the City of Monticello City Administrator. An "event or celebration" is a significant occurrence or happening sponsored by a civic, business, educational, government, community, or veterans' organization and may include athletic contests.
33. Temporary Sales — means sales occurring from a mobile food vending unit or food stand of unprocessed whole food relating to, occurring in, or varying with a particular season or defined period of time no greater than four (4) consecutive months in duration.
34. United States Department of Agriculture (USDA) — mean a department of the United States government that manages various programs related to food, agriculture, natural resources, rural development and nutrition.

C. Current section 122.03 License Required shall be amended to read as follows:



122.03 “License Required” Any person engaging in actions that meet the definition of “Peddler”, “Solicitor”, “Transient Merchant” or “Mobile Food Vendor” in the City of Monticello without first obtaining a license as herein provided are doing so in violation of this chapter.

- D. Current section 122.04 “Application for License” shall be amended to read as follows:

**122.04 “Application for License”** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set for the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s business name, the last three places of such business if applicable, and the length of time sought to be covered by the license. **An application fee of twenty-five dollars (\$25.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.**

- (1) Each mobile food vendor shall provide proof of general liability insurance, including products liability coverage, **in the amount of \$1,000,000 or more per occurrence and \$1,000,000 for property damage.** A certificate of insurance shall be delivered to the City Clerk prior to the issuance of a mobile food vendor license.

- E. Current Section 122.05 “License Fees shall be amended by adding Subsection 3 and re-numbering existing section 122.05(3) to 122.05(4). The new subsection 3 shall read as follows:

**3. Mobile Food Vendors: Mobile Food Vendors shall pay licensing fees according to a fee schedule adopted from time to time by City Council resolution.**

- F. Current Section 122.07 shall be amended to read as follows:

122.07 “License Issued”

1. Solicitor, Peddler, or Transient Merchant: If the Clerk (with a background check performed by the Police Department) finds the application for a Solicitor, Peddler, or Transient Merchant license is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.
2. Mobile Food Vendor
  - a. Each mobile food vending unit or food stand shall obtain the necessary licenses and/or permits as may be required by the county, state, or

federal governing bodies. All applicants shall comply with all applicable county, state or federal laws, rules and regulations.

- b. The Office of the City Clerk shall issue to each licensee a license for each mobile food vending unit or food stand. Said license shall be carried at all times by licensee and exhibit the license as evidence of compliance with all requirements of this Chapter upon request.
- c. The Office of the City Clerk or authorized representative is authorized to establish administrative rules not inconsistent with any ordinance to carry out the provisions of this Chapter. A copy of said rules shall be on file at the Office of the City Clerk.
- d. A mobile food vendor license shall be denied to any applicant who has been found to have operated a mobile food vending unit or food stand in material violation of any of the requirements of this Chapter of the code within the prior 180 days.
- e. The Office of the City Clerk shall deny any application for the operation of a mobile food vending unit or food stand that does not conform with all applicable requirements of this Chapter, the City Code, the Iowa Code, and the Iowa Administrative Code.
- f. In the event an application for a mobile vendor license is denied, the Office of the City Clerk or authorized designee shall cause notice of such denial to be promptly communicated to the applicant or the applicant's representative by phone at the phone number provided in the application. Written notice shall also be sent to the applicant at the business address identified in the application informing the applicant of the denial, the reasons therefore, and the applicant's right to appeal the denial to a hearing officer by filing a written notice of appeal with the Office of the City Clerk within ten (10) business of receiving written notice.
- g. Appeals will be heard by a hearing officer. Notice of the hearing shall be mailed to the licensee at the last known address at least 5 days prior to the date set for the hearing. At the hearing the applicant shall be afforded the opportunity to present evidence and argument. Formal rules of evidence and procedure shall not apply. Legal counsel shall not be required but shall be permitted. Within thirty (30) days after the conclusion of a hearing held pursuant to this section, the hearing officer shall make written findings which shall be based on a preponderance of the evidence as the standard of proof. Any decision rendered pursuant to this section shall be deemed a final action of the City and subject to appeal in accordance with Iowa law. Until an appeal is heard and determined by the hearing officer, the mobile food vendor shall not engage in any mobile food vending operations for which the license would be required.

- h. If no appeal from the denial of a license is timely filed, or if the denial is not reversed upon final disposition of any appeal, the Office of the City Clerk shall promptly refund the refundable portion of the application fee, as set in the schedule of fees adopted by the City council by resolution.

G. Current Section 122.08 shall be amended to read as follows:

122.08 “Display of License” Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each Transient Merchant and Mobile Food Vendor shall display publicly such merchant’s license in the merchant’s place of business at all times.

