

# **PUBLIC OFFENSES**

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## CHAPTER 40

### PUBLIC PEACE

40.01 Assault  
40.02 Harassment  
40.03 Disorderly Conduct

40.04 Unlawful Assembly  
40.05 Failure to Disperse

**40.01 ASSAULT.** No person shall, without justification, commit any of the following:

1. Pain or Injury. Any act that is intended to cause pain or injury to another or that is intended to result in physical contact that will be insulting or offensive to another, coupled with the apparent ability to execute the act.

*(Code of Iowa, Sec. 708.1[1])*

2. Threat of Pain or Injury. Any act that is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

*(Code of Iowa, Sec. 708.1[2])*

An act described in Subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace; (ii) if the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function, regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

*(Code of Iowa, Sec. 708.1)*

**40.02 HARASSMENT.** No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:

A. Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

*(Code of Iowa, Sec. 708.7)*

B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by the other person.

*(Code of Iowa, Sec. 708.7)*

C. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.

*(Code of Iowa, Sec. 708.7)*

D. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur.

*(Code of Iowa, Sec. 708.7)*

2. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

**40.03 DISORDERLY CONDUCT.** No person shall do any of the following:

1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct that is reasonably related to that sport.

*(Code of Iowa, Sec. 723.4[1])*

2. Noise. Make loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.

*(Code of Iowa, Sec. 723.4[2])*

3. Abusive Language. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.

*(Code of Iowa, Sec. 723.4[3])*

4. Disrupt Lawful Assembly. Without lawful authority or color 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])*

5. False Report of Catastrophe. By words or action, initiate or circulate a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

*(Code of Iowa, Sec. 723.4[5])*

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault. As used in this subsection:

*(Code of Iowa, Sec. 723.4[6])*

A. "Deface" means to intentionally mar the external appearance.

B. "Defile" means to intentionally make physically unclean.

C. "Flag" means a piece of woven cloth or other material designed to be flown from a pole or mast.

D. "Mutilate" means to intentionally cut up or alter so as to make imperfect.

E. "Show disrespect" means to deface, defile, mutilate, or trample.

F. "Trample" means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

*(Code of Iowa, Sec. 723.4[7])*

8. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.

C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

This subsection applies to conduct within 60 minutes preceding, during, and within 60 minutes after a funeral, memorial service, funeral procession, or burial.

*(Code of Iowa, Sec. 723.5)*

**40.04 UNLAWFUL ASSEMBLY.** It is unlawful for three or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

*(Code of Iowa, Sec. 723.2)*

**40.05 FAILURE TO DISPERSE.** A peace officer may order the participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. No person within hearing distance of such command shall refuse to obey.

*(Code of Iowa, Sec. 723.3)*

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## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances

41.02 False Reports to or Communications with Public  
Safety Entities

41.03 Providing False Identification Information

41.04 Refusing to Assist Officer

41.05 Harassment of Public Officers and Employees

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41.08 Abandoned or Unattended Refrigerators

41.09 Antenna and Radio Wires

41.10 Barbed Wire and Electric Fences

41.11 Discharging Weapons

41.12 Throwing and Shooting

41.13 Urinating and Defecating

41.14 Fireworks

**41.01 DISTRIBUTING DANGEROUS SUBSTANCES.** No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

*(Code of Iowa, Sec. 727.1)*

**41.02 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES.** No person shall do any of the following:

*(Code of Iowa, Sec. 718.6)*

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.
2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.
3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

**41.03 PROVIDING FALSE IDENTIFICATION INFORMATION.** No person shall knowingly provide false identification information to anyone known by the person to be a peace officer, emergency medical care provider, or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

*(Code of Iowa, Sec. 719.1A)*

**41.04 REFUSING TO ASSIST OFFICER.** Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. No person shall unreasonably and without lawful cause, refuse or neglect to render assistance when so requested.

*(Code of Iowa, Sec. 719.2)*

**41.05 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.** No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

*(Code of Iowa, Sec. 718.4)*

**41.06 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider under Chapter 147A of the *Code of Iowa*, or firefighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 602.1303[4] of the *Code of Iowa*, in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider, or firefighter, or person performing bailiff duties, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

*(Code of Iowa, Sec. 719.1)*

**41.07 REMOVAL OF AN OFFICER'S COMMUNICATION OR CONTROL DEVICE.** No person shall knowingly or intentionally remove or attempt to remove a communication device or any device used for control from the possession of a peace officer or correctional officer, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be an officer.

