

**CHAPTER 40**  
**PUBLIC OFFENSES**

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**SUBCHAPTER 40.01**

**PUBLIC PEACE**

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**40.01.01 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)*

**40.01.02 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.

**40.01.03 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 which 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 which 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 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

- A. Make loud and raucous noise which 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 which 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)*

9. Disturbing the Peace. Host, sponsor, permit, or allow any congregation or assembly of more than five persons, to make loud or raucous noise in the vicinity of

any residence between the hours of 10:00 p.m. and 9:00 a.m. which causes or could reasonably be expected to cause distress to the occupants of any residence.

**40.01.04 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)*

**40.01.05 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)*

**40.01.06 DISORDERLY HOUSES; SOCIAL HOSTS.**

1. Definition.

A. Any room, house, building, structure, place, or premises wherein or upon which any unlawful or illegal acts are committed in violation of local, State, or federal law, or which is kept in such a manner as to disturb, annoy, or scandalize the public generally or persons within a particular neighborhood is hereby declared to be a disorderly house.

B. Any room, house, building, structure, place, or premises which is kept, maintained, used, erected, established, or run for any of the following purposes (as the same are defined in the *Code of Iowa*) is hereby declared to be a disorderly house; provided, however, this shall not be construed to be conclusive, limiting, or restrictive:

- (1) Prostitution, pandering, or public indecency;
- (2) Unlawful manufacture, cultivation, growth, production, processing, sale, distribution, storage, use, or possession for any unlawful manufacture or use of any controlled substance;
- (3) Gambling or the keeping of gambling devices;
- (4) Acts of disturbing the peace or disorderly conduct, as those terms are described in Section 40.01.03 of this subchapter;
- (5) The reception, retention, or disposition of stolen moveable property of another;
- (6) Clairvoyance, fortune telling, or divination;
- (7) Consumption of alcohol by any person under the age of twenty-one (21).<sup>†</sup>

2. Disorderly Houses Prohibited. It is unlawful for the owner, lessee, renter, proprietor, or any other person to keep, run, or maintain a disorderly house, or to knowingly collect or permit to be collected therein persons who are engaging in any unlawful act or to knowingly make, cause or permit, or suffer to be made therein any

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<sup>†</sup> **EDITOR'S NOTE:** See subsection 4 for further provisions regarding consumption of alcoholic beverages by minors.

loud or improper noise to the annoyance or disturbance of any person or neighborhood. A disorderly house is declared to be a public nuisance.

3. Visiting Disorderly House Prohibited. It is unlawful for any person to become or remain an inmate of any disorderly house, or to frequent or visit with knowledge of, and participation in, the illegal activities occurring therein.

4. Social Hosts. The purpose of this subsection is to protect the public interest, welfare, health, and safety within the City by prohibiting the services to and consumption of alcoholic beverages by persons under the age of 21 at premises located in the City. The Council finds that the occurrence of social gatherings at premises where alcoholic beverages are served to or consumed by persons under the age of 21 is harmful to such persons themselves and a threat to public welfare, health, and safety. The Council further finds that persons under the age of 21 often obtain alcoholic beverages at such gatherings and that persons who are in control of such premises know or have reason to know of such service and/or consumption and will be more likely to ensure that alcoholic beverages are neither served to nor consumed by persons under the age of 21 at these gatherings. Based on these findings, the Council has deemed it necessary to enact the following regulations:

A. Definitions. The following words, terms, and phrases, when used in this subsection, have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

- (1) "Alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by volume, including alcoholic liquor, wine, and beer.
- (2) "Emergency responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
- (3) "Enforcement services" means the salaries and benefits of emergency responders for the amount of time actually spent responding to or remaining at an event, gathering, or party and administrative costs attributable to the incident and includes the actual costs for medical treatment for any injured emergency responder and the costs of repairing any damage to equipment or vehicles.
- (4) "Event, gathering, or party" means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity where an underage person has consumed or possessed an alcoholic beverage.
- (5) "Parent" means any person having legal custody of a juvenile as: (i) a natural parent, adoptive parent, or stepparent; (ii) a legal guardian; or (iii) a person to whom legal custody has been given by order of the court.
- (6) "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or

other social function, and whether owned, leased, rented, or used with or without permission or compensation.

