

**CITY OF LEWIS  
CODE OF ORDINANCES**

**2005**

**CODIFIED BY: SOUTHWEST IOWA PLANNING COUNCIL  
1501 SW 7<sup>TH</sup> STREET  
ATLANTIC, IA 50022**

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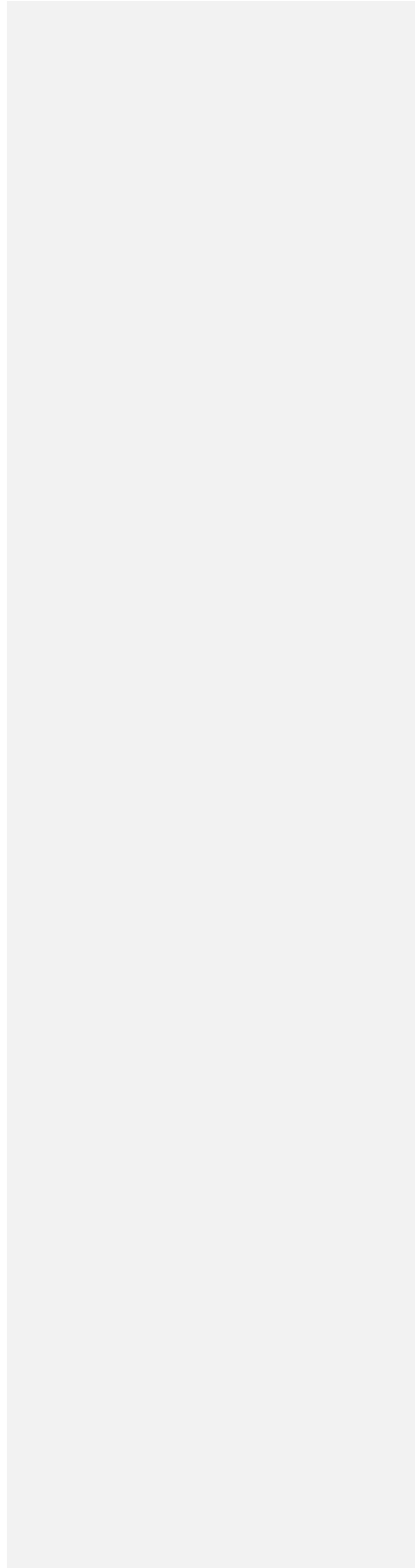
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## TITLE I GENERAL PROVISIONS

Comment [COMMENT1]: This page is for "With Zoning"

### CHAPTER 1 GENERAL PROVISIONS

1-1-1	Definitions	1-1-4	Construction
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1-1-1 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the City shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "City" means the City of Lewis, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;

2. "Clerk" means clerk-treasurer.

3. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;

4. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;

5. "County" means the County of Cass, Iowa;

6. "Fiscal Year" means July 1 to June 30;

7. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;

8. "May" confers a power;

9. "Month" means a calendar month;

10. "Must" states a requirement;

11. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";

12. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
13. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
14. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
15. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them;
16. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
17. "Preceding" and "following" mean next before and next after, respectively;
18. "Property" includes real and personal property;
19. "Real property" includes any interest in land;
20. "Shall" imposes a duty;
21. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
22. "State" means the State of Iowa;
23. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
24. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
25. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
26. "Written" includes printed, typewritten, or electronically transmitted such as facsimile or electronic mail;
27. "Year" means a calendar year;
28. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have

acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;

29. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

1-1-2 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the City;

1. Gender. Any gender includes the other gender;
2. Singular and Plural. The singular number includes the plural and the plural includes the singular;
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;
4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

1-1-3 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING. Whenever in this code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions committed by an agent or employee which have been authorized by the principal.

1-1-4 CONSTRUCTION. The provisions of this code are to be construed with a view to affect its objects and to promote justice.

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Lewis Code of Ordinances of 2004 constituting this municipal code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

1-1-6 SEVERABILITY. If any section, provision or part of the City code is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the City code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

**TITLE I GENERAL PROVISIONS**

**CHAPTER 2 RIGHT OF ENTRY**

1-2-1 Right of Entry

1-2-1 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

## TITLE I GENERAL PROVISIONS

### CHAPTER 3 PENALTY

#### 1-3-1 General Penalty

#### 1-3-2 Civil Penalty - Municipal Infraction

1-3-1 GENERAL PENALTY. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Ordinances of Lewis is guilty of a misdemeanor. Any person convicted of a misdemeanor under the Ordinances of Lewis shall be punished by a fine of not more than two hundred dollars, or by imprisonment not to exceed thirty days.  
(Code of Iowa, Sec. 364.3(2))

#### 1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

##### 1. Definitions.

a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Lewis or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Lewis, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Lewis.

c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

##### 2. Violations, Penalties, and Alternative Relief.

a. A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code.

##### Schedule of Civil Penalties

First offense--Not more than two hundred dollars (\$200.00).

Second Offense--Not more than two hundred fifty dollars (\$250.00).

All other repeat offenses--Not more than five hundred dollars (\$500.00).



b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

c. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action.

### 3. Civil Citations

a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.

b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.

c. The original of the citation shall be sent to the Clerk of the district court.

d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

(1) The name and address of the defendant.

(2) The name or description of the infraction attested to by the officer issuing the citation.

(3) The location and time of the infraction.

(4) The amount of civil penalty to be assessed or the alternative relief sought, or both.

(5) The manner, location, and time in which the penalty may be paid.

(6) The time and place of court appearance.

(7) The penalty for failure to appear in court.

**TITLE I GENERAL PROVISIONS**

**CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL**

- 1-4-1 Purpose and Intent
- 1-4-2 General
- 1-4-3 Form of Notice of Hearing
- 1-4-4 Subpoenas
- 1-4-5 Conduct of Hearing
- 1-4-6 Method and Form of Decision

1-4-1 PURPOSE AND INTENT.

1. It is the purpose of this article to establish an orderly, efficient, and expeditious process for evidentiary hearings before the City Council.

2. The provisions of this article shall apply to a proceeding required by constitution, statute or Ordinance to be determined by the City Council after an opportunity for an evidentiary hearing.

1-4-2 GENERAL.

1. Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the City Council.

2. Reporting. The proceedings at the hearing may also be reported by a court reporter at the expense of any party.

3. Continuances. The City Council may grant continuances for good cause shown.

4. Oaths, Certification. The City Council or any member thereof has the power to administer oaths and affirmations.

5. Reasonable dispatch. The City Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

1-4-3 FORM OF NOTICE OF HEARING.

The notice to parties shall be substantially in the following form, but may include other information:

"You are hereby notified that an evidentiary hearing will be held before the Lewis City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefore with the City Clerk."

1-4-4 SUBPOENAS. Filing of affidavit. The City Council may issue a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the City Council or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefore which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in the witness's possession or under the witness's control. A subpoena need not be issued when the affidavit is defective in any particular.

1-4-5 CONDUCT OF HEARING.

1. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
2. Oral evidence. Oral evidence shall be taken only on oath or affirmation.
3. Hearsay evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
4. Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
5. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.
6. Rights of parties. Each party shall have these rights, among others:
  - a. To call and examine witnesses on any matter relevant to the issues of the hearing;
  - b. To introduce documentary and physical evidence;
  - c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
  - d. To impeach any witness regardless of which party first called the witness to testify;
  - e. To rebut the evidence against the party; and
  - f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.

7. Official notice.

a. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the city or its departments and ordinances of the city.

b. Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

c. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council.

8. Inspection of the premises. The City Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

a. Notice of such inspection shall be given to the parties before the inspection is made;

b. The parties are given an opportunity to be present during the inspection; and

c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

1-4-6 METHOD AND FORM OF DECISION.

1. Hearings before the City Council where a contested case is heard before the City Council, no member thereof who did not hear the evidence or alternatively has not read or listened to the entire record of the proceedings shall vote on or take part in the decision. The City Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the City Council.

2. Form of decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the parties personally or sent to them by certified mail, postage prepaid, return receipt requested.

3. Effective date of decision. The effective date of the decision shall be stated therein.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 1 CITY CHARTER

- |                                       |                                       |
|---------------------------------------|---------------------------------------|
| 2-1-1 Charter                         | 2-1-5 Term of Mayor                   |
| 2-1-2 Form of Government              | 2-1-6 Copies on File                  |
| 2-1-3 Powers and Duties               | 2-1-7 Attendance for Council meetings |
| 2-1-4 Number and Term of City Council |                                       |

2-1-1 CHARTER. This chapter may be cited as the Charter of the City of Lewis, Iowa.

2-1-2 FORM OF GOVERNMENT. The form of government of the City of Lewis, Iowa, is the Mayor-Council form of government.

2-1-3 POWERS AND DUTIES. The Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by state law and by the Ordinances, resolutions, rules and regulations of the City of Lewis, Iowa.

2-1-4 NUMBER AND TERM OF COUNCIL. The council consists of five council members elected at large, elected for terms of four years with staggered terms as follows: two council members shall be elected every four years commencing with the 2003 election and three council members shall be elected every four years commencing with the 2005 election.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-5 TERM OF MAYOR. The mayor is elected for a term of four years commencing with the 2003 election.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-6 COPIES ON FILE. The city clerk shall keep an official copy of the charter on file with the official records of the city clerk, shall immediately file a copy with the Secretary of State of Iowa, and shall keep copies of the charter available at the city clerk's office for public inspection.

(Code of Iowa, Sec. 372.1)

2-1-7 ATTENDANCE FOR COUNCIL MEETINGS. The Mayor and Council members are required to attend 2/3 of all City Council meetings or not miss more than 3 consecutive meetings. To be considered in attendance the Mayor or Council member must be in attendance for ½ of the meeting time. Failure to meet this requirement is grounds for removal from office.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

2-2-1	Creation of Appointive Officers	2-2-5	Bonds Required
2-2-2	Appointment of Officers	2-2-6	Surety
2-2-3	Terms of Appointive Officers	2-2-7	Blanket Position Bond
2-2-4	Vacancies in Offices	2-2-8	Bonds Filed

2-2-1 CREATION OF APPOINTIVE OFFICERS. There are hereby created the following appointive officers: clerk-treasurer, attorney, health officer and Cass County Environmental Landfill Officer. The City Council is also appointed to the following committees: Finance, Water & Sewer, Streets & Alleys, Domestic Animals, Parks & Public Spaces and Community Development.

2-2-2 APPOINTMENT OF OFFICERS. The mayor shall appoint the mayor pro-tempore.

The fire chief shall be elected for a term of one year by the members of the volunteer fire department with final approval by the City Council.

All other officers shall be appointed or selected by the city council unless otherwise provided by law or ordinance.

(Code of Iowa, Sec. 374.4(3))

2-2-3 TERMS OF APPOINTIVE OFFICERS. The terms of all appointive officers that are not otherwise fixed by law or Ordinance shall be one (1) year.

2-2-4 VACANCIES IN OFFICES. A vacancy in an appointive office shall be filled in the same manner as the original appointment. A vacancy in an elective office shall be filled by a majority vote of all members of the City Council, unless filled by election in accordance with state law.

2-2-5 BONDS REQUIRED. Each municipal officer required by law or Ordinance to be bonded shall, before entering upon the duties of the office, execute to the city a good and sufficient bond, to be approved by the City Council, conditioned on the faithful performance of the duties and the proper handling and accounting for the money and property of the City in the official's charge unless the City Council shall have provided for a blanket position surety bond.

(Code of Iowa, Sec. 64.13)

2-2-6 SURETY. Any association or corporation which makes a business of insuring the fidelity of others and which has authority to do such business within Iowa shall be accepted as surety on any of the bonds.

2-2-7 BLANKET POSITION BOND. The City Council shall provide for a blanket position bond to cover all officers and employees of the City, but the City Council may provide by resolution for a

surety bond for any other officer or employee that the City Council deems necessary. The City shall pay the premium on any official bond.

(Code of Iowa, Sec. 64.13)

2-2-8 BONDS FILED. All bonds when duly executed shall be filed with the Clerk, except that the Clerk's bond shall be filed with the Mayor.

(Code of Iowa, Sec. 64.23)

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 3 POWERS AND DUTIES OF  
MUNICIPAL OFFICERS**

2-3-1	General Duties	2-3-7	Powers and Duties of the City Attorney
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2-3-3	Deposits of Municipal Funds	2-3-9	Powers and Duties of the Fire Chief
2-3-4	Transfer of Records and Property to Successor	2-3-10	Powers and Duties of the Health Officer
2-3-5	Powers and Duties of the Mayor		
2-3-6	Powers and Duties of the Clerk-Treasurer		

2-3-1 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and ordinance, or as otherwise directed by the council unless contrary to state law or city charter.

(Code of Iowa, Sec. 372.13(4))

2-3-2 BOOKS AND RECORDS. All books and records required to be kept by law or Ordinance shall be open to inspection by the public upon request.

(Code of Iowa, Sec. 22.1, 22.2 and 22.7)

2-3-3 DEPOSITS OF MUNICIPAL FUNDS. Prior to the fifth day of each month, each office or department shall deposit all funds collected on behalf of the municipality during the preceding month. The officer responsible for the deposit of funds shall take such funds to the City Clerk, together with receipts indicating the sources of the funds.

2-3-4 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to the official's successor in office all books, papers, records, documents and property, together with an invoice of the same, in the official's custody and appertaining to the official's office.

2-3-5 POWERS AND DUTIES OF THE MAYOR. The duties of the Mayor shall be as follows:

1. The Mayor shall supervise all departments of the city and give direction to department heads concerning the functions of the departments. The Mayor shall have the power to examine all functions of the municipal departments, their records, and to call for special reports from department heads at any time.

(Code of Iowa, Sec. 372.14(1))

2. The Mayor shall act as presiding officer at all regular and special council meetings. The Mayor pro tem shall serve in this capacity in the Mayor's absence.

(Code of Iowa, Sec. 372.14(1) and (3))



3. The Mayor may sign, veto, or take no action on an Ordinance, amendment or resolution passed by the council. If the Mayor vetoes a measure, the Mayor must explain in writing the reason for such veto to the council, if said action is taken within thirty days of the veto. If the Mayor takes no action on the measure, a resolution becomes effective fourteen (14) days after the date of passage and an ordinance or amendment becomes law when published, but not sooner than fourteen (14) days after the day of passage, unless a subsequent effective date is provided within the measure. The council may repass a measure over the Mayor's veto by a two-thirds majority of the council members, if said action is taken within thirty days of the veto.

4. The Mayor shall represent the city in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the city where this duty is specifically delegated to another officer by law or ordinance.

5. The Mayor shall, whenever authorized by the council, sign all contracts on behalf of the city.

6. The Mayor shall call special meetings of the city council when the Mayor deems such meetings necessary to the interests of the city.

7. The Mayor shall make such oral or written reports to the city council at the first meeting of every month as referred. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for council action.

8. Immediately after taking office the Mayor shall designate one member of the city council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to employ or discharge from employment officers or employees that the Mayor has the power to appoint, employ or discharge. The Mayor pro tempore shall have the right to vote as a member of the council.

(Code of Iowa, Sec. 372.14(3))

9. The Mayor shall, upon order of the city council, secure for the city such specialized and professional services not already available to the city. In executing the order of the city council the Mayor shall conduct said duties in accordance with the city ordinance and the laws of the State of Iowa.

10. The Mayor shall sign all licenses and permits which have been granted by the council, except those designated by law or ordinance to be issued by another municipal officer.

11. Upon authorization of the council, the Mayor shall revoke permits or licenses granted by the council when their terms, the ordinances of the city, or the laws of the State of Iowa are violated by holders of said permits or licenses.

12. The Mayor shall order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. This order shall be in writing. The order to remove said nuisances shall be carried out by the County Sheriff.

2-3-6 POWERS AND DUTIES OF THE CLERK-TREASURER. The duties of the clerk shall be as follows:

1. The clerk shall attend all regular and special council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each city fund. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

(Code of Iowa, Sec. 372.13(4) and (6))

2. The clerk shall record each measure taken by the council, stating where applicable whether the mayor signed, vetoed, or took no action on the measure and what action the council made upon the mayor's veto.

(Code of Iowa, Sec. 380.7(1))

3. The clerk shall cause to be published either the entire text or a summary of all Ordinances and amendments enacted by the City. "Summary" shall mean a narrative description of the terms and conditions of an Ordinance setting forth the main points of the Ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the Ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the Ordinance. The description shall include the title of the Ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the Ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the Ordinance may be inspected, when the Ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in Ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the Ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

The Clerk shall authenticate all such measures except motions with said Clerk's signature, certifying the time and place of publication when required.

(Code of Iowa, Sec. 380.7(1) and (2))

4. The clerk shall maintain copies of all effective city ordinances and codes for public use.

(Code of Iowa, Sec. 380.7(4))

5. The clerk shall publish notice of public hearings, elections and other official actions as required by state and city law.

(Code of Iowa, Sec. 362.3)

6. The clerk shall certify all measures establishing any zoning district, building lines, or fire limits, and a plat showing each district, lines or limits to the recorder of the county containing the affected parts of the city.

(Code of Iowa, Sec. 380.11)

7. The clerk shall be the chief accounting officer of the city.

8. The clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the city. Each account shall be kept in the manner required by law.

(Code of Iowa, Sec. 384.20)

9. Following council adoption for the budget, the clerk shall certify the necessary tax levy for the following year to the county Auditor and the county Board of Supervisors.

(Code of Iowa, Sec. 384.16(5))

10. The clerk shall report to the council at the first meeting of each month the status of each municipal account as of the end of the previous month.

11. The clerk shall balance all funds with the bank statement at the end of each month.

12. The clerk shall prepare the Annual Financial Report, publish it, and send a certified copy to the state Auditor and other state officers as required by law.

(Code of Iowa Sec.384.22)

13. The clerk shall maintain all city records as required by law.

(Code of Iowa, Sec. 372.13(3) and (5))

14. The clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or ordinance.

(Code of Iowa, Sec. 372.13(4))

15. The clerk shall file and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto.

16. The clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the clerk's control when it may be necessary to such officer in the discharge of the clerk's duty. The clerk shall furnish a copy to any citizen when requested upon payment of the fee set by council resolution. The clerk shall, under the direction of the mayor or other authorized officer, affix the seal of the corporation to those public documents or instruments which by ordinance are required to be attested by the affixing of the seal.

(Code of Iowa, Sec. 380.7(4), Sec. 22.2 and 22.7)

17. The clerk shall attend all meetings of committees, boards and commissions of the city. The clerk shall record and preserve a correct record of the proceedings of such meetings.

(Code of Iowa, Sec. 372.13(4))

18. The clerk shall keep and file all communications and petitions directed to the city council or to the city generally. The clerk shall endorse thereon the action of the city council taken upon matters considered in such communications and petitions.

(Code of Iowa, Sec. 372.13(4))

19. The clerk shall issue all licenses and permits approved by the council, and keep a record of licenses and permits issued which shall show a date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

(Code of Iowa, Sec. 372.13(4))

20. The clerk shall inform all persons appointed by the mayor or city council to officers in the municipal government of their position and the time at which they shall assume the duties of their office.

(Code of Iowa, Sec. 372.13(4))

21. The clerk shall compile and preserve a complete record of every city election, regular or special and perform duties required by law or ordinance of the city clerk in regard to elections.

(Code of Iowa, Sec. 376.4)

22. The clerk shall draw all warrants/checks for the city upon the vote of the council.

(Code of Iowa, Sec. 372.13(4))

23. The clerk shall show on every warrant/check the fund on which it is drawn and the claim to be paid.

(Code of Iowa, Sec. 372.13(4))

24. The clerk shall keep a warrant/check record in a form approved by the council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.

(Code of Iowa, Sec. 372.13(4))

25. The clerk shall bill and collect all charges, rents or fees due the city for utility and other services, and give a receipt therefore.

(Code of Iowa, Sec. 372.13(4))

26. Annually, the clerk shall prepare and submit to the council an itemized budget of revenues and expenditures.

(Code of Iowa, Sec. 384.16)

27. The Clerk shall keep the record of each fund separate.

(Code of Iowa, Sec. 372.13(4) and 384.85)

28. The Clerk shall keep an accurate record for all money or securities received by the Clerk on behalf of the municipality and specify date, from whom, and for what purposes received.