H. Sections 122.12 shall be added to Chapter 122 and shall read as follows:

122.12 Mobile Food Vendor Additional Restrictions and Regulations

1. Transferability of License: A mobile food vendor license shall not be transferable from person to person or from mobile food vending unit to mobile food vending unit or from food stand to food stand.
2. Revocation of License:
  - a. Any mobile food vendor license may, after notice in writing to the licensee and reasonable opportunity for hearing be suspended or revoked for misrepresentation of any material fact in the application for the license or in the course of conducting business has made fraudulent, false or incorrect statements, has violated this Chapter or any other ordinance or regulation adopted by the City of Monticello governing any activities or matters which may affect the sale of food and the health, safety and welfare, or, has otherwise conducted business in an unlawful manner or the mobile food vending operation has become a public nuisance.
  - b. In the event an application for a mobile vendor license is suspended or revoked, the Office of the City Clerk or authorized designee shall cause notice of such revocation to be promptly communicated to the licensee or the licensee's representative by phone at the phone number provided in the application. Written notice shall also be sent to the licensee at the business address identified in the permit informing the licensee of the suspension or revocation, the reasons therefore, and the licensee's right to appeal the suspension or revocation to an administrative hearing officer.
  - c. Licensee may appeal the suspension or revocation of the mobile food vendor license in writing to the Office of the City Clerk within fifteen (15) days of receiving written notice. Appeals will be heard by a hearing

officer. Notice of the hearing shall be mailed to the licensee at the last known address at least five (5) days prior to the date set for the hearing. At the hearing the licensee shall be afforded the opportunity to present evidence and argument. Formal rules of evidence and procedure shall not apply. Legal counsel shall not be required but shall be permitted. Within thirty (30) days after the conclusion of a hearing held pursuant to this section, the hearing officer shall make written findings which shall be based on a preponderance of the evidence as the standard of proof. Any decision rendered pursuant to this section shall be deemed a final action of the City and subject to appeal in accordance with Iowa law. Until an appeal is heard and determined by the hearing officer, the mobile food vendor shall cease all mobile food vending operations.

- d. A licensee whose license has been revoked or denied for renewal shall not be eligible for another such license for a period of 180 days after such revocation or denial of renewal.

3. **Public Safety and Congestion:** The City reserves the right, in the event public safety or congestion so requires, to limit the number of food trucks and/or food carts to a maximum number. Licenses will be issued in the order of priority based on the first date and time the application is stamped received by the Office of the City Clerk.

4. **Duty of Police Dpt. to Enforce:** It shall be the duty of the Police Officers of the City of Monticello to examine all places of business or persons subject to the provisions of this Chapter, to determine if this Chapter has been complied with and to enforce the provisions of this Chapter against any person found to be violating the same.

5. **Mobile Food Vending in Association with Special Events and Carnivals:**

- a. Mobile food vending units or food stands approved by a Special Event Permit holder(s) operating in conjunction with said approved Special Event Permit or a Carnival and Fair Operational Permit holder(s) or similar permit, shall not be required to obtain a mobile food vendor license from the Office of the City Clerk.
- b. A mobile food vending unit or food stand shall not be located in a public right-of-way within two (2) City blocks of the affected blocks of a special event, which has been approved by the City of Monticello, during the scheduled special event hours of operation, unless specifically licensed as part of said special event by the permit holder of said special event. For the purposes of this section:
  1. The "affected blocks" are any blocks containing any portion of a block for which the special event permit has been issued.
  2. Any entity, organization, or person with an approved special event permit, may provide in writing, to the Office of the City Clerk, a written statement indicating that they waive the requirement of the

two (2) block affected area during their special event hours of operation.

6. General Provisions: Regulations Applicable to All Mobile Food Vending Units or Food Stands.

a. No Mobile Food Vendor Shall:

1. Leave a food cart unattended in the public right-of-way.
2. Operate, store, leave unattended, or park any mobile vending unit in the public right-of-way between the hours of 2:00 AM- 6:30 AM.
3. Leave any location without first picking up and removing all trash and refuse including all products spilled on the sidewalk as a direct result of the mobile food vending operation.
4. Dispose of trash and refuse in a dumpster or trash receptacle which is not owned or permissible for use by the mobile food vendor.
5. Sell to any person situated in a motor vehicle.
6. Conduct any sale from a mobile food vending unit from a parking space which is designated as a handicap parking space.
7. Conduct any sales from outside the mobile vending unit, unless a reasonable accommodation is necessary to serve a customer with a disability.
8. Sell or attempt to sell alcoholic beverages and anything other than prepared, packaged, and/or whole unprocessed foods that are not potentially hazardous.
9. Locate within three (3) feet of a fire hydrant or ten (10) feet of a building ingress/egress door.
10. Operate a generator and/or vehicle motor which generates visible smoke, excessive noise, or excessive gasoline/diesel fumes.
11. Use Liquefied Petroleum (LP) gas without first obtaining a permit from the **City of Monticello Fire Department**.
12. Leave less than six (6) feet of unobstructed passage on a public or private sidewalk.
13. Operate a mobile food vending unit or food stand within a public alley.
14. Stop, idle, or park in a location in which patrons or the mobile food vending unit, food stand or patrons thereof would be within a bike lane, fire lane, parking space not permitted for use by a mobile food vendor, sight-triangle or loading zone.
15. Operate a mobile food vending unit or food stand within state or federal right-of-way.

b. Mobile Food Vendors shall comply with Federal, State and County Laws in relation to Mobile Food Vending Units or food stands.

