

1. Agenda

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[STREET CONSTRUCTION PROGRAM.PDF](#)



## COUNCIL AGENDA

CITY HALL COUNCIL CHAMBERS, 10 W STATE STREET

**February 13, 2017, at 5:30 PM**

**NOTICE TO PUBLIC:** The Mayor and City Council welcome comment from the public during discussion. You are required to step to the microphone, state your name and address for the record and to limit the time used to present your remarks in order that others may be given the opportunity to speak.

**CALL TO ORDER:** Mayor James L. Lowrance

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:** Gowdy, Greer, Hoop, Lamer, Martin, Schubert, Wirin.

**MAYOR, COUNCIL AND ADMINISTRATOR COMMENTS:**

**APPROVAL OF AGENDA:**

**CONSENT AGENDA:** All items listed under the consent agenda will be enacted by one motion. There will be no separate discussion of these items unless a request is made prior to the time Council votes on the motion.

1. Approve Council meeting Minutes of January 23, 2017, special council meeting minutes of January 30 and February 6, 2017.
2. Approve Bill List in the amount of \$1,517,128.14.
3. Receipt of Building Report for December, 2016.
4. Receipt of Civil Service New Hire List, Street Maintenance Worker II.
5. Board and Commission Appointments
  - a) Appoint Aimee Deimerly-Snyder to Planning & Zoning Commission, term expires: 4/1/2022
  - b) Appoint Tammie Frederick to Board of Adjustment, term expires 4/1/2022
6. Resolution 2017-012 Approving Applications for Tax Abatement within Approved Urban Revitalization Areas of the City of Marshalltown, Iowa.
7. Resolution 2017-013 Certifying Unpaid Bills as Property Tax for unpaid nuisance abatement and illegal fire charges.
8. Resolution 2017-014 Approving the Renewal of Agreement with the Iowa Veterans Home relating to Police Protection through June 30, 2019.
9. Resolution 2017-015 Authorizing The Grant Application to the State of Iowa, Governor's Traffic Safety Bureau, State and Community Highway Safety Grant Application, Contract Period 10-1-2017 through 9/30/2018.
10. Resolution 2017-016 Approving Contract with GTG Companies for the Veterans Memorial Coliseum facility use study, in the amount of \$25,000.
11. Resolution 2017-017 Approving Contract Change Order #1 for the 2015 Oil Mix Streets Overlay Project 76015005, increase of \$32,468.00.
12. Resolution 2017-018 Approving Certificate of Completion and final Project Costs with OMG Midwest, Inc., dba Cessford Construction, in the amount of \$457,928.00 for Construction of the 2015 Oil Mix Streets Overlay Project 76015005.
13. Resolution 2017-019 Approving Contract Change Order #1 for the 2016 Mill & Overlay Project 76016004, increase of \$153,334.30.
14. Resolution 2017-020 Approving Certificate of Completion and final Project Costs with OMG Midwest, Inc., dba Cessford Construction, in the amount of \$828,790.80 for the Construction of the 2016 Mill & Overlay Project 76016004.

Visit [www.ci.marshalltown.ia.us](http://www.ci.marshalltown.ia.us)

Please refer to the previous Council packet for attachments not included with this agenda packet. Complete agenda packets are available for inspection for the public at the City Clerk's Office, the Marshalltown Public Library and the city's website.



15. Renewal Liquor Licenses (pending fire inspection passage): Kwik Star #706, Jiffy Convenience Stores, Kwik Star #394, Grocery Store Y Tortilleria La Vecindad, Golden Land, Ocean City Chinese Restaurant, Elmwood Country Club, Vaughn's Pub, American Legion, Rumours Sports Bar & Grill, Smokin G's BBQ Restaurant and Catering, Iowa River Brewing Company, inc., Hy Vee Food & Drug Store, Fareway Stores #467, Food & Gas Mart.

**(end of consent agenda items)**

**MOTIONS:**

16. Approve new State of Iowa Tobacco Permit for Family Dollar Stores of Iowa, LLC, formerly known as Family Dollar Stores of Iowa, Inc., 327 S 3<sup>rd</sup> Avenue, effective January 27, 2017, expires June 30, 2017.
17. Motion setting public hearing date of March 6, at noon, for Budget Amendment for the current fiscal year ending 6/30/2017.
18. Motion accepting the proposed Budget for FY18 and setting the public hearing for March 6, at noon, for the proposed Budget and Tax Levy for fiscal year ending 6/30/2018.
19. Motion accepting the proposed Capital Improvement Plan for the five year period ending FY2021, and setting the public hearing for March 6, at noon.

**REPORT:**

20. Kenn Vinson, Alliant project update

**RESOLUTIONS:**

21. Tentative Resolution 2017-021 Setting public hearing for February 27, 2017, for the sale of City Property, 1210 E Nevada Street.
22. Resolution 2017-022 Amending 2016 Marshall County Hazard Mitigation Plan
23. Resolution 2017-023 Approving Grant Application to the Martha-Ellen Tye Foundation for the Development of a Futsal/Tennis Court upgrade.
24. Resolution 2017-024 Approving Grant Application to the Martha-Ellen Tye Foundation for the Development of a Parks and Recreation Master Plan.
25. Resolution 2017-025 Resolution 2017 Authorizing tax certificates
26. Resolution 2017-026 Approving Agreement Amendment No 2 by and between the City of Marshalltown, Iowa, and Clapsaddle-Garber Associates, Inc., for Engineering Services for Marshalltown Municipal Airport – Runway End 18/36, project 77016010, \$12,485.00. .

**ORDINANCES**

27. Ordinance Setting Storm Water rates, option 2 ERU, second reading.
28. Ordinance amending Chapter 29 of the Zoning Ordinance, allowable special uses in the Office Park District, including full-service restaurants and limited service eating places, beer, wine and liquor stores, second reading.

**DISCUSSION:**

1. 2017 Street improvement plan – map on website
2. Nuisance Ordinance update.

**PUBLIC COMMENT:**

**ADJOURNMENT:**

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**Advertising**

|                   |        |
|-------------------|--------|
| Great.Wstrn.Bnk/1 | 8.00   |
| Marshalltown.Cn/1 | 20.00  |
| T-R/4             | 723.71 |

**Consulting & Professional Fees**

|                   |           |
|-------------------|-----------|
| Ahlers.Cooney/2   | 257.50    |
| Bernie.Lowe.Asc/3 | 2,266.83  |
| CGA.Assoc/1       | 7,175.00  |
| Dorsey&Whitney/1  | 20,025.21 |
| Eide.Bailly.LLP/1 | 23,050.00 |
| Great.Wstrn.Bnk/1 | 25.00     |
| Grimes.Buck.Sch/2 | 3,045.00  |
| Howard.R.Green/1  | 1,267.50  |
| ILEA/2            | 700.00    |
| IVCCD/1           | 1,875.00  |
| Prochaska.Assoc/1 | 64,019.76 |
| Schneider,Ele/1   | 498.00    |
| Sheakley/1        | 359.08    |
| Stanley.Consult/1 | 7,389.60  |
| Verizon.Wirelss/1 | 68.00     |
| Wellmark.Inc./1   | 10,000.20 |

**Contracts**

|                   |          |
|-------------------|----------|
| All.Max.Prof.SI/3 | 3,148.00 |
| BDH.Info.Tech/8   | 6,281.70 |
| C.R.B.T./2        | 8,707.57 |
| Construct/1       | 382.38   |
| Fexsteve.Lmtd/3   | 1,750.00 |
| Gentry,S/1        | 550.00   |
| Great.Wstrn.Bnk/2 | 183.80   |
| IVCCD/3           | 9,615.73 |
| Marsh.Co.Treas/1  | 141.62   |
| MI.State.Hsg.Au/2 | 94.79    |
| Mtwn.Wtrwrks/3    | 8,324.63 |
| Pettengill.Cnst/4 | 1,134.00 |
| Pontiac.Housing/1 | 36.33    |
| Racom.Corp/1      | 60.50    |
| US.Bank.Equipmt/1 | 341.25   |

**Dues Subscriptions Licenses**

|                   |        |
|-------------------|--------|
| Hwy.30.Coalitio/1 | 300.00 |
| IA.IL.Safety.Co/1 | 395.00 |
| Network.Fleet/1   | 800.00 |
| Ride.Systems./1   | 850.00 |
| Unity.Point./1    | 100.00 |
| USPCA.Reg.21/1    | 50.00  |