(Code of Iowa, Sec. 372.13(4))

29. The Clerk shall prepare a numbered receipt in duplicate for all funds received. The Clerk shall give the original to the party delivering the funds, and retain the duplicate.

(Code of Iowa, Sec. 372.13(4))

30. The Clerk shall keep a separate account of all money received by the Clerk for special assessments.

(Code of Iowa, Sec. 372.13(4))

31. The Clerk shall, immediately upon receipt of monies to be held in the Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.

(Code of Iowa, Sec. 372.13(4))

2-3-7 POWERS AND DUTIES OF THE CITY ATTORNEY. The duties of the city attorney shall be as follows:

(Code of Iowa, Sec. 372.13(4))

1. If requested, the city attorney shall attend every regular meeting of the city council and attend those special meetings of the city council at which the city attorney is required to be present.

2. The city attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the city.

3. The city attorney shall keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defined by the city attorney accompanied by all proceedings relating to said actions.

4. The city attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the city council, the mayor, members of the city council individually, municipal boards or the head of any municipal department.

5. The city attorney shall prepare those ordinances when the city council may desire and direct to be prepared and report to the council upon all ordinances before their final passage by the city council and publication.

6. The city attorney shall act as attorney for the city in all matters affecting the city's interest and appear on behalf of the city before any court, tribunal, commission or board. The city attorney shall prosecute or defend all actions and proceedings when so requested by the mayor or city council.

7. The city attorney shall, if directed by the council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

8. The city attorney shall sign the name of the city to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the city shall be bound upon the same.

9. The city attorney shall make a written report to the city council and interested department heads of the defects in all contracts, documents, authorized power of any city officer, and ordinances submitted to said City Attorney or coming under said City Attorney's notice.

10. The city attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the city before they become binding upon the city or are published.

2-3-8 POWERS AND DUTIES OF THE MAINTENANCE SUPERVISOR. The duties of the maintenance supervisor shall be as follows:

(Code of Iowa, Sec. 372.13(4))

1. The maintenance supervisor shall supervise the installation of all storm sewers in the city in accordance with the regulations established by the council pertaining to the installation of storm sewers.

2. The maintenance supervisor shall supervise maintenance and repair of sidewalks, alleys, bridges and streets and keep them in a reasonably safe condition for travelers. The maintenance supervisor shall immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass or overpass, and is charged with the duty of correcting unsafe defects.

3. The maintenance supervisor shall, whenever snow or ice imperil travel upon streets and alleys, be in charge of removing said snow and ice from the streets and alleys in the city and shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the city safe.

4. The maintenance supervisor shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the city council. The maintenance supervisor shall make monthly oral and written reports of the activities to the mayor on or before the first day of each month.

5. The maintenance supervisor shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

6. The maintenance supervisor shall read water meters monthly and report findings to the city clerk for billing.

2-3-9 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the fire chief shall be as follows:

(Code of Iowa, Sec. 372.13(4))

1. The fire chief shall be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the fire chief.
2. The fire chief shall enforce all rules and regulations established by the council for the conduct of the affairs of the fire department.
3. The fire chief shall exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.
4. The fire chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.
5. The fire chief shall make monthly written reports on or before the fifth day of each month to the mayor and city council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the mayor or the city council. The fire chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the mayor. The annual report shall also contain recommendations for the improvement of the department.
6. The fire chief shall enforce all ordinances and, where enabled, state laws regulating the following:
  - a. Fire prevention.
  - b. Maintenance and use of fire escapes.
  - c. The investigation of the cause, origin and circumstances of fires.
  - d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
  - e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.
7. The fire chief shall have the right of entry into any building or premises within the fire chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The fire chief

shall there conduct such investigation or inspection that the fire chief considers necessary in light of state law, regulations or ordinance.

8. The fire chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.

9. The fire chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the marshal's duties by investigating, preventing and reporting data pertaining to fires.

2-3-10 POWERS AND DUTIES OF THE HEALTH OFFICER. The duties of the city health officer and physician shall be as follows:

1. Be the medical and sanitary advisor to the council.
2. Upon order of the city attorney, physical examinations of any person claiming to have received injuries for which the city may be liable. Upon order of the appointing authority, make physical examinations of employees or prospective employees of the city.
3. Inspect premises upon complaints received, upon request of proper officers, the mayor, or council, or upon his own initiative and at times required by ordinance or law for compliance with health provisions for correction of violations established by law or ordinance.



## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 4 CITY COUNCIL

2-4-1 Powers and Duties  
2-4-2 Exercise of Power

2-4-3 Meetings

2-4-1 POWER AND DUTIES. The powers and duties of the City Council include, but are not limited to the following:

1. General. All powers of the City are vested in the City Council except as otherwise provided by law or Ordinance.

(Code of Iowa, Sec. 364.2(1))

2. Fiscal Authority. The City Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed.

(Code of Iowa, Sec. 364.2(1))

3. Public Improvements. The City Council shall make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings.

(Code of Iowa, Sec. 364.2(1))

4. Contracts. The City Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the City Council, or reduced to writing and approved by the City Council, or expressly authorized by ordinance or resolution adopted by the City Council.

(Code of Iowa, Sec. 3647.2(1) & 384.95-384.102)

5. Employees. The City Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by the State law or the Code of Ordinances.

(Code of Iowa, Sec. 372.13(4))

6. Setting Compensation for Elected Officers. By ordinance, the City Council shall prescribe the compensation of the Mayor, City Council members and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the City Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of City Council members becomes effective for all City Council members at the beginning of the term of the City Council members elected at the election next following the change in compensation.

(Code of Iowa, Sec. 372.13(8))

2-4-2 EXERCISE OF POWER. The City Council shall exercise a power only by the passage of a motion, resolution, amendment or an ordinance in the following manner:

(Code of Iowa, Sec. 364.3(1))

1. Approved Action by the City Council. Passage of an ordinance, amendment or resolution requires an affirmative vote of not less than a majority of the City Council members. A motion to spend public funds in excess of ten thousand dollars (\$10,000) on any one project, or a motion to accept public improvements and facilities upon their completion also requires an affirmative vote of not less than a majority of the City Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

(Code of Iowa, Sec. 380.4)

2. Overriding Mayor's Veto. Within thirty (30) days after the Mayor's veto, the City Council may repass the ordinance or resolution by a vote of not less than two-thirds of the City Council members, and the ordinance or resolution becomes effective upon repassage and publication.

(Code of Iowa, Sec. 380.6(2))

3. Measures Become Effective. Measures passed by the City Council, other than motions, become effective in one of the following ways:

a. If the Mayor signs the measure, a resolution becomes effective immediately upon signing and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

b. If the Mayor vetoes a measure and the City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when published unless a subsequent effective date is provided with the measure.

c. If the Mayor takes no action on the measure, a resolution becomes effective fourteen (14) days after the date of passage and an ordinance or amendment becomes law when published, but not sooner than fourteen (14) days after the day or passage, unless a subsequent effective date is provided within the measure.

(Code of Iowa, Sec. 380.6(3))

2-4-3 MEETINGS. Procedures stated in accordance with Iowa Code, Section 21.4 for giving notice of meetings of the City Council shall be enforced. Additional particulars relating to City Council meetings are the following:

1. Regular Meetings. The regular meetings of the City Council are on the 2<sup>nd</sup> Wednesday of each month at seven o'clock (7:00) P.M. in the City Council Chambers at City Hall. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the City Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City Clerk.

Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the City Council. A record of the service of notice shall be maintained by the City Clerk.

(Code of Iowa, Sec. 372.13(5))

3. Quorum. A majority of all City Council members is a quorum.

(Code of Iowa, Sec. 372.13(1))

4. Rules of Procedure. The City Council shall determine its own rules and maintain records of its proceedings.

(Code of Iowa, Sec. 372.13(5))

5. Compelling Attendance. Any three (3) members of the City Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 5 SALARIES OF MUNICIPAL OFFICERS**

- 2-5-1 Council Member  
2-5-2 Mayor
- 2-5-3 Other Officers

2-5-1 COUNCIL MEMBER. The salaries of each council member shall be \$10.00 per meeting.  
(Code of Iowa, Sec. 372.13(8))

2-5-2 MAYOR. The mayor shall receive an annual salary of \$300.00.  
(Code of Iowa, Sec. 372.13(8))

2-5-3 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of council.  
(Code of Iowa, Sec. 372.13(4))

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 6 CITY FINANCE**

2-6-1	Budget Adoption	2-6-8	Budget Officer
2-6-2	Budget Amendment	2-6-9	Expenditures
2-6-3	Budget Protest	2-6-10	Authorizations to Expend
2-6-4	Accounts and Programs	2-6-11	Accounting
2-6-5	Annual Report	2-6-12	Budget Accounts
2-6-6	Council Transfers	2-6-13	Contingency Accounts
2-6-7	Administrative Transfers		

2-6-1 BUDGET ADOPTION. Annually, the city shall prepare and adopt a budget, and shall certify taxes as follows:

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the state city finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:

- a. Expenditures for each program.
- b. Income from sources other than property taxation.
- c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

The budget shall show comparisons between the estimated expenditures in each program in the following year and the actual expenditures in each program during the two preceding years. Wherever practicable, as provided in rules of the state city finance committee, a budget shall show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

2. Not less than ten nor more than twenty days before the date that the budget must be certified to the county auditor, the clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the mayor and clerk and at the city library, if any, or at three places designated by ordinance for posting notices.

3. The council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the county auditor.

4. At the hearing, any resident or taxpayer of the city may present to the council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

5. After the hearing, the council shall adopt a budget for at least the following fiscal year, and the clerk shall certify the necessary tax levy for the following year to the county auditor and the county board of supervisors. The tax levy certified may be less than but not more than the amount estimated in the proposed budget, unless an additional tax levy is approved at a city election. Two copies of the complete budget as adopted shall be transmitted to the county auditor.

2-6-2 BUDGET AMENDMENT. The city budget as finally adopted for the following fiscal year becomes effective July first and constitutes the city appropriation for each program and purpose specified therein until amended. The city budget for the current fiscal year may be amended for any of the following purposes:

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.

2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.

3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by state law, to any other city fund, unless specifically prohibited by state law.

4. To permit transfers between programs within the general fund.

The budget amendment shall be prepared and adopted in the same manner as the original budget, and is subject to protest as provided in section 2-6-3 of this chapter, except that the committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

2-6-3 BUDGET PROTEST. Within a period of ten days after the final date that the budget or amended budget may be certified to the county auditor, persons affected by the budget may file a written protest with the county auditor, specifying their objection to the budget or any part of it. A protest must be signed by qualified voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the city, but not less than ten persons, and the number need not be more than one hundred persons.

(Code of Iowa, Sec. 384.19)

2-6-4 ACCOUNTS AND PROGRAMS. The city shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the state city finance committee.

The city shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any city purpose, by any city officer, employee, or other person, and which show the receipt, use, and disposition of all city property. Public monies may not be expended or encumbered except under an annual or continuing appropriation.

(Code of Iowa, Sec. 384.20)

2-6-5 ANNUAL REPORT. Not later than December first of each year, the city shall publish an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the city, and all expenditures, the current public debt of the city, and the legal debt limit of the city for the current fiscal year. A copy of this report shall be furnished to the auditor of state.

(Code of Iowa, Sec. 384.22)

2-6-6 COUNCIL TRANSFERS. When the city clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the city clerk shall inform the council or if the council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the mayor, as provided by law for resolutions, the city clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the council. Thereupon the clerk-treasurer shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the city, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(IAC, Sec. 545.2.4(384,388))

2-6-7 ADMINISTRATIVE TRANSFERS. The city clerk shall have power to make transfers within a single activity between objects of expenditures within activities without prior council approval.

The city clerk shall have the power to make transfers between activities, or between sub-programs without prior council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out council directives or to maintain a necessary service and provide the required appropriation balance. Such transfers shall not exceed 10% at any one time of the activity's annual appropriation which is increased or decreased. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent greater or ten percent less than the original appropriation, it shall be presented to the council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by council.

(IAC, Sec. 545.2.4(384,388))

2-6-8 BUDGET OFFICER. The city clerk shall be the city budget officer and is responsible for preparing the budget data in cooperation with the council or mayor. The city clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to council control and the limitations set out in this ordinance.

(Code of Iowa, Sec. 372.13(4))

2-6-9 EXPENDITURES. No expenditure shall be authorized by any city officer or employee except as herein provided. All purchases of services, supplies and equipment shall be made only

after issuance of a purchase order and no invoice shall be accepted unless authorized by such an order. Purchases not exceeding two hundred fifty dollars (\$250.00) may be made by those officials authorized by the council but only on issuance of a spot purchase order in writing signed by the authorized officer. A copy of such spot purchase order must be delivered to the clerk within twenty-four (24) hours, weekends, and holidays excepted. All other purchases shall be valid only if a purchase order has been given in writing and signed by the clerk. Purchases from petty cash shall be excepted.

2-6-10 AUTHORIZATIONS TO EXPEND. All purchase orders other than those excepted herein shall be authorized by the city budget officer after determining whether the purchase, if a major item, has been authorized by the budget or other council approval. The clerk shall then determine whether a purchase order may be issued by checking the availability of an appropriation sufficient to pay for such a purchase. A purchase order may be issued only if there is an appropriation sufficient for the purchase and for other anticipated or budgeted purposes. If no adequate appropriation is available for the expenditure contemplated the clerk shall not issue a purchase order until a budget amendment to transfer of appropriation is made in accordance with power delegated by council and within the limits set by law and the council. The clerk shall draw a warrant/check only upon an invoice received, or progress billing for a public improvement, supported by a purchase order and a signed receipt or other certification indicating the material have been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced.

2-6-11 ACCOUNTING. The clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the city clerk and mayor.

(Code of Iowa, Sec. 384.20)

2-6-12 BUDGET ACCOUNTS. The clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by council. Each individual account shall be maintained within its proper fund as required by council order or state law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

(Code of Iowa, Sec. 384.20)

2-6-13 CONTINGENCY ACCOUNTS. Whenever the council shall have budgeted for a contingency account the clerk shall set up in the accounting records but the clerk shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency. All administrative transfers shall be reported in writing at the next regular meeting of the council after being made and the fact set out in the minutes for the information of the mayor and council.



## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 7 CITY PERSONNEL

2-7-1 Purpose	2-7-13 Emergency Leave
2-7-2 Classification Plan	2-7-14 Leave Due to Injury
2-7-3 Pay Plan	2-7-15 Holiday Leave
2-7-4 Right to Appeal	2-7-16 Military Leave
2-7-5 Medical Examinations Required	2-7-17 Leave for Jury Duty
2-7-6 Hours of Work	2-7-18 Outside Employment
2-7-7 Overtime	2-7-19 Allowances
2-7-8 Pay Periods	2-7-20 Political Activity Prohibited
2-7-9 Insurance	2-7-21 Veterans Preference
2-7-10 Vacation Leave	2-7-22 Removal
2-7-11 Termination Pay	2-7-23 Appeal
2-7-12 Sick Leave	2-7-24 Rules and Regulations

2-7-1 PURPOSE. The purpose of this ordinance is to provide for the creation of a classification and pay plan for appointed officials and employees of the municipality; and to regulate the appointment, removal, hours of work, holidays, leaves, retirement and other matters of personnel administration for the city.

2-7-2 CLASSIFICATION PLAN. The mayor with council approval, shall, from time to time, conduct a study of the several positions within the city's service, using accepted procedures of evaluating the jobs of the employees within the service by questionnaires, interviews and audits so as to classify those positions in a ranking so as to treat similar duties and responsibilities alike as to title, qualifications, tests of competence and salary scale. Once classes of positions have been established, written specifications shall be kept on file describing said positions, their requirements and qualifications for appointees. The council may make a study at any time for such positions which have appeared to have changed requirements in duties or qualifications. This plan shall be used as the basis for pay, hiring, removing, transferring, promoting or otherwise dealing with employees.

2-7-3 PAY PLAN. The mayor shall direct the council to develop a pay plan based upon the classification plan, following accepted procedures of determining class worth to insure internal consistency and by survey of local and other markets influencing pay rates. The range of pay for each class shall fairly reflect the differences in duties and responsibilities among all classes and shall be related to compensation paid comparable positions by private and other public employers in the market area when budgeting allows.

2-7-4 RIGHT TO APPEAL. Employees shall have a chance to appeal in writing any classification or pay proposal, first to the mayor, with the right to appeal to the council in the same manner.

2-7-5 MEDICAL EXAMINATIONS REQUIRED. All applicants for permanent employment may be given a medical examination by the city physician, or a physician designated by the city,

at city expense, and a report thereof shall be made as to suitability for employment in the position to be filled. Such medical examination report and subsequent reports made during the person's term of employment shall be kept in a permanent file for each employee. All applicants for permanent employment are required to complete a drug test upon application. Random drug tests will be completed from there after.

2-7-6 HOURS OF WORK. The hours of work for officers and employees in each class and position of the city service shall be set by resolution of the council.

2-7-7 OVERTIME. Overtime, in emergencies or as required to complete work under special circumstances, shall be paid for at least 1.5 times the regular hourly rate for all hours worked over 40 hours in a work week.

2-7-8 PAY PERIODS. All officers and employees shall be paid as follows: Maintenance supervisor, weekly; City Clerk, weekly; Mayor, semi-annually; and City Council, semi-annually.

2-7-9 ISURANCE. Insurance for the full-time maintenance employee will be decided upon by the council by resolution after a six month probationary period.

2-7-10 VACATION LEAVE. Regular employees shall upon completion of one year's employment receive one week's vacation based upon the work week established by Section 2-7-6 hereof. Regular employees who have worked two (2) full years shall receive two full weeks of vacation at the end of each year worked subsequent to the first year of employment. Vacation leave, as contemplated by this section, shall be with full pay. No employees shall work for pay in lieu of taking vacation leave. At the option of the employee, with approval of the mayor or department head, vacation leave may be taken in one, two or three day portions. Only one-half of the vacation leave earned shall be taken in this manner.

2-7-11 TERMINATION PAY. Regular employees who voluntarily resign shall give 2 weeks notice and any employee who shall comply with this requirement shall be given pay to the date of termination plus earned vacation to that date. Failure of the employee to give the required length of notice will forfeit the right to any earned vacation pay.

2-7-11 SICK LEAVE. Sick leave is granted for the illness of the employee for a maximum of five (5) days per year. For any illness exceeding three (3) days, the city may require that the employee consult a physician.

2-7-12 EMERGENCY LEAVE. Regular employees shall receive up to three (3) days paid leave for emergencies due to illness or death in the immediate family, or, upon approval of the mayor for like circumstances involving a person for whom the employee is primarily responsible. Leave for emergencies for periods of longer than three (3) days may be granted by the council in special circumstances.

2-7-13 LEAVE DUE TO INJURY. Leaves due to injury will be granted for the time workers' compensation is paid and for the period preceding the commencement of said compensation.

2-7-14 HOLIDAY LEAVE. All officers, assistants and employees shall be granted leave of absence with pay on the following eight (8) designated holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and Christmas. When any of the named holidays fall on Sunday the leave shall be granted on the Monday following; and if any of the named holidays fall on Saturday, the leave shall be granted on the preceding Friday or given as an extra day of leave at the time of vacation leave as the mayor shall determine to be for the best interests of the city in the light of work needed to be done and the requirements for service.

2-7-15 MILITARY LEAVE. Leaves of absence for training in the National Guard or armed services shall be granted in accordance with state statutes and subsidiary rules approved by the council.

2-7-16 LEAVES FOR JURY DUTY. Leaves for jury duty shall be granted in accordance with rules approved by the council.

2-7-17 OUTSIDE EMPLOYMENT. No full-time employee shall engage in outside employment which would tend to impair his efficiency, reduce his effectiveness or tend to create a conflict of interest unless specifically exempted by state law. Any employee desiring to do any other work shall request approval from the mayor before engaging in the proposed outside employment. Any changes in the circumstances as the length of time, the time of employment or purpose of the job shall require new approval. Appeal from the mayor's ruling may be taken to the council.

2-7-18 ALLOWANCES. All regular employees shall be eligible for reimbursement for such additional expenses required by their employment in the form of allowances for uniforms, payment on group insurance and allowance for use of private automobile on city business as the council shall by resolution provide in addition not the amount set forth on a set pay rate, and such allowances and contributions shall be considered in setting the proper levels of pay for similar work.