7. Mobile Food Vending in the Public Right-of-Way

- a. No mobile food vendor shall operate a mobile food vending unit or food stand within or upon the public right-of-way without a mobile food vendor license pursuant to this Chapter.
- b. No mobile food vending unit or food stand shall operate in public right-of-way within 100 feet from the entrance of a restaurant measured as a 100 foot buffer of a point, located at the center of the primary entrance of a restaurant between 6:30 AM and 10:00 PM.**
- c. Parking space or spaces shall be considered in conformance with this Chapter for the full license term based on the existing restaurant locations at the time of application.
- d. Neither food stands nor food carts shall locate in any on-street parking space in the public right-of-way.
- e. Neither food stands nor food carts shall locate within 5 feet of sidewalk ramps.
- f. No food truck shall locate upon a sidewalk.
- g. No food truck shall park within 35 feet of a stop sign in the direction of approach.
- h. All sales activities and the transfer of food and beverages to the customer shall occur only on the sidewalk side of the mobile vending unit.
- i. No food truck shall operate in angled parking spaces unless approved by the City of Monticello.
- j. Neither the mobile food vendor, nor any employees or agents thereof shall shout, make any outcry, blow a horn, or use any other sound device including any loud speaking radio or amplifying system for the purpose of attracting attention to the operation.
- k. No mobile food vendor shall set up or maintain the use of any table, chair, crate, carton, rack or any other device placed within the public right-of-way, to market or provide a seating and/or eating area for the mobile food vending operation. This shall include providing tables, chairs or other furniture within the public right-of-way.
- l. Not more than one (1) sandwich board type sign (also known as A frame sign), no larger than six (6) square feet is permitted and shall be placed only on the sidewalk within five (5) feet of where the mobile food vending unit or food stand is located.
- m. Food trucks operating in non-numbered and non-metered parking spaces shall be subject to the following:

1. A mobile food vendor license shall be required.
  2. Mobile food vendors shall be legally parked.
- n. Food Trucks engaging in intermittent sales in the public right-of-way shall also be subject to the following:
1. The mobile food vending unit shall not exceed five (5) miles per hour while playing music.
  2. Sales are restricted to pedestrians and only at such a time when the food truck has come to a complete stop and is legally parked.
  3. Hours of operation shall be no earlier than 10:00 AM and no later than 8:00 PM or sunset, whichever occurs first.
  4. No loudspeaker or other sound system which may disturb the peace in the area is permitted. Music from the food truck is permitted to draw attention to the sales operation, but shall not be of a magnitude to create a disturbance in the surrounding area.
  5. A sign displaying the name of the company and telephone number shall be affixed to the vehicle and be no smaller than one (1) square foot.
8. **Mobile Food Vendors in City Parks** Mobile food vendors within City Parks shall also be subject to the following:
- a. No mobile food vendor shall operate within a parking lot directly adjacent to, or with direct access to, a concession stand while said concession stand is in operation.
  - b. Mobile food vendors shall be limited to hard-surfaced areas of the park, but this shall not mean within any roadway or parking lot drive aisle.
  - c. Mobile food vending shall be limited to the park hours of operation set by the City of Monticello.
  - d. A mobile food vending unit or food stand shall not be located in public right-of-way within two (2) City blocks of the affected area within a City Park holding a special event or other operation as deemed necessary by the City Parks and Recreation Department unless specifically licensed as part of said special event by the permit holder of said special event.
    1. The City of Monticello Director of Parks and Recreation or designee thereof, or special event permit holder, may provide in

writing, to the Office of the City Clerk, a written statement indicating that they waive the requirement of the two (2) block affected area during the event hours of operation.

**2. Mobile Food Vendors on Private Property.**

**a. No mobile food vendor shall operate a mobile food vending unit or food stand within or upon private property without a mobile food vendor license pursuant to this Chapter.**

b. Any signage associated with the mobile food vendor shall comply with all applicable statutes, ordinances, and regulations. Signage placed on a food cart or on a food truck shall be exempt from total signage area allocated to the parcel so long as the food truck or food cart is operational. Any freestanding signage associated with the mobile food vending operation shall count against the signage area allotted to the parcel.