(7) “Social host” means any person who aids, conducts, allows, entertains, organizes, supervises, controls, or permits an event, gathering, or party. This includes, but is not limited to: (i) the person who owns, rents, leases, or otherwise has control of the premises where the event, gathering, or party takes place; (ii) the person in charge of the premises; or (iii) the person who organized the event. If the social host is a juvenile, then the parents of that juvenile will be jointly and severally liable for any violation of this subsection.

(8) “Underage person” means any individual under the age of twenty-one (21).

B. Prohibited Acts. It is unlawful for any social host to host an event, gathering, or party on premises when the person knows or reasonably should know that an underage person has consumed an alcoholic beverage, or possessed an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the underage person. A social host who hosts such an event, gathering, or party does not have to be present at the time the prohibited act occurs.

C. Exceptions. This subsection 4 does not apply to conduct solely between an underage person and his or her parents while present in the parents’ household, to legally protected religious observances, and to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

D. Enforcement. The provisions of this subsection shall be enforced by officers of the Police Department. The Police Department shall have primary but not exclusive enforcement responsibility for this subsection.

E. Violations. Violations of this subsection 4 are declared to be municipal infractions pursuant to Chapter 4 of this Code of Ordinances.

**40.01.07 PUBLIC EXPOSURE.** Except as hereinafter provided, no person shall expose those parts of his or her body hereinafter listed to another in any public place or in any place where such exposure is seen by another person located in any public place:

1. A woman’s nipple, the areola thereof, or full breast, except as necessary in the breast-feeding of a baby.
2. 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 of prepubescent infants of either sex.

This section does not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or such other places where such exposures occur incident to the prescribed use of those facilities. This section does not apply to exposures occurring in live stage places, live theatrical performances, or live dance performances conducted in a theatre, concert hall, or similar establishment which is primarily devoted to theatrical performances.

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## CHAPTER 40 – PUBLIC OFFENSES

### SUBCHAPTER 40.02

## PUBLIC HEALTH AND SAFETY

40.02.01 Distributing Dangerous Substances	40.02.07 Interference with Official Acts
40.02.02 False Reports to or Communications with Public Safety Entities	40.02.08 Abandoned or Unattended Refrigerators
40.02.03 Providing False Identification Information	40.02.09 Antenna and Radio Wires
40.02.04 Refusing to Assist Officer	40.02.10 Trapping
40.02.05 Harassment of Public Officers and Employees	40.02.11 Urinating and Defecating
40.02.06 Removal of an Officer's Communication or Control Device	40.02.12 Fireworks
	40.02.13 Littering Prohibited
	40.02.14 Open Dumping Prohibited

**40.02.01 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)*

**40.02.02 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.

**40.02.03 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)*

**40.02.04 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)*

**40.02.05 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)*

**40.02.06 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)*

**40.02.07 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct 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 which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or firefighter, 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)*

**40.02.08 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)*

**40.02.09 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])*

**40.02.10 TRAPPING.** No person shall set or use a steel, claw, or box trap outside of any structure or building for the purpose of taking, killing, maiming, wounding, ensnaring, trapping, or capturing an animal or which is injurious to persons or animals except for the following:

1. Any trap designed for the primary use of capturing mice, rats, gophers, moles, or aquatic rodents which are trapped in water;
2. Any trapping by a governmental unit to capture animals which are creating a public nuisance or for the protection of public or private property.

**40.02.11 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.

**40.02.12 FIREWORKS.** The sale, use and exploding of fireworks within the City are subject to the following:

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

*(Code of Iowa, Sec. 727.2)*

2. Use of Consumer Fireworks Prohibited. It is unlawful for any person to use or explode Consumer Fireworks within the City limits. Any person who violates this provision shall be guilty of a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00).

*(Code of Iowa, Sec. 364.2 & 727.2)*

3. Use of Display Fireworks Prohibited. It is unlawful for any person to use or explode Display Fireworks within the City limits, provided the City may, upon application in writing, grant a permit for the use of Display Fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such 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:

- |    |                  |                       |
|----|------------------|-----------------------|
| A. | Personal Injury: | \$500,000 per person. |
| B. | Property Damage: | \$500,000             |
| C. | Total Exposure:  | \$2,000,000           |

Any person who violates this provision shall be guilty of a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00).