Any employee who leaves the city's service shall turn over all items identifiable as official uniforms, including insignia, before receiving final compensation.

2-7-19 POLITICAL ACTIVITY PROHIBITED. No city employee shall hold any political office or any office in a political party nor solicit for party purposes. The council may by rule exempt part-time employees for the purpose of serving as election officials at the polls. No city employee shall work for any non-party political organization involving city elections at any time.

2-7-20 VETERANS PREFERENCE. In making appointments, officers shall give preference to honorably discharged members of the armed services and merchant marine of the United States who served in any period of war if the qualifications and character of said veteran is substantially equal to the other fully qualified applicants.

2-7-21 REMOVAL. The council, officer or supervisor who appoints an employee shall have the power to dismiss such employee. Removal from his position shall be made only where the good of the city's service requires that it be done, said causes shall be substantial and important and relate directly to the disqualification of the person or to his failure in the performance of his duties so that

he has become an unsatisfactory person to hold the position. The following shall be grounds for removal: physical or mental unfitness; conviction in a court of competent jurisdiction of a felony or any crime or offense involving turpitude, fraud, vicious conduct or dishonest and notoriously immoral or disgraceful conduct; incurring or contracting debts, liabilities or obligations which the employee is unable or unwilling to pay, or neglect or refusal to discharge and pay within a reasonable time; provided that if the employee denies that obligation, the city may require that the creditor shall obtain a judgment before the city may remove the employee; use of drugs or intoxicating beverages to excess; failure to report for duty upon terminating of suspension or leave of absence and malfeasance, misfeasance or non-feasance in the performance of duty. Insubordination and disagreeable personality destructive to the efficiency of public service may be grounds for dismissal.

2-7-22 APPEAL. Any employee dismissed by an official or supervisor may appeal to the council for a hearing on the cause for dismissal. The council's decision shall be final.

2-7-23 RULES AND REGULATIONS. Rules and regulations giving interpretations and further details for the conduct and operation of employment in the city's service may be adopted by council resolution from time to time.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 8 CITY ELECTIONS

2-8-1 Purpose	2-8-6 Filing, Presumption, Withdrawals, Objections
2-8-2 Nominating Method to be Used	2-8-7 Persons Elected
2-8-3 Nominations by Petition	2-8-8 Primary and Runoff Abolished
2-8-4 Adding Name by Petition	
2-8-5 Preparation of Petition	

2-8-1 PURPOSE. The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

2-8-2 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

2-8-3 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.

2-8-4 ADDING NAME BY PETITION. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.

2-8-5 PREPARATION OF PETITION. Each eligible elector shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition may not sign it. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

1. Name and Residence. The name and residence (including street and number, if any) of said nominee, and the office to which nominated.

2. Name on Ballot. A request that the name of the nominee be printed upon the official ballot for the election.

3. Eligibility. A statement that the nominee is eligible to be a candidate for the office and if elected will qualify as such officer.

4. Organization Statement. A statement, in the form required by Iowa law, concerning the organization of the candidate's committee.

Such petition when so verified shall be known as a nomination paper.

2-8-6 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal

sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.

2-8-7 PERSONS ELECTED. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

2-8-8 PRIMARY AND RUNOFF ABOLISHED. The Council has adopted Chapters 44 and 45 of the Code of Iowa for conducting elections and in accordance with Section 376.6(2), Code of Iowa, no primary or runoff election will be conducted for City offices.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 9 POSTING

- 2-9-1 Purpose  
2-9-2 Listing; Length of Notice
- 2-9-3 Removal Unlawful

2-9-1 PURPOSE. The City of Lewis, Iowa has no newspaper published within the corporate limits of the City, and publications of notice of elections, Ordinances and amendments may be made by posting in three public places as follows:

(Code of Iowa, Sec. 362.3(2))

1. The window of the Lewis City Hall, 416 Main Street.
2. The window of the Lewis Community Library, 506 Main Street.
3. The bulletin board in the Lewis Post Office lobby, 501 Main Street.

2-9-2 LISTING, LENGTH OF NOTICE. The three public places where public notice of Ordinances and other matters permitted to be posted are to be displayed are: The City Clerk is hereby directed to promptly post notices of elections, Ordinances, and amendments, and to leave them so posted for not less than ten days after the first date of posting, and the City Clerk shall note the first date of such posting on the official copy of the Ordinance and in the official Ordinance book immediately following the Ordinance.

(Code of Iowa, Sec. 380.7)

2-9-3 REMOVAL UNLAWFUL. It shall be unlawful for any person other than the city clerk to remove any public notice. Any unlawful removal of a public notice or posting shall not affect the validity of the Ordinance or action taken.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 10 LOCAL OPTION SALES AND SERVICE TAX**

2-10-1 Tax Rate

2-10-2 Revenue Allocation

2-10-1 TAX RATE. A tax rate of one percent (1%) shall be imposed in conformance with Chapter 422B of the Code of Iowa upon local sales and services of the City of Lewis, Iowa.

2-10-2 REVENUE ALLOCATION. The revenues from the local sales and service tax are to be allocated in the City of Lewis, Iowa, as follows:

- 0% Property tax relief
- 60% Water Department (i.e. water services, sewer services, treatment plant, city services)
- 20% Streets
- 14% Community Protection (i.e. Fire Department, 1<sup>st</sup> Responders)
- 6% Community Betterment (i.e. Library, Parks)



## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

3-1-1	Violations of Chapter	3-1-4	Streets
3-1-2	Public Peace	3-1-5	Public Safety and Health
3-1-3	Public Morals	3-1-6	Public Property

3-1-1 VIOLATIONS OF CHAPTER. Commission of any of the acts named in the following sections by any person shall constitute a violation of this chapter.

3-1-2 PUBLIC PEACE. It shall be unlawful for any person to do any of the following:

1. Engage in fighting or violent behavior or invite or defy another person to fight, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

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

2. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

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

3. Willfully permit upon any premises owned, occupied, possessed or controlled by such person any unusually loud or excessive noise in such a manner calculated to provoke a breach of the peace of others, or the public quiet of the neighborhood.

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

4. Direct abusive language or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

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

5. Without lawful authority or order of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

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

6. Without authority, obstruct any street, sidewalk, highway or other public way.

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

7. Without authority, solicit contributions, distribute literature, or otherwise peddle or sell goods and services within the traveled portion of any roadway.

(Code of Iowa, Sec. 364.12(2)(a))

3-1-3 PUBLIC MORALS. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to another or to urinate or defecate in the presence of or in view of another, if the person knows or reasonably should know that such behavior would be offensive to a reasonable person.

#### 3-1-4 STREETS

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

2. Obstructing or defacing streets. No person shall obstruct, deface, or injure any public road in any manner by breaking up, plowing or digging within the boundary lines thereof, without permission from the mayor.

(Code of Iowa, Sec. 716.1)

3. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or to fail to remove snow, ice and accumulations from the sidewalks promptly.

(Code of Iowa, Sec. 364.12(2)(b and e))

4. Removal of hydrant caps, sewer caps or manhole covers. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

#### 3-1-5 PUBLIC SAFETY AND HEALTH.

1. Expectoring. No person shall expectorate within any food establishment, restaurant, hotel, motor inn, cocktail lounge or tavern.

(Code of Iowa, Sec. 364.1)

2. Putting glass, etc., on streets and sidewalks. No person shall throw or deposit on any street or sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife unless licensed by the Iowa Department of Public Safety.

4. False alarms. No person shall give or cause to be given any false alarm of a fire, to set fire to any combustible material, or to cry or sound an alarm or by any other means without cause.

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this state; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive.

b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.

c. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.

d. In the interest of public health and safety and at such times as approved by the Chief of Police, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.

e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

7. Possession of Fireworks.

a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation and includes blank cartridges, firecrackers, torpedoes, sky rockets, Roman Candles or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "fireworks" does not include gold star-producing sparklers on wires that contain no magnesium or

chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 inch in diameter, toy snakes that contain no mercury, or caps used in cap pistols.

b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.

c. Prohibition. No person shall possess fireworks except as provided in this Chapter.

8. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an airtight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

(Code of Iowa, Sec. 727.3)

9. Impersonating an officer. No person shall falsely represent themselves or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

a. It shall be unlawful for any person to willfully prevent, resist or obstruct or attempt to prevent, resist or obstruct any City employee from the performance of any official duty.

b. It shall be unlawful for any person to communicate by any means, any threat of bodily or property harm to any City employee or to any member of the employee's family during the course of, or as a result of, the performance of any official duty by said City employee.

11. Antenna and radio wires. No person shall allow antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk or public property.

(Code of Iowa, Sec. 364.12(2))

12. Barb wire and electric fencing. No person shall install, allow to be installed or use barb wire or electric fencing without the consent of the city council.

(Code of Iowa, Sec. 364.1)

13. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the chief of police for such purposes.

(Code of Iowa, Sec. 364.12)

### 3-1-6 PUBLIC PROPERTY

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a public park or on any avenue thereto by willfully defacing, cutting, breaking or injuring, except by the authority of the mayor.

(Code of Iowa, Sec. 364.12(2))

2. Injuring new pavement. No person shall injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.

(Code of Iowa, Sec. 364.12(2))

3. Destroying park equipment. No person shall destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.

(Code of Iowa, Sec. 364.12(2))

4. Injury to public library books or property. No person shall willfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.

5. Defacing or destroying proclamations or notices. No person shall intentionally deface, obliterate, tear down or destroy in whole or in part any transcript or extract from or of any law of the United States or of this State, or any proclamation, advertisement or notification, set up at any place within the city by authority of law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Sec. 716.1)

6. Injury to gravestones or property in cemetery. No person shall willfully and maliciously destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery, or any fences, railing or other work for the protection, ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, Sec. 716.1)

7. Injury to fire apparatus. No person shall willfully destroy or injure any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.

(Code of Iowa, Sec. 716.1)

8. Obstructing or defacing roads. No person shall obstruct, deface or injure any public road by breaking up, plowing or digging within the boundary lines thereof, except by written authorization of the Mayor.

(Code of Iowa, Sec. 716.1)

9. Injury to roads, railways, and other utilities. No person shall maliciously injure, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or maliciously cut, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)

10. Tapping into Utility Transmission Cables. No person shall connect to any transmission cable without first obtaining permission from the owner of the cable

(Code of Iowa, Sec. 727.8)

11. Obstructing ditches and breaking levees. No person shall divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or break down any levee established, constructed, or maintained under any provision of law.

(Code of Iowa, Sec. 716.1)

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 2 NUISANCES**

3-2-1	Definitions	3-2-7	Request for Hearing and Appeal
3-2-2	Nuisances Prohibited	3-2-8	Abatement in Emergency
3-2-3	Other Conditions Regulated	3-2-9	Abatement by Municipality
3-2-4	Notice to Abate Nuisance or Condition	3-2-10	Collection of Cost of Abatement
3-2-5	Contents of Notice to Abate	3-2-11	Installment Payment of Cost of Abatement
3-2-6	Method of Service	3-2-12	Condemnation of Nuisance

3-2-1 DEFINITIONS. For use in this ordinance, the following terms are defined:

1. The term "nuisance" means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:

(Code of Iowa, Sec. 657.1)

a. 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.

(Code of Iowa, Sec. 657.2(1))

b. The causing or suffering any offal, filth, or noisome substance to accumulate or to remain in any place to the prejudice of others.

(Code of Iowa, Sec. 657.2(2))

c. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

(Code of Iowa, Sec. 657.2(3))

d. 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.

(Code of Iowa, Sec. 657.2(4))

e. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

(Code of Iowa, Sec. 657.2(5))

f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of controlled substances or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

(Code of Iowa, Sec. 657.2(6))

g. 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, especially near intersecting streets.

(Code of Iowa, Sec. 657.2(7))

h. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the city.

i. Any object or structure hereafter 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 take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

(Code of Iowa, Sec. 657.2(8))

j. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, within the fire limits of this city, unless it be in a building of fire resistant construction.

(Code of Iowa, Sec. 657.2(9))

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

(Code of Iowa, Sec. 657.2(10))

l. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the city so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way.

(Code of Iowa, Sec. 657.2(11))

m. Trees infected with Dutch elm disease.

(Code of Iowa, Sec. 657.2(12))

n. Effluent from septic tank or drain field running or ponding on the ground in the open.

o. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway, or gutter so as to obstruct the drainage.

(Code of Iowa, Sec. 716.1)

p. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.

(Code of Iowa, Sec. 657.2)



2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Code of Iowa, Sec. 364.1)

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.

(Code of Iowa, Sec. 657.3)

3-2-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this ordinance:

1. 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.

(Code of Iowa, Sec. 364.12(3)(b))

2. The removal, repair, or dismantling of dangerous buildings or structures.

(Code of Iowa, Sec. 364.12(3)(c))

3. The numbering of buildings.

(Code of Iowa, Sec. 364.12(3)(d))

4. The connection to public drainage systems from abutting property when necessary for public health or safety.

(Code of Iowa, Sec. 364.12(3)(e))

5. 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.

(Code of Iowa, Sec. 364.12(3)(f))

6. The cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.

(Code of Iowa, Sec. 364.12(3)(g))

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the mayor or other authorized municipal officer finds that a nuisance or other condition exists which is listed in Section 3-2-3, the mayor or officer 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 reasonable time after notice.

(Code of Iowa, Sec. 364.12(3)(h))

3-2-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

(Code of Iowa, Sec. 364.12(3)(h))

1. A description of what constitutes the nuisance or other condition.

2. The location of the nuisance or condition.

3. A statement of the act or acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.
5. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the city will abate it and assess the costs against such person.

3-2-6 METHOD OF SERVICE. The notice may be served by certified mail or personal service to the property owner as shown by the records of the county auditor.  
(Code of Iowa, Sec. 364.12(3)(h))

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal shall be heard before the city council at a time and place fixed by the council. The findings of the council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

3-2-8 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the city may perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of sections 3-2-4 and 3-2-5 and hearing as provided in section 3-2-7.  
(Code of Iowa, Sec. 364.12(3)(h))

3-2-9 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition 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-treasurer who shall pay such expenses on behalf of the municipality.  
(Code of Iowa, Sec. 364.12(3)(h))

3-2-10 COLLECTION OF COST OF ABATEMENT. The clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the city clerk-treasurer shall certify the costs to the county Treasurer and they shall then be collected with, and in the same manner, as general property taxes.  
(Code of Iowa, Sec. 364.12(3)(h))

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the city may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 3 TRAFFIC CODE

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  - 3-3-2 Definitions
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3-3-1 **SHORT TITLE.** This chapter may be known and cited as the "Traffic Code".

3-3-2 **DEFINITIONS.** Where words and phrases used in this chapter are defined in Chapter 321 of the Code of Iowa, such definitions shall apply to this ordinance.

1. "Park and parking" means the stopping or standing of a vehicle, except for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
2. "Stand or standing" means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.
3. "Stop", when required means complete cessation of movement.
4. "Stop or stopping", when prohibited, means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
5. "Business districts" means: the territory contiguous to and including a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.

6. "Residential districts" means all areas of the city not included in business districts.  
(Code of Iowa, Sec. 321.1)

3-3-3 TRAFFIC ACCIDENT REPORTS. The driver of a vehicle involved in an accident within the limits of this city shall file a report as and when required by the Iowa Department of Transportation.

(Code of Iowa, Sec. 321.266)

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-4 AUTHORITY OF FIRE DEPARTMENT OFFICIALS. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the County Sheriff's department. Peace officers are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the sheriff's department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the peace officers in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

3-3-5 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. Any person who shall willfully fail or refuse to comply with any lawful order of a police officer or direction of a fire department officer during a fire, or who fails to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutes relating to motor vehicles and the law of the road is in violation of this chapter. These sections of the Code are adopted by reference:

1. 321.32, 321.174, 321.189, 321.193, and 321.218 through 321.224 -- display of registration and license to drive.
2. 321.229 through 321.234A -- obedience to a peace officer and responsibility of public officers, emergency vehicles and bicycles to obey traffic regulations.
3. 321.256 through 321.260 -- traffic signs, signals and markings, including right or left turns on red.
4. 321.261 through 321.266 and 321.268 -- accidents and accident reporting.
5. 321.275 -- operation of motorcycles.
6. 321.277, 321.277A, 321.278 and 321.285 321.288, 321.290, 321.294, and 321.295 -- reckless driving, careless driving, drag racing, speed, control of vehicle and minimum speed.
7. 321.297 through 321.299, 321.302 through 321.310 -- driving on right, meeting, overtaking, following or towing.
8. 321.311 through 321.318 --turning and starting, signals on turning and stopping.

9. 321.319 through 321.324 -- right of way and entering through highways, and approaching certain stationery vehicles.

10. 321.325 through 321.334 and 321.340 -- pedestrian rights and duties and safety zones.

11. 321.341 through 321.344 -- railroad crossings.

12. 321.353 through 321.360 -- stop at sidewalks, stopping, standing and parking.

13. 321.362 through 321.371 -- unattended vehicle, obstructing driver's view, crossing median, following fire apparatus, or crossing fire hose, and putting glass, etc. on streets.

14. 321.384 through 321.390, 321.392 through 321.398, 321.402 through 3221.406, 321.408, 321.409, 321.415, 321.418 through 321.423 -- lighting equipment required and time of use. (Under the provisions of Section 321.395, motor vehicles parked where permitted by this ordinance need not have parking lamps lighted if the vehicle is within one hundred sixty (160) feet of a city street light ahead and to the rear of the vehicle and the permitted speed on said street is twenty-five (25) miles per hour or less.)

15. 321.430 through 321.434, 321.436 through 321.446, 321.449 and 321.450 -- brakes, horns, sirens, mufflers, wipers, mirrors, tires, windows, safety belts, and special markings for transporting explosives.

16. 321.452 through 321.463, 321.465 and 321.466 -- size, weight and load.

#### TRAFFIC CONTROL DEVICES

3-3-6 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The city council shall cause to be placed and maintained traffic-control devices when and as required under this chapter or other ordinances of this city to make effective their provisions, and may so cause to be placed and maintained such additional, emergency, or temporary traffic-control devices for the duration of an emergency or temporary condition as traffic conditions may require, to regulate traffic under the traffic ordinances of this city or under state law or to guide or warn traffic.

The city clerk shall keep a record of all traffic-control devices maintained by the City.

All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.

(Code of Iowa, Sec. 321.255 and 321.256)

3-3-7 MAYOR TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The Mayor is hereby authorized:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic code of this city. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

3-3-8 PLAY STREETS. The city council has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

SPEED REGULATIONS

3-3-9 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES. It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by state law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

1. Increased speed limit: None
2. Lower speed limit: None

(Code of Iowa, Sec. 321.290)

TURNING MOVEMENTS

3-3-10 TURNING MARKERS, BUTTONS AND SIGNS. The Mayor may cause markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct, as traffic conditions require, that a different course from that specified by the state law be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons, or signs, including right-hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

3-3-11 AUTHORITY TO PLACE RESTRICTED TURN SIGNS. The city council is authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not



make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

3-3-12 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

3-3-13 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

#### ONE-WAY STREETS AND ALLEYS

3-3-14 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS. Whenever any traffic code of this city designates any one-way street or alley the city council shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

3-3-15 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS. The Mayor is authorized to determine and recommend to the council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The Mayor may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers, or other devices placed in accordance with this section.

#### SPECIAL STOPS REQUIRED

3-3-16 THROUGH HIGHWAYS. Streets or portions of streets described below are declared to be through highways:

(Code of Iowa, Sec. 321.345 and 321.350)

County Highway M56

3-3-17 AUTHORITY TO ERECT STOP SIGNS. Whenever any ordinance of this city designates and describes a through highway it shall be the duty of the Mayor to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

3-3-18 STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS. At the intersections of through highways and at intersections upon streets other

than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Mayor is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendation to the Council, and , upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required.

3-3-19 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic-control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

3-3-20 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.

#### PEDESTRIANS' RIGHTS AND DUTIES

3-3-21 PROHIBITED CROSSING. Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

3-3-22 PEDESTRIANS ON LEFT. Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians at all times when walking on or along a roadway, shall walk on the left side of the roadway.

(Code of Iowa, Sec. 321.326)

#### METHOD OF PARKING

3-3-23 STANDING OR PARKING CLOSE TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

3-3-24 STANDING OR PARKING ON THE LEFT-HAND SIDE OF ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

3-3-25 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The Mayor, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall

mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.