1. Signage types which are prohibited by Chapter 170 of the Municipal Code shall be prohibited from placement by any mobile food vendor licensee.

3. Exemptions to License Requirements: When a mobile food vendor is operating on private property a license is not required to be obtained from the Office of the City Clerk if one or more of the following conditions is met:

a. When a mobile food vendor license is not required from the Office of the City Clerk, permits may still be required from other Federal, State, or local government agencies and shall be obtained by the mobile food vendor.

b. Non-Profit Organizations

1. Sales activities by a charitable, educational, or religious organization which is exempt from taxation under section 501(c) (3) of the United States Internal Revenue Code when the proceeds thereof shall be applied to the payment of the expenses thereof and the charitable or religious object for which the charitable or religious society exists, provided that such sales are not conducted by such organization in excess of three (3) consecutive days in any seven-day period at the same location.

c. Farm Stands

1. In the event unprocessed whole food is being sold or attempted to be sold on the same parcel or group of parcels under common ownership on which said food is grown, **and**



**the parcel(s) is assessed as Agricultural Land by the Jones County Assessor**, a mobile food vendor license is not required.

d. Markets

1. Any property with a market, as defined by this chapter, as a primary use, on the parcel, but only while the market is in operation.

e. Event Venues

1. Any event venue as defined by this chapter, but only during the time period of the event and two (2) hours before and after an event.

f. Mobile Food Vending Ancillary to an Existing Primary Use — A mobile food vendor license shall not be required if the mobile food vending is ancillary to an existing primary use on the same parcel if all of the following conditions are met:

1. There is a primary land use in a building, which is constructed or which is being constructed, on the parcel in which the mobile food vending unit would be located; and
2. Sales of food, associated with the primary structure on the parcel would be allowed, or is lawfully occurring on said parcel; and
3. The parcel has been classified by the Jones County Assessor to be exempt, industrial, or commercial; and
4. The mobile food vendor is the owner of the parcel or owns a business in a permanent structure on the parcel where the mobile food vending unit or food stand would be located.

g. Temporary/Seasonal Sales of Unprocessed Whole Food — A mobile food vendor license shall not be required for temporary/seasonal sales of unprocessed whole food if the parcel upon which the mobile food vending unit or food stand is located has been classified by the Jones County Assessor to be exempt, industrial, or commercial.

B. Repealer:

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

C. Severability:

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

D. Effective Date

This Ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

1<sup>st</sup> reading passed by the Council on this \_\_\_ day of \_\_\_\_\_, 2018

2<sup>nd</sup> reading passed by the Council on this \_\_\_ day of \_\_\_\_\_, 2018

3<sup>rd</sup> reading passed by the Council on this \_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Brian Wolken, Mayor

Attest:

\_\_\_\_\_  
Sally Hinrichsen, City Clerk

I, Sally Hinrichsen, Monticello City Clerk, do hereby certify that the above and foregoing Ordinance # \_\_\_ was published in the Monticello Express on \_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Sally Hinrichsen, City Clerk

***Communication Page***

**Agenda Items Description:** Ordinance amending Chapter 10, Urban Revitalization, adding section 10.10(3) a provision clarifying the time frame within an eligible property owner must apply for exemption.

<b>Type of Action Requested:</b> Motion; Resolution; <b>Ordinance</b> ; Report; Public Hearing; Closed Session												
<b>Attachments &amp; Enclosures:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">Draft Ordinance</td></tr> <tr><td style="padding: 2px;"> </td></tr> <tr><td style="padding: 2px;"> </td></tr> </table>	Draft Ordinance			<b>Fiscal Impact:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">Budget Line Item:</td><td style="width: 50px;"> </td></tr> <tr><td style="padding: 2px;">Budget Summary:</td><td> </td></tr> <tr><td style="padding: 2px;">Expenditure:</td><td> </td></tr> <tr><td style="padding: 2px;">Revenue:</td><td> </td></tr> </table>	Budget Line Item:		Budget Summary:		Expenditure:		Revenue:	
Draft Ordinance												
Budget Line Item:												
Budget Summary:												
Expenditure:												
Revenue:												

**Synopsis:** City Code provides for Tax Abatements under Chapter 10 on eligible residential and commercial improvements. The Code does not specify a time frame within which the application for exemption must be received.

**Background Information:** According to past practice, the Assessor has told me that an applicant may only receive the full five years of exemption under the Code if they have requested the exemption within one year of the completion of the improvement, basically a one year grace period. Thereafter, the exemption may be applied for but the applicant begins to lose years of eligibility.

The proposed Ordinance codifies the past practice. I have sent the draft Ordinance to the Jones County Assessor to give her an opportunity to offer input. I will let you know if I receive any input between now and the City Council meeting.