**Equipment**

|                   |           |
|-------------------|-----------|
| Bert.Gurney.Asc/1 | 1,882.58  |
| Bound.Tree.Med/1  | 1,159.98  |
| City.Ames/1       | 1,000.00  |
| Electric.Pump/1   | 4,576.50  |
| Gardner.Denver./1 | 14,929.41 |
| Great.Wstrn.Bnk/1 | 152.95    |
| Mellen.Assoc/1    | 1,738.77  |
| Mid.Iowa.Tools/1  | 26,644.52 |
| Midland.Scienti/1 | 4,008.65  |
| MMIT.Business/2   | 5,253.14  |

**Equipment/Minor**

|                    |          |
|--------------------|----------|
| BDH.Info.Tech/4    | 3,018.37 |
| Great.Wstrn.Bnk/9  | 2,669.42 |
| Storey.Kenworthy/1 | 428.00   |

**Medical**

|                   |        |
|-------------------|--------|
| Great.Wstrn.Bnk/1 | 220.49 |
| McFarland.Cl/1    | 380.16 |
| Unity.Point./1    | 74.00  |
| Wolfe.Clinic/1    | 35.00  |

**Payroll**

|                |            |
|----------------|------------|
| IA.Workforce/1 | 1,068.00   |
| Payroll/1      | 504,362.93 |

**Pension**

|             |        |
|-------------|--------|
| Gooding,B/1 | 765.78 |
|-------------|--------|

**Refunds**

|             |       |
|-------------|-------|
| Glommen,B/1 | 86.00 |
| Wallace,M/1 | 7.99  |
| Winjum,D/1  | 7.99  |

**Reimbursements**

|                   |           |
|-------------------|-----------|
| ARL/1             | 4,166.67  |
| AXA.Equitable/2   | 900.00    |
| Bernie.Lowe.Asc/3 | 56,876.83 |
| ChildSupport/6    | 1,331.76  |

|                    |            |
|--------------------|------------|
| Coll.Serv.Centr/12 | 3,768.70   |
| Colonial.Life/2    | 794.04     |
| Fidelity.Securt/2  | 740.48     |
| Fire.Union.Dues/1  | 600.00     |
| Fisher.Comm.Ctr/1  | 6,396.66   |
| Hartford.Priori/1  | 6,655.63   |
| I.R.S./9           | 160,180.52 |
| IA.Treasurer/5     | 33,255.45  |
| ICMA.Retirement/14 | 19,375.08  |
| Iowa.Atty.Gen/1    | 56.00      |
| IUPAT.PPME/1       | 842.97     |
| Marshall.Co.Att/1  | 56.00      |
| MarshCo.Sheriff/1  | 330.88     |
| Marshl.Co.Emerg/1  | 2,395.17   |
| McFarland.Cl/1     | 395.00     |
| Medtrak.Service/4  | 1,301.88   |
| Region.Six/3       | 4,063.00   |
| Teamster.Local/2   | 2,078.28   |
| Titus,K/1          | 33.00      |
| Total.Admin.Svc/6  | 15,046.92  |
| U.A.W.Local.893/1  | 148.48     |
| United.Way/2       | 967.46     |
| Wellmark.Inc./4    | 113,384.58 |
| Whitmore,R/1       | 1,571.14   |

**Rent Assistance**

|                    |          |
|--------------------|----------|
| ABC.Rentals/2      | 615.00   |
| All.American.Pr/13 | 4,242.00 |
| Ames,S/2           | 315.00   |
| Ames.Rental.Prp/2  | 298.00   |
| Arlington.Inv/4    | 1,605.00 |
| Armstrong,B/1      | 206.00   |

|                    |          |
|--------------------|----------|
| B.B.Rentals/2      | 567.00   |
| Blood,A/1          | 219.00   |
| Bluffwood.Partn/4  | 1,248.00 |
| Boulder.Coop.Hs/1  | 267.00   |
| Bowman,B/1         | 222.00   |
| Bown,C/1           | 271.00   |
| Brown,B/1          | 59.00    |
| Bryngelson.Corp/2  | 660.00   |
| C.I.R.S.I./6       | 616.00   |
| Choate,A/1         | 233.00   |
| Clawson,J/1        | 246.00   |
| CMHC.Invest/1      | 334.00   |
| Crestview.Apt./27  | 6,729.00 |
| Crosser,D/1        | 436.00   |
| D.D.Rentals/2      | 370.00   |
| Delgadillo,L/1     | 700.00   |
| DS.Investments/1   | 38.00    |
| Ecklor,S/2         | 507.00   |
| Elwayne.Inc./2     | 394.00   |
| Eubanks,C/1        | 230.00   |
| F.C.Rentals.LLC/1  | 355.00   |
| Farrell.Propert/5  | 1,065.00 |
| Fischels,R/3       | 587.00   |
| Friend,T/1         | 236.00   |
| Friendly.Apts/5    | 730.00   |
| Garwin.Trust/1     | 134.00   |
| Gimer,D/1          | 545.00   |
| Gladbrook.Hsg/1    | 183.00   |
| Glenda.Drive.LL/12 | 4,247.00 |
| Grant.Park.LLC/18  | 3,967.00 |
| Hala.Ventures/3    | 813.00   |
| Hansen,J/1         | 253.00   |
| Hansen,R/1         | 157.00   |
| Harris,T/1         | 324.00   |
| Hatch,J/3          | 1,094.00 |
| Havelka,W/1        | 500.00   |
| Hilltop.Village/11 | 1,907.00 |
| Hobson,W/1         | 219.00   |
| Howard,J/1         | 176.00   |
| Hubbard.Maple.A/5  | 767.00   |
| Jared,S/3          | 596.00   |
| Jaspers,M/1        | 128.00   |
| JKM.Coop.Housng/   | 1,176.00 |
| 4                  |          |
| JN.Home.Rentals/1  | 386.00   |
| Johnson,J/3        | 1,020.00 |
| Lawson,R/2         | 331.00   |
| Lawthers.Prop.M/3  | 1,225.00 |
| Luense,B/5         | 1,849.00 |
|                    |          |
| Marion,M/1         | 246.00   |
| Marion.Manor.II/1  | 411.00   |
| Matney,L/1         | 238.00   |
| MI.State.Hsg.Au/2  | 1,669.00 |
| Mtwn,Westown/16    | 3,046.00 |

|                    |          |
|--------------------|----------|
| Mtwn.Senior.Res/10 | 2,032.00 |
| Mtwn.Sundance/3    | 1,274.00 |
| Murphy,M/1         | 159.00   |
| Naughton,R/1       | 682.00   |
| Nelson,M/1         | 284.00   |
| North.Tama.Hsg/3   | 513.00   |
| Oetker,D/3         | 591.00   |
| Olmstead,T/1       | 569.00   |
| Palisade.Holdng/1  | 79.00    |
| Park.Elms,LLC/6    | 1,559.00 |
| Patterson,T/2      | 489.00   |
| Pinecrest.Park/1   | 141.00   |
| Pontiac.Housing/1  | 648.00   |
| Prairie.Home.Pp/1  | 261.00   |
| Pyle,D/1           | 231.00   |
| R.E.P.Corp/2       | 439.00   |
| RA.Rental.Propt/2  | 879.00   |
| Rd.State.Center/1  | 574.00   |
| Reid,M/1           | 129.00   |
| REM.Homes/2        | 388.00   |
| River.Birch/10     | 4,027.00 |
| River.Oaks/13      | 4,913.00 |
| Scenic.City/1      | 200.00   |
| Schmidt,M/4        | 941.00   |
| Schuler-Van,M/1    | 231.00   |
| Scott,L/1          | 358.00   |
| Sedlacek,B/1       | 372.00   |
| Sesker,R/2         | 313.00   |
| Smith,N/3          | 529.00   |
| Snyder,R/1         | 518.00   |
| Specht,G/1         | 393.00   |
| Stabenow,S/3       | 549.00   |
| Staff,E/1          | 111.00   |
| Steelsmith.Inv/5   | 1,060.00 |
| Stichter.Constr/1  | 139.00   |
| Sunrise.Apt/2      | 149.00   |
| Superior.Rental/5  | 1,971.00 |
| Switzer.Rental/2   | 598.00   |
| Tallcorn.Towers/16 | 4,792.00 |
| Taylor,M/1         | 217.00   |
| Toulouse,D/1       | 174.00   |
| Town.Apts.Corp/6   | 769.00   |
| Tr.Home.Rentals/1  | 450.00   |
| Trevron,LLC/1      | 311.00   |
| Tri.Square.Rent/1  | 106.00   |
| TT.C.Coop.Hsg/2    | 507.00   |
| Vest,L/1           | 101.00   |
| Village.Park/1     | 319.00   |
| Warren,C/1         | 227.00   |
| WB.Realestate/1    | 188.00   |
| Weatherly,Prop/1   | 418.00   |
| Weichers,B/1       | 280.00   |
| Weidner,R/1        | 227.00   |
| Wiebensohn,L/1     | 106.00   |
| Wind-Husak,D/1     | 399.00   |