*(Code of Iowa, Sec. 364.2 & 727.2)*

4. Sale of Consumer Fireworks. It is unlawful for any person to offer for sale, expose for sale, or sell at retail Consumer Fireworks, unless such person holds a valid Consumer Fireworks Seller License pursuant to Iowa Code chapter 100.19 and, provided, the sale of the same is otherwise authorized by applicable building or zoning regulations. It is further unlawful to sell Consumer Fireworks to a person who is less than eighteen (18) years of age, and for any person who is less than eighteen (18) years of age to purchase or attempt to purchase Consumer Fireworks. Any person who violates any prohibition under this section shall be guilty of a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00).

*(Code of Iowa, Sec. 100.19 & 727.2)*

5. Sale of Display Fireworks. It is unlawful for any person to offer for sale, sell, display, or sell at retail any Display Fireworks, except that the City may permit the display of the same as set forth in subsection 3 above.

*(Code of Iowa, Sec. 727.2(2))*

6. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited by this section and which occurs in accordance with applicable building or zoning regulations; the sale of Fireworks if they are to be shipped out of State; the sale or use of blank cartridges for a show or theatre, 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.

*(Code of Iowa, Sec. 727.2(5))*

*(Sec. 40.02.12 – Ord. 17-05 – Dec. 17 Supp.)*

**40.02.13 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

**40.02.14 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a floodplain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

*(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)*

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## CHAPTER 40 – PUBLIC OFFENSES

### SUBCHAPTER 40.03

## PUBLIC AND PRIVATE PROPERTY

40.03.01 Trespassing

40.03.02 Criminal Mischief

40.03.03 Defacing Proclamations or Notices

40.03.04 Fraud and Theft

40.03.05 Coasters and Roller Skates

40.03.06 Use of Streets

40.03.07 Picketing of a Residence or Dwelling

40.03.08 Use of Public Property for Drug Trafficking

40.03.09 Graffiti Prohibited

#### 40.03.01 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.

**40.03.02 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*)

**40.03.03 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*)

**40.03.04 FRAUD AND THEFT.** It is unlawful for any person to commit a fraudulent practice in the fifth degree as defined in Sections 714.8 and 714.13 of the *Code of Iowa* or to commit theft in the fifth degree as defined in Sections 714.1 and 714.2 of the *Code of Iowa*. A person commits theft when the person does any of the following:

*(Code of Iowa, Sec. 714.1)*

1. Takes possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.
2. Misappropriates property which the person has in trust, or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner's rights in such property, or conceals found property, or appropriates such property to the person's own use, when the owner of such property is known to the person.
3. Obtains the labor or services of another, or a transfer of possession, control, or ownership of the property of another, or the beneficial use of property of another, by deception.
4. Exercises control over stolen property, knowing such property to have been stolen, or having reasonable cause to believe that such property has been stolen, unless the person's purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer.
5. Takes, destroys, conceals, or disposes of property in which someone else has a security interest, with intent to defraud the secured party.
6. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person or corporation, and obtains property, the use of property, including rental property, or service in exchange for such instrument, if the person knows that such check, share draft, draft or written order will not be paid when presented.
7. Obtains gas, electricity, or water from a public utility or obtains cable television or telephone service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing, or tampering with the metering or service device so as to cause inaccurate readings.
8. Knowingly and without authorization accesses or causes to be accessed a computer, computer system or computer network, or any part thereof, for the purpose of obtaining computer services, information, or property or knowingly and without authorization and with the intent to permanently deprive the owner of possession, takes, transfers, conceals, or retains possession of a computer, computer system, or computer network or any computer software or computer program, or computer data contained in a computer, computer system, or computer network.
9. Obtains the temporary use of video rental property with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner, or lawfully obtains the temporary use of video rental property and fails to return the video rental property by the agreed time with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner. The aggregate value of the video rental property involved shall be the original retail value of the video rental property.
10. Any act that is declared to be theft by any provision of the *Code of Iowa*.

**40.03.05 COASTERS AND ROLLER SKATES.** No person upon roller skates or riding in or by means of any coaster, toy vehicle, or similar device shall go upon any roadway except when crossing a street on a crosswalk.

**40.03.06 USE OF STREETS.**

1. Removal of Warning Devices. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley 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 street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

2. Obstructing or Defacing. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

3. Placing Debris On. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

*(Code of Iowa, Sec. 321.369)*

4. Playing In. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

5. Traveling on Barricaded Street or Alley. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

6. Use for Business Purposes. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

7. Washing Vehicles. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

8. Burning Prohibited. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

**40.03.07 PICKETING OF A RESIDENCE OR DWELLING.** It is unlawful for any person to engage in focused picketing before, about, or immediately adjacent to the residential lot or dwelling of any individual in the City.