*(Code of Iowa, Sec. 708.12)*

**41.08 ABANDONED OR UNATTENDED REFRIGERATORS.** No person shall abandon or otherwise leave unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, nor shall any person allow any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children.

*(Code of Iowa, Sec. 727.3)*

**41.09 ANTENNA AND RADIO WIRES.** It is unlawful for a person to allow antenna wires, antenna supports, radio wires, or television wires to exist over any street, alley, highway, sidewalk, public way, public ground, or public building without written consent of the Council.

*(Code of Iowa, Sec. 364.12[2])*

**41.10 BARBED WIRE AND ELECTRIC FENCES.** It is unlawful for a person to use barbed wire or electric fences to enclose land within the City limits without the written consent of the Council unless such land consists of 10 acres or more and is used as agricultural land.

**41.11 DISCHARGING WEAPONS.**

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits except by written consent of the Council.
2. No person shall intentionally discharge a firearm in a reckless manner.

**41.12 THROWING AND SHOOTING.** It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB



guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building, without written consent of the Council.

*(Code of Iowa, Sec. 364.12[2])*

**41.13 URINATING AND DEFECATING.** It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway, or window thereof, or onto any public or private land.

**41.14 FIREWORKS.** The sale, use, or exploding of fireworks within the City is subject to the following:

1. Definition. For purposes of this section, definitions are enumerated in the *Code of Iowa* Section 727.2, which definitions are incorporated herein by reference.

*(Code of Iowa, Sec. 727.2)*

2. Sales - General Requirements.

A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the City at City Hall:

- (1) License. Proof of valid license issued from the State Fire Marshal.

- (2) Liability Insurance. Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.

- (3) Fire Inspection. Any property, building, or premises, whether permanent or temporary, intended for the sale of consumer fireworks shall have an initial fire inspection completed by the Fire Chief prior to engaging in the sale of consumer fireworks. The Fire Chief shall cause an annual inspection to occur meeting the requirements of the *National Fire Protection Code* 1124 (2006 edition). Inspection costs shall be assessed as follows:

- a. Permanent structure where fireworks are sold - annual inspection fee of \$100.00.

- b. Temporary or non-brick or mortar building where fireworks are sold - annual inspection fee of \$200.00.

B. Consumer fireworks sales shall only be conducted in accordance with dates and times designated by *Code of Iowa* Section 727.2. It is unlawful to sell consumer fireworks without meeting the requirements specified in this section, or to sell fireworks outside of the dates specified.

- (1) Approved consumer fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 3.

- (2) Approved consumer fireworks sales meeting the requirements of this section shall be allowed from an approved temporary structure between June 13 and July 8.

C. The following safety requirements shall be adopted for all locations where consumer fireworks are sold:

(1) All transportation, storage, and sales of consumer fireworks shall conform to the safety standards set forth by the *National Fire Protection Code* 1124 (2006 Edition), including (but not limited to) those standards concerning separation distance requirements and aggregate weight limits.

(2) There shall be no more than 1,000 pounds of 1.4G consumer fireworks on site at any temporary structure sales location.

(3) Any permanent structure used primarily for the purpose of consumer fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building.

(4) Any temporary structure having between 500 and 1,000 pounds of total aggregate weight of DOT 1.4 class consumer fireworks shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.

(5) Smoking, open flame source, or matches shall not be located within 50 feet where consumer fireworks are sold. The following exemptions apply:

a. Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where consumer fireworks are not the primary business.

b. Locations that engage in consumer fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.

(6) All electrical wiring shall meet NFPA 70 *National Electrical Code*. Permanent structures or buildings used primarily for consumer fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.

(7) Locations shall maintain a 48-inch clear aisle between consumer fireworks display shelves.

(8) Locations shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage, except that exit signs shall be illuminated in permanent structures.

(9) Consumer fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.

(10) Locations shall have a minimum of two 10-pound ABC rated fire extinguishers mounted in accordance with NFPA. Additional fire

extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher.

(11) All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are approved exit doors as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within eight seconds.

(12) No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where consumer fireworks are sold as a primary business.

(13) No more than one Conex container or approved explosive magazine shall be located on site for short-term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices. It is permitted to place containers in a security fenced area.