|                        |           |
|------------------------|-----------|
| Zayn.Properties/1      | 311.00    |
| <b>Service/Repairs</b> |           |
| Advanced.Garage/1      | 1,500.00  |
| Airgas.U.S.A./1        | 65.67     |
| Alliant/86             | 30,800.80 |
| Aramark.Unfrm/6        | 105.94    |
| Arnold.Motor/2         | 37.00     |
| B&G.HVAC/1             | 465.00    |
| Bens.Tire/1            | 75.00     |
| CINTAS.First/1         | 87.25     |
| Cummins.Cntrl.P/1      | 1,594.60  |
| Daves.Crane/1          | 740.00    |
| DM.Diesel.Inc/1        | 432.32    |
| Electronic.Engr/4      | 738.80    |
| Fexsteve.Lmtd/14       | 16,850.00 |
| Gale-Hazen,K/1         | 315.00    |
| Gale-Hazen.E/1         | 225.00    |
| Gentry,S/14            | 13,175.00 |
| Great.Wstrn.Bnk/7      | 1,094.04  |
| Hartwig.Plmbg/2        | 110.02    |
| IA.Dept.Insp.Ap/1      | 34.13     |
| IA.Dpt.Safety/2        | 2,664.00  |
| IA.One.Call/2          | 56.30     |
| Jensen.Inc/5           | 2,386.50  |
| M.Co.Recorder/5        | 195.00    |
| Marsh.Co.Landfi/5      | 566.35    |
| Midwest.Safety/1       | 260.00    |
| MMIT.Business/2        | 34.41     |
| O.C.L.C.Inc/1          | 859.72    |
| On.Site.Info.De/2      | 80.00     |
| Pettengill.Cnst/8      | 9,065.00  |
| Premier.Equip/2        | 79.32     |
| Preston,D/6            | 240.00    |
| Racom.Corp/1           | 118.75    |
| RICO.USA.LLC/4         | 95.05     |
| S.S.Autobody/2         | 200.00    |
| Schendel.Pest/4        | 152.50    |
| Servicemaster/3        | 3,851.33  |
| Sje-Rhombus/1          | 1,111.60  |
| Sterling.Fire/1        | 102.50    |
| Stone.Sanit/7          | 1,174.45  |
| Tri.State.Lock/1       | 90.00     |
| Unique.Mgmt.Svc/1      | 187.95    |
| VF.Services,LLC/26     | 17,702.00 |
| Wickham,M/1            | 20.00     |
| Xerox.Corp/3           | 82.80     |
| Ziegler/1              | 1,758.09  |
| <b>Supplies/Parts</b>  |           |
| Adland.Engrvg/2        | 1,152.28  |
| Airgas.U.S.A./1        | 100.34    |
| Aramark.Unfrm/4        | 115.16    |
| Arnold.Motor/24        | 1,473.43  |
| Atlantic.Bottli/1      | 286.05    |
| Baker.Taylor/25        | 1,205.15  |

|                     |           |
|---------------------|-----------|
| Baker.Taylor.En/2   | 215.67    |
| BDH.Info.Tech/4     | 4,372.64  |
| Brenntag.Great/3    | 1,300.60  |
| Brodart.Co/7        | 1,224.98  |
| C.H.McGuinness/1    | 255.70    |
| Carpenter.Unfrm/11  | 538.24    |
| Cengage.Learng/6    | 423.71    |
| Cessford.Constr/1   | 187.20    |
| CINTAS.First/2      | 163.20    |
| City.Laundering/13  | 325.60    |
| Cntrl.Office/12     | 191.48    |
| Crop.Prod.Serv/4    | 613.00    |
| Cummins.Cntrl.P/1   | 257.30    |
| Diamond.Mfg/2       | 2,039.00  |
| Environ.Hazards/15  | 870.75    |
| Environ.Rsrc/5      | 615.92    |
| Exhaust.Pros/2      | 160.50    |
| Fastenal.Co/2       | 77.21     |
| FedEx/4             | 238.92    |
| Findaway.World/1    | 999.92    |
| Fink,K/1            | 27.95     |
| Galls,Inc/9         | 84.58     |
| Gillig.LLC/7        | 4,938.49  |
| Graphic.Impress/2   | 378.05    |
| Great.Wstrn.Bnk/237 | 14,494.53 |
| Hach.Co/1           | 292.89    |
| HD.Supply.Wtrwk/2   | 998.60    |
| Home.Rental.Sal/1   | 46.00     |
| IA.Poetry.Assc/1    | 9.00      |
| IA.Prison.Ind/1     | 57.60     |
| IA.Water.Mgmt/1     | 3,195.00  |
| Inland.Truck/1      | 272.25    |
| Jensen.Inc/2        | 1,821.80  |
| Keystone.Lab/1      | 67.00     |
| Koch.Brthrs/1       | 287.15    |
| Marsh.Co.Engr/24    | 12,476.79 |
| Marsh.Co.Landfi/1   | 45.10     |
| McAtee.Tire/10      | 8,910.01  |
| MicroMarketing./7   | 512.69    |
| Midland.Scienti/12  | 2,534.61  |
| Minuteman/1         | 42.50     |
| Mtwtn.School/1      | 56.00     |
| Muni.Emerg.Svcs/1   | 56.00     |
| NADA.Appraisl/1     | 75.00     |
| Napa.Auto/33        | 1,996.25  |
| Network.Fleet/1     | 874.66    |
| New.Flyer.Indus/2   | 935.81    |
| Northern.Lts/1      | 140.80    |
| Office.Express/3    | 380.07    |
| OReilly.Auto/3      | 28.95     |
| Overdrive,Inc./2    | 355.52    |
| Phys.Desk.Refrn/1   | 59.95     |
| Premier.Equip/1     | 104.12    |
| Racom.Corp/5        | 1,211.75  |

|                              |           |
|------------------------------|-----------|
| Recorded.Books/7             | 246.53    |
| Red.Valve.Co/2               | 852.20    |
| Rl.Tec.Industri/1            | 195.00    |
| Sams.Club/1                  | 331.20    |
| Sandry.Fire.Sup/3            | 782.95    |
| Showcases.Inc/2              | 248.40    |
| Sign.Creations/1             | 1,350.00  |
| Spahn.Rose.Lmbr/1            | 86.07     |
| Storey.Kenwrthy/1            | 1,399.50  |
| Streicher/1                  | 24.98     |
| Titus,K/1                    | 152.97    |
| Traffic.Control/1            | 588.00    |
| Transign,LLC/1               | 4,713.32  |
| Van.Meter.Inc./3             | 1,047.13  |
| Watch.Guard/2                | 54.00     |
| Wickham,M/1                  | 61.16     |
| Ziegler/1                    | 208.58    |
| <b>Travel/Training</b>       |           |
| Brown,J/1                    | 4.68      |
| Chandler,J/1                 | 11.31     |
| Gowdy,S/1                    | 29.48     |
| Great.Wstrn.Bnk/7            | 1,306.56  |
| IA.NAHRO/1                   | 350.00    |
| Intl.Soc.Fire.S/1            | 425.00    |
| Klavenga,J/1                 | 30.57     |
| Titus,K/1                    | 21.00     |
| USPCA.Reg.21/2               | 100.00    |
| Vaughn,R/1                   | 191.10    |
| <b>Utilities</b>             |           |
| Alliant/18                   | 13,244.89 |
| Aureon/33                    | 2,387.60  |
| Century.Link/24              | 697.32    |
| Great.Wstrn.Bnk/11           | 1,339.02  |
| Heart.of.Iowa/7              | 1,268.27  |
| Minerva.Val.Tel/1            | 50.00     |
| Mtwn.Wtrwrks/2               | 2,056.29  |
| New.Century.FS/1             | 391.80    |
| U.S.Cellular/6               | 615.54    |
| Verizon.Wireles/9            | 1,377.77  |
| Windstream/1                 | 76.44     |
| <b>Utility Reimbursement</b> |           |
| Anderson,S/1                 | 13.00     |
| Blackstock,S/1               | 43.00     |
| Carrigan,K/1                 | 37.00     |
| Chuol,N/1                    | 13.00     |
| Dunn,D/1                     | 13.00     |
| Harris,R/1                   | 12.00     |
| Honeycutt,C/1                | 20.00     |
| Kroener,L/1                  | 50.00     |
| Lual,S/1                     | 63.00     |
| Manneh,N/1                   | 21.00     |
| McWilliams,T/1               | 27.00     |
| Strait,P/2                   | 54.00     |
| Street-Lopez,J/1             | 47.00     |
| Wood,A/1                     | 42.00     |