1. For the purpose of this section, “before, about, or immediately adjacent to” means:

- A. Within one house on either side of the targeted residential lot or dwelling; or
  - B. On any public property immediately adjacent to the targeted residential lot or dwelling; or
  - C. On any public property directly across the street from the targeted residential lot or dwelling.
2. For the purpose of this section, “focused picketing” means any picketing or organized demonstration that is intended or can be reasonably viewed as one or more of the following:
    - A. Intended or reasonably calculated to cause emotional distress or disturbance to the occupants of the targeted residential lot or dwelling; or
    - B. Causing emotional distress or disturbance to the occupants of the targeted residential lot or dwelling; or
    - C. Intended or reasonably calculated to disturb the sense of peace and tranquility of the occupants of the targeted residential lot or dwelling; or
    - D. Causing a disturbance to the sense of peace and tranquility of the occupants of the targeted residential lot or dwelling.

**40.03.08 USE OF PUBLIC PROPERTY FOR DRUG TRAFFICKING.**

1. No person shall behave in or upon any public property in a manner in and under circumstances by which he or she manifests the purpose of inducing, inviting, enticing, persuading, soliciting, or procuring another to conduct an illegal drug transaction.
2. The violator’s conduct must be such as to demonstrate a specific intent to induce, invite, entice, persuade, solicit, or procure another to conduct an illegal drug transaction.
3. Intent to induce, invite, entice, persuade, solicit, or procure another to conduct an illegal drug transaction shall be shown by specific acts which may, but need not, include any of the following:
  - A. Repeatedly beckoning to, stopping, or attempting to stop or engage passersby in conversation; or
  - B. Repeatedly stopping or attempting to stop motor vehicle operators by hailing, waving of arms, or any other bodily gesture; or
  - C. Repeatedly interfering with the free passage of other persons.

**40.03.09 GRAFFITI PROHIBITED.** No person shall, by use of any substance whatsoever, including spray paint, inscribe graffiti upon any structure, sidewalk, street surface or other public or private property.

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## CHAPTER 40 – PUBLIC OFFENSES

### SUBCHAPTER 40.04

## DRUGS AND CONTROLLED SUBSTANCES

40.04.01 Purpose

40.04.02 Controlled Substance Defined

40.04.03 Drug Paraphernalia Defined

40.04.04 Determining Factors

40.04.05 Possession of Drug Paraphernalia

40.04.06 Manufacture, Delivery, or Offering For Sale

40.04.07 Possession of a Controlled Substance

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

**40.04.02 CONTROLLED SUBSTANCE DEFINED.** The term “controlled substance” as used in this subchapter 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.

**40.04.03 DRUG PARAPHERNALIA DEFINED.** The term “drug paraphernalia” as used in this subchapter 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.

**40.04.04 DETERMINING FACTORS.** In determining whether an object is drug paraphernalia for the purpose of enforcing this subchapter, 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 which explain or depict 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.

**40.04.05 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*.

**40.04.06 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*.

**40.04.07 POSSESSION OF A CONTROLLED SUBSTANCE.** It is unlawful to be in possession of a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.

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## CHAPTER 40 – PUBLIC OFFENSES

### SUBCHAPTER 40.05

## WEAPONS

40.05.01 Lasers and Simulated Laser Devices  
40.05.02 Sale or Exchange of Daggers, Brass Knuckles  
40.05.03 Knives on School Property  
40.05.04 Blowguns

40.05.05 Slings and Slingshots  
40.05.06 Bows and Arrows  
40.05.07 Throwing and Shooting; Discharging Weapons  
40.05.08 Furnishing Weapons to Minors

#### 40.05.01 LASERS AND SIMULATED LASER DEVICES.

1. Definitions. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this section, have the meanings given in this subsection.

A. “Laser” means any pointing device, siting device or other device that converts incident electromagnetic radiation of mixed frequencies to one or more discrete frequencies of highly amplified and coherent visible radiation. This includes any device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

B. “Minor” means any person under eighteen (18) years of age.

C. “School or other educational facility” means the buildings, grounds or facilities (or any portion thereof) owned, occupied by, or under the custody or control of public or private institutions for the primary purpose of providing educational or recreational instruction to students.