**Recommendation:** I recommend that the Council approve the first reading of proposed Ordinance.

---

Preparer: Doug Herman, Monticello City Admin. 200 E. 1<sup>st</sup> St., Monticello, IA 52310; 319.465.3577  
Return to: Sally Hinrichsen, City Clerk, 200 E. 1<sup>st</sup> Street, Monticello, IA 52310 319.465.3577

ORDINANCE NO. \_\_\_\_\_

An Ordinance Amending Chapter 10, Urban Revitalization, Monticello Code, by Amending  
Section 10.10 Exemptions

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

Section 1: Chapter 10, Subsection 10.10 shall be amended by adding subsection 10.10(3):

**10.10 Exemptions**

3. To be considered eligible for the full period of exemption from taxation set forth within subsections 1 and 2 above an Application for Exemption from taxation must be received by the City within one year following the date on which the property is considered 100% complete and taxed as being 100% complete by the Jones County Assessor. Applications filed more than one year after said determination and taxation remain eligible for the remaining exemption period. (For example, an Application for Exemption filed 18 months after the Assessor's determination would be eligible for four years of abatement. In the case of commercial or industrial property the exemption would be for years two through five, the first year of eligible abatement dropping off.)

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

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

\_\_\_\_\_  
Brian Wolken, Mayor

Attest:

\_\_\_\_\_  
Sally Hinrichsen, City Clerk

I, Sally Hinrichsen, Monticello City Clerk, do hereby certify that the above and foregoing Ordinance # \_\_\_\_ was published in the Monticello Express on the \_\_\_\_ day of \_\_\_\_, 2018.

\_\_\_\_\_  
Sally Hinrichsen, City Clerk

City Council Meeting  
Prep. Date: 11/15/18  
Preparer: Doug Herman



Agenda Item: Reports  
Agenda Date: 11/19/2018

**Communication Page**

**Agenda Items Description:** Misc. Reports

**Type of Action Requested:** Motion; Resolution; Ordinance; **Reports**; Public Hearing; Closed Session

**Attachments & Enclosures:**

Fountain Grant/Donation Table
Fountain Fundraising Flier and Express Article

**Fiscal Impact:**

Budget Line Item:	
Budget Summary:	
Expenditure:	
Revenue:	

**Reports / Potential Action:**

- Budget Review Schedule: Significant work has been completed on the FY '20 draft budget. I will begin to present budget information over the next two meetings. Our hope is to have the budget pretty well in place by the end of January, 2019
- City Tree Dump Discussion: We continue to look for potential yard waste sites. We need approximately 4 acres and the City could purchase or lease. The site should be either in the City or in close proximity to the City. The Yeoman property we discussed is no longer under consideration due to neighborhood complaints. Generally speaking, there will likely be concerns/complaints expressed by someone no matter where the City looks to put this site. I will continue to investigate potential sites.
- Trail Progress and Grant Update: More concrete is being poured today (11/15) and I believe more will be poured tomorrow, (11/16) and potentially Saturday (11/17). Two to three more days of pouring should finish that stage of the project, leaving minor grading and seeding with potential future lighting to complete that section of trail. (City accepted Theisens Grant at ceremony at local Theisens last week in the amount of \$1,680)
- Fountain Park update: Fundraising efforts have commenced and I have attached a table setting forth grants applied for, grants being applied for, as well as grants/donations received to date. We will hear whether or not we will be receiving funding under the Comm. Found. Grant App. on or about November 19<sup>th</sup> and learn the grant amount at a ceremony on December 3<sup>rd</sup>, and I am not yet sure of the time. (That is a Council date so we will need to talk about who should attend. (Mayor, Committee Members, etc.) As I have said before, I feel confident that we will be awarded a grant but am unsure of the amount. Will depend to some extent on the money that is available and the other grant applications. (Also attached is our fundraising flier and copy of Express article from last week.)
- Hughes Garage Compliance Update: No new news to report at this time.
- Sycamore Street Project Update: Letters will go out to property owners by Monday, discussing the project and informing them of informational open house.
- Law Suit Updates