(14) Individual consumer fireworks devices or opened consumer fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.

(15) Consumer fireworks sales shall only be allowed in areas zoned for commercial use.

(16) Any person engaged in consumer firework sales in any other zone other than commercial zoned areas shall not be approved for sales within the City limits.

(17) No person shall sell a DOT 1.4 class consumer firework to a person under the age of 18.

(18) Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

3. Discharging Fireworks - General Requirements.

A. No person under the age of 18 shall discharge a DOT 1.4 class consumer firework without parental supervision.

B. A person shall only discharge a consumer fireworks device on real property they own or on property where consent has been given. Novelties, including snakes, sparklers, or caps, can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.

C. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

D. Any person discharging a consumer fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.

E. No person shall discharge a consumer fireworks device outside the following dates and hours:

*see next  
page  
Ord. 2018*

~~(1)~~ During Rose Festival, being the third week of June, Friday and Saturday only, from the hours of 2 p.m. until 10 p.m.

~~(2)~~ A maximum of four days, including the July 4<sup>th</sup> holiday, set by resolution and published annually in May by the State Center City Council from the hours of 2 p.m. until 10 p.m.

F. It is unlawful to alter, remove, or discharge components of a consumer fireworks device from its intended method of discharging.

G. Sky lantern open flame devices are not permitted to be released within the City limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.

H. The City may, upon application in writing, grant a permit for the display of display fireworks on public property by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such display fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

(1) Personal Injury: \$250,000.00 per person.

(2) Property Damage: \$50,000.00

(3) Total Exposure: \$1,000,000.00

4. Violations. All violations of any provisions of this section are simple misdemeanors. Violations of this chapter may be reported to the State Fire Marshal.

5. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer, or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theater, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

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## **ORDINANCE NO. 368**

**AN ORDINANCE AMENDING SECTION 41.11(3)E OF THE CODE OF ORDINANCES OF THE CITY OF STATE CENTER, IOWA, BY ESTABLISHING NEW PERIODS DURING WHICH CONSUMER FIREWORKS MAY BE DISCHARGED.**

**BE IT ORDAINED** by the City Council of the City of State Center, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 41.11(3)E of the Code of Ordinances for the City of State Center, Iowa is amended to establish new periods during which consumer fireworks may be discharged:

**41.11(3)E.** No person shall discharge a consumer fireworks device outside the following dates and hours:

1. During Rose Festival, being the third week of June, on Friday and Saturday with hours to be set annually by council resolution and published in May.
2. A maximum of four days, including the July 4<sup>th</sup> holiday, specific days, and hours to be set annually by council resolution and published in May.

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

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this Ordinance shall be adjudged invalid, unconstitutional, or unenforceable for any reason, such adjudication shall not affect the validity or enforcement of the remaining provisions.

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

**1<sup>st</sup> Reading: April 19, 2022**

**2<sup>nd</sup> Reading: Waived April 19, 2022**

**3<sup>rd</sup> Reading: Waived April 19, 2022**

Ordinance 368 passed and adopted by the City Council of the City of State Center the 19<sup>th</sup> day of April 2022.

Effective upon publication in the Mid Iowa Enterprise.

Craig Pfantz, Mayor

Attest:

Lori Bearden, City Clerk



## CHAPTER 42

# PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

### 42.01 TRESPASSING.

1. Prohibited. It is unlawful for a person to knowingly trespass upon the property of another.

*(Code of Iowa, Sec. 716.8)*

2. Definitions. For purposes of this section:

*(Code of Iowa, Sec. 716.7[1])*

A. "Property" includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.

B. "Public utility" is a public utility as defined in Section 476.1 of the *Code of Iowa* or an electric transmission line as provided in Chapter 478 of the *Code of Iowa*.

C. "Public utility property" means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.

D. "Railway corporation" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.

E. "Railway property" means all tangible real and personal property owned, leased, or operated by a railway corporation, with the exception of any administrative building or offices of the railway corporation.

- F. "Trespass" means one or more of the following acts:

*(Code of Iowa, Sec. 716.7[2a])*

(1) Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate.

(2) Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or the agent or employee of the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(4) Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

3. Specific Exceptions. "Trespass" does not mean either of the following:  
(*Code of Iowa, Sec. 716.7[2b]*)

A. Entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This paragraph does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

B. Entering upon the right-of-way of a public road or highway.

**42.02 CRIMINAL MISCHIEF.** It is unlawful, for any person who has no right to do so, to intentionally damage, deface, alter, or destroy property.