Total/1486

1,517,128.14



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## Board and Commission Roster

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### Board of Adjustment

Department: Housing

Dept. Phone: (641) 754-5756

*The Board of Adjustment is a quasi-judicial board that acts similar to a judge and has the authority to allow use of zoned property for a non-conforming use or extension of a non-conforming use as provided in the Zoning Ordinance. If an applicant disagrees with the Board's decision on the Variance, Special Use or Appeals, they would appeal to the Court system. The Board of Adjustment meets the 3rd Tuesday of each month at 5:00 PM. Five members are appointed by the Mayor, with five-year terms.*

| <u>Term End<br/>Date</u> | <u>Member Contact Information</u> |
|--------------------------|-----------------------------------|
|--------------------------|-----------------------------------|

|                 |                                                                        |                                  |                                                            |
|-----------------|------------------------------------------------------------------------|----------------------------------|------------------------------------------------------------|
| <b>4/1/2022</b> | <b>Tammie Frederick</b><br>506 Arlington Dr<br>Marshalltown, IA 50158  | (641) 750-4460                   | tammiefred@gmail.com<br><br>Appointed:                     |
| <b>4/1/2019</b> | <b>Kevin Hitchins</b><br>102 E Church Street<br>Marshalltown, IA 50158 | (641) 752-4507<br>(641) 691-5509 | kevin@gbsbhlaw.com<br><br>Appointed: 10/27/2014            |
| <b>4/1/2018</b> | <b>David G. Schulze</b><br>306 S 17th Avenue<br>Marshalltown, IA 50158 | (641) 751-9910<br>(641) 752-3930 | schulzedd@teamtsp.com<br><br>Appointed:                    |
| <b>4/1/2017</b> | <b>Kellissa Thurston</b><br>102 W South St<br>Marshalltown, IA 50158   | (641) 751-8284                   | thurston.kelli@gmail.com<br>replaces D Eaton<br>Appointed: |
| <b>4/1/2019</b> | <b>Robert Wenner</b><br>1109 Prairie Lane<br>Marshalltown, IA 50158    | (641) 752-3302<br>(641) 485-0827 | bob50158@gmail.com<br><br>Appointed:                       |

### State of Iowa gender equality statistics

|                     |   |        |
|---------------------|---|--------|
| Males - Count / %   | 3 | 60.00% |
| Females - Count / % | 2 | 40.00% |
| Total Members       | 5 |        |

Monday, February 13, 2017

## COUNCIL PROCEEDINGS

February 13, 2017

The Marshalltown City Council met in regular session on February 13, 2017, at 5:30 PM, in the Council Chambers at City Hall. Mayor Lowrance called the meeting to order and led the Pledge of Allegiance. Present: Gowdy, Greer, Hoop, Lamer, Martin, Schubert, Wirin. Chief Tupper thanked Officer Accola for leading the Pizza with the Cop event, as it was well attended and scheduled to repeat due to the success. Greer thanked the community for utilizing the city Library and Skatepark. Schubert moved to approve the agenda, second by Greer. Motion approved 7-0.

### **CONSENT AGENDA:**

Lamer moved to approve the Consent Agenda Approve Council meeting Minutes of January 23, 2017, special council meeting minutes of January 30 and February 6, 2017; Approve Bill List in the amount of \$1,517,128.14; Receipt of Building Report for December, 2016; Receipt of Civil Service New Hire List, Street Maintenance Worker II; Board and Commission Appointments: Appoint Aimee Deimerly-Snyder to Planning & Zoning Commission, term expires: 4/1/2022; Appoint Tammie Frederick to Board of Adjustment, term expires 4/1/2022; Resolution 2017-012 Approving Applications for Tax Abatement within Approved Urban Revitalization Areas of the City of Marshalltown, Iowa; Resolution 2017-013 Certifying Unpaid Bills as Property Tax for unpaid nuisance abatement and illegal fire charges; Resolution 2017-014 Approving the Renewal of Agreement with the Iowa Veterans Home relating to Police Protection through June 30, 2019; Resolution 2017-015 Authorizing The Grant Application to the State of Iowa, Governor's Traffic Safety Bureau, State and Community Highway Safety Grant Application, Contract Period 10-1-2017 through 9/30/2018; Resolution 2017-016 Approving Contract with GTG Companies for the Veterans Memorial Coliseum facility use study, in the amount of \$25,000; Resolution 2017-017 Approving Contract Change Order #1 for the 2015 Oil Mix Streets Overlay Project 76015005, increase of \$32,468.00; Resolution 2017-018 Approving Certificate of Completion and final Project Costs with OMG Midwest, Inc., dba Cessford Construction, in the amount of \$457,928.00 for Construction of the 2015 Oil Mix Streets Overlay Project 76015005; Resolution 2017-019 Approving Contract Change Order #1 for the 2016 Mill & Overlay Project 76016004, increase of \$153,334.30; Resolution 2017-020 Approving Certificate of Completion and final Project Costs with OMG Midwest, Inc., dba Cessford Construction, in the amount of \$828,790.80 for the Construction of the 2016 Mill & Overlay Project 76016004; Renewal Liquor Licenses (pending fire inspection passage): Kwik Star #706, Jiffy Convenience Stores, Kwik Star #394, Grocery Store Y Tortilleria La Vecindad, Golden Land, Ocean City Chinese Restaurant, Elmwood Country Club, Vaughn's Pub, American Legion, Rumours Sports Bar & Grill, Smokin G's BBQ Restaurant and Catering, Iowa River Brewing Company, Inc., Hy Vee Food & Drug Store, Fareway Stores #467, Food & Gas Mart; second by Wirin. Consent agenda adopted 7-0.

### **MOTIONS:**

Schubert moved to Approve new State of Iowa Tobacco Permit for Family Dollar Stores of Iowa, LLC, formerly known as Family Dollar Stores of Iowa, Inc., 327 S 3rd Avenue, effective January 27, 2017, expires June 30, 2017, second by Greer. Motion carried 6-1 with Lamer opposed.

Lamer moved to set the public hearing date of March 6, at noon, for Budget Amendment for the current fiscal year ending 6/30/2017, second by Wirin. Motion carried 7-0.

Martin moved to accept the proposed Budget for FY18 and setting the public hearing for March 6, at noon, for the proposed Budget and Tax Levy for fiscal year ending 6/30/2018, second by Gowdy. Motion carried 7-0.

Lamer moved to finalizing the Five Year Capital Improvement Plan and setting public hearing for March 6, 2017, at noon, second by Wirin. Motion carried 7-0.

### **REPORTS:**

Kenn Vinson updated the council on the Alliant project. The project is mechanically complete and the facility is testing, April 1 is the expected substantially complete date.

## COUNCIL PROCEEDINGS

February 13, 2017

### **RESOLUTIONS:**

Schubert moved to adopt Tentative Resolution 2017-021 Setting public hearing for February 27, 2017, for the sale of City Property, 1210 E Nevada Street, second by Wirin. Resolution adopted 7-0.

Wirin moved to adopt Resolution 2017-022 Amending 2016 Marshall County Hazard Mitigation Plan, second by Greer. Resolution adopted 7-0.

Wirin moved to adopt Resolution 2017-023 Approving Grant Application to the Martha-Ellen Tye Foundation for the Development of a Futsal/Tennis Court upgrade, second by Schubert. Resolution adopted 7-0. Greer disclosed he serves on the board of the Martha-Ellen Tye Foundation and has no financial gain.

Martin moved to adopt Resolution 2017-024 Approving Grant Application to the Martha-Ellen Tye Foundation for the Development of a Parks and Recreation Master Plan, second by Wirin. Resolution adopted 7-0. Greer disclosed he serves on the board of the Martha-Ellen Tye Foundation and has no financial gain.