(Code of Iowa, Sec. 321.361)

3-3-26 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by the signs and markings.

#### STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES

3-3-27 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIC PLACES. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic-control device, in any of the following places:

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.

12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.

13. At any place where official signs or curb markings prohibit stopping, standing or parking.

14. Within ten (10) feet of the crosswalk at all intersections within the City.

15. In an alley under any fire escape at any time.

3-3-28 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING. When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the Mayor may cause curbs to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the Mayor, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

(Code of Iowa, Sec. 321.358(10))

3-3-29 AUTHORITY TO IMPOUND VEHICLES. Members of the sheriff's department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the city, under the following circumstances:

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.

3. When any vehicle is left parked upon a street for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.

4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the mayor.

In addition to the penalties hereinafter provided, the owner or driver of any vehicle impounded for violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing charges and storage.

## STOPPING, STANDING OR PARKING

3-3-30 **PARKING SIGNS REQUIRED.** Whenever by this or any other chapter of this city code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the maintenance supervisor to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

3-3-31 **PROHIBITED PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or city-owned off-street parking area during any snow emergency proclaimed by the mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

The ban shall be of uniform application and the city clerk is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the mayor shall proclaim a snow emergency and the city clerk shall inform the news media to publicize the proclamation and the parking rules under the emergency. Such emergency may be extended or shortened when conditions warrant.

(Code of Iowa, Sec. 321.236)

3-3-32 **ALL-NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

3-3-33 **TRUCK PARKING LIMITED.** Trucks weighing five tons or more, loaded or empty, shall not be parked at the following locations:

Streets in all residential districts

## MISCELLANEOUS DRIVING RULES

3-3-34 **VEHICLES NOT TO BE DRIVEN OR PARKED ON SIDEWALKS.** The driver of a vehicle shall not drive upon or within any sidewalk area.

3-3-35 **CLINGING TO VEHICLES.** No person shall drive a motor vehicle on the streets of this city unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

3-3-36 **PARKING FOR CERTAIN PURPOSES PROHIBITED.** No person shall park a vehicle upon the roadway for the principal purpose of:

1. Displaying such vehicle for sale.
2. Displaying advertising.
3. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the ordinances of this city.
4. Storage or as junk or dead storage for more than forty-eight hours.

3-3-37 **DRIVING THROUGH FUNERAL OR OTHER PROCESSION.** No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

3-3-38 **DRIVERS IN A PROCESSION.** Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

3-3-39 **FUNERAL PROCESSIONS TO BE IDENTIFIED.** A funeral procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the police department.

3-3-40 **LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS.** When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the amounts specified on the signs at any time upon any of the following streets or parts of streets:

Residential District Streets

3-3-41 **TRUCK ROUTES.**

1. Every motor vehicle licensed for five tons or more, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading, shall travel over or upon the following streets within the City and none other:

County Highway M56

2. Any motor vehicle licensed for five tons or more, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from the designated route.

3. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

#### BICYCLE REGULATIONS

3-3-42 TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians.

3-3-43 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

3-3-44 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

3-3-45 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-46 EMERGING FROM ALLEY OR DRIVEWAY. The operators of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

3-3-47 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

3-3-48 PARKING. Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

3-3-49 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk within a business district.

When signs are erected on a sidewalk or roadway prohibiting the riding of bicycles on the sidewalk or roadway, no person shall disobey such signs.

Whenever a person is riding a bicycle upon a sidewalk, the person shall yield the right of way to any pedestrian and shall give a timely audible signal before overtaking and passing a pedestrian.

3-3-50 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type that is visible from all distances from fifty **50** feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

#### SNOWMOBILES

3-3-51 SNOWMOBILE DEFINITIONS.

1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.
2. "Operate" means to control the operation of a snowmobile.
3. "Operator" means a person who operates or is in actual control of a snowmobile.

3-3-52 PERMITTED AREAS OF OPERATION. Snowmobiles will be allowed to operate in the City as follows:

The route established herein shall be the only permitted snowmobile route and the snowmobiles shall be operated within the roadways of said public streets and shall also be subject to the following regulations.

3-3-53 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.
2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.



3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.

5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.

6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.

7. No person shall operate a snowmobile in the City from eleven o'clock (11:00) p.m. to ten o'clock (10:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

**3-3-54 EQUIPMENT REQUIRED.** All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.

2. Adequate brakes in good condition and at least one headlight and one taillight.

3. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

**3-3-55 UNATTENDED VEHICLES.** It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

**3-3-56 RESTRICTION OF OPERATION.** The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

**3-3-57 TRAFFIC REGULATION.** Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

PENALTIES AND PROCEDURE ON ARREST

3-3-58 CITATION PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a written parking citation giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear at the place designated in the citation within seven days, or to pay the local scheduled fine established by the section titled "LOCAL PARKING FINES" in this chapter at the City Clerk's office as provided therein.

3-3-59 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-60 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within thirty days of the violation, for the following parking violations:

		Penalty After <u>30 Days</u>
1.	Overtime parking	\$ \$
2.	Prohibited parking	\$ \$
3.	No parking zone	\$ \$
4.	Blocking alley	\$ \$
5.	Illegal parking	\$ \$
6.	Street cleaning	\$ \$
7.	Snow removal ban	\$ \$
8.	Persons with disabilities parking	\$ 100.00 \$

(Code of Iowa, Sec. 321L.4(2))

3-3-61 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

3-3-62 VEHICULAR NOISE.

1. It shall be unlawful for any person to make, continue or cause any disturbing, excessive or offensive noise which results in discomfort or annoyance to any reasonable person of normal

sensitivity by means of radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in a motor vehicle.

2. The operation of any radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in such a manner so as to be audible at a distance of two hundred (200') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

### 3-3-63 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 4 FIRE PROTECTION**

- |                                                           |                                 |
|-----------------------------------------------------------|---------------------------------|
| 3-4-1 Establishment and Purpose                           | 3-4-5 Liability Insurance       |
| 3-4-2 Volunteer Fire Fighters                             | 3-4-6 Fires Outside City Limits |
| 3-4-3 Fire Fighter's Duties                               | 3-4-7 Fire Fighters Association |
| 3-4-4 Worker's Compensation and Hospitalization Insurance |                                 |

3-4-1 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

3-4-2 VOLUNTEER FIRE FIGHTERS. Twenty-five (25) residents of Lewis, Iowa, Fire District over the age of between the ages of nineteen (19) and seventy (70) shall be appointed to serve as a volunteer fire fighter. Prior to appointment as a volunteer fire fighter and every five years thereafter a volunteer fire fighter must pass a medical physical examination.

(Code of Iowa, Sec. 362.10)

3-4-3 FIRE FIGHTER'S DUTIES. When notified by telephone or other means of communication of a fire or other emergency situation, all fire fighters shall report for duty immediately in the manner directed by the Chief. They shall be subject to call at any time. They shall obey strictly the commands of any other fire fighter who has been appointed by the Chief to be in command temporarily. Fire fighters shall report to the Chief in advance if they expect to be absent from the City for twelve (12) hours or more. Fire fighters shall report for training as ordered by the Chief.

(Code of Iowa, Sec. 372.13(4))

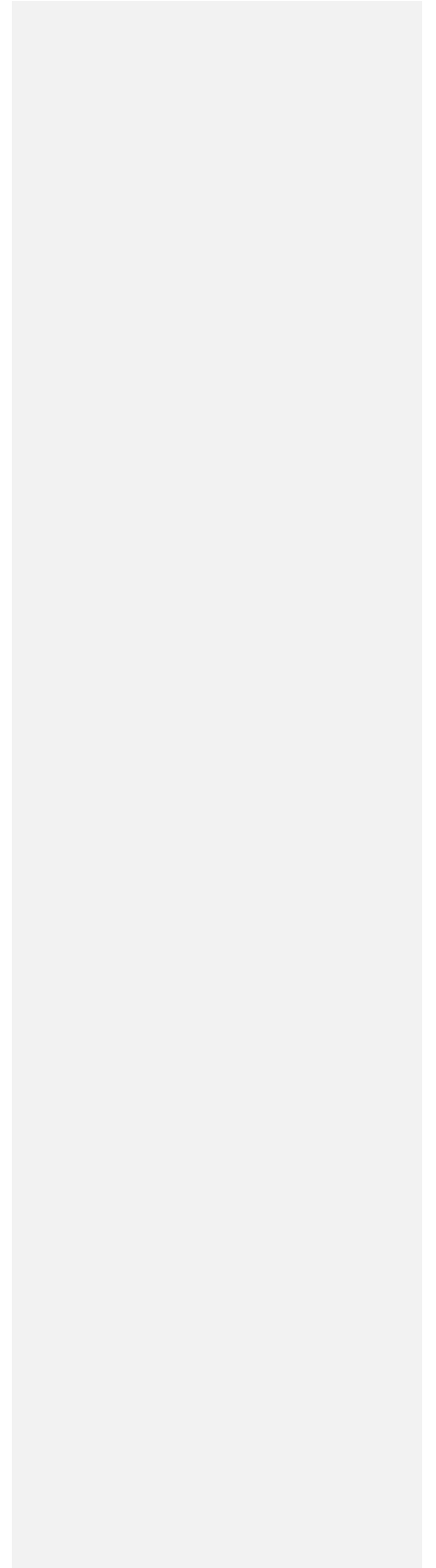
3-4-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

3-4-5 LIABILITY INSURANCE. The City Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties.

3-4-6 FIRES OUTSIDE CITY LIMITS. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

(Code of Iowa, Sec. 364.16)

3-4-7 FIRE FIGHTERS ASSOCIATION. Volunteer fire fighters may form an association to promote the welfare of fire fighters and fighting capabilities and adopt a constitution and bylaws for the association subject to approval by the City Council.



**TITLE III COMMUNITY PROTECTION**

**CHAPTER 5 CURFEW FOR MINORS**

3-5-1 Preamble	3-5-4 Offenses
3-5-2 Findings and Purpose	3-5-5 Defenses
3-5-3 Definitions	3-5-6 Enforcement

3-5-1 PREAMBLE. The City of Lewis recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

3-5-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Lewis; and

Persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

The City of Lewis has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-5-3 DEFINITIONS. In this chapter:

1. Curfew hours means eleven o'clock (11:00) p.m. until six o'clock (6:00) a.m. of the following day, Sunday through Thursday, and twelve o'clock (12:00) midnight until six o'clock (6:00) a.m. of the following day Friday and Saturday.

2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

4. Guardian means:

- a. A person who, under court order, is the guardian of the person of a minor; or
- b. A public or private agency with whom a minor has been placed by a court.

5. Minor means any person under age 17 years of age.

6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

7. Parent means a person who is:

- a. A biological parent, adoptive parent, or step-parent of another person; or
- b. At least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.

8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

9. Remain means to:

- a. Linger or stay; or
- b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

3-5-4 OFFENSES.

1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.

2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

3. The owner, operator, or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

3-5-5 DEFENSES.

1. It is a defense to prosecution under this chapter that the minor was:
  - a. Accompanied by the minor's parent or guardian;
  - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate travel;
  - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - e. Involved in an emergency;
  - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the sheriff's department about the minor's presence;
  - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Lewis, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Lewis, a civic organization, or another similar entity that takes responsibility for the minor;
  - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
  - i. Married or had been married.
2. It is a defense to prosecution under Subsection 3-5-4(3) that the owner, operator, or employee of an establishment promptly notified the sheriff's department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

3-5-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, an enforcement officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-5-5 is present.
2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home.



**TITLE III COMMUNITY PROTECTION**

**CHAPTER 6 REGULATING PEDDLERS, SOLICITORS  
AND TRANSIENT MERCHANTS**

3-6-1 Definitions	3-6-7 Bond Required
3-6-2 Exemptions	3-6-8 Obstruction of Pedestrian or Vehicular Traffic
3-6-3 Permits	3-6-9 Display of Permit
3-6-4 Requirements	3-6-10 Permit Not Transferable
3-6-5 Hours of Solicitation	3-6-11 Revocation of Permit
3-6-6 Consumer Protection Law	

3-6-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. A "peddler" is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

2. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

For the purposes of this chapter, "solicitor" does not include a person who contacts another person at such person's residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3. A "transient merchant" includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant.

The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

3-6-2 EXEMPTIONS. The provisions of this chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising.

3-6-3 PERMITS. Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City

Clerk a permit in accordance with the provisions of sections 3-6-4 and 3-6-5. This permit shall extend no longer than sixty days. A fee of \$5.00 shall be paid at the time of registration to cover the cost of investigation and issuance.

(Code of Iowa, Sec. 9C.2)

3-6-4 REQUIREMENTS. Any applicant engaged in any activity described in 3-6-1 of this chapter must file with the City Clerk an application in writing that gives the following information:

1. Name and social security number.
2. Permanent and local addresses and, in case of transient merchants, the local address from which proposed sales will be made.
3. A brief description of the nature of the sales method.
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale.
5. Length of time for which the permit is desired.
6. A statement as to whether or not the applicant has been convicted of any crime, and if so, the date, the nature of the offense, and the name of the court imposing the penalty.
7. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation.

3-6-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-6-1 except between the hours of 9:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

3-6-6 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

3-6-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall post with the Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

3-6-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-6-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

3-6-9 DISPLAY OF PERMIT. Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the permit provided for in Section 3-6-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

3-6-10 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

3-6-11 REVOCATION OF PERMIT. The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted his or her business in an unlawful manner.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 7 CIGARETTE LICENSE

3-7-1 Definitions	3-7-6 Refunds
3-7-2 Permit Required	3-7-7 Suspension; Revocation; Civil Penalty
3-7-3 Issuance	3-7-8 Permits not Transferable
3-7-4 Expiration	3-7-9 Display
3-7-5 Fees	

3-7-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. "Cigarette" means any roll for smoking made wholly or in part of tobacco or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition shall not be construed to include cigars.

(Code of Iowa, Sec. 453A.1(2))

2. "Retailer" means and includes every person in this State who sells, distributes, or offers for sale for consumption, or possess for the purpose of sale for consumption, cigarettes irrespective of quality or amount or the number of sales.

(Code of Iowa, Sec. 453A.1(19))

3. "Place of business" means and includes any place where cigarettes are sold or where cigarettes are stored, within or without the State of Iowa, by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.

(Code of Iowa, Sec. 453A.1(17))

3-7-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Lewis, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13)

3-7-3 ISSUANCE. The City Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-7-5.

(Code of Iowa, Sec. 453A.13(2)(a))

3-7-4 EXPIRATION. Permits expire on June 30 of each year.

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

3-7-5 FEES. The fee for permits issued or renewed in July, August, or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.

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

3-7-6 REFUNDS. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December, for \$37.50; or in January, February, or March, for \$18.75.

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

### 3-7-7 SUSPENSION; REVOCATION; CIVIL PENALTY.

1. If a retailer or employee of a retailer has violated Section 453A.2, 453A.36, subsection 6 or 453A.39, Code of Iowa, the City Council, in addition to the other penalties fixed for such violations in this section, shall assess a penalty after giving the permit holder an opportunity to be heard, upon ten (10) days written notice, stating the reasons for the contemplated action and the time and place at which the person may appear and be heard, as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this paragraph.

c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

e. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.

f. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at the time of the violation. A retailer may assert only once in a four (4) year period the bar under either this subsection or subsection 2B against assessment of a penalty

pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

g. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one (1) hour in length as developed by the alcoholic beverages division of the Department of Commerce. A retailer may assert only once in a four (4) year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

2. If a retail permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.

3. The City Clerk shall report the suspension or revocation of a retail permit under this section to the Iowa Department of Public Health within thirty (30) days of the suspension or revocation of any retail permit.

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

3-7-8 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit moves the place of business, the City Council, if it decides to issue a new permit for the new place of business, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

3-7-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13(10))

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 8 ALCOHOLIC BEVERAGES**

- |                                                                         |                         |
|-------------------------------------------------------------------------|-------------------------|
| 3-8-1 Purpose                                                           | 3-8-3 Action by Council |
| 3-8-2 Required Obedience to Provisions of<br>this Chapter and State Law | 3-8-4 Transfers         |

3-8-1 PURPOSE. The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.

(Code of Iowa, Sec. 364.1)

3-8-2 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts of Liquors Prohibited

15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test  
Exoneration

16. 123.47 Persons Under Legal Age - Penalty

17. 123.49 Miscellaneous Prohibitions

18. 123.50 Criminal and Civil Penalties

19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer

20. 123.52 Prohibited Sale

21. 123.90 Penalties Generally

22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings

23. 123.122 through 123.145 Beer Provisions (Division II)

24. 123.150 Sunday Sales Before New Year's Day

25. 123.171 through 123.182 Wine Provisions (Division V)

26. 321.284 Open Containers in Motor Vehicles - Drivers

27. 321.284A Open Containers in Motor Vehicles – Passengers

3-8-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

(Code of Iowa, Sec. 123.32(2))

3-8-4 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)



## TITLE III COMMUNITY PROTECTION

### CHAPTER 9 JUNK AND ABANDONED VEHICLES

3-9-1 Purpose	3-9-7 Auction or Disposal of Abandoned Vehicles
3-9-2 Definitions	3-9-8 Junk Vehicles Declared a Nuisance
3-9-3 Removal of Abandoned Vehicles	3-9-9 Notice to Abate
3-9-4 Notification of Owners and Lienholders	3-9-10 Abatement by Municipality
3-9-5 Impoundment Fees and Bonds	3-9-11 Collection of Cost of Abatement
3-9-6 Hearing Procedures	3-9-12 Exceptions
	3-9-13 Interference with Enforcement

3-9-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 3641.1)

3-9-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

1. "Abandoned vehicle" means any of the following:

a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle inoperable; or unsafe or

b. A vehicle that has remained illegally on public property for more than twenty-four hours; or

c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or

d. A vehicle that has been legally impounded by order of the Cass County Sheriff's Department and has not been reclaimed for a period of ten days; or

e. Any vehicle parked on the street determined by the Cass County Sheriff's Department to create a hazard to other vehicular traffic.

(Code of Iowa, Sec. 321.89(1)(b))

2. "Junk" means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware,

plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

3. A "junk vehicle" means any vehicle without current license plates or which has any one of the following characteristics:

a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.

b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.

c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.

d. Any vehicle which contains gasoline or any other flammable fuel.

e. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.

f. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

4. "Private property" means any real property within the City which is not public property as defined in this section.

5. "Public property" means any public right-of-way open for the purposes of vehicular travel.

6. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and shall include without limitation a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

7. Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

### 3-9-3 REMOVAL OF ABANDONED VEHICLES.

1. A peace officer may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-9-2 (1). The peace officer may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the County Board of Supervisors.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the City Clerk shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

(Code of Iowa, Sec. 321.89(2))

4. Nothing in this chapter shall govern the procedures of any peace officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

#### 3-9-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the City Clerk shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- a. Describe the year, make, model, and serial number of the vehicle.
- b. Describe the personal property found in the vehicle.
- c. Describe the location of the facility where the vehicle is being held.
- d. Inform the persons receiving notice:

(1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;

(2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;

(3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;

(4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.

e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by a peace officer or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-9-6.

f. State that a request for a hearing must be in writing and received by the City Clerk prior to the expiration of the ten day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-9-5.

(Code of Iowa, Sec. 321.89(3)(a))

2. The owner or any person receiving notice may, by written request received by the City Clerk prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

a. the identity of the last registered owner cannot be determined, or

b. the registration contains no address for the owner, or

c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

(Code of Iowa, Sec. 321.89(3)(b))

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

### 3-9-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the County Sheriff evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

- a. an impoundment fee
- b. towing charges
- c. preservation charges
- d. storage charges
- e. notice charges

(Code of Iowa, Sec. 321.89(3)(a))

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under Section 3-9-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

a. the fees required by Section 3-9-5(1)

b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

#### 3-9-6 HEARING PROCEDURES.

1. The registered owner, any lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq.

(Code of Iowa, Sec. 321.89(3))

3-9-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The County Sheriff shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

(Code of Iowa, Sec. 321.89(4))

3-9-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Lewis, Iowa, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

3-9-9 NOTICE TO ABATE.