D. “Simulated laser” means any pointing device, siting device or other device that emits a beam of light similar in effect or appearance to that of a laser.

E. “Vehicle” means every device in, upon, or by which any person or property is, or may be, transported or drawn upon a street, including motor vehicles, motorcycles, and bicycles.

2. Pointing of Lasers at Individuals. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with another individual. A violation of this provision shall be classified as an “assault” under Section 40.01.01 of this Code of Ordinances and shall be punishable accordingly.

3. Pointing of Lasers at a Police Officer or Emergency Service Provider. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with a law enforcement official, uniformed police officer, uniformed traffic enforcement officer, uniformed member of a paid or volunteer fire department, uniformed emergency medical service worker, uniformed ambulance worker or other uniformed City, County, State, or federal peace officer, investigator or emergency service worker. A violation of this provision shall be classified as an “assault” under Section 40.01.01 of this Code of

Ordinances. Any person found guilty of this provision shall be punished with the maximum fine and jail time allowed by law.

4. Pointing of Lasers at a Vehicle. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with a vehicle. For purposes of this provision, the term “vehicle” includes only those vehicles being operated on a public street at the time the vehicle comes into contact with any laser or simulated laser. A violation of this provision shall be classified as “harassment” under Section 40.01.02 of this Code of Ordinances and shall be punishable accordingly.

5. Pointing of Lasers at Police or Emergency Service Vehicles. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with a vehicle being operated by a law enforcement official, uniformed police officer, uniformed traffic enforcement officer, uniformed member of a paid or volunteer fire department, uniformed emergency medical service worker, uniformed ambulance worker or other uniformed City, County, State, or federal peace officer, investigator, emergency service worker or law enforcement official on duty and performing official acts with the City. A violation of this provision shall be classified as “harassment” under Section 40.01.02 of this Code of Ordinances. Any person found guilty of this provision shall be punished with the maximum fine and jail time allowed by law.

6. Pointing of Lasers at a Public Facility. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with any facility, property, or equipment owned or operated by the City of Windsor Heights or any other governmental entity. A violation of this provision shall be classified as “harassment” under Section 40.01.02 of this Code of Ordinances. Any person found guilty of this provision shall be punished with the maximum fine and jail time allowed by law.

7. Use of Lasers by Minors. No person shall furnish to any minor by gift, sale, or otherwise, any laser or simulated laser unless: (i) said minor is on the property of a school or other educational facility and actually participating in a supervised school program at the time the minor is given actual possession of the laser or simulated laser; or (ii) said minor is using the laser or simulated laser on private property and in the direct supervision of an adult.

**40.05.02 SALE OR EXCHANGE OF DAGGERS, BRASS KNUCKLES.** No person shall exhibit for sale, exchange, gift, or any other purpose, in any showcase, show window, or other place, exposed to public view, any dagger, Bowie knife, stiletto, butterfly knife, switchblade knife, or other knife or instrument which opens by hand pressure applied to a button or other device in the handle of the knife or by operation of inertia, gravity, or both, throwing stars, or any other martial arts weapon, brass knuckles, or knuckles of lead, brass, or other metal or materials; or display any sign, poster, cartoon or card, suggesting the keeping for sale, exchange, or gift of any of the above described articles. Nothing in this section shall be deemed to prohibit the display of such articles for educational or historical purposes.

**40.05.03 KNIVES ON SCHOOL PROPERTY.** No person shall possess, own, or carry, on or about his or her person, whether concealed or not, any knife on primary or secondary school property within the City, with the exception of a knife or knives furnished by such school system or specifically authorized by such school system, and then only in connection with the specific activity for which so authorized.

**40.05.04 BLOWGUNS.** No person shall use any blowgun or similar device, or throw any stone, stick, or other substance in such a manner as to hit, injure, or endanger any person, window, or other property.

**40.05.05 SLINGS AND SLINGSHOTS.** No person shall keep, possess, sell, give, use, fire, shoot, or discharge any sling, slingshot, wrist slingshot, or wrist-supported slingshot of any type or kind within the corporate limits.

**40.05.06 BOWS AND ARROWS.** No person shall shoot a bow and arrow, except pursuant to the following subsections, within the City or within a City-owned park, without permission from the Chief of Police. Such permission shall limit the time and place of shooting and may be revoked by the Chief of Police. To “shoot a bow and arrow” means to place a nock of the arrow in the string of a bow or of any other object and to release the arrow in such fashion that when the string is pulled and released, the arrow thrusts forward.