Greer moved to adopt Resolution 2017-025 Authorizing the assignment of tax certificates held by Marshall County, second by Schubert. Resolution adopted 7-0.

Wirin moved to adopt Resolution 2017-026 Approving Agreement Amendment No 2 by and between the City of Marshalltown, Iowa, and Clapsaddle-Garber Associates, Inc., for Engineering Services for Marshalltown Municipal Airport – Runway End 18/36, project 77016010, \$12,485.00, second by Lamer. Resolution adopted 7-0. The mill and overlay project is 90% federally funded with a 10% match.

### **ORDINANCES**

Lamer moved to adopt the second reading of an Ordinance to Amend the Code of Ordinances, Section 28-125 “Rate Structure and Storm Water Rate,” Setting Storm Water rates, second by Greer. The rate is based on Equivalent Residential Units, setting the average residential unit as 2,800 square feet of impervious service as the base unit for assessing the utility rate. Non residential parcels will be assessed based on actual square foot of impervious surface, as a percentage of the ERU average of 2800 sq. ft. Individuals questioned the exception policy. City Administrator Kinser reminded the council the reason for the rate restructuring and increase is to comply with the DNR MS4 Permit. The council has discussed the need for storm water improvements several times over the past few years. Second reading adopted 7-0.

Greer moved to approve the first reading of the Ordinance amending Chapter 29 of the Zoning Ordinance, allowable special uses in the Office Park District, including full-service restaurants and limited service eating places, to include beer, wine and liquor as amended, second by Gowdy. Second reading adopted 4-3, with Lamer, Martin and Schubert opposed.

### **DISCUSSION:**

Public Works Director Nickel reviewed the 2017 street improvement program map. Improvement includes mill and overlay segments and full depth rebuild with base stabilization. Combined improvement estimate is about \$1.8 million. City Administrator Kinser recommended the nuisance ordinance be revised as staff considers procedure changes to be more efficient.

### **PUBLIC COMMENT:**

Nona Eaton, 1717 Country Club Lane, addressed the council regarding storm sewer charges and questioned city services received by individuals on Odessa Drive and College View Lane.

### **ADJOURNMENT**

The meeting adjourned at 7:03 PM.

Respectfully submitted,

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Shari L. Coughenour, CMC, City Clerk

CITY OF MARSHALLTOWN

COUNCIL PROCEEDINGS  
February 13, 2017

ATTEST:

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James L. Lowrance, Mayor

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Shari L. Coughenour, CMC, City Clerk



## City Administrator's Office

James Lowrance, Mayor  
Jessica Kinser, Administrator  
Shari L. Coughenour, Clerk  
24 North Center Street  
Marshalltown, IA 50158-4911  
Tel - (641) 754-5799  
Fax - (641) 754-5717

To: Mayor Lowrance and the City Council  
From: Jessica Kinser, City Administrator  
Date: February 10, 2017  
RE: Draft of Nuisance Ordinance

Attached with this memo is draft language designed to replace and enhance our current nuisance ordinance (which is also attached). Nuisance/code enforcement is a priority issue identified by the City Council in goal setting, and it all starts with having a code which is easily understood and enforced and which makes sense for the community.

The current ordinance places some administrative burdens on the City which go above and beyond what State Code requires. In the attached draft, we have made attempts to correct those areas to better align with what our staffing capabilities allow. The City also has a number of other items which the Code Enforcement Officer is to enforce which have different processes for correcting the specific issue. Therefore, we have included those areas, like grass and weeds, snow and ice, dangerous sidewalks, junk and abandoned vehicles, and the definitions of a dangerous building to ensure the same notification process is consistent for different types of nuisances.

The attached draft has notes and references to the current ordinance included, but I want to elaborate on a few items which are significant changes or require further input.

- Snow accumulations (item N on the list of nuisances)- the current ordinance requires that snow accumulations be removed within 10 hours after the precipitation has stopped. This is a short amount of time, and is an area to be looked at. The following are some options to consider:
  - 24 hours for all
  - 24 hours for commercial properties (can be accomplished by identifying streets that would be labeled with the higher requirement)
  - 48 hours for residential areas
- Dangerous Buildings- this revision incorporates the existing definition of a dangerous building into the nuisance chapter, as this is where the process typically starts and communication begins with a property owner. By adding the dangerous building language to this definition, it allows the City to start gathering

**City Council**  
Leon Lamer, Bill Martin, Joel Greer, Al Hoop,  
Robert Schubert, Michael Gowdy, Bethany Wirin



information and documentation before proceeding to the process for removal of a dangerous building as stated in Chapter 7-30 of the Code.

- Other Conditions Regulated- this states other areas of the City's Code or Iowa Code which can be corrected using the nuisance abatement process. This will result in the rewording or rewriting of some of the other sections to ensure we do not have conflicting processes or language.
- Service of Notice to Abate- this is currently required in the City's Code as personal service, but Iowa Code requires only a certified letter. This blends the two methods to provide a happy medium or personal service being an option and not a requirement.

These are some major changes which have been reviewed with the City Attorney and Police Chief. There is additional review to be done if the Council would like to move forward this draft. The next step would be drafting an ordinance to repeal the current sections while amending language in other sections of the Code to ensure there are no conflicts between this new language and existing language in other chapters. In redrafting, the intent would be to make nuisances a separate article and easier to locate and read in the current Code of Ordinances. I would appreciate your feedback, and would like to bring this forward to a future meeting for further review when drafted or for a first reading.

**City Council**

Leon Lamer, Bill Martin, Joel Greer, Al Hoop,  
Robert Schubert, Michael Gowdy, Bethany Wirin



# DRAFT NUISANCE ORDINANCE- 2/9/17

## 1. Nuisance Defined

A nuisance is defined as whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere unreasonably with the comfortable enjoyment of life or property.

1. This references Iowa Code 657.1

## 2. Nuisance Enumerated

The following conditions describe, but do not limit, what may be deemed a nuisance:

2. This section incorporates definitions from Iowa Code 657.1, 364.12, and current nuisance definitions in the ordinance

- (A) Offensive Smells- the erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
- (B) Filth or Noisome Substance- the causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
- (C) Impeding Passage of Navigable River- the obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
- (D) Water Pollution- the corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
- (E) Blocking Public or Private Ways- the obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
- (F) Houses of Ill Fame- a house kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by chapter 723A, or places resorted to by persons using controlled substances, as defined in section 124.101, subsection 5, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.
- (G) Billboards- billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof.

(H) Airport Air Space- any object or structure hereafter erected within one thousand feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

(I) Storing of Flammable Junk- the depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the fire limits of a city, unless in a building of fireproof construction.

(J) Air Pollution- the emission of dense smoke, noxious fumes, or fly ash.

(K) Weeds, Brush- dense growth of all weeds, vines, brush, or other vegetation so as to constitute a health, safety, or fire hazard.

(L) Cotton Bearing or Diseased Trees- cotton-bearing cottonwood trees and all other cotton-bearing poplar trees on private property; trees infected with Dutch elm disease or knowingly impacted or damaged by the emerald ash borer on private property.

(L) includes a new reference to the emerald ash borer

(M) Grass and Weeds- allowing the growth of grass and weeds in excess of ten inches in height on a parcel or the adjacent public terrace, street shoulder, or street-side ditches. The following exceptions apply:

(M) incorporates portions of Chapter 21-59, which is the current grass and weeds ordinance

1. Land in an A-1 agricultural reserve district may have grass exceeding 10 inches in height except within 100 feet of any parcel of real property possessed by another or on any portion of the property within 100 feet of a street owned or controlled by the City.
2. Parcels which have no occupied structure may have grass exceeding 10 inches in height except within 100 feet of any parcel of real property possessed by another or on any portion of the property within 100 feet of a street owned or controlled by the City.
3. Recognized growing of agricultural products or the City flood control system.

(N) incorporates portions of Chapter 26-1, which is the current ordinance stating when sidewalks have to be cleared. See attached memo for more info.

(N) Snow and Ice Accumulations- snow and ice accumulations on sidewalks not removed within \_\_\_\_\_ hours after the precipitation has stopped.

(O) Containers- refrigerators and freezers which are not stored under a roofed enclosure and which have doors that latched, lock, or otherwise secure the door in a closed position.

(P) Water Service Deficiency- any break or leak in the water service link between the city water main and any house or other building, when the break or leak results in the escape of such volume of water as to constitute a hazard to street, sidewalk, or terrace construction or as to interfere with the normal use thereof.