1. Whenever the Mayor shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-9-8, the City shall notify, by certified mail with five days' return receipt, the following persons:

- a. the owner of the property.
- b. the occupant of the property.

2. The notice to abate shall:

- a. describe, to the extent possible, the year, make, model, and color of the vehicle.
- b. describe the location of the vehicle.
- c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
- d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

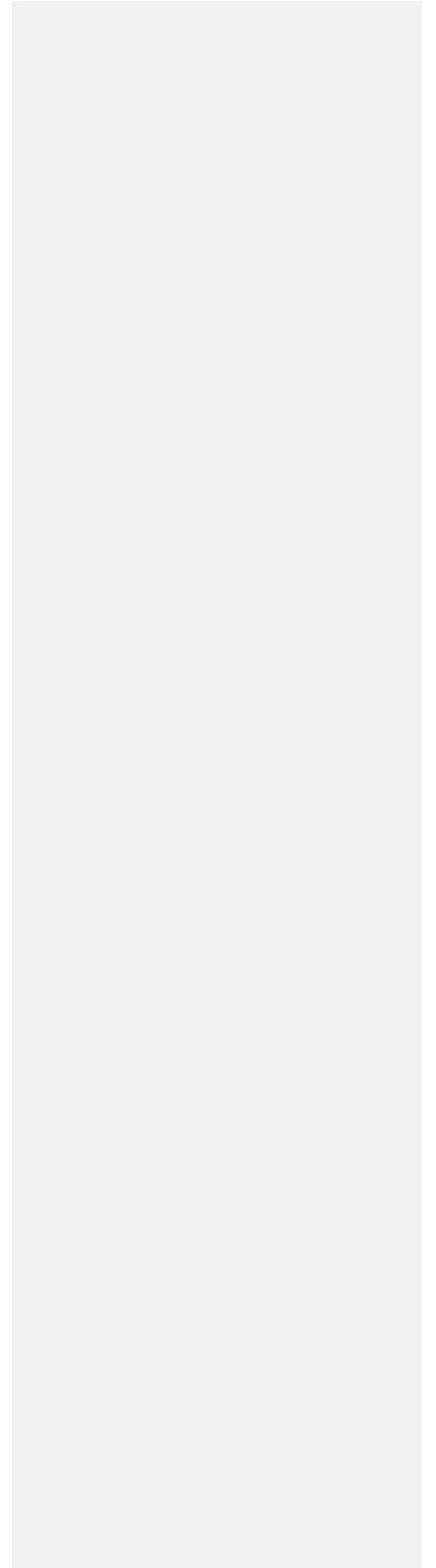
3-9-10 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.  
(Code of Iowa, Sec. 364.12(3)(h))

3-9-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.  
(Code of Iowa, Sec. 364.12(3)(h))

3-9-12 EXCEPTIONS. This chapter shall not apply to the following:

- 1. A vehicle in an enclosed building.
- 2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
- 3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-9-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.



## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 10 ADULT ENTERTAINMENT**

#### 3-10-1 Definitions

#### 3-10-2 Regulations

3-10-1 DEFINITIONS. For use in this Chapter, the following terms are defined:

1. “Adult amusement or entertainment” means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depiction, describing or relating to specific sexual activities or specified anatomical areas, as defined in this section, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.
2. “Adult bookstore or gift shop” is an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this chapter.
3. “Adult hotel or motel” means a building with accommodations for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this chapter, for observation by the individual therein.
4. “Adult photo studio” is an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or specified sexual activities, as defined therein.
5. “Adult theatre” is a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized by their emphasis on acts or material depicting or relating to specified sexual activities or specified anatomical areas, as defined in this chapter, for observation by the patrons therein.
6. “Adult uses” includes adult amusement or entertainment, adult book store or gift shop, adult hotel or motel, adult photo studio, adult theater and massage parlor.
7. “Specified anatomical areas” means less than completely and opaquely covered human genitalia, pubic region, buttocks; and a female breast below a point above the top of the areola; and human male genitals in a discernibly turgid state – even if completely and opaquely covered.
8. “Specified sexual activity” means patently offensive acts, exhibitions, representations, depiction or descriptions of :
  - a. Human genital sin a state of sexual stimulation or arousal,



b. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast,

c. Intrusion, however slight, actual or simulated, by an object of any part of an animal's body or any part of a person's body into the genital or anal openings of any person's body,

d. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated,

e. Flagellation, mutilation or torture, actual or simulated, in a sexual context.

### 3-10-2 REGULATIONS.

1. Location. An adult use shall not be located within 1,000 feet of another adult use, nor shall the adult use be located within 1,000 feet of any public or parochial or private school, regularly scheduled school bus stop, licensed day care facility, church, public park, or any dwelling (one-family, two-family or multiple dwelling) or within 1,000 feet of City Hall. The 1,000-foot restriction shall be computed by measurement from the nearest property line of the land used for another adult use or in the case of any regularly scheduled school bus stop, public or parochial or private school, licensed day care facility, church, public park, dwelling or City Hall, by measurement to the nearest entrance of the building in which adult uses are to occur, using a route of direct horizontal distance.

2. Concealment. All building openings, entries, windows, etc. of an adult use shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. Advertisements, displays or other promotional materials shall not be shown or exhibited as to be visible to the public from pedestrian sidewalks, walkways, or from other public or semi-public areas.

3. Minors. No minor shall be permitted in any establishment in which adult uses are permitted.

4. Alcohol. No alcohol shall be permitted in any establishment in which adult uses are permitted, unless such is specifically allowed pursuant to the Code of Iowa. This prohibition applies equally to the proprietor and the patrons of the establishments involved.

5. Public Exposure. Except as herein provided, no person shall expose those parts of his or her body which are hereafter listed to another in any public place, in any privately-owned place open to the public, or in any place where such exposure is seen by another person or persons located in any public place.

a. A woman's nipple, the areola thereof, or full breast, except as necessary in the breast-feeding of a baby.

b. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male or the vagina of a female, excepting such body parts or prepubescent infants of either sex.

This subsection does not apply to limited or minimal exposures incidental to the use of public rest rooms or locker rooms or such other places where such exposures occur incident to the proscribed use of those facilities. This subsection also does not apply to exposures occurring in live stage plays, live theatrical performances or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

## **TITLE IV MENTAL AND PHYSICAL HEALTH**

### **CHAPTER 1 ANIMAL CONTROL**

4-1-1	Definitions	4-1-7	Dangerous Animals
4-1-2	License	4-1-8	Keeping a Vicious Animal
4-1-3	Immunization	4-1-9	Number of Dogs and Cats Allowed
4-1-4	At Large Prohibited	4-1-10	Hold Harmless
4-1-5	Animal Nuisances	4-1-11	Penalties
4-1-6	Kennel Dogs		

4-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. The term "dogs" shall mean animals of the canine species whether altered or not.
2. The term "cats" shall mean animals of the feline species whether altered or not. (*City*)
3. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and on other premises against the wishes of the person in possession of such premises or upon the public streets, alleys, public grounds, school grounds or parks within the city. An animal shall not be deemed at large if:
  - a) the animal is on the owner's property or a neighbor's property with that neighbor's consent; or
  - b) the animal is confined in a cage or motor vehicle; or
  - c) the animal is restrained by a leash of sufficient strength to control its action; or
  - d) a dog is actively engaged in training in dog obedience, for hunting or for other service under continual control of its owner or trainer provided that the owner or trainer is conducting the training in an open public area, is not endangering other users or animals in the area, has the dog within 30 yards and under continual voice control and has in his/her possession a dog leash appropriate to control the dog.
4. The term "owner" shall mean any person owning, keeping, sheltering or harboring an animal.
5. The term "enforcement Officer" is an animal control officer or a peace officer.

6. The term “Animal Control Officer” is any person designated to enforce the regulations on animals, including those found in this chapter.

4-1-2 LICENSE. Every owner of a dog or cat over the age of six (6) months shall procure a dog license from the City Clerk-Treasurer on or before the first day of January of each year. The annual license fee shall be \$3.00 for each dog and cat. Upon payment of the license fee, and providing proof of a current vaccination against rabies, the City Clerk-Treasurer shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the dog or cat. The City Clerk-Treasurer shall keep a duplicate of each license issued as a public record.

Upon issuance of the license, the City Clerk-Treasurer shall deliver to the owner a metal tag stamped with the number of the license for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the dog or cat for which the license is issued.

Any dog or cat found running at large without the license tag attached to its collar or harness shall be deemed unlicensed and subject to penalty.

4-1-3 IMMUNIZATION. All dogs and cats six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog or cat for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog or cat license. It shall be a violation of this Ordinance for any dog or cat to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog or cat when not confined.  
(Code of Iowa, Sec. 351.33)

4-1-4 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large. Voice command is not sufficient to meet the requirements of this section.

No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public property, sidewalk, street or alley, or private property other than the property of the owner.

(Code of Iowa, Sec. 351.41)

1. Apprehension and Impoundage. Any dog or cat found running at large shall be apprehended by an enforcement or animal control officer as designated by the City Council and/or the City of Lewis. The enforcement officer shall have the right to apprehend and impound any animal described herein running at large. The owner may be served a summons to appear before a proper court to answer charges made there under.

2. Disposition of animals at large.

a. When an animal has been apprehended and impounded, the enforcement officer shall give written notice in not less than two days to the owner, if known.

(Code of Iowa, Sec. 351.37 & 351.41)

b. If the unknown owner of an animal apprehended or impounded cannot be located after five (5) days, or if an owner when known, does not, after reasonable notice, claim the animal within five (5) days, the animal may be humanely destroyed or otherwise disposed. If in the opinion of the animal control officer, an animal is too sick or injured to keep humanely for five (5) days, the animal may be euthanized.

(Code of Iowa, Sec. 351.37 & 351.41)

c. If the owner is known, but fails to claim said animal and the animal must be impounded and/or destroyed, any costs associated with such process will be assessed to the owner.

(Code of Iowa, Sec. 351.37 & 351.41)

3. Redemption of Impounded Animals, Impounding Fees and Fines. An owner may redeem an impounded dog, cat, or animal by:

- a. Having it immediately vaccinated, if not already vaccinated,
- b. Having it licensed, if not already licensed,
- c. Providing proof of said vaccination and licensing to the City Clerk.

In addition, the owner shall pay the following impounding fees and fines to the City Clerk prior to redeeming any impounded animal. An offense shall be considered a second, third or successive offense for assessment of an increased fine if the offense occurs within twelve (12) calendar months of the prior offense.

IMPOUNDING FEES:

\$5.00 per day	Dogs
\$5.00 per day	Cats

FINES:

\$50.00	First offense
\$100.00	Second offense
\$200.00	Third and successive offenses

4. Animal Adoption.

a. Any person wishing to adopt any cat or dog from the City must first pay an adoption fee of ten (\$10.00) dollars and any and all accrued impound fees to the City Clerk.

b. In addition, any person wishing to adopt any cat or dog from the City must also comply with rabies inoculations and any required animal licensing in Section 4-1-2 and 4-1-3 of the City of Lewis Code of Ordinances.

5. Any animal found to have bitten a person or other animal shall be confined as directed by the Mayor."

(Code of Iowa, Sec. 351.39)

6. This section shall not apply to a law enforcement dog or horse used by the law enforcement agency, that is acting in the performance of its duties, which has bitten a person.

(Code of Iowa, Sec 351.39)

4-1-5 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of. It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.

2. Causes unsanitary, dangerous or offensive conditions.

3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals.

(Code of Iowa, Sec. 657.1)

4. Causes serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other.

5. Any owner of a dog or cat in violation of this section, shall be issued a citation to appear before a proper court to answer charges made there under. The peace officer must have received a signed complaint from a known citizen and must have the assurance of the named citizen he will testify in behalf of the city.

4-1-6 KENNEL DOGS. Kennel dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this ordinance.

4-1-7 DANGEROUS ANIMALS.

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose within the City limits, a dangerous animal.

2. Definitions. A dangerous animal is:

a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

b. The following are animals which shall be deemed to be dangerous animals per se:

- (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
- (2) Wolves, coyotes, and foxes;
- (3) Badgers, wolverines, weasels, skunks and mink;
- (4) Raccoons;
- (5) Bears;
- (6) Monkeys, chimpanzees, and apes;
- (7) Alligators and crocodiles;
- (8) Scorpions; gila monsters;
- (9) Snakes that are venomous or constrictors;
- (10) Staffordshire terriers - known as pit bulls;
- (11) Any cross breed of such animals which have similar characteristics of the animals specified above.

c. Any animals declared to be dangerous by the City Council.

3. Dangerous Animals Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances:

a. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

4-1-8 KEEPING A VICIOUS ANIMAL. It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City. A vicious animal is deemed so when it shall have attacked or bitten any person without provocation, or when the propensity to attack or bite persons or other animals shall exist and such propensity is known or ought reasonably be known to the owner thereof.

4-1-9 NUMBER OF DOGS AND CATS ALLOWED.

1. It shall be unlawful to maintain more than three (3) dogs and three (3) cats within the City on any one property regardless of who is the owner of said dogs or cats or who is the owner of the property, with the exception of a litter or group of young which may be kept for a period of three (3) months following the animal's birth.

2. It shall be unlawful to maintain or keep any dogs or cats on any property within the City where no person or persons reside including any commercial lots or vacant residential lots.

4-1-10 HOLD HARMLESS. Absent a showing of reckless conduct, no person granted authority to enforce the provisions of this chapter shall be liable for damage to or destruction of any animal occurring during the course of enforcement of this chapter.

4-1-11 PENALTIES. Penalties for violation of this chapter:

1. Any person refusing to comply with this chapter or violating any of the provisions of this chapter may be charged with a simple misdemeanor.

(Code of Iowa, Sec. 351.41)

## TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

### CHAPTER 1 LIBRARY SERVICES

5-1-1 Purpose	5-1-5 Secretarial Duties
5-1-2 Library Trustees	5-1-6 Meetings
5-1-3 President's Duties	5-1-7 Library Director and Staff
5-1-4 Vice-President's Duties	5-1-8 Committees

5-1-1 PURPOSE. The purpose of this ordinance is to provide for the appointment of a city library board of trustees and to specify that board's powers and duties.

5-1-2 LIBRARY TRUSTEES. The board of trustees of the Lewis Public Library, hereinafter referred to as the board, consists of 5 members. One (1) member shall be from the Crescent Club, two (2) from the Today and Tomorrow Club, two (2) from the community at-large, and one (1) librarian. A nominating committee shall be appointed by the president three (3) months prior to the annual meeting. The nominating committee will present a slate of officers at the annual meeting. Additional nominations may be made from the floor.

5-1-3 PRESIDENT'S DUTIES. The president shall preside at all meetings of the board, authorize calls for any special meetings, appoint all committees, execute all documents authorized by the board, serve as an ex-officio voting member of all committees, and generally perform all duties associated with the office.

5-1-4 VICE-PRESIDENT'S DUTIES. The vice-president, in the event of the absence or disability of the president, or of a vacancy in that office, shall assume and perform the duties and functions of the president.

5-1-5 SECRETARIAL DUTIES. The secretary-treasurer shall keep a true and accurate record of all meetings of the board, shall issue notice of all regular and special meetings, and shall perform such other duties as generally evolve upon the office. In the absence or inability of the secretary-treasurer, the duties shall be performed by such other member of the board as the board may designate.

#### 5-1-6 MEETINGS.

1. Regular meetings. The regular meetings shall be held each month, the date and hour to be set by the board at its annual meeting.
2. Annual meeting. The annual meeting, which shall be for the purpose of the election of officers and the adoption of an annual report, shall be held at the time of the regular meetings in July-August of each year.
3. Order of business. The order of business for regular meetings shall include but not be limited to, the following items which shall be covered in the sequence shown as far as circumstances will permit:



- a. Roll call of members
- b. Disposition of minutes of previous regular meetings and any intervening special meeting.
- c. Director's financial report of the library.
- d. Action on bills.
- e. Progress and service report of director.
- f. Committee reports.
- g. Communications.
- h. Unfinished business.
- i. New business.
- j. Public presentation to, or discussion with, the board.
- k. Adjournment

4. Special meetings. Special meetings may be called by the secretary at the direction of the president, or at the request of the Crescent Club, Today or Tomorrow Club or the City Council, for transaction of business as stated in the call for the meetings.

5. Quorum. A quorum for the transaction of business at any meeting shall consist of three (3) members of the board.

6. Conduct of meetings. Proceedings of all meetings shall be governed by Robert's Rules of Order.

5-1-7 LIBRARY DIRECTOR AND STAFF. The board shall appoint a qualified library director who shall be the executive and administrative officer of the library on behalf of the board and under its review and direction. The director shall recommend to the board the appointment and specify the duties of the other employees and shall be held responsible for the proper direction and supervision of the staff, for the care and maintenance of library property, for an adequate and proper selection of books in keeping with the stated policy of the board, for the efficiency of library service to the public, and for its financial operation within the limitations of the budgeted appropriation. In the case of part-time or temporary employees, the director shall have interim authority to appoint without prior approval of the board provided that any such appointment shall be reported to the board at its regular meeting.

5-1-8 COMMITTEES.

1. The president shall appoint committees of one (1) or more members each for such specific purposes as the business may require from time to time. The committee shall be considered to be discharged upon the completion of the purpose for which it was appointed and after the final report is made to the board.

2. All committees will have made a progress report to the library board at each of its meetings.

3. No committee will have other than advisory powers unless, by suitable action of the board, it is granted specific powers to act.

Editor's Note : The Council may retain the power to hire, discharge and set salaries.

Any proposal to alter the composition, manner of selection, or charge of a library board, or to replace it with an alternate fore of administrative agency, is subject to the approval of the voters of the city. Code of Iowa, Sec. 392.5.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 UTILITIES - SEWER SYSTEM

6-1-1	Definitions	6-1-5	Use of the Public Sewers
6-1-2	Use of Public Sewers Required	6-1-6	Protection from Damage
6-1-3	Private Sewage Disposal	6-1-7	Powers and Authority to Inspectors
6-1-4	Building Sewers and Connections	6-1-8	Penalties

6-1-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.

2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(IAC 567-69.3(1))

3. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(IAC 567-69.3(1))

4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.

6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

7. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.

8. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

9. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely

under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

13. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

14. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

15. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

16. "Sewer" shall mean a pipe or conduit for carrying sewage.

17. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

18. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

19. "Superintendent" shall mean the Superintendent of Public Utilities of the City of Lewis or the Superintendent's authorized deputy, agent, or representative.

20. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

#### 6-1-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

(Code of Iowa, Sec. 364.12(3)(f))

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12(3)(f))

(IAC 567-69.3(3))

#### 6-1-3 PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-1-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$25.00 dollars shall be paid to the City at the time the application is filed.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.

4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-1-2(4), a direct connection shall be made to the public sewer in

compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Code of Iowa, Sec. 364.12(3)(f))

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

8. When a public sewer becomes available, the building sewer shall be connected at the building owner's expense, to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Code of Iowa, Sec. 364.12(3)(f))

#### 6-1-4 BUILDING SEWERS AND CONNECTIONS.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$5.00 dollars for a residential or commercial building sewer permit and \$15.00 dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of Lewis and deposited with the City Clerk a corporate surety in the sum of five thousand dollars (\$5,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Lewis pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Lewis and the owner of the premises against all damages, costs, expenses, outlay and claims of every nature and kind arising out of unskillfulness or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond shall remain in force and must be executed for a period of two (2) years except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9."

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C-700 "Standard Specification or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

(2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."

(2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

- (1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

Minimum wall thickness:

4" - 0.125"  
6" - 0.180"  
8" - 0.240"  
10" - 0.300"

- (2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one-eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary



sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

#### 6-1-5 USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.

- b. Non-payment of bills.
  - c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.
2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.
3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
  - c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
  - d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
  - e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.
4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the

receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).
- b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).
- c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, - in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.
- g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- h. Any waters or wastes having a pH in excess of 9.5.
- i. Materials which exert or cause:
  - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-1-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- a. Reject the wastes,
- b. Require pretreatment to an acceptable condition for discharge to the public sewers.
- c. Require control over the quantities and rates of discharge, and/or
- d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-1-5(10) of this article.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, Ordinances, and laws.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

#### 6-1-6 PROTECTION FROM DAMAGE.

1. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

#### 6-1-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in 6-1-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-1-5(8).

3. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

6-1-8 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-1-6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2 Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 2 UTILITIES - SEWER RENTAL**

- |                                          |                                         |
|------------------------------------------|-----------------------------------------|
| 6-2-1 Purpose                            | 6-2-5 Determination and Payment of Rent |
| 6-2-2 Sewer System Defined               | From Premises with Private Water        |
| 6-2-3 Who Shall Pay Rent                 | Systems                                 |
| 6-2-4 Rate of Rent and Manner of Payment | 6-2-6 Failure to Pay                    |
|                                          | 6-2-7 Penalty                           |

6-2-1 PURPOSE. The purpose of this ordinance is to collect from all users of the city sewer system the cost in whole or in part of constructing, maintaining, and operating the main sewers and sewage treatment plant in proportion to the service provided to each user.

6-2-2 SEWER SYSTEM DEFINED. For use within this ordinance a "sewer system" is composed of main sewers, sewage pumping stations, treatment and disposal plants, lateral sewers, drainage conduits or channels, and sewer connections in public streets for private property.

6-2-3 WHO SHALL PAY RENT. Every person, firm or corporation whose premises now or hereafter are directly or indirectly served by a connection to the city sewer system shall pay rent to the city at a rate and in the manner provided in Section 6-2-4.

6-2-4 RATE OF RENT AND MANNER OF PAYMENT. Each contributor shall pay a sewer rental in the amount of \$9.75 per month for 2,000 gallons of water for residential users, \$8.75 per month for 2,000 gallons of water for commercial users, \$16.30 per month for laundromats for 2,000 gallons of water, \$12.25 per month for four (4) apartment senior citizen homes for 2,000 gallons of water and \$38.50 for public schools for 2,000 gallons of water. Each 1,000 gallons of water over the base amount will be billed at \$1.50 per 1,000 gallons. Established for each premises within the sewer district created in Section 6-2-2. (*City*)

The rent shall be paid with the water bill at the same time as payment of the water bill is due on the fifteenth (15<sup>th</sup>) of the month. If any charge for the services of this system shall not be paid by the twenty-fifth (25<sup>th</sup>) day of the month in which it shall become due and payable, the water supply for the lot, parcel of land, or premise affected shall be cut off after due notice to appropriate tenants and owners and a hearing as required in Chapter 384.84 of the Code of Iowa and shall not be turned on again except on payment in full plus a fifty dollar (\$50.00) charge or reasonable arrangements made with the city council of the delinquent charges and fines therefore. Reconnection shall be made only on the days of regular business hours of the municipality. The second offense in a twelve (12) month period results in a seventy five dollar (\$75.00) charge and the third offense results in a one hundred dollar (\$100.00) charge.

6-2-5 DETERMINATION AND PAYMENT OF RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have private water systems shall pay rent in the same manner and at the same rates as those stated in Section 6-2-4 of this chapter. Any negotiated, or agreed upon sales or rentals shall be subject to approval of the council.

Rent shall be paid at the same time and place as provided in Section 6-2-4.

6-2-6 FAILURE TO PAY. The city shall have a lien upon the property served by the sanitary utility for all delinquent rates and charges.

The city clerk shall certify within ten (10) days of the following dates to the county treasurer for collection with and in the same manner as property taxes and to establish the property liens, all rates and charges which are delinquent over thirty (30) days on the first of March, June, September and December.

6-2-7 PENALTIES. A penalty of ten percent (10%) shall be applied to unpaid balances. The penalty shall be applied after the 15<sup>th</sup> of the month.



**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 3 UTILITIES - WATER SYSTEM**

6-3-1	Enforcement	6-3-14	Service Discontinued
6-3-2	Adoption of State Plumbing Code	6-3-15	Operation of Curb Valve and Hydrants
6-3-3	License Required	6-3-16	Service Interruptions
6-3-4	Mandatory Connections	6-3-17	City Liability Limited
6-3-5	Permit	6-3-18	Right of Entry
6-3-6	Fee for Permit	6-3-19	Special Terms of Use
6-3-7	Water Supply Control	6-3-20	Customer's Liability
6-3-8	Making the Connection	6-3-21	Use of Water Restricted
6-3-9	Excavations	6-3-22	Easements
6-3-10	Inspection and Approval	6-3-23	Line Extensions
6-3-11	Completion by the City	6-3-24	Service Refused
6-3-12	Meter Accuracy and Test	6-3-25	Complaints
6-3-13	Failure to Maintain		

6-3-1 ENFORCEMENT. The Superintendent of public utilities shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.  
(Code of Iowa, Sec. 372.13(4))

6-3-2 ADOPTION OF STATE PLUMBING CODE. The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended and as published by the Iowa Department of Public Health, which is hereby adopted.

6-3-3 LICENSE REQUIRED. All installation of water service pipes and connections to the municipal water system shall be made by a plumber licensed by this City. The Superintendent shall have the power to suspend the license of any plumber for violation of any of the provisions of this Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's reasons for the suspension, and the City Council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

6-3-4 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

6-3-5 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.  
(Code of Iowa, Sec. 372.13(4))

6-3-6 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay a fee to the City Clerk to cover the cost of issuing the permit and supervising, regulating and inspecting the work. The fee shall be established by Resolution.

6-3-7 WATER SUPPLY CONTROL. The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

6-3-8 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub. Taps will all be three-fourths (3/4) inches or larger. No main shall be tapped nearer than two (2) feet of the joint in the main.  
(Code of Iowa, Sec. 372.13(4))

6-3-9 EXCAVATIONS. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water

along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. All water service pipes must be laid so as to prevent rupture by settlement or freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

6-3-10 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.  
(Code of Iowa, Sec. 372.13(4))

6-3-11 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.  
(Code of Iowa, Sec. 364.12(3)(h))

6-3-12 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent or the Superintendent's assistant shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of two percent or more, the cost of the tests shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than twelve months. If the meter is found to be accurate or slow less than two percent fast, the patron shall pay the reasonable costs of the tests.

Compulsory Check. Every meter shall be removed from service at least once each fifteen years and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of two percent shall not be returned to service until properly adjusted.

6-3-13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the city may repair and assess the costs thereof to the property.

(Code of Iowa, Sec. 364.12[3a &h])

6-3-14 SERVICE DISCONTINUED. Application may be canceled and/or water service discontinued by the city for any violation of any rule, regulation or condition of service and especially for any of the following reasons:

1. Misrepresentation. Misrepresentation in the application as to the property or fixtures to be supplied or use to be made of water.

2. Failure to Report Use. Failure to report to the city addition to the property or fixtures to the supplies or additional use to be made of water.

3. Sale of Water. Resale or giving away of water.

4. Misuse. Waste or misuse of water due to improper or imperfect service pipes and/or fixtures, or failure to keep same in suitable state of repair.

5. Tampering. Tampering with meter, meter seal, service or valves or permitting such tampering by others.

6. Cross Connection. Connection, cross-connection or permitting same of any separate water supply to premises which receive water from the city.

7. Delinquency. Nonpayment of bills.

8. Failure to report a non-working meter.

9. Failure to permit right-of-way.

10. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

6-3-15 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except city employees to turn water on at the curb valve, and no person, unless specifically authorized by the city, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

6-3-16 SERVICE INTERRUPTIONS. The city shall make all reasonable efforts to eliminate interruption of service, and when such interruptions occur will endeavor to reestablish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the distribution system or the station equipment, all customers affected by such interruption will be notified in advance whenever it is possible to do so.

6-3-17 CITY LIABILITY LIMITED. The city shall in no event be held responsible for claims made against it by reason of the breaking of any mains, meters or service pipe or by reason of any other interruption of the supply of water caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages or have any portion of a payment refunded for any interruption or service which, in the opinion of the city, may be deemed necessary.

6-3-18 RIGHT OF ENTRY. The premises receiving a supply of water and all service lines, meter and fixtures, including any and all fixtures within the said premises, shall at all reasonable hours be subject to inspection and/or repair or replacement by duly authorized employees.

6-3-19 SPECIAL TERMS OF USE. Special terms and conditions may be made where water is used by the city or community for public purposes such as fire extinguishment, public parks, etc.

6-3-20 CUSTOMER'S LIABILITY. If any loss or damage to the property of the city or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the customer, member of the customer's household or agent or employee of the customer, the cost of the necessary repairs or replacements shall be paid by the customer to the city and any liability otherwise resulting shall be that of the customer.

6-3-21 USE OF WATER RESTRICTED. Water furnished by the city may be used for domestic consumption by the customer, members of the customer's household and employees only. The customer shall not sell or give the water to any other person.

6-3-22 EASEMENTS. Each customer shall grant or convey or shall cause to be granted or conveyed to the city a permanent easement and right-of-way across any property owned or controlled by the customer wherever said easement or right-of-way is necessary for the municipal water facilities and lines, so as to be able to furnish service to the customer.

6-3-23 LINE EXTENSIONS. The city will construct extensions to its water lines to points within its service area, but the city shall not be required to make such installations unless the customer pays to the city the entire cost of the installation and subject to the following provisions:

1. All line extensions shall be evidenced by a contract signed by the city and the person advancing funds for said extension.

2. If refund of the advance is to be made, the following method shall apply: twenty percent (20%) of the total gross revenue of water sales per year for each service connected to the new extension described in the agreement, for a period not to exceed five (5) years, provided that the aggregate payments do not exceed the total amount deposited.

3. No refund shall be made from any revenue received from any lines leading up to or beyond the particular line extension covered by the contract.

4. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the city and such extension shall be the property of the city and no other person shall have any right, title or interest therein.

6-3-24 SERVICE REFUSED. The city may refuse service to persons not presently customers when, in the opinion of the city, the capacity of the facilities will not permit such service.

6-3-25 COMPLAINTS. Complaints may be made to city personnel and may be appealed to the Council within ten (10) days.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 4 UTILITIES - WATER RATES**

- |                               |                                       |
|-------------------------------|---------------------------------------|
| 6-4-1 Rates and Services      | 6-4-6 Responsibility of Clerk         |
| 6-4-2 Billing                 | 6-4-7 Responsibility of Landlord      |
| 6-4-3 Application for Service | 6-4-8 Municipality Water Utility Fund |
| 6-4-4 Bad Checks and Fees     | 6-4-9 System of Accounts              |
| 6-4-5 Responsibility of User  | 6-4-10 Penalty                        |

6-4-1 RATES AND SERVICES. That there shall be and there are hereby established rates and charges for the use of and for the service supplied by the Municipal Water Utility based upon the meter readings of the amount of water consumed as follows:

The first 2,000 gal.	\$ <u>19.00</u> per month
All over 2,000 gal. per month	\$ <u>5.00</u> per 1,000 gal.
The minimum charge shall be	\$ <u>19.00</u> per month.

Each customer shall pay for water service provided by the city based upon his use of water, as determined by meters. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

6-4-2 BILLING. Bills for the rates and charges as herein established shall be sent monthly on approximately the first (1<sup>st</sup>) day of the month. All bills shall be payable on the fifteenth (15<sup>th</sup>) day of the month following the reading of the meters and shall be paid at the office of the city clerk. If any charge for the services of this system shall not be paid by the twenty-fifth (25<sup>th</sup>) day of the month in which it shall become due and payable, the water supply for the lot, parcel of land, or premise affected shall be cut off after due notice to appropriate tenants and owners and a hearing option as required in Chapter 384.84 of the Code of Iowa and shall not be turned on again except on payment in full plus a fifty dollar (\$50.00) charge or reasonable arrangements made with the city council of the delinquent charges and fines therefore. Reconnection shall be made only on the days of regular business hours of the municipality. The second offense in a twelve (12) month period results in a seventy five dollar (\$75.00) charge and the third offense results in a one hundred dollar (\$100.00) charge.

If the amount shown by the statement has not been paid within one month, the city clerk-treasurer shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.

(Code of Iowa, Sec. 364.12(3)(h))

6-4-3 APPLICATION FOR SERVICE. Applications for water service shall be filed with the clerk upon a form to be supplied by the municipality. The application shall state the name of the applicant and the premises to be served. All applications shall be accompanied by a fee of fifty dollars (\$50.00), payable to the City of Lewis for the connection charge.

6-4-4 **BAD CHECKS AND FEES.** If a check written for utility service is returned to the City of Lewis by the bank upon which it is drawn, the city will call the owner and or renter as soon as possible. If the utility bill is not paid within 48 hours, the city will discontinue water service until such time as the amount of the returned check, connection charge per 6-4-2, and the return check charge is either paid by cash, money order, or cashiers check.

If the same customer has checks returned to the city twice in one calendar year, the city will require all further payments to be made in cash, money order, or cashiers check for one year from the date of the second returned check.

6-4-5 **RESPONSIBILITY OF USER.** The owner of the premises served and the occupant thereof and the user of the water service shall be jointly and severally liable for the water service provided said premises.

6-4-6 **RESPONSIBILITY OF CLERK.** It is hereby made the duty of the city clerk to render bills for water service and all other charges in connection therewith and to collect all moneys due there from. All rates or charges for the water services, if not paid as provided by ordinance of the council, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due. This lien may be imposed upon a property or premises even if the service to the property has been or may be discontinued as provided in this section.

A lien for a city utility service shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder of the delinquent account at least thirty days prior to certification. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty days prior to certification of the lien to the county treasurer.

(Code of Iowa Sec. 384.84(3))

6-4-7 **RESPONSIBILITY OF LANDLORD.** Residential rental property where a charge for water service is separately metered and paid directly to the city by the tenant is exempt from a lien for delinquent rates or charges associated with such water service if the landlord gives written notice to the city that the property is residential rental property and that the tenant is liable for the rates or charges. The city requires a deposit not exceeding the usual cost of ninety days of water service to be paid to the city. Upon receipt, the city shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the city within ten business days of the change in tenant. When the tenant moves from the rental property, the city shall return the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the city within ten business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

(Code of Iowa, Sec. 384.84(3d))



6-4-8 MUNICIPALITY WATER UTILITY FUND. All revenues and moneys derived from the operation of the water system shall be paid to and held by the municipality and all of said sums and all other funds and moneys incident to the operation of said system, as may be delivered to the municipality, shall be deposited in a separate fund designated the "Waterworks Fund Account" and said council shall administer said fund in every respect in a manner provided by the Code of Iowa and all other laws pertaining thereto.

6-4-9 SYSTEM OF ACCOUNTS. The municipality shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the water system and at regular annual intervals the council shall cause to be made an audit by an independent audit concern of the books to show the receipts and disbursements of the water system.

6-4-10 PENALTIES. A penalty of ten percent (10%) shall be applied to unpaid balances. The penalty shall be applied after the 15<sup>th</sup> of the month.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 5 REFUSE COLLECTION**

6-5-1	Definitions	6-5-6	Necessity of Permits
6-5-2	Duty to Provide Cans	6-5-7	Burning of Refuse
6-5-3	Administration	6-5-8	Refuse Other Than Garbage
6-5-4	Storage	6-5-9	Sanitary Landfill
6-5-5	Collections		

6-5-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. "Refuse". Includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.
2. "Garbage". Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.
3. "Rubbish". Includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.
4. "Can". Means a container for the storage of garbage or rubbish, which is:
  - a. Provided with a handle and tight fitting cover.
  - b. Made of non-corrosive material.
  - c. Water-tight.
  - d. With a capacity of no more than thirty-five (35) gallons.

6-5-2 DUTY TO PROVIDE CANS. Each person shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. They shall be in a position readily accessible to the collector.

It shall be the duty of the owner of each household residing in a building arranged for more than one family unit to provide proper cans for garbage and rubbish.

6-5-3 ADMINISTRATION. Administration of this chapter shall be by the Superintendent of refuse, or such employee designated by the Superintendent.  
(Code of Iowa, Sec. 372.13(4))

6-5-4 STORAGE. All garbage must be drained and that accumulated from dwellings must be wrapped in paper and placed in a can. All rubbish shall be placed in a can except as otherwise provided.

6-5-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require.

All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

6-5-6 NECESSITY OF PERMIT. No person shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the Superintendent of refuse and issued by the Clerk.

In the event any business, firm, or corporation may elect to dispose of refuse or waste matter as may accumulate on any premises, property, or location, the same may be done provided that such disposal and transporting of any refuse or waste matter complies with the provisions of this chapter, is approved by the City and a permit issued by the Clerk.

6-5-7 BURNING OF REFUSE.

1. It shall be unlawful for any person to burn or incinerate any garbage, rubbish, or refuse within the City except by permission of the City Council.
2. This section shall not apply to any incinerator operated under a license granted by the City or any burning conducted under the direction of the fire department for training purposes.
3. This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.

6-5-8 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

6-5-9 SANITARY LANDFILL. The City Council by resolution may designate a sanitary landfill and establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 HAZARDOUS MATERIALS

- 6-6-1 Purpose  
6-6-2 Definitions
- 6-6-3 Clean up Required  
6-6-4 Notifications

6-6-1 PURPOSE. In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and clean up of spills within the city limits.

6-6-2 DEFINITIONS. For the purpose of this chapter these words have the following meanings:

1. "Hazardous waste" means those wastes which are included by the definition in Code, Sec. 455B.411(3).
2. "Hazardous substance" means any substance as defined in Code, Sec. 455B.381(1), (1).
3. "Hazardous condition" means the same as set out in Code, Sec. 455B.381(2).
4. "Responsible person" means a person having control over a hazardous substance or hazardous wastes, who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, whether on public ways or grounds or on private property, including bailees, carriers, any any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.
5. "Clean up" means the removal of the hazardous wastes or substances to a place where the waste will not cause any danger to persons or the environment, in accordance with state rules therefore, or the treatment of the material as defined herein to eliminate the hazardous condition including the restoration of the area to a general good appearance without noticeable odor, as far as practicable.
6. "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous substance so as to neutralize it or to render the substance nonhazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render the waste nonhazardous.

6-6-3 CLEAN UP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a clean up, as defined in the

preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of clean up shall be borne by the responsible person.

If the responsible person does not cause the clean up to begin in a reasonable time, in relation to the hazard and circumstances of the incident, the city may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, with this notice setting a deadline for accomplishing the clean up, or that the city will proceed to procure clean up services and bill the responsible person.

If the bill for those services is not paid within thirty days, the city attorney shall proceed to obtain payment by all legal means. If the cost of the clean up is beyond the capacity of the city to finance, the authorized officer shall report to the council and immediately seek any state or federal funds available for the clean up.

6-6-4 NOTIFICATIONS. The first city officer or employee who arrives at the scene of an incident involving hazardous substances, if not a peace officer, shall notify the county sheriff's department which shall notify the proper state office in the manner established by the state.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 7 DRIVEWAYS**

6-7-1	Definitions	6-7-5	Excavations
6-7-2	Proper Notification	6-7-6	Revocation of Permit
6-7-3	Driveway Requirements	6-7-7	Inspection and Approval
6-7-4	Sidewalks	6-7-8	Cost Delineation

6-7-1 DEFINITIONS. For use in this ordinance, the following terms are defined:

1. The term "person" shall mean any individual, firm, corporation, trust or other association.
2. The term "driveway" shall mean that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.
3. The term "paving" shall include any kind of hard surfacing including, but not limited to, portland cement, concrete, bituminous concrete, brick, stabilized gravel, or combinations of such materials, with the necessary base. "Paving" shall not include surfacing with oil, gravel, oil and gravel, or chloride.

6-7-2 PROPER NOTIFICATION. Before any person shall construct or repair a driveway, he shall notify the city clerk. A written application shall be filed. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the proposed plan of construction or repair which shall include the depth, width, and type of surfacing material to be used. No other plan shall be followed except by written permission of the council who may allow amendments to the application or permit that does not conflict with this ordinance. The city council may issue permission to proceed with the work if the construction or repair as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, or create any defect. Each permit shall expire six months from the date of issuance, if not constructed within that time.

6-7-3 DRIVEWAY REQUIREMENTS. All driveways shall conform in depth to the grade of adjacent driveways and to the street. The driveway must be placed directly on compact and well-drained soil. Where soil is not well-drained, a sub base of compact, clean, coarse gravel, sand or cinders shall be laid.

6-7-4 SIDEWALKS. The grade of any sidewalk shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk.

6-7-5 EXCAVATIONS. Excavations to do work under this ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation, the earth must be laid in layers and each layer tamped thoroughly. Any street, sidewalk or other public property that is affected by the work shall be restored to as good a condition as it was previous to

the excavation. The affected area shall be maintained in good repair to the satisfaction of the city council for three months after refilling.