1. General Regulations. No person shall shoot a bow and arrow within the City or in a City-owned park except as follows:

A. Any person may participate in a supervised program of physical education or competitive sports in a public or private school or in a City park area designated by the City.

B. Any person may shoot a bow and arrow at a public or private lane or range that has been certified by the Archery Lane Operators Association or the National Field Archery Association.

C. Any participant may shoot a bow and arrow in a tournament which either has been approved by the City Administrator at least one week prior to the time of the tournament and for which tournament rules have been submitted to the City Administrator, or is conducted at a licensed lane or range.

D. Any person may shoot a bow and arrow on private or school property provided the requirements of the following subsection are met.

2. Use of Bows and Arrows on Private Property. No person shall shoot a bow and arrow in such fashion that it travels beyond the boundaries of the private or school property on which the person is shooting. Any person shooting a bow and arrow on private or school property shall direct the arrow toward a backdrop composed of a substance which will not allow the arrow to pass through and such backdrop must extend at least five feet beyond the target on the top and both sides and must extend from the bottom of the target to the ground. The target shall be constructed and installed so that the target face cannot move more than two inches in any direction.

3. Use of Bows and Arrows for Hunts. No person shall shoot a bow and arrow within the City limits or in a City-owned park at any living being such as an animal, bird, fish or fowl.

4. Use of Bows and Arrows by Minors. No person shall furnish to any minor under 15 years of age by gift, sale, or otherwise, any arrows or components thereof unless said minor is participating in a supervised school program, or is practicing at an approved public or private archery lane or range, or is practicing on the private property of the supervising adult.

**40.05.07 THROWING AND SHOOTING; DISCHARGING WEAPONS.** It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot, fire, or discharge rifles, shotguns, revolvers, pistols, guns, air guns, BB guns, or firearms of any kind within the City limits except by authorization of the Council. The term “air gun” means any gun, including handguns, capable of propelling a pellet or other projectile from the barrel of such gun by non-explosive means, such as compressed air, CO<sub>2</sub>, or other gas. The term “BB gun” means any such gun capable of propelling a BB or other projectile from the barrel by means of a spring mechanism or air. The terms “shoot,” “fire,” and “discharge” mean the act of triggering the mechanism of such air gun or BB gun so that it propels a pellet, BB or other projectile from the barrel of such gun.

**40.05.08 FURNISHING WEAPONS TO MINORS.** No person shall give, sell, lend, or provide to any person under the age of eighteen (18) years any sword, dirk, dagger, or knife other than an ordinary penknife or pocketknife with a blade not to exceed three inches in length, or any spring blade, switch blade, or snap blade knife, or any blackjack, bludgeon, or similar weapon, or metallic knuckles, or any firearm, air gun, or other missile throwing device, or any ammunition or missiles for use therewith, or any explosive substance or device, or any other device designed primarily for use as a weapon; provided, however, arms, ammunition, and other equipment for hunting, fishing, and other lawful sports may be furnished to a person under the age of eighteen (18) years by or with the consent of that person’s parent or guardian. No minor under 18 years of age shall possess, own, or carry on or about his or her person, whether concealed or not, within the City any knife which opens by hand pressure applied to a button, lever, switch, or other device in the handle of the knife or by operation of inertia, gravity or both. No person under the age of 18 shall shoot, fire, or discharge any air gun or BB gun unless under the direct supervision of an adult.

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## CHAPTER 40 – PUBLIC OFFENSES

### SUBCHAPTER 40.06

## ALCOHOL CONSUMPTION AND INTOXICATION

40.06.01 Persons Under Legal Age

40.06.02 Public Consumption or Intoxication

40.06.03 Open Containers in Motor Vehicles

40.06.04 Prohibited Sales and Acts

**40.06.01 PERSONS UNDER LEGAL AGE.** As used in this section, “legal age” means twenty-one (21) years of age or more.

1. 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 liquor, wine, or beer. The provisions of this subsection do not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic liquor, wine, or beer in connection with a religious observance, ceremony, or rite.