(Q) Stables- The keeping or stabling of horses, mules, or asses so as to cause obnoxious odors, noise, hazard, annoyances or danger because of failure of confinement.

(R) is a new item; stagnant water is related to pools or large containers of water which allow mosquitoes to breed

(R) Stagnant Water- the permitting of water to accumulate and stand until stagnant or upon any privately owned lot.

(S) Junk, Refuse, Garbage- the permitting of junk, refuse, garbage or filth to accumulate on any lot or parcel.

(S) is a new item; previous ordinance doesn't specifically address these items.

(T) Junk or Abandoned Vehicles- the keeping or storing of a junk vehicle or salvage vehicle on public property or private property not in an enclosed area. A junk or salvage vehicle is defined as having one or more of the following characteristics:

1. Unlicensed: any vehicle not licensed for the current year as provided by law
2. Broken Glass: Any vehicle or part of a vehicle with a broken windshield, or any other broken glass.
3. Broken Or Loose Parts: Any vehicle or part of a vehicle with a broken or loose fender, door, bumper, hood, wheel, steering wheel, trunk top or tailpipe.
4. Missing Engine Or Wheels: Any vehicle which is lacking an engine or one or more wheels or other structural parts which renders such vehicle totally inoperable.
5. Habitat For Animals Or Insects: Any vehicle or part of a vehicle which has become a habitat for rats, mice or snakes or any other vermin or insects.
6. Defective Or Obsolete Condition: Any vehicle or part of a vehicle which, because of its defective or obsolete condition, constitutes a threat to the public health and safety.
7. Inoperable Condition: Any vehicle that is not capable of moving in both forward and reverse gears.

(T) incorporates the current definition of a junk vehicle from Chapter 21-53

(U) Dangerous or Unsafe Building or Structure- a dangerous or unsafe building or structure shall mean any structure or building meeting any or all of the following conditions or defects provided that such conditions or defect exist to the extent that the life, health, property, or safety of the public or its occupants are endangered whenever:

(U) incorporates the current definition of a dangerous building from Chapter 7-30. See memo for more info.

1. Any portion or member or appurtenance thereof is likely to fail or to become detached or dislodged or to collapse and thereby injure persons or damage property.
2. Any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
3. The building or structure or any portion thereof, because of dilapidation, deterioration, or decay; faulty construction; the removal, movement or instability of any portion of the ground

necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundations; or any other cause is likely to partially or completely collapse.

4. For any reason the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used.
5. The exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
6. The building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children or a harbor for vagrants, criminals, or immoral persons or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
7. A building or structure used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease.
8. Any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas connections or heating apparatus or other cause is determined by the fire marshal to be a fire hazard.
9. Any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

### **3. Other Conditions Regulated**

The following actions are required and may also be abated in the manner provided in this chapter:

- A. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street (see Chapter 27-25)
- B. The numbering of buildings (see Article IV of Chapter 26)
- C. The repair or replacement of broken and defective sidewalks (see Chapter 26-51)
- D. The connection to public drainage systems from abutting property when necessary for public health or safety as set out in Iowa Code 364.12
- E. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property as set out in Iowa Code 364.12

Section 3 is a new section which reflects other parts of the Code which can be abated as a nuisance

#### **4. Nuisances prohibited; authority to abate (21-62)**

The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter. In addition, the creation or maintenance of a nuisance is a municipal infraction as defined by Section 1-9 of the Code of Ordinances and is punishable by a civil penalty of not more than \$750 for the first offense and not to exceed \$1,000 for each repeat offense.

#### **5. Right of Entry and Administrative Search Warrants**

Whenever necessary to make an inspection to enforce any ordinance or whenever there is reasonable cause to believe there exists an ordinance violation in any building or upon any premises or real estate within the jurisdiction of the city, a City official, upon presentation of proper credentials, may enter the building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the official by this code of ordinances. Except in emergency situations or when consent of the owner and/or occupant to the inspection has otherwise been obtained, the city official shall give the owner and/or occupant, if they can be located after reasonable effort, 24-hours' written notice of the official's intention to inspect.

Section 5 is a new section which requires the City to get administrative search warrants before entering a property. These instances will be mostly tied to dangerous buildings

If consent to enter upon or inspect any building, structure or property is withheld by any person having the lawful right to exclude, the city official having the duty to enter upon or conduct the inspection may apply to the Iowa District Court in and for the county, pursuant to Iowa Code § 808.14, for an administrative search warrant. No owner, operator or occupant or any other person having charge, care or control of any dwelling, unit, rooming unit, structure, building or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer, designee or employee.

#### **6. Notice to Abate- Required (21-64)**

Whenever a City official finds that a nuisance exists, such official shall cause to be served upon the property owner as shown by the records of the County Auditor and any other party in possession of the property a written notice to abate the nuisance within a reasonable time after notice. If a junk or abandoned vehicle is part of the nuisance to be abated, the registered owner of the vehicle must also be notified.

#### **7. Contents of Notice to Abate (21-65)**

The Notice to Abate served under this article shall contain the following:

- (A) A description of what constitutes the nuisance.
- (B) The location of the nuisance
- (C) A statement of the necessary act to abate the nuisance
- (D) A stated reasonable time within which to complete the abatement
- (E) A statement that if the nuisance is not abated as directed and no request for hearing is made within the period prescribed for the abatement, the City will abate the nuisance and assess the costs against the owner of the property

## 8. Service of Notice to Abate

The notice to abate shall be served either by: a) personal delivery or b) posting the notice in a conspicuous place upon the premises where the nuisance exists and sending a copy of the notice by certified United States mail. Service of the notice by personal delivery may be completed by any City official.

Section 8 replaces 21-66 which requires personal service of a notice to abate. Personal service is an option, but not a requirement in this revision.

## 9. Request for Hearing (21-67, 21-68)

Any person served with a notice to abate a nuisance shall be entitled to a hearing before the City Administrator as to whether a nuisance exists. A request for such hearing must be made in writing and delivered to the City Administrator within the time stated in the notice for the abatement of the nuisance. If such request is not made within the time provided in this section it will be conclusively presumed that a nuisance exists and the nuisance shall be abated as ordered.

Section 9 replaces the Code Enforcement Officer as the hearing officer to the City Administrator to provide a different person to review the complaint.

If the City Administrator finds that a nuisance exists, the abatement of the nuisance shall still occur with the discretion of the City Administrator as to whether additional time for abatement shall be allowed.

## 10. Abatement in Emergency

If it is determined that an emergency exists because of the continuing maintenance of a nuisance, the City may perform any action which would be required under this article without prior notice. A determination may be made as to whether a nuisance exists based on the following criteria:

- (1) Inability to contact the property owner by normal efforts;
- (2) The seriousness of the violation due to health hazards or physical hazards to a private individual or to the public as determined by a City official;
- (3) Frequency of violations of a property owner or a tenant when the property owner or a tenant has received more than two nuisance violation notifications within one calendar year. This determination is in effect for one calendar year beginning on the date of the most recent nuisance violation notification.

Section 10 replaces 21-69 with specific criteria for an emergency

## 11. Abatement by the City (21-70)

If the person notified to abate a nuisance neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the City.

## 12. Collection of Costs of Abatement (21-71)

The City Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate a nuisance under this chapter. If the amount shown on the statement has not been paid within 30 days, the costs of the abatement shall be certified to the County Treasurer, and shall then be collected with and in the same manner as general property taxes pursuant to Chapter 384 of the Code of Iowa.

## 13. Prosecution

In lieu of the foregoing abatement procedures, the City may elect to treat an unabated nuisance as a violation of this chapter, punishable as provided in Chapter 1-9 of this Code.