6-7-6 REVOCATION OF PERMIT. The city council may at any time revoke the permit for any violation of this ordinance and may require that the work be stopped.

6-7-7 INSPECTION AND APPROVAL. The driveway must be inspected and approved in writing by the maintenance superintendent within thirty (30) days after completion of the work. The maintenance superintendent shall give a record of such approvals to the city clerk. If he refuses to approve the work, it must be corrected immediately so that it will meet with his approval. If the work has been done improperly, the maintenance superintendent shall have the right to finish or correct the work, and the council shall assess the costs to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

6-7-8 COST DELINEATION. If a driveway culvert replacement is requested by a resident due to damage or installation of a new driveway, the cost of the culvert and labor cost will be billed to the resident. If the city replaces a culvert due to poor street or alley drainage, the city will be responsible for the associated costs and will replace the existing driveway and surrounding area to its original state.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 8 STREET CUTS AND EXCAVATIONS**

6-8-1	Excavation Permit Required	6-8-4	Safety Measures
6-8-2	Application for Permit	6-8-5	Backfilling and Restoration
6-8-3	Permit Fees	6-8-6	Rules and Regulations

6-8-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the city clerk.  
(Code of Iowa, Sec. 364.12(2))

6-8-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the city clerk, for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this ordinance.

6-8-3 PERMIT FEES. The permit fee shall be \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding 100 feet in length. An additional fee of \$15.00 shall be required for every additional 100 feet, or major fraction thereof, of main excavation. All fees are doubled if excavation commences before a permit is obtained.

6-8-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the chief of police the public safety requires it. Compliance with city ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the city.



6-8-5 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with city specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the city reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the city specifications, the maintenance supervisor is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-8-6 RULES AND REGULATIONS. The council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 9 SIDEWALK REGULATIONS**

6-9-1 Purpose	6-9-11 Failure to Obtain Permit; Remedies
6-9-2 Definitions	6-9-12 Inspection and Approval
6-9-3 Cleaning Snow, Ice, and Accumulations	6-9-13 Barricades and Warning Lights
6-9-4 Maintenance Responsibility	6-9-14 Interference with Sidewalk Improvements
6-9-5 Liability of Abutting Owner	6-9-15 Special Assessments for Construction and Repair
6-9-6 Ordering Sidewalk Improvements	6-9-16 Notice of Assessment for Repair or Cleaning Costs
6-9-7 Repairing Defective Sidewalks	6-9-17 Hearing and Assessment
6-9-8 Notice of Inability to Repair or Barricade	6-9-18 Billing and Certifying to County
6-9-9 Standard Sidewalk Specifications	
6-9-10 Permits for Construction or Removal	

6-9-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-9-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:

- a. vertical separations equal to three-fourths (3/4) inch or more.
- b. horizontal separations equal to three-fourths (3/4) inch or more.
- c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
- d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
- e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
- f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
- g. a sidewalk with any part thereof missing to the full depth.

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-9-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.  
(Code of Iowa, Sec. 364.12(2b) and (2e))

6-9-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.  
(Code of Iowa, Sec. 364.12(2c))

6-9-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.  
(Code of Iowa, Sec. 364.14)

6-9-6 ORDERING SIDEWALK IMPROVEMENTS. The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

6-9-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(e))

6-9-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

6-9-9 STANDARD SIDEWALK SPECIFICATIONS. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.
2. Sidewalks shall be on one-course construction.
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works.
4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-9-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-9-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a

permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

6-9-12 INSPECTION AND APPROVAL. Upon final completion, the Superintendent of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

6-9-13 BARRICADES AND WARNING LIGHTS. Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

6-9-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

6-9-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.  
(Code of Iowa, Sec. 384.38)

6-9-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.  
(Code of Iowa, Sec. 384.50)

6-9-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.  
(Code of Iowa, Sec. 384.51)

6-9-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 10 RESTRICTED RESIDENCE DISTRICT**

6-10-1 Purpose	6-10-7 Buildings Requiring Special
6-10-2 Definitions	Permits to Locate Within Restricted
6-10-3 District Described	Districts
6-10-4 Buildings Permitted	6-10-8 Special Permits
6-10-5 Rules and Regulations	6-10-9 Protest
6-10-6 Set Back	6-10-10 Fees
	6-10-11 Action to Abate
	6-10-12 Certifying Ordinance

6-10-1 PURPOSE. The purpose of this Ordinance is to establish a restricted residence district in the City of Lewis, Iowa, and to provide reasonable rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds, and to provide that there shall be no use in such district except for residences, schoolhouses, churches, and other similar structures, except when a permit is granted in accordance with this Ordinance.  
(Code of Iowa, Sec. 414.1 and 414.24)

6-10-2 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. "Residence" is a building used exclusively for a dwelling. No business or occupation shall be conducted therein or in conjunction therewith whereby sales or services are made in a manner that the public served enters upon the residential property. The following are excepted: a beauty shop, conducted solely by the occupant and one person not resident on the property; music or art teacher, a rooming or boarding house with no more than two guests; and for which uses no external or internal alterations of the structure are made and no more than one sign indicating said occupation shall be displayed (but the sign may be double faced) nor shall the sign have a single face area of over one square foot.
2. "School" is a building used for educational purposes, public or private, that is regulated by the State Department of Public Instruction as to curriculum.
3. "Garage" is a structure for sheltering motor vehicles or household equipment and/or effects.
4. "Residential accessory use" is a building or structure customarily used in conjunction with a dwelling, namely a garage with a capacity of not more than three cars or more than one garage per apartment building nor more than one stall per dwelling unit, a tool or "summer" house not exceeding 100 square feet floor area, or a private swimming pool properly fenced and screened.

Any other building on residential property shall not be deemed a residential accessory use if not incidental to a residential purpose, nor if it is used in conjunction with or for the business of selling goods or rendering services.



5. "Church", or "church school" is a building used for public worship, or connected with a building so used, for instruction in religious beliefs, or for the conduct of activities related to church affairs.

6-10-3 DISTRICT DESCRIBED. The following restricted residence district is hereby designated and established.

6-10-4 BUILDINGS PERMITTED. No buildings or other structures, except residences, schoolhouses, churches, and other similar structures shall be hereafter erected, reconstructed, altered, repaired, or occupied within said district without first securing from the City Council a permit therefor. Permits for residences, schoolhouses, churches, and other similar structures, and for structures outside restricted residence districts, shall be applied for and are required, but shall be issued by the City Clerk if the requirements of this and other applicable City Ordinances are met, but no council permission shall be required under this Ordinance.

6-10-5 RULES AND REGULATIONS. As permitted under Section 414.24 of the Code of Iowa, there are hereby adopted the following rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds within restricted districts established by this Ordinance for the use and occupancy of such buildings, and for the granting of permits to erect, reconstruct, alter, or repair any structure other than a residence, residential accessory use, school, church, or church school within said districts.

6-10-6 SET BACK. No residential building or residential accessory use building shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twenty feet, nor shall any construction be required to be built with its front further than thirty (30) feet from said front line. All buildings to be used for residential purposes shall be placed on lots of no less than 10,000 square feet.

No residence or other building exempted from permit shall be located in the restricted district closer than five (5) feet to the side lot lines, and no accessory building closer than five (5) feet to said side lot lines, and overhangs shall not extend over any lot line, regardless of the compliance of the main foundation with this set back rule. However, any residence, other building, or accessory building currently located closer than five (5) feet to the side lot lines, may be extended or altered in conformance with its existing side lot set back lines. In no case may the residence, other building, or accessory building be located closer to the side lot line than it is currently located. Any other building granted a permit by council shall be placed at least as far from side lot lines as the residential, school, and church related buildings. All set backs shall be measured from the main foundation line.

6-10-7 BUILDINGS REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS. Construction of clinics, offices, hospitals, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the restricted residential district only if it appears that said use and the type of building will be compatible with the residential character of the district, and if the particular use could not

practicably be built in an unrestricted area, or if the restricted district boundaries cannot be amended logically, considering topography, access to railroad or highway or other proper reason acceptable to the council. Further, the construction and/or placement of a building or structure that would otherwise be violative of Section 6-10-6 may be authorized by special permit if it appears that such deviation from the lot size and/or set back requirements of that section would alleviate a substantial hardship for the permit applicant, be compatible with the character of the neighborhood and not create a substantial hardship for neighboring property owners.

6-10-8 SPECIAL PERMITS. A written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of this City except for buildings for residences, residential accessory use, schools, churches, and church schools. Further, a written special permit shall be required to authorize the construction and/or placement of any building or structure contrary to the requirements of Section 6-10-6. Any such permit shall be applied for in writing, accompanied by plans and specifications sufficient to determine compliance with applicable Ordinances of the City and/or the extent to which proposed construction deviates from the requirements of Section 6-10-6. Said application shall be made to the City Clerk at least seven (7) days before the council meeting at which council action is taken. No permit shall or will be granted until notice of the application has been posted at least four (4) days prior to the meeting at which final action is taken to grant or deny the permit.

6-10-9 PROTEST. No permit shall be granted when sixty (60) percent of the resident real estate owners in said district within six hundred (600) feet of the proposed building and occupancy object thereto, except by a three-fourths (3/4) vote of all the members of the council.

6-10-10 FEES. The fee required for a permit under this Ordinance shall be fifteen dollars (\$15.00).

6-10-11 ACTION TO ABATE. Any building or structure erected, reconstructed, altered, or repaired in violation of the provisions of this Ordinance shall be deemed unlawful and a nuisance and it shall be abated by action in the district court. Such action for abatement shall be prosecuted in the name of the municipality.

6-10-12 CERTIFYING ORDINANCE. Within fifteen (15) days after this Ordinance becomes effective the Clerk shall prepare or have prepared a plat of the restricted residence district as established by this Ordinance and certify such Ordinance and plat to the County Recorder. (Code of Iowa, Sec. 380.11)

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 11 NUMBERING OF BUILDINGS**

- |        |                          |        |                       |
|--------|--------------------------|--------|-----------------------|
| 6-11-1 | Buildings to be Numbered | 6-11-4 | Type of Numbers, Size |
| 6-11-2 | Numbering System         | 6-11-5 | Enforcement           |
| 6-11-3 | Mandatory Numbering      |        |                       |

6-11-1 **BUILDINGS TO BE NUMBERED.** All buildings now or hereafter erected within the City limits shall be assigned numbers and the owners notified of the assigned number. The owners shall cause the numbers to be placed and maintained on their property.

6-11-2 **NUMBERING SYSTEM.** Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the east and south sides of all streets and the odd numbers shall be on the west and north sides of all streets.

6-11-3 **MANDATORY NUMBERING.** The placing of numbers is mandatory effective the date of publication of the ordinance passing the 2005 Municipal Code of Ordinances.

6-11-4 **TYPE OF NUMBERS, SIZE.** The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than three inches in height.

6-11-5 **ENFORCEMENT.** If numbers meeting the requirements of this ordinance have not been placed on each building, the City shall cause individual notice to be given to the owner of buildings not numbered, requiring compliance within a reasonable time set in the notice, and if not completed by such time, the City shall cause proper numbers to be installed and the reasonable cost of the installation billed to such owner.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 12 PUBLIC WATER SUPPLY WELL FIELD PROTECTION

6-12-1 Purpose	6-12-7 Exceptions
6-12-2 Definitions	6-12-8 Determination of Locations within Zones
6-12-3 Substances Regulated	6-12-9 Enforcement and Penalties
6-12-4 Maps of Zones of Influence	6-12-10 Inspections
6-12-5 Restrictions within the Primary Protection Zone	6-12-11 Notice of Violation and Hearing
6-12-6 Restrictions within the Secondary Protection Zone	6-12-12 Injunction Relief

6-12-1 PURPOSE. The purpose of this chapter is to institute land use regulations and restrictions to protect the city's water supply and well fields, restrict the location of potential sources of contamination in close proximity to a public water supply, and to promote the public health, safety and general welfare of the residents of the city.

#### 6-12-2 DEFINITIONS.

1. "Aquifer" means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. "Alluvium" means sand, clay, etc., gradually deposited by moving water.
3. "Contamination" means the presence of any harmful or deleterious substances in the water supply.
4. "Groundwater" means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
5. "Hazardous substances" means those materials specified in Section 6-12-3 of this chapter.
6. "Permitted pumping capacity" means the amount of water authorized to be pumped from a well during a one-year period.
7. "Person" means any natural person, individual, public or private corporation, firm association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.

8. "Petroleum product" means fuels (gasoline, diesel fuel, kerosene and mixtures of those products), lubricating oils, motor oils, hydraulic fluids and other similar products.

9. "Pollution" means the presence of any substance (organic inorganic, radiological or biological) condition (temperature, pH turbidity) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

10. "Potable water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

11. "Primary containment" means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.

12. "Public utility" means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.

13. "Secondary containment" means the level of product-tight containment external to an separate from the primary containment. Secondary containment consists of leakproof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.

14. "Shallow well" means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point twenty-five (25) feet below the normal ground surface.

15. "Toxic substance" means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation or absorption into the body.

16. "Water pollution" means the introduction in any surface or underground water of any organic or inorganic deleterious substance in such quantities, proportions and accumulations that are injurious to human, plant, animal, fish and other aquatic life or property or that unreasonably interfere with the comfortable enjoyment of life or property or the conduct of business.

17. "Well" means a pit or hole sunk into the earth to reach a resource supply such as water.

18. "Well field" means a tract of land that contains a number of wells for supplying water.

19. “Zones of influence” means zones delineated by fixed radii around well heads, within which toxic substances will be regulated to protect the quality of the underground resource.

6-12-3 SUBSTANCES REGULATED. The materials regulated by this chapter are the following:

1. Petroleum products as defined in Section 6-12-2;
2. Substances listed in 40 CFR Part 261, subparts C and D, the Federal Hazardous Waste List;
3. Substances listed by the Iowa Labor Commissioner pursuant to Section 89B.12 of the Code of Iowa (*Hazardous Chemicals Risks – Right to Know*).

6-12-4 MAPS OF ZONES OF INFLUENCE.

1. Maps. Zones of influence maps and any amendments thereto are incorporated by reference and made part of this chapter. These maps are on file at City Hall. The location of all wells in the city supplying potable water to the City Water System are shown on the official Well Head Protection Map with Primary and Secondary Protection Zones indicated. Said maps shall be provided to the Clerk, Building Official, County Health Department and any other agency requesting said maps.

2. Map Maintenance. The zones of influence maps may be updated on an annual basis. The reasons for such update may include, but are not limited to, the following:

- a. Changes in the technical knowledge concerning the aquifer;
- b. Changes in permitted pumping capacity of city well fields;
- c. Additions of wells to existing well fields;
- d. Designation of new well fields.

3. Zones of Influence. The zones of influence indicated on the zone of influence maps are as follows:

- a. Primary Protection Zone – an area extending 200 feet radially from any well supplying potable water to the City Water System.
- b. Secondary Protection Zone – an area extending between 200 and 2,640 feet radially from any well supplying potable water to the City Water System.

6-12-5 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited uses unless permits are granted by the Council under this section.

a. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use, and the Iowa Department of Natural Resources *Separation Distances from Wells* for sources of contamination is complied with.

b. Playgrounds.

c. Wildlife areas; open spaces.

d. Nonmotorized trails, such as biking, skiing, nature and fitness trails.

2. Prohibited Uses. The following uses are prohibited uses within the Primary Protection Zone. Uses not listed are not considered permitted uses unless specifically listed above under subsection 1 of this section.

a. Sewered or unsewered residential uses;

b. On-site private sewage systems, including but not limited to septic tanks;

c. Underground storage tanks;

d. Agricultural activities;

e. Pesticide and/or fertilizer storage and use;

f. Septage and/or sludge spreading;

g. Animal waste land spreading;

h. Animal waste facilities;

i. Animal confinement facilities, feedlots or other concentrated animal facilities;

j. Gas stations;

k. Vehicle repair establishments, including auto body repair;

l. Printing and duplicating businesses;

m. Any manufacturing or industrial businesses;

n. Bus or truck terminals;

- o. Landfills or waste disposal facilities;
- p. Wastewater treatment facilities, percolation ponds, dredge spoil deposits and similar facilities;
- q. Spray wastewater facilities;
- r. Junk yards or auto salvage yards;
- s. Bulk fertilizer and/or pesticide facilities;
- t. Asphalt products manufacturing;
- u. Dry cleaning businesses;
- v. Salt storage and/or salt storage facilities;
- w. Electroplating facilities;
- x. Exterminating businesses;
- y. Paint and coating manufacturing;
- z. Hazardous and/or toxic materials storage;
- aa. Toxic and hazardous waste facilities;
- bb. Radioactive waste facilities.

4. Hazardous Substances. No person shall discharge or cause or permit the discharge of a hazardous substance (including herbicide and pesticide application) to the soils, groundwater or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Well Head Field Protection Officer. The use, handling, production and storage of hazardous substances is prohibited in the Primary Protection Zone except as provided under Section 6-12-8 of this chapter. All persons who presently engage in nonexempt activity within the protection zone who store, handle, use or produce any hazardous substances shall cease to do so within two (2) years from the effective date of the ordinance codified in this chapter unless granted a variance from the Department of Natural Resources or except as provided herein.

5. Uses Requiring Permits. The following uses are not allowed within the Primary Protection Zone unless a permit is issued for such use by the Council as provided under Section 6-12-7.

- a. Basement storage tanks;



- b. Repair shops (excluding those prohibited under subsection 2 of this section).

6-12-6 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted in the Secondary Protection Zone.

- a. All uses listed as permitted in the Primary Protection Zone.
- b. Sewered residential, commercial and/or industrial uses except those listed as prohibited uses in subsection 2 of this section.
- c. Above-ground storage tanks of 660 gallons or less.
- d. Basement storage tanks.

2. Prohibited Uses. The following guses are prohibited uses within the Secondary Protection Zone. Uses not listed are not considered permitted uses unless specifically listed above under subsection 1 or granted a permit by the Council as under Section 6-12-7.

- a. Landfills;
- b. Wastewater treatment facilities;
- c. Spray wastewater facilities;
- d. Junk yard or auto salvage yards;
- e. Hazardous and toxic materials storage and use;
- f. Hazardous and toxic waste facilities;
- g. Radioactive waste facilities.

3. Uses Requiring Permits. The following uses are prohibited within the Secondary Protection Zone unless a permit is granted for such use by the Council as under Section 6-12-7.

- a. Underground storage tanks of any size;
- b. Private sewage systems;
- c. Agricultural activities;
- d. Pesticide and/or fertilizer storage and use;
- e. Septage and/or sludge spreading;

- f. Animal waste land spreading;
- g. Animal waste facilities;
- h. Animal confinement facilities;
- i. Gas stations;
- j. Vehicle repair establishments, including auto body repair;
- k. Printing and duplicating businesses;
- l. Bus or truck terminals;
- m. Repair shops;
- n. Bulk fertilizer and pesticide facilities;
- o. Asphalt products manufacturing;
- p. Dry cleaning businesses;
- q. Salt storage;
- r. Electroplating facilities;
- s. Exterminating businesses;
- t. Paint and coating manufacturing;
- u. Tire and battery services;
- v. Garage and vehicular towing;
- w. Public and municipal maintenance garage.

6-12-7 EXCEPTIONS.

1. The following activities or uses are exempt from the provisions of this chapter:
  - a. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
  - b. Silviculture uses and mosquito control spraying providing that said uses comply with the Iowa Commercial and Public Pesticide Applicators and Dealers Licensing through the Iowa Department of Agriculture. The use and storage of

herbicides and pesticides for silvaculture uses is prohibited within the Primary Protection Zone but is allowed within the Secondary Protection Zone.

c. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.

d. Fire, police, emergency medical services, emergency management center facilities or public utility transmission facilities.

e. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.

f. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.

g. Consumer products located in the home which are used for personal, family or household purposes.

h. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.

i. The use of water treatment chemicals connected with the operation of the well.

2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of this chapter. However, such structures or facilities may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance.

3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this chapter by law shall not be subject to the restrictions contained herein.