*(Code of Iowa, Sec. 123.47[1A])*

2. Purchase, Consume, or Possess. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer 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, wine, and beer 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])*

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

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

**40.06.02 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, wine, or beer in any public place, except premises covered by a liquor control license or a wine or beer permit. An exception to this provision shall be granted for legal consumption of wine or beer in City parks. 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)*

**40.06.03 OPEN CONTAINERS IN MOTOR VEHICLES.** [See Section 60.03.01(62) and 60.03.01(63) of this Code of Ordinances.]

**40.06.04 PROHIBITED SALE AND ACTS.** See Section 120.05 of this Code of Ordinances for restrictions imposed on persons or clubs holding a liquor license or retail wine or beer permit.

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## CHAPTER 40 – PUBLIC OFFENSES

### SUBCHAPTER 40.07

## MINORS

40.07.01 Cigarettes and Tobacco

40.07.03 Persons Under Legal Age

40.07.02 Contributing to Delinquency

**40.07.01 CIGARETTES AND TOBACCO.** It is unlawful for any person under eighteen (18) 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 a person under eighteen years of age shall not constitute a violation of this section if said person 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)*

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

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

**40.07.03 PERSONS UNDER LEGAL AGE.** See Section 121.07 of this Code of Ordinances for provisions relating to persons selling, giving, or otherwise supplying tobacco, tobacco products, or cigarettes to persons under 18 years of age.

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## CHAPTER 40 – PUBLIC OFFENSES

### SUBCHAPTER 40.08

## PARK REGULATIONS

40.08.01 Park Hours	40.08.12 Buildings and Animals
40.08.02 Park Shelter, Performance Pavilion, and Bandstand Fees	40.08.13 Dogs and Pets
40.08.03 Parking	40.08.14 Posted Notices
40.08.04 Use of Drives Required	40.08.15 Unauthorized Signs
40.08.05 Public Meetings and Organized Uses	40.08.16 Moving Benches and Tables
40.08.06 Destruction of Plant or Animal Life	40.08.17 Removal of Wood, Grass, or Gravel
40.08.07 Fires	40.08.18 Golf Balls
40.08.08 Fireworks and Explosives	40.08.19 Power-Driven Model Airplanes
40.08.09 Waste Material and Littering	40.08.20 Responsibility of Parent or Guardian
40.08.10 Camping Areas	40.08.21 Roller Skates, Roller Blades, Skateboards, Coasters, Scooters, and Bicycles
40.08.11 Disorderly and Obscene Conduct; Nuisances	40.08.22 Misdemeanor

**40.08.01 PARK HOURS.** No person shall remain in any public park, community center, or City recreational facility during the periods of time set by this section unless special permission shall have been given by the City Administrator for such person or group of persons to remain there:

1. No person shall remain in or on any City park or the grounds thereof from 11:00 p.m. to 5:00 a.m. (Sunday through Thursday).
2. No person shall remain in or on any City park or the grounds thereof from 12:00 midnight to 5:00 a.m. (Friday and Saturday).
3. No person shall remain in or on any City greenbelt trail, bike trail, or walking trail from sunset to sunrise.

**40.08.02 PARK SHELTER, PERFORMANCE PAVILION, AND BANDSTAND FEES.** The shelter house and the performance pavilion of the City Park located at 6900 School Street and the bandstand/gazebo located at Lions' Park behind City Hall at 1133 66<sup>th</sup> Street, may each be reserved for meetings, gatherings, and organized events, such as picnics, parties, and entertainment for charitable purposes, upon receipt of permission from the City Administrator and payment of a daily fee. Such assemblages shall be conducted in a lawful and orderly manner. The rental fees for the use of these facilities and associated amenities (such as audio-visual equipment) are established by resolution of the Council.

**40.08.03 PARKING.** All vehicles parked in a park shall be parked in designated parking areas.

**40.08.04 USE OF DRIVES REQUIRED.** No person shall drive any vehicle, or ride or drive 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.

**40.08.05 PUBLIC MEETINGS AND ORGANIZED USES.** Public meetings, religious, political, or otherwise, including picnics, parties, and entertainment for charitable or religious purposes, may be held in any public park upon first obtaining permission from the City Administrator. Such assemblages shall be conducted in a lawful and orderly manner,

shall be under the supervision of the City, and shall occupy such ground as may be reserved for them. Permits shall be obtained from the City Administrator for use of parks and facilities by organized groups for all such purposes including athletic and sporting activities.