- **Dave Lumpa law suit:** Small Claims trial set for 12/5/2018. Still not sure what the basis of the suit is?
  - **Petersen law suit:** The City has been dismissed from this suit as a Defendant by way of a Summary Judgment Ruling issued by the Court.
  - **Intlekofer law suit:** The City was dismissed from most of this suit by way of a Summary Judgment issued by the Court and the balance of the suit has been dismissed without prejudice by the Plaintiff (Intlekofer). The without prejudice language means that those claims could be re-filed in the future. At this point, however, the suit is over unless Intlekofer appeals the Summary Judgment ruling.
- **City Tree Dump Discussion:** Awaiting visit from DNR. I received one e-mail pledging to fight against the potential John Drive location (Behind Oswald/Next Generation). Also looking at site off Sewer Plant road and site off of Hardscrabble Road.
  - **Orbis Water Main Cost Share request.** Due to water demands associated with the Orbis project a new water main was installed through property purchased by Orbis off of 11<sup>th</sup> Street. That same property includes sewer main owned by the City, both of which are generally located within old RR ROW. Orbis has requested that the City cover the costs of the City water main extension which they have covered to date. The total cost of the extension is \$79,342.
    - The need for the additional water service was discovered during the course of the project when studies related to water pressure and volume were completed to determine if the demands of the sprinkler system would be met.
    - The water main extension will be beneficial, in the long run, to other properties in that part of town, however, was at this point installed to meet Orbis' needs.
    - If we had a new manufacturer interested in the MedPlast facility that needed additional water volume the City would likely try to meet those demands.
    - Orbis is agreeable to the City reimbursing them over time.
    - I would recommend that we amend the urban renewal plan to amend the development agreement with Orbis to provide a repayment schedule of most/all of the requested expenses.
  - **Ditch Culvert project north of 11<sup>th</sup> Street.** I arranged for B & J Excavating to install a culvert through a blockage along the old RR bed north of the Horsfield Concrete facility site and behind the Accent Construction Hwy. 38 site. This blockage was put in place as I understand it during Larry Behrends ownership. At some point thereafter the City approached Larry and asked permission to install a culvert through the driveway that had been installed across the ditch. Larry told me that he agreed to the culvert but that the City never came back to install it. The current owner, Carl Vasey, agreed to the installation of a culvert and agreed to perform final grading, seeding, and to perform some additional ditch cleaning/clearing to the north of the culverts to promote better flow to the river. Brian Monk had used 24" culvert on hand that he donated to the City for this project, only needing to buy a few additional pieces and ties. Brian was available and willing to donate most of the necessary materials and it made sense to me to get the job done as opposed to contacting the IDNR to see if Mr. Vasey could be forced to open the ditch if for no other reason the amount of time it would take to get that done.
  - **Trail Progress and Grant Update:** We expect significant concrete to be poured this week. I received notice that the City was the recipient of a Theisens Grant towards the trail in the amount of \$1,680. A grant ceremony will occur at Theisens in Monticello on Monday November 12 at 11:30 a.m. If any of you plan to attend please let me know.
  - **Hughes Garage Compliance Update:** Red was finally able to find a source for all the tires removed from the vehicles that were junked. I haven't seen any additional cars/junk removed from the property since the last load left.
  - **Brick Paver Policy Discussion:** I have attached the previously proposed draft brick paver policy. The direction given by the Council when this was last discussed was to hold off on

formal approval of a policy until after the City had taken steps to install bricks in front of City Hall.

- **Sycamore Street Driveway discussion:** City Code requires that driveway approaches and driveways in town be constructed of a permanent dust free pavement. Many driveways on N. Sycamore Street are gravel or otherwise unfinished. I would propose that the Council give property owners two options at this time:
  - Inform that that the driveways must be permanent dust free pavement within one year of project completion and they can hire who they wish to hire to do the work, or
  - Offer to have City hired project contractor perform the driveway improvements during the course of the Sycamore Street project and include the driveway improvements as part of the assessment to be paid by the property owner over a period of up to ten years.
  - Third option would be to allow driveways to remain gravel/other in violation of code moving forward. The project will include the paving of the approach/apron but the balance of the driveway, past the sidewalk, would remain as is.
- **Chestnut Street project design/timing:** Council had general discussions related to the repair and replacement of bricks on one or two blocks of N. Chestnut between 1<sup>st</sup> and 3<sup>rd</sup> or 2<sup>nd</sup> and 3<sup>rd</sup>. I am looking for more discussion and direction on this project, timing, design, etc.
- **Dave Lumpa has filed suit against the City of Monticello** (and potentially me, it is unclear from the filings) requesting damages of \$6,500.00 in small claims court where the maximum award is \$5,000. According to the Petition his claim is based upon the following:
  - **State briefly the basis for the demand, not to exceed \$5,000:** My Privacy Fence, Built in 2011. Permit for Fence & Front Deck. Back Deck was not Built till 2010. [looks like 2019 but I suspect it is 2010] SLiDing Door was manufactured 10-30-2013 Sliding Door Needed to Be in stalled to House well, Before Deck Floor could Be in stalled. Or you couldn't in stall Door – as Far as the highth of Floor in Home.”
  - After reading that if you understand the basis of his suit please explain it to me. We will need to file an Answer and potentially a Motion to Dismiss based upon his failure to state a claim.