4. All written requests for permits allowed under Section 6-12-5 and 6-12-6 of this chapter will be made to the Council and must include an environmental assessment report. Any permits granted will be made conditional and may include environmental and safety monitoring and/or a bond posted for future monitoring and cleanup costs. The exemption will be made void if environmental and/or safety monitoring indicates the facility is emitting any releases of harmful contaminants to the surrounding environment. The facility will be financially responsible for all environmental cleanup costs.

6-12-8 DETERMINATION OF LOCATIONS WITHIN ZONES. In determining the location of properties within the zones depicted on the Zones of Influence Maps, the following rules shall apply:

1. Properties located wholly within one zone reflected on the applicable Zone of Influence Map shall be governed by the restrictions applicable to that zone.

2. For properties having parts lying within more than one zone as reflected on the applicable Zones of Influence Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

#### 6-12-9 ENFORCEMENT AND PENALTIES.

1. The Water Superintendent is designated as the Well Field Protection Officer unless another person is specifically designated by the Council to supervise the implementation and enforcement of this chapter.

2. No building permit shall be issued and no use or construction shall be allowed which is a violation of the Iowa Department of Natural Resources *Separation Distance from Wells*, a violation of this chapter or a source of contamination for a city well.

3. No new underground tanks will be allowed for auxiliary fuel storage in the Primary or Secondary Zones.

4. Any person who fails to comply with the provisions of this chapter shall be subject to provisions and penalties provided in Title I, Chapter 3 of this Code of Ordinances, entitled *Penalty*.

#### 6-12-10 INSPECTIONS.

1. The Well Field Protection Officer or inspector shall have the power and authority to enter and inspect all buildings, structures and land within well field zones of influence for the purpose of making an inspection. Failure of a person having common authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer to inspect such premises.

2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open unsecured portion of the premises in order to conduct an inspection thereof.

3. The Well Field Protection Officer or inspector may inspect each well field annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within each well field zone. An emergency plan shall be prepared and filed with the County Emergency Management Agency indicating the procedures which will be followed in the event of spillage of a regulated substance so as to control and collect all such spilled materials.

4. It is the duty of all law enforcement officers to assist in making inspections when such assistance is requested by the officer or inspector.

6-12-11 NOTICE OF VIOLATION AND HEARING. Whenever an officer or an inspector determines that there is a violation of this chapter, said officer shall give notice thereof, and such notice of violation shall:

1. Be in writing;
2. Be dated and signed by the officer or inspector;
3. Specify the violation or violations;
4. State that said violations shall be corrected within a specified period of time as issued in writing by the inspector.

6-12-12 INJUNCTIVE RELIEF. If any person who engages in nonresidential activities stores, handles, uses and/or produces toxic substances within the well field zones of influence, as indicated on the Zones of Influence Maps, continues to operate in violation of the provisions of this chapter, then the city may file an action for injunctive relief in the court of jurisdiction.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 13 BUILDING PERMITS**

6-13-1	Permit Required	6-13-4	Building Permit Projects and
6-13-2	Issuance of Permit		Time Limits
6-13-3	Permit Fees	6-13-5	Appeals

6-13-1 PERMIT REQUIRED. No person shall proceed with the erection, construction, conversion, alteration, enlargement, extension, raising, demolition or moving of any building, structure or property or any portion thereof without having first received an approved building permit with building specifications from the City Clerk's Office. A building permit shall only be required for the building projects stated herein.

6-13-2 ISSUANCE OF PERMIT. All applications for building permits shall be accompanied by a plan showing the actual dimensions and shape of the lot to be built upon and the location and dimensions of the existing or proposed building or alteration. The application shall include existing or proposed building or alteration, existing or proposed uses of the building and land, the number of families, housekeeping units or rental units the building is designed to accommodate, conditions existing on the lot and such other matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance.

6-13-3 PERMIT FEES. Fees for building permits shall be \$15.00.

6-13-4 BUILDING PERMIT PROJECTS AND TIME LIMITS.

1. The following time limits shall apply for any of the following building projects.

- a. Fences, posts, trees, vicious dog structures and other small projects. 30 days  
\* Applicant shall be assessed a fine of \$10.00 per day for each day the project goes uncompleted.
- b. Sidewalks, driveways and any concrete floor under 1,000 sq. feet. 30 days  
\* Applicant shall be assessed a fine of \$10.00 per day for each day the project goes uncompleted.
- c. Accessory buildings, building additions & garages under 1,000 sq. feet. 60 days  
\* Applicant shall be assessed a fine of \$20.00 per day for each day the project goes uncompleted.
- d. Houses and larger buildings. 1 year  
\* Applicant shall be assessed a fine of \$50.00 per day for each day the project goes uncompleted.

2. Extension of Time Limits.

a. It shall be the duty of the Mayor to inspect the progress of any building or construction site and the discretion of the City Council to grant any requests for extensions of time as well as the length of any extension of time limit.

b. Any requests for extensions of building permit time limit shall be made in writing with the stated reasons for the extension and shall be delivered to the City Clerk's Office in person or by mail no less than five calendar days prior to the running of the time limit.

c. A building time limit shall only be extended once for any building permit.

d. The applicant shall notify City Hall in writing no later than the last day of the time limit for said building permit to cancel the permit with no refund.

6-13-5 APPEALS. If the City Council refuses to issue a building permit duly applied for or refuses to grant an extension of time for any of the building time limit stated herein, the party or applicant may appeal to the City Council for a hearing on the matter.

1. Any appeal for a refusal to extend a building permit time limit must be made prior to the running of the time limit and the appeal shall toll the time limit until a final decision can be made by the City Council.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 14 FENCE AND HEDGE REGULATIONS

#### 6-14-1 Fence and Hedges Regulations

#### 6-14-1 FENCE AND HEDGES REGULATIONS.

1. Fences and hedges when located within a front, side or rear yard, or within five (5) feet of a lot line shall be subject to the following location and height restrictions:

- a. No portion of a fence shall exceed seven (7) feet in height.
- b. Fence and hedges shall be located so no part thereof is within three (3) feet of an alley or three (3) feet of a street right-of-way.
- c. In residential districts, fences within the front yard shall not exceed four (4) feet in height.
- d. Before issuing a permit for a fence proposed to be located on a lot-line that is shared by two different property owners, the city will require the following conditions to be met:

1) The owners of the properties that share the lot-line on which the proposed fence will be located must sign a written agreement that outlines the material the fence will be constructed from, the location of the fence, the height of the fence, and the agreement of both property owners to all of the above conditions.

2) The agreement must then be filed with the County Recorder.

3) A copy of the agreement and proof of its filing with the County Recorder must be presented to the City Official responsible for the issuing of fence permits before the permit will be issued.

4) If agreement cannot be reached between the property owners on a shared lot-line fence, any fence constructed on either property must be a minimum of three (3) feet from said shared lot-line.

2. Fenced enclosures shall be provided for outdoor swimming pools with a depth of eighteen (18) inches or more, and shall be subject to the following requirements:

- a. Fences must be at least four (4) feet in height from ground level but not to exceed seven (7) feet from the top rim of the pool, and have no spaces that would allow a four (4) inch diameter sphere to pass through.
- b. Fences must have a self-closing and self-latching device on the gate.



c. Fences must be located so not part thereof is within three (3) feet of an alley or three (3) feet of a street right-of-way.

d. Fences shall be constructed of material commonly used for landscape fencing, such as masonry block, lumber, chain link or natural plantings, but shall not include corrugated sheet metal, barbed wire, salvage material or be electrified unless otherwise allowed.

e. The frame of a fence, including posts and supports, shall be placed on the inside of the fence. Fencing shall be constructed with the finished side facing outward.

3. Barbed wire and electric fences shall be subject to the following requirements:

- a. Barbed wire and electric fences shall not be allowed in residential or commercial zones.
- b. Barbed wire and electric fences shall be prohibited within five (5) feet of a public sidewalk or within four (4) feet of a street right-of-way where a public sidewalk does not exist.
- c. Electric fences shall not be permitted in any district except for the enclosure of livestock operations in Agricultural zones.
- d. No electric fence shall carry a charge greater than twenty-five (25) milliamperes nor a pulsating current longer than one-tenth (1/10) per second in a one-second cycle. All electric fence chargers shall carry the seal of an approved testing laboratory.

4. Visibility at Intersection. On a corner lot in any agricultural or residential district, no fence, wall hedge or other planting, signs or structure that will obstruct vision between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersecting street shall be erected, placed or maintained within the triangular area formed, the right-of-way lines at such corner and a straight line joining said right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.

5. Temporary Fencing. No permit will be required for temporary fencing.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 1 CABLE FRANCHISE**

AN ORDINANCE GRANTING TO GRISWOLD TELEPHONE COMPANY, THEIR LESSEES SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE FRANCHISE TO OPERATE A CABLE COMMUNICATIONS SYSTEM WITHIN THE CITY OF LEWIS, IOWA, INCLUDING THE PLACING OF POLES, WIRES AND OTHER FIXTURES TO SUPPLY CABLE SERVICES TO THE INHABITANTS THEREOF.

Be It Enacted by the City Council of Lewis, Iowa:

7-1-1 There is hereby granted to Griswold Telephone Company, their successors and assigns, hereinafter called the GRANTEES, the right and privilege for a period of twenty (20) years from the effective date of this ordinance, to erect buildings in the city of Lewis, Iowa, hereinafter called the CITY, to construct, maintain and operate in the present and future streets, alleys and public places in the City, towers, poles, lines, cables, necessary wiring and other apparatus for the purpose of receiving, amplifying and distribution of television and radio signals to the City and the inhabitants thereof.

7-1-2. That poles and towers shall be erected as not to interfere with the traffic over the streets and alleys, and the location of all pedestals, poles, towers, or other obstructions shall be fixed with the approval of the City as to such location giving consideration to the reasonable operation of the same, providing further that such location shall not be vested interest, and the same shall be removed by the Grantees whenever the same restrict or obstruct the operation or location of said streets and alleys and public places.

7-1-3. That permission is hereby granted to said Grantees and their assigns to attach or otherwise affix cables or wires to the pole facilities of any public utility company even though the same may cross over the streets, sidewalks, public lands, highways of the City, provided the said Grantees or assigns secure the permission and consent of said aforementioned public utility companies concerned to affix the cables and/or wires or other apparatus to their pole facilities.

7-1-4. That all streets and sidewalks disturbed or damaged in the construction or maintenance of said cable lines and other apparatus shall be promptly repaired by the Grantee at its expense and to the satisfaction of the City.

7-1-5. That the Grantee shall be subject to all ordinances in force or that may be hereinafter enacted relative to the use of the streets and alleys of the City.

7-1-6. That the Grantees shall hold the City harmless from all claims for damages arising out of the construction, maintenance or operation of said cable lines or other apparatus.

7-1-7. That the Grantees agree to construct and operate their cable communication system so as to conform to the rules as promulgated by the Federal Communications Commissions.

7-1-8. The Grantees shall temporarily raise or lower their wires to permit the moving of buildings. The Grantees shall be given not less than 48 hours notice to do the work. Expenses of such temporary work shall be paid to the Grantees by the person, firm, or corporation moving the building.

7-1-9. Rates charged by the Grantees for service hereunder shall be fair and reasonable and designed to meet all necessary cost of service, including a fair rate of return on valuation of their properties devoted thereto under efficient and economic management. Grantees rates for basic monthly cable television are hereby approved by the City. For the purposes of this section, "basic monthly cable television service: is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios of equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable") rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the systems, the rates and charges for which shall not require approval of the City.

7-1-10. Upon termination or forfeiture of the franchise in accordance with any of its terms, the Grantees shall, within a reasonable time, remove their cables, wires, and appliances for the city streets, lanes, avenues, sidewalks, alleys, bridges, highways, easements and other public places within the City of subsequent additions thereto.

7-1-11. The right and authority herein granted shall be non-exclusive and shall be and continue for a period of twenty (20) years from and after the effective date of this ordinance.

7-1-12. All ordinances and parts of ordinances inconsistent with the provisions of this ordinance are hereby appealed.

7-1-13. If any section, provision or part of the ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not effect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

7-1-14. This ordinance, following its passage and ratification by a majority of the qualified voters of said City voting at an election called for the purpose of voting thereon, and its publication as by law provided, shall become effective upon its acceptance by the Grantee.

Passed the 5th day of March, 1986. Effective 20 years.

## **TITLE VII PHYSICAL ENVIRONMENT**

### **CHAPTER 2 AQUILA FRANCHISE**

7-2-1 An ordinance of the City of Lewis, Iowa granting to Aquila., its lessees, successors and assigns a non-exclusive authority for a period of twenty-five (25) years to erect, maintain and operate, a gas distribution system and any and all necessary mains, pipes, services and other appurtenances thereunto appertaining in, upon, over, across and along the streets, alleys, bridges, and public places of the said City, and for the transmission, distribution and sale of natural and/or mixed gas for lighting, heating, industrial and all other uses and purposes in said City and for the purpose of transmitting, transporting and conveying such gas into, through or beyond the immediate limits of said City to other cities, towns and customers, and prescribing the terms and conditions under which the said Company is to operate.

The City Council of Lewis, Iowa Ordains:

7-2-2 That Aquila., its lessees, successors and assigns, hereinafter referred to as Grantee, be and are hereby granted a non-exclusive authority for a period of twenty-five (25) years, to erect, construct, maintain and operate, a gas distribution system and any and all necessary mains, pipes, services and other appurtenances and equipment thereunto, appertaining in, upon, over, across and along the streets, alleys, bridges and public places in the City of Lewis, Iowa for the transmission, distribution and sale of natural and/or mixed gas for lighting, heating, industrial and all other uses and purposes in said City and for the purpose of transmitting, transporting and conveying such gas into, through or beyond the immediate limits of said City to other cities, towns and customers.

7-2-3 Whenever the Grantee, in the construction or maintenance of its system or in the installation of any extension thereto, shall cut into or take up any pavement or shall make any excavation in any street, avenue, alley or public place, within the corporate limits of the City of Lewis, Iowa the same shall be done in a manner so as not to unreasonably interfere with the use of such thoroughfares by the public. The Grantee shall use such safeguards as may be necessary to prevent injury to persons or property during such construction work and upon its completion, all pavement shall be replaced in as good condition as it was before taken up. All excavations shall be refilled and all obstructions shall be removed at the expense of the Grantee and to the satisfaction of the Grantor. In the event that the Grantee shall fail to comply with the provisions of this Section after having been given reasonable notice, the Grantor may do such work as may be needed to properly repair said thoroughfare and the cost thereof shall be repaid to the Grantor by the Grantee.

7-2-4 The Grantee in constructing and maintaining said gas distribution system, and in entering and using said streets, highways, avenues, alleys and public places in the City of Lewis, Iowa and in laying and installing its mains, services, piping and related appurtenances and equipment, shall not in any manner interfere with or injure and improvement which said City now has or may hereafter have upon any of its streets, alleys, highways or public places.

7-2-5 Grantee agrees for and in behalf of itself, its lessees, successors and assigns, that for and during the term and period of this grant, it will maintain in the City an adequate, modern, standard

and sufficient gas system and equipment and to maintain and operate the same in a modern and adequate fashion.

Grantee will from time to time during the term of this ordinance make such enlargements and extensions of its distribution system as the business of the Grantee and the growth of said City justify, in accordance with its Rules and Regulations relating to customer connections and main and service extensions currently in effect and on file from time to time with the Iowa State Commerce Commission or other competent authority having jurisdiction in the premises; provided, however, that no obligation shall extend to, or be binding upon the Grantee, to construct or extend its mains or furnish natural gas or natural gas service within said City if Grantee is, for any reason, unable to obtain delivery of natural gas at or near the corporate limits of said City or an adequate supply thereof to warrant the construction or extension of its mains, for the furnishing of such natural gas or gas service; provided, further, that when the amount of natural gas supplied to Grantee at or near the City limits of said City is insufficient to meet the additional firm requirements of connected or new customers, Grantee shall have the right to prescribe reasonable rules and regulations for allocating the available supply of natural gas for such additional firm requirements to residential, commercial and industrial consumers in that order of priority.

7-2-6 Grantee agrees for and in behalf of itself, its lessees, successors and assigns, that all authority and rights in this Ordinance shall at all times be subject to all rights, power and authority now or hereafter possessed by the City of Lewis, Iowa to regulate the manner in which Grantee shall use the streets, alleys, bridges and public places of said City and concerning the manner in which Grantee shall use and enjoy the franchise herein granted.

7-2-7 Grantee shall, at all times, maintain an adequate pressure and adequate supply of clean, standard gas of the British Thermal Unit heating value of not less than that prescribed in its Rules and Regulations relating thereto in effect and on file from time to time with the Iowa State Commerce Commission or other competent authority having jurisdiction in the premises. Should the British Thermal Units fall below the limitation set forth in its appropriate Rules and Regulations, the rate then in effect shall be automatically and correspondingly lowered and reduced during any period or periods of time in which such lower British Thermal Unit value shall be furnished. The City shall have the privilege of requesting Grantee to furnish satisfactory proof of British Thermal Unit content of the gas.

7-2-8 The Grantee shall hold the Grantor harmless from any and all claims and actions, litigation, or damage, arising out of the passage of this Ordinance or the construction, erection, installation, maintenance or operation of its properties operated by authority of this Ordinance within the corporate limits of the City of Lewis, Iowa or the negligence of its employees in the operation thereof, including the Court costs and reasonable attorney fees in making defense against such claims. A copy of the process served upon the Grantor shall be served by the Grantor upon the Grantee. The Grantee shall have the right to defend in the name of the Grantor and to employ counsel for such purpose.

7-2-9 If the Grantee shall be in default in the performance of any of the terms and conditions of this Ordinance and shall continue in default for more than thirty (30) days after receiving notice from the City of Lewis, Iowa of such default, the said City may, by ordinance duly passed and

adopted, terminate all rights granted under this Ordinance to the Grantee. The said notice of default shall specify the provision or provisions in the performance of which it is claimed the Grantee is in default. Said notice shall be in writing and served in the manner provided by the laws of the State of Iowa for the service of original notices in civil actions.

7-2-10 The right and authority herein granted shall be non-exclusive and shall be and continue for a period of twenty-five (25) years from and after effective date of this Ordinance.

7-2-11 This Ordinance, following its passage, is ratification by a majority of the qualified voters of said City, voting at an election called for the purpose of voting thereon, and its publication as by law provided, shall become effective upon its acceptance by the Grantee.

Passed and adopted and approved the 2nd day of January, 1991.

## **TITLE VII PHYSICAL ENVIRONMENT**

### **CHAPTER 3 MIDAMERICAN FRANCHISE**

AN ORDINANCE GRANTING UNTO MIDAMERICAN, AND ASSIGNS, THE RIGHT, FRANCHISE AND PRIVILEGE FOR A PERIOD OF TWENTY-FIVE (25) YEARS FROM AND AFTER THE ADOPTION AND APPROVAL HEREOF, TO ACQUIRE, CONSTRUCT, OPERATE AND MAINTAIN IN THE CITY OF LEWIS, IOWA, THE NECESSARY FACILITIES FOR THE PRODUCTION, DISTRIBUTION, TRANSMISSION AND SALE OF ELECTRIC ENERGY FOR PUBLIC AND PRIVATE USE; TO USE AND OCCUPY THE PUBLIC STREETS, HIGHWAYS, AVENUES, ALLEYS, BRIDGES AND PUBLIC PLACES FOR SUCH PURPOSES; AND PRESCRIBING THE TERMS AND CONDITIONS THEREOF; AND GRANTING UNTO SAID COMPANY THE RIGHT OF EMINENT DOMAIN, THE EXERCISE OF WHICH IS SUBJECT TO CITY COUNCIL APPROVAL.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEWIS, IOWA:

7-3-1 That Mid-American, its successors and assigns, be and it is hereby granted and vested with the right, franchise and privilege for a period of twenty-five (25) years from and after the adoption and approval hereof, as provided by law, to acquire, construct, operate and maintain in the City of Lewis, Iowa, the necessary facilities for the productions, distribution, transmission and sale of electric energy for public and private use and to construct and maintain along, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary fixtures and equipment for such purposes; and for the term of this franchise the Company is further granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company.

7-3-2 This franchise shall not be exclusive and shall not restrict in any manner the right of the City Council or any other governing body of the City in the exercise of any regulatory power which it may now have, or hereafter be authorized or permitted by the laws of the State of Iowa.

Passed by the City Council of the City of Lewis, Iowa, the 9th day of September, 1992.