Section 13 makes it clear that the City can pursue other options than abating the nuisance

**MARSHALLTOWN CITY CODE**  
**2013 RECODIFICATION**

**Sec. 21-60. Littering.**

- g.) No person shall discard any litter onto or in any water or land of this city, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose.
- h.) "Litter" shall be defined to include, but not be limited to, any refuse, or discarded item, including cans, bottles, trash, or abandoned household items (e.g. used furniture, appliances, toys, implements, bicycles or the like).
- i.) To enforce this provision, any police officer, Public Housing Director, or other city official designated by the Public Housing Director or the City Council, who shall find litter placed or stored in the open upon public property within the city, may cause such litter to be removed and shall issue written notice to the adjacent property owner at the address as reflected by the tax records of the County Auditor, by both regular and certified mail that unless the litter is removed and all costs of removal and disposal incurred by the city are paid within 14 days of the date of mailing, the litter shall be disposed of and the cost of removal and disposal will be imposed against the property owner by civil complaint.
- j.) The written notice prescribed under subsection (c) shall contain provisions that the person may appeal the imposition of the costs of removal and disposal by filing a written appeal with the City Clerk within ten days of the date the notice is mailed, which appeal shall then be scheduled for hearing and a decision rendered by the City Administrator or a designee of the City Administrator prior to the filing of a civil complaint

(Ord. No. 14642, 2-14-2000; Ord 14894 §1, 12-19-2011)

**ARTICLE II. PUBLIC NUISANCES**

**Sec. 21-61. Definitions.**

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

- a.) *Nuisance*. Nuisance means whatever is injurious to health or safety, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:
  - 1.) The erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
  - 2.) The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
  - 3.) The obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
  - 4.) The corrupting or rendering unwholesome or impure the water of any river, stream or pond or unlawfully diverting the river, stream or pond from its natural course or state, to the injury or prejudice of others.
  - 5.) The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
  - 6.) Houses of ill fame kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses

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where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

7.) Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.

8.) Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in cities.

9.) Any object or structure erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including takeoff and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the object or structure is located.

10.) The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the city, unless it is in a building of fireproof construction.

11.) The emission of dense smoke, noxious fumes or fly ash.

12.) Dense growth of all weeds, vines, brush or other vegetation in the city so as to constitute a health, safety, or fire hazard.

13.) Trees infected with Dutch elm disease.

14.) Inoperable or unlicensed vehicles found upon public or private premises which are not stored under a permanent roofed enclosure. Mere licensing of an inoperable vehicle shall not constitute a defense to the finding that the presence of any vehicle constitutes a nuisance.

15.) Refrigerators and freezers which are not stored under a roofed enclosure and which have doors that latch, lock, or otherwise secure the door in a closed position.

16.) Any break or leak in the water service between the city water mains and any house or other building, when the break or leak results in the escape of such volume of water as to constitute a hazard to street, sidewalk, or terrace construction or as to interfere with the normal use thereof.

17.) Whatever is injurious to health, indecent or offensive to the senses or an obstruction to the free use of property, so as to essentially interfere with the comfortable enjoyment of life and property.

18.) The keeping or stabling of horses, mules or asses so as to cause obnoxious odors, noise, hazard, annoyances or danger because of failure of confinement.

b.) *Property owner* means the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Rev. Ords. 1950; Ord. No. 42, § 1; Ord. No. 12447, § 1(1, 2), 4-11-1974; Ord. No. 14169, § 1, 11-14-1983)

Cross reference(s)-Definitions generally, § 1-2.

### **Sec. 21-62. Nuisances prohibited.**

The creation or maintenance of a nuisance is prohibited. A nuisance, public or private, may be abated in the manner provided in this article. In addition, the creation or maintenance of a nuisance is a municipal infraction as defined by section 1-9, but punishable by a civil penalty of not more than \$500.00 for the first offense and not to exceed \$750.00 for each repeat offense.

(Ord. No. 12447, § 2, 4-11-1974; Ord. No. 14629, § 21-62, 8-23-1999)

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**Sec. 21-63. Appropriate action.**

The following are examples of appropriate actions that are required within a reasonable time upon a finding that a particular nuisance exists within the corporate limits:

- a.) The removal of diseased trees or dead wood.
- b.) The removal, repair or dismantling of a dangerous building or structure.
- c.) The removal by city employees of inoperable or unlicensed vehicles from the premises upon which they are found.
- d.) The connection to public drainage systems from abutting property when necessary for public health or safety.
- e.) The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.
- f.) The cutting or destruction of weeds or other growth that constitutes a health, safety, or fire hazard.

(Ord. No. 12447, § 3, 4-11-1974)

**Sec. 21-64. Notice to abate-Required.**

Whenever a city official finds that a nuisance listed in section 21-61 exists, he shall cause to be served upon the property owner as shown by the records of the county auditor a written notice to abate the nuisance within a stated reasonable time after notice.

(Ord. No. 12447, § 4, 4-11-1974)

**Sec. 21-65. Same-Contents.**

The notice to abate served under this article shall contain the following:

- a.) A description of what constitutes the nuisance.
- b.) The location of the nuisance.
- c.) A statement of the act necessary to abate the nuisance.
- d.) A stated reasonable time within which to complete the abatement.
- e.) A statement that if the nuisance is not abated as directed and no request for hearing is made within the period prescribed for abatement, the city will abate the nuisance and assess the costs against the owner of the real property upon which the nuisance existed.

(Rev. Ords. 1950; Ord. No. 42, § 2; Ord. No. 12447, § 5, 4-11-1974)

**Sec. 21-66. Same-Service.**

The notice to abate required under this article shall be served upon the named person in the manner provided by law for the personal service of an original notice. The return of service shall substantially comply with the law provided for such returns of service, not to be strictly construed. A notice to abate shall be served upon the known titleholder of record of the property deemed to constitute a nuisance if other than the property owner upon whose property the nuisance exists. Also, a notice shall also be served upon any lien holder whose lien is noted in the public records upon the certificate of title of any motor vehicle.

(Rev. Ords. 1950; Ord. No. 42, § 2; Ord. No. 12447, § 6, 4-11-1974)

**Sec. 21-67. Hearing after notice to abate-Entitlement; presumption on failure to request.**

Any person ordered to abate a nuisance shall be entitled to a hearing before the officer ordering the abatement as to whether a nuisance exists. A request for such hearing

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must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice for the abatement of the nuisance. If such request is not made within the time provided in this section, it will be conclusively presumed that a nuisance exists, and the nuisance shall be abated as ordered.  
(Ord. No. 12447, § 7, 4-11-1974)

**Sec. 21-68. Same-Decision; order to abate.**

At the conclusion of the hearing as provided in this article, the hearing officer shall render a written decision as to whether a nuisance exists. If he finds that a nuisance exists, he must order it abated within an additional time, which must be reasonable under the circumstances.  
(Ord. No. 12447, § 7, 4-11-1974)

**Sec. 21-69. Abatement in emergency.**

If it is determined that an emergency exists because of the continuing maintenance of the nuisance, the city may perform any action which may be required under this article without prior notice. The city shall assess the costs as provided in section 21-71 of this article after notice to the property owner under the applicable provisions of sections 21-64 and 21-65 and hearing as provided in section 21-67.  
(Ord. No. 12447, § 8, 4-11-1974)

**Sec. 21-70. Abatement by city.**

If the person notified to abate a nuisance neglects or fails to abate as directed, the city may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the city clerk who shall pay such expenses on behalf of the city.  
(Rev. Ords. 1950; Ord. No. 42, § 2; Ord. No. 12447, § 9, 4-11-1974)

**Sec. 21-71. Costs of abatement by city-Procedure for collection.**

The city clerk shall mail a statement of the total expense incurred to the real property owner who has failed to abide by the notice to abate a nuisance under this article, and if the amount shown by the statement has not been paid within one month, he shall certify the costs to the county auditor, and it shall then be collected with and in the same manner as general property taxes pursuant to Chapter 384 of the Iowa Code.  
(Rev. Ords. 1950; Ord. No. 42, § 2; Ord. No. 12447, § 10, 4-11-1974)

**Sec. 21-72. Reserved.**

**Sec. 21-73. Removal, storage, redemption or disposal of vehicle constituting nuisance.**

- a.) Vehicles subject to section. Those motor vehicles that are subject to this section are as follows:
- 1.) Those parked in a street, alley or highway for more than 24 consecutive hours.
  - 2.) Those found standing, parked or stopped in front of a theater, auditorium or hotel.
  - 3.) Those found stopped, standing or parked on a sidewalk, in front of a public or private driveway, or on the roadway side of any vehicle stopped or parked at the edge or curb of a street.

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b.) Citation. Whenever the mayor, police chief or other law enforcement officer, fire marshal, fire chief or building inspector finds a vehicle which is parked, stopped or standing in violation of this section, he shall either issue a citation charging the owner and/or operator of the vehicle with a violation of the ordinance involved or shall have the vehicle removed in the manner and by the power set forth in this section.

c.) Removal and impoundment. Those persons mentioned in subsection (b) of this section are empowered to have motor vehicles violating an ordinance mentioned in subsection (a) of this section removed and stored upon premises secured by the city for such storage purposes. This vehicle shall remain so stored upon storage property for a period of 14 days, at the end of which time such vehicle shall be disposed of by the city unless previously claimed by the owner and removed from the storage premises. If any vehicle is removed pursuant to this section and claimed by the owner, the city shall charge a reasonable fee for handling and storage of the vehicle.

d.) Notification to owner and operator. The official removing any vehicle shall immediately undertake to notify the owner and operator, if known, of the vehicle of its location and the procedures by which its release can be obtained. The notice shall be made by certified letter sent through the United States post office if a telephone or personal contact cannot be made.