# FOUNTAIN PARK GRANT & DONATION RECORD

	Date of Submission/Request	Amount of Request	Amount of Award	Date of Award	Fund Availability
Parks to People	August, 2018 +/-	\$ 5,400	\$ 5,400	Sep., 2018	By 12/31/2018
Jones Co. Found.	10/15/2018	\$25,000	\$	Dec. 03, 2018 <sup>1</sup>	By 12/31/2019
Rotary <sup>2</sup>	11/08/2018	\$10,000 <sup>3</sup>	\$		
Lions <sup>4</sup>	11/08/2018	\$ 5,000	\$		
State Farm <sup>5</sup>	11/12/2018	\$ 1,000	\$		May, 2019
Black Hills	11/12/2018	\$ 4,999	\$	Dec., 2018	
Alliant <sup>6</sup>					
Alliance <sup>7</sup>					
Wal Mart <sup>8</sup>	11/13/2018				
Stege Trust <sup>9</sup>	11/14/2018	\$ 3,000	\$	Jan., 2018	
ITC <sup>10</sup>					
Monti. Dev. Corp.	11/06/2018	\$ 2,600	\$ 2,600	Nov. 13, 2018	Immediately
Individ. Gifts <sup>11</sup>	11/14/2018		\$ 200	Various	Immediately
Tree's Forever					
R.E.A.P.					
<b>Total:</b>		<b>\$56,999</b>	<b>\$ 8,200</b>		

<sup>1</sup> Will be informed whether or not we are receiving a grant on or about November 19<sup>th</sup>.

<sup>2</sup> Via e-mail to Rotary President Creighton Randolph. If Rotary chooses to do so they could use local funds to match District funds which could result in a grant of \$10,000.

<sup>3</sup> Monticello Rotary is eligible for a grant of \$5,000 but must have a match of \$5,000. I have requested that the club apply for a \$5,000 grant and provide a \$5,000 match. If the grant is less the match will be less.

<sup>4</sup> Via e-mail to Lions Representative Craig Thompson. Will present a request for \$5,000

<sup>5</sup> Via e-mail to State Farm Owner/Advisor Rick Meyer. Rick will work on with me on \$1,000 request. He controls a \$1,000 donation per year. The same amount was donated, through Rick, for the Pocket Park project.

<sup>6</sup> Sent e-mail to Alliant Foundation requesting guidance on 11/12/2018 at 11:17 a.m.

<sup>7</sup> Must be submitted by a 501(C)(3). Reaching out to a couple 501(C)(3) organizations to use them as a conduit.

<sup>8</sup> Application submitted.

<sup>9</sup> Foundation Funds managed by Regions Bank. Highly likely we will receive between \$3,000 and \$4,000.

<sup>10</sup> Must be submitted by a 501(C)(3). Reaching out to a couple 501(C)(3) organizations to use them as a conduit.

<sup>11</sup> Individual Gifts / Donations will be maintained on separate spreadsheet.

# Monticello FOUNTAIN PARK PROJECT



The Mayor and Council and the Fountain Park Project Committee ask you to consider a financial donation to the City Fountain / Fountain Park renovation project.

The Fountain first became operational in 1955, funded by former Monticello resident, Mrs. Alberta Soetje Lang, the widow of the late Rev. Edward Lang and the daughter of the late Theodore Soetje, a Monticello druggist and one of the original members of the Monticello State Bank Board. The first fountain was destroyed in the early 1970's due to the re-routing of roads in that area by the DOT. In October 1974, the current Fountain was constructed with funds donated by Mrs. Lou Carpenter in honor of her late husband H.M. Carpenter, a former member of the State Board of Regents and past Monticello State Bank Board member. The Fountain is owned by the City of Monticello.

The Fountain has been inoperable for a couple years due to significant leaking and other needed repairs.

**Phase 1: Restore the Fountain** to Good Working Condition in a manner that can be operated and maintained more efficiently for years to come. **Estimated cost: \$52,000**

**Phase 2: Landscape and Hardscape** area around the Fountain to make the fountain handicapped accessible and more aesthetically pleasing. Updates are planned to include walkways, seating areas, landscaping, and a small shelter as funding permits. **Estimated cost: \$43,000**

The "concept" shown above is intended to represent what the completed project may look like recognizing that some changes will be made as the design is further developed. As we are fast approaching winter it is likely that both Phase 1 and Phase 2 will occur first thing next spring.

All gifts are appreciated and will be recognized. Gifts over \$200, \$500, \$1,000, \$5,000 and \$10,000 will receive special on site recognition.

*Thanks for your participation in the restoration and improvement of this Monticello Landmark.*

*Monticello*  
MAYOR & COUNCIL

Mayor Brian Wolken,  
Council Johnny Russ, Tom Yeoman,  
Dave Goedken, Rob Paulsen, and Chris Lux

*Monticello Fountain*  
PARK COMMITTEE MEMBERS

Diana Stadtmueller, Marilyn Schneiderman,  
Marla Walters, Shannon Poe.  
Advisors: Josh Iben, Jared Lasley, and Trint Adams

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

*Please consider donating*

DONATION AMOUNT:

\$ \_\_\_\_\_

# City seeks public donations in fountain project

By Kim Brooks  
Express Editor

Inside this week's Shopper's Guide you will see a letter concerning the future of Monticello's Fountain Park, located next to the Aquatic Center.