(*Code of Iowa, Sec. 716.1*)

**42.03 DEFACING PROCLAMATIONS OR NOTICES.** It is unlawful for a person intentionally to 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 the State, or any proclamation, advertisement or notification, set up at any place within the City by authority of the 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*)

**42.04 UNAUTHORIZED ENTRY.** No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or when said



building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

**42.05 FRAUD.** It is unlawful for any person to commit a fraudulent practice as defined in Section 714.8 of the *Code of Iowa*.

*(Code of Iowa, Sec. 714.8)*

**42.06 THEFT.** It is unlawful for any person to commit theft as defined in Section 714.1 of the *Code of Iowa*.

*(Code of Iowa, Sec. 714.1)*

**42.07 OTHER PUBLIC PROPERTY OFFENSES.** The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other activities or conditions that are also deemed to be public property offenses:

1. Chapter 21 – Library
  - A. Section 21.10 – Injury to Books or Property
  - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
  - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
  - A. Section 135.01 – Removal of Warning Devices
  - B. Section 135.02 – Obstructing or Defacing
  - C. Section 135.03 – Placing Debris On
  - D. Section 135.04 – Playing In
  - E. Section 135.05 – Traveling on Barricaded Street or Alley
  - F. Section 135.08 – Burning Prohibited
  - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
  - A. Section 136.10 – Interference with Sidewalk Improvements
  - B. Section 136.14 – Fires or Fuel on Sidewalks
  - C. Section 136.15 – Defacing
  - D. Section 136.16 – Debris on Sidewalks
  - E. Section 136.17 – Merchandise Display
  - F. Section 136.18 – Sales Stands

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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age  
45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles  
45.04 Social Host

**45.01 PERSONS UNDER LEGAL AGE.** As used in this section, “legal age” means 21 years of age or more.

1. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic beverages in their possession or control; except in the case of any alcoholic beverage given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages during the regular course of the person’s employment by a liquor control licensee, or wine or beer permittee under State laws.

*(Code of Iowa, Sec. 123.47[2])*

2. A person under legal age shall not misrepresent the person’s age for the purpose of purchasing or attempting to purchase any alcoholic beverage from any liquor control licensee or wine or beer permittee.

*(Code of Iowa, Sec. 123.49[3])*

## **45.02 PUBLIC CONSUMPTION OR INTOXICATION.**

1. As used in this section unless the context otherwise requires:

A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.

B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.

C. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.

D. “School” means a public or private school or that portion of a public or private school that provides teaching for any grade from kindergarten through grade twelve.

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.

3. A person shall not simulate intoxication in a public place.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

*(Code of Iowa, Sec. 123.46)*

**45.03 OPEN CONTAINERS IN MOTOR VEHICLES.** *[See Section 62.01(49) and (50) of this Code of Ordinances.]*

**45.04 SOCIAL HOST.** A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of eighteen, to consume or possess on such property any alcoholic beverage. The provisions of this subsection shall not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic beverage in connection with a religious observance, ceremony, or rite.

*(Code of Iowa, Sec. 123.47)*

## CHAPTER 46

### MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

#### 46.01 CURFEW.

1. Purpose. The Council has determined that a curfew for minors is necessary to promote the public health, safety, morals and general welfare of the City and specifically to achieve the following purposes:

A. Reinforce the primary authority and responsibility of adults responsible for minors;

B. Protect the public from the illegal acts of minors committed individually and in gangs during the curfew hours; and

C. Protect minors from improper influences and criminal activity by individuals and gangs that prevail in public places during the curfew hours.

2. Definitions. For use in this section, the following terms are defined:

A. "Curfew hours" means:

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and

(2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

B. "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.

C. "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.

D. "Guardian" means:

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

E. "Minor" means any person under 18 years of age.

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

G. "Parent" means a person who is:

(1) A natural parent, adoptive parent or step-parent of another person; or

(2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

H. "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.

I. "Remain" means:

(1) To linger or stay; or

(2) To fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

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

K. "Knowingly" means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable community standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

3. Offenses.

A. 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.

B. A parent or guardian commits an offense if the individual knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

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

4. Defenses.

A. It is a defense to prosecution under this section that the minor was:

(1) Accompanied by the minor's parent or guardian;

(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency;

(6) 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 Police Department about the minor's presence;

(7) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or other similar entity that takes responsibility for the minor;

(8) 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

(9) Married or previously married or emancipated.