(Ord. No. 12447, § 13, 4-11-1974; Ord. No. 13162, §§ 1-4, 6-27-1977)

**Sec. 21-74. Exemptions from section 21-73.**

The provisions of section 21-73 shall not apply to the following:

- a.) A vehicle owned by a person serving in the United States armed services.
- b.) Motor vehicle junkyards that are duly licensed under provisions of this Code or other city ordinances.

(Ord. No. 12447, §§ 12, 14, 4-11-1974)

**Sec. 21-75. Definitions Relating to Graffiti**

As used in Sections 21-76 and 21-77, the following definitions shall apply:

- a.) *Deface*. Deface means to alter the appearance of something by removing, distorting, adding to, or covering all or a part of it.
- b.) *Graffiti*. Graffiti Vandalism means to deface public or private real property by painting, drawing, writing, etching, or carving by use of paint, spray paint, ink, knife, or any similar method without authorization of the owner of the property; or regardless of owner authorization when such painting, drawing, writing, etching or carving is otherwise deemed a public nuisance by the City Council.
- c.) *Real Property*. Real Property means land and whatever is constructed or growing upon or affixed to land, including fences and wall.

**Sec. 21-76. Declaration of Public Nuisance; Regulation.**

All real property defaced by graffiti vandalism which is visible to public view is hereby declared to be a public nuisance, and shall be subject to city abatement procedures of Article II of this Chapter if not removed within seven (7) calendar days from the date of written notice from the city.

**Sec. 21-77. Notification to Abate Graffiti Nuisance.**

The owner of any real property located within the city which is defaced by graffiti vandalism shall be notified of such graffiti vandalism by the city prior to any city

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abatement procedures. Such notice shall be in written form and shall direct the property owner to remove or eradicate the graffiti vandalism from the real property within seven (7) calendar days from the date of such notice. The notice shall be sent by first class mail and shall contain:

- a.) A description of the real property upon which the graffiti vandalism occurred and a description of the nature of the vandalism;
- b.) A demand that the owner remove or eradicate the graffiti vandalism from the real property within seven (7) calendar days from the date of such notice; and
- c.) A statement that warns that the owner's failure or refusal to remove or eradicate the graffiti vandalism may result in the city's commencement of abatement procedures, and if the cost of such abatement is not paid to the city within thirty (30) calendar days after a notice of assessment is mailed to the property owner, such costs may be assessed against the property in the same manner as a property tax as provided by state law.

Notification pursuant to this section is in lieu of Section 21-64 and Section 21-65.  
Ord. No. 14770, § 1, 9-26-2005)

#### **Sec. 21-78. Penalties.**

Any person who shall interfere in any way whatsoever with the due process of enforcement in any section of this article shall be deemed guilty of a misdemeanor and shall, upon conviction, be subject to a fine or imprisonment as provided in section 1-8.

(Rev. Ords. 1950; Ord. No. 42, § 3; Ord. No. 12447, § 15, 4-11-1974)

[Editor's note: Ordinance 14770 codified Graffiti nuisances as 21-76 to 21-78. The penalty section should be the last section of the article.]

#### **Sec. 21-79 – 21-99. Reserved.**

## **ARTICLE III. PROPERTY MAINTENANCE**

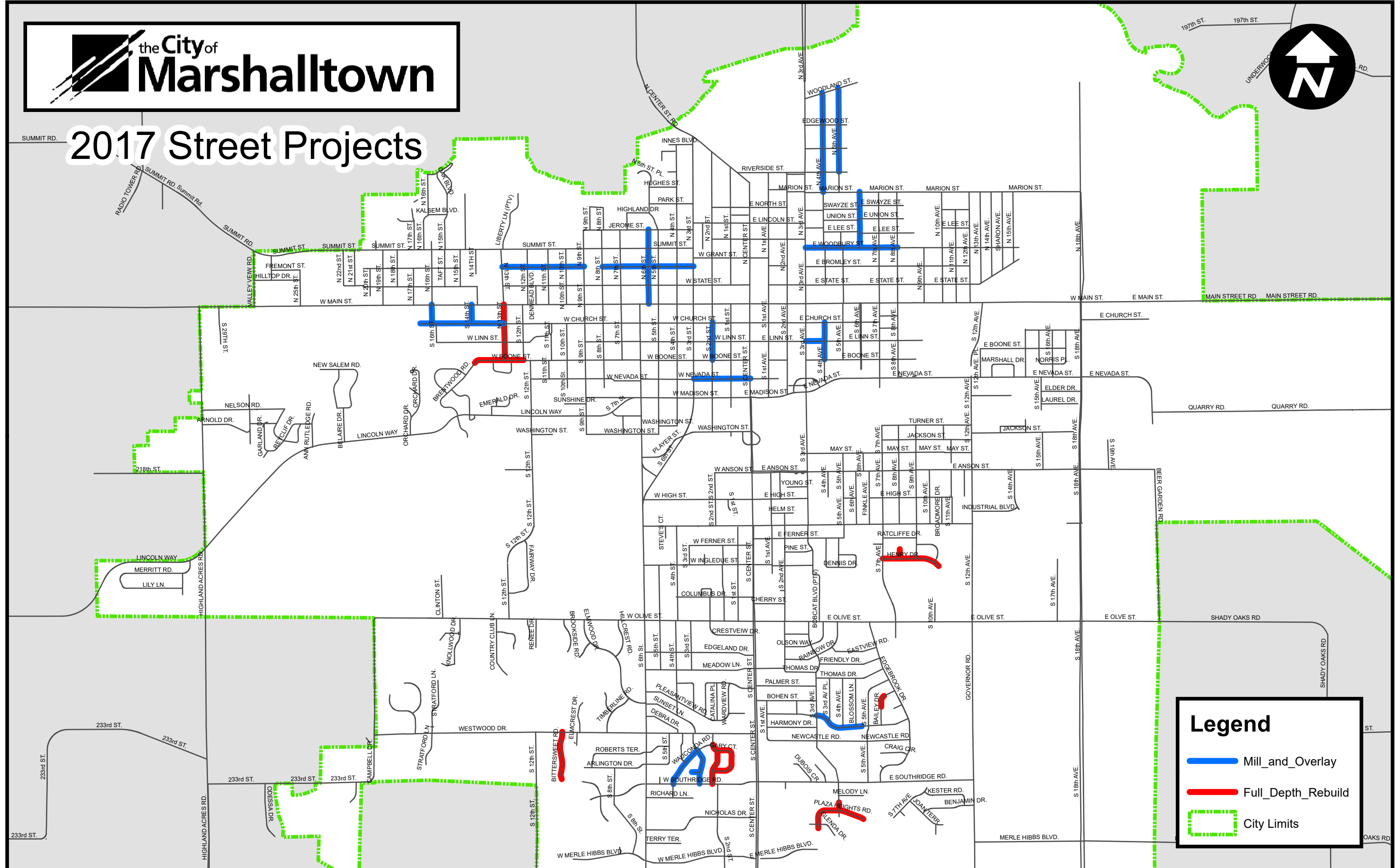
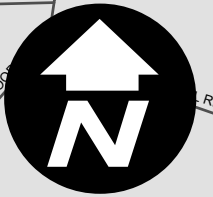
The purpose of this article is to ensure that all buildings regardless of use maintain basic minimum property maintenance standards creating a safe and healthy property and community.

#### **Sec. 21-100. Basic Standards.**

- a.) *Building maintenance.* Every building shall be maintained to be weather and water tight, and free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish, which admit rain, cold air, dampness, rodents, insects, or vermin.
- b.) *Exterior finishes.* Materials and practices used on exterior surfaces shall be of standard quality and appearance. Polystyrene board, tyvek, and insulation board are not acceptable permanent surfaces.
- c.) *Ground cover.* All non-farm property shall establish a permanent cover of perennial grasses or ornamental ground cover as soon as practical after any construction, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gullying, or by wind or water. Acceptable ground cover shall also include permanent paving and structures as approved by city codes.



# 2017 Street Projects



Legend

Mill\_and\_Overlay

Full\_Depth\_Rebuild

City Limits