The city and Foundation Park committee are asking the public to consider financially contributing toward the project.

The fountain was built in the early-1950s, and was operational by 1955. The letter offers some history on the original fountain, and the rebuilding in the early 1970s.

The current fountain, which has been nonoperational for the past two years, was built in 1974.

City Administrator Doug Herman addressed the need to replace the aged structure during the Nov. 5 city council meeting.

The project could essentially be completed in two phases. Phase one would essentially restore the fountain to its former glory, bring it back to working condition, something many in the community have missed.

"It would operate and be maintained more efficiently for years to come," Herman said.

The estimated cost for phase one is \$52,000.

Phase two would involve more of the aesthetics: lighting, benches, handicapped accessibility, landscaping, a small shelter, plantings, etc.

That estimated cost is \$43,000.

"Even if we have \$20,000, that still gets some things done," Herman said of aesthetics.



Josh Iben with 151 Landscape put this illustration together to show the proposed two-phase concept for Fountain Park in Monticello. Phase one would restore the fountain to working order at \$52,000. Phase two involves aesthetic features at \$43,000. (Illustration submitted)



This photo of the current fountain being built appeared in the July 25, 1974 Express. Working on the project were Bader Masonry, Fred Iben, Al Iben, Staner's Plumbing, and KEM Electric. (Express photo)

The proposed new fountain would remain the same footprint of the current structure, just with a smaller pool of water. The pool of water would be filled with river rock for the fountain water to land on, and then circulate over and over as it sprays up and out.

"We would maintain a water level just above the rock," suggested Herman as more of a safety factor than anything.

Lighting is also suggested for the fountain itself and around the perimeter of the base.

Over the fall, the city hired Claussen Painting (Robert Claussen) to power wash the fountain. Joe McDonell and Johnny Bader provided the tuckpointing.

The city was awarded \$5,400 from the state's Parks to People program to go toward the fountain project. Herman applied for a \$25,000 Jones County Community Foundation grant. He is also working on several other grants to help offset the costs.

"Phase one is critical because it returns the fountain to working order," he said of obtaining the needed funds. "So the more fundraising and grants the better."

During the council meeting, Council member Dave Goedken questioned the phase one project estimate. He felt the Parks to People grant was a drop in the bucket compared to the \$52,000 price tag.

"We need to see the community support," he said.

Due to the price tag and uncertainty of fundraising, the council's vote to follow through with fountain improvements with city funds failed 3-3, with Council members Goedken, Rob Paulson and Butch Pratt opposed.

Herman said the cost estimates were well thought out. The fountain committee sought the expertise of a local electrician, contractor and plumber to come up with various solutions. He said the electrical work, which is quite extensive, adds up pretty quickly.

"That's the biggest cost factor," he said. "Code requirement since the fountain was built have changed. And we need to be in compliance to run the pump system."

Council member Chris Lux said if the council didn't want to put some money toward phase one, the city might as well get rid of the fountain altogether. "It looks terrible the way it is," she commented.

Mayor Brian Wolkan said talk of tearing out the fountain would be met with a lot of pushback.

The city is seeking public donations. Gifts of \$200 or more would receive permanent recognition. Herman said the idea for a donor wall has not been determined.

Overall, the council is supportive of the fountain project and willing to financially contribute pending public support as well.

"They want to see a thorough fundraising campaign," Herman said. "They want to see the community support first before they're comfortable contributing."

Those serving on the fountain committee include: Diana Stadtmueller, Marilyn Schneiderman, Maria Walters, Shannon Poe, Doug Herman, and advisors Josh Iben, Jared Lasley, and Trint Adams.

## Honoring Our Veterans

Front Row: Ken Weber, David Cavey, John Yossi, Luvern Digmarr, Robert Lubben,  
Back Row: Jim Adams, Richard Sanford, Ronald Behrends, Irie Welch and Ralph Muller

### Monticello

kind • compassionate • care

500 Pinehaven Dr.  
Monticello  
319-465-5415

## WELCOMING DR. STEPHEN RUNDE

joining Barbara Croc, PA-C

**OFFERING:**

**WALK-INS (FOR ACUTE CARE ONLY)**

**SAME-DAY APPOINTMENTS**

**EVISITS (THROUGH MYCHART)**

**ONLINE SCHEDULING**

**EXTENDED HOURS**

**7 A.M. TO 5 P.M.**

**MONDAY - FRIDAY**

**BEGINNING NOVEMBER 12**

Stephen Runde, MD

**MERCYCARE** [mercy.org/monticello](http://mercy.org/monticello)

619 Main St. | 319-465-5937