B. It is a defense to prosecution under this section that the owner, operator or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

5. Enforcement. Before taking any enforcement action under this section, a police 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 under subsection 4 of this section is present.

6. Penalties. A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted.

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

**46.03 CONTRIBUTING TO DELINQUENCY.** It is unlawful for any person to encourage any child under 18 years of age to commit any act of delinquency.

*(Code of Iowa, Sec. 709A.1)*

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## CHAPTER 47

### PARK REGULATIONS

47.01 Purpose  
47.02 Parking  
47.03 Use of Drives Required  
47.04 Fires

47.05 Littering  
47.06 Camping  
47.07 Tobacco Free Policy

**47.01 PURPOSE.** The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.  
*(Code of Iowa, Sec. 364.12)*

**47.02 PARKING.** All vehicles shall be parked in designated parking areas, and except in the case of an emergency, no vehicle shall be left unattended on any park drive, road or street.

**47.03 USE OF DRIVES REQUIRED.** No person shall drive any car, cycle or other vehicle, or ride or lead any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the City.

**47.04 FIRES.** No fire shall be built, except in a place designated for such purpose, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

**47.05 LITTERING.** No person shall place, deposit, or throw any waste, refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.

**47.06 CAMPING.** No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

**47.07 TOBACCO FREE POLICY.** Tobacco use is prohibited in all City parks and outdoor recreational facilities at all times. No person shall use any form of tobacco at or on any City-owned or operated outdoor park or facility, which includes, but is not limited to, any park, playground, athletic field and complex, skate park, aquatic areas, shelter, restrooms, trails and parking lot areas. The term "tobacco" means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, among other products, cigarettes, electronic cigarettes, cigarette tobacco, roll-your-own tobacco, smokeless, and dissolvable tobacco. Tobacco product does not include nicotine products approved by the U.S. Food and Drug Administration (FDA) for tobacco cessation.

1. Appropriate signs shall be posted in the above specified areas.
2. The community, especially park and facility users and staff, will be notified about this policy.
3. City officials, park and recreation employees, parents, coaches and park users are asked to help enforcing the compliance to this policy by bringing the policy to the attention of the persons violating the policy.

4. Any person found violating this policy at an organized event, especially a youth event, may be asked to cease use of tobacco or leave the City park or facility premises.
5. Any person found to continually violate this policy may be cited with a municipal infraction pursuant to Chapter 4 of this Code of Ordinances.

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## CHAPTER 48

# DRUG PARAPHERNALIA

### 48.01 Purpose

### 48.02 Controlled Substance Defined

### 48.03 Drug Paraphernalia Defined

### 48.04 Determining Factors

### 48.05 Possession of Drug Paraphernalia

### 48.06 Manufacture, Delivery, or Offering For Sale

**48.01 PURPOSE.** The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture, and delivery of drug paraphernalia as defined herein.

**48.02 CONTROLLED SUBSTANCE DEFINED.** The term “controlled substance” as used in this chapter is defined as the term “controlled substance” is defined in the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*, as it now exists or is hereafter amended.

**48.03 DRUG PARAPHERNALIA DEFINED.** The term “drug paraphernalia” as used in this chapter means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used, intended for use, or designed for use in cutting controlled substances.
7. Separators; Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
8. Mixing Devices. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
  - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - B. Water pipes;
  - C. Carburetion tubes and devices;
  - D. Smoking and carburetion masks;
  - E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
  - F. Miniature cocaine spoons and cocaine vials;
  - G. Chamber pipes;
  - H. Carburetor pipes;
  - I. Electric pipes;
  - J. Air driven pipes;
  - K. Chillums;
  - L. Bongs;
  - M. Ice pipes or chillers.

**48.04 DETERMINING FACTORS.** In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner or of anyone in control of the object under any State or federal law relating to any controlled substance.
3. Proximity to Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.
4. Proximity to Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.

6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object explaining or depicting its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

**48.05 POSSESSION OF DRUG PARAPHERNALIA.** It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.

**48.06 MANUFACTURE, DELIVERY, OR OFFERING FOR SALE.** It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.

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