**40.08.06 DESTRUCTION OF PLANT OR ANIMAL LIFE.** No unauthorized person shall in any manner deface, injure, or remove any tree, shrub, or plant standing or growing in any public park or recreation facility, or pick or destroy any flowers or seeds growing therein. No persons, except persons authorized, shall remove or attempt to remove, injure, or kill any wild or captive animal in any public park or recreation facility.

**40.08.07 FIRES.** No person shall kindle, build, maintain, or in any way light a fire in any public park in the City except in fireplaces provided, or in self-supporting barbecue grills or stoves in places designated as picnic areas, or by special written permit from the City Administrator after a determination that such fire creates no hazards to the park or to persons in the immediate vicinity. No fire shall be built within ten feet of any tree or building or beneath the branches of any tree or in any underbrush unless such fire is enclosed within a stove, oven, or fireplace provided on the premises by the City for use in picnic cooking. Any fire shall be continuously under the care and control of a competent person, from the time it is kindled until it is extinguished.

**40.08.08 FIREWORKS AND EXPLOSIVES.** No person shall use firearms, explosives, weapons, firecrackers, or fireworks of any character in any public park, except as otherwise provided by ordinance.

**40.08.09 WASTE MATERIAL AND LITTERING.** No person shall place, deposit, or throw any waste, refuse, litter, or foreign substance on the ground or in any area or receptacle in a park except in receptacles provided for that purpose. Park waste receptacles shall not be used for dumping trash or rubbish introduced in that form to the park.

**40.08.10 CAMPING AREAS.** No person shall camp in any portion of a park.

**40.08.11 DISORDERLY AND OBSCENE CONDUCT; NUISANCES.** No person shall use any loud, violent, obscene, or profane language while in any public park, nor shall any person conduct himself or herself in a disorderly or obscene manner or commit any nuisance therein.

**40.08.12 BUILDINGS AND ANIMALS.** No person shall disturb or interfere with any building or improvement of any kind made or being made in or about any public park, or disturb or interfere with birds or animals kept or found therein.

**40.08.13 DOGS AND PETS.** No dog or pet shall be allowed to run at large in any public park. Any dog or pet shall be deemed to be found running at large, unless the owner carries such dog or pet or leads such dog or pet by a chain, strap, or rope not exceeding six feet in length, or keeps any such dog or pet confined in an automobile. However, any dog or pet especially trained to assist a blind or partially blind person and accompanying such person shall not be deemed to be running at large, even though restraints as described herein are not used. Such person shall keep the guide dog under control and shall be liable for any damage done to the premises or facilities by the dog or pet. The Chief of Police shall remove and impound any dog or pet running at large in any public park.

**40.08.14 POSTED NOTICES.** No person shall enter upon any land owned or leased to the City and under its jurisdiction, and conduct activities thereon in disregard of signs or posted notices forbidding the same.

**40.08.15 UNAUTHORIZED SIGNS.** No person shall post, paste, fasten, paint, or affix any placard, bill, notice, or sign upon any structure, tree, stone, fence, or enclosure along or within any park.

**40.08.16 MOVING BENCHES AND TABLES.** No person shall move benches, seats, or tables from their places in any park except on picnic grounds.

**40.08.17 REMOVAL OF WOOD, GRASS, OR GRAVEL.** No person shall cut or remove any wood, turf, grass, soil, rock, sand, or gravel from any public park without written permission from the City Council.

**40.08.18 GOLF BALLS.** No one shall drive, hit, or play with a golf ball in any City park except in an area clearly designated by a sign permitting such activity, posted in a conspicuous place.

**40.08.19 POWER-DRIVEN MODEL AIRPLANES.** No one shall fly, glide, or play with a fuel-powered model airplane in any City park except in an area clearly designated by a sign permitting such activity, posted in a conspicuous place.

**40.08.20 RESPONSIBILITY OF PARENT OR GUARDIAN.** No parent, guardian, or custodian of a minor shall allow the minor to do any act prohibited by any provision of the rules set out by the provisions of this subchapter.

**40.08.21 ROLLER SKATES, ROLLER BLADES, SKATEBOARDS, COASTERS, SCOOTERS, AND BICYCLES.** No person shall ride in, ride upon, or in any manner operate any roller skates, roller blades, skateboard, coaster, scooter, bicycle, or similar devices in the following facilities: outdoor performance pavilion in Colby Park. The provisions of this section shall not apply to wheelchairs or other devices designed to aid handicapped or impaired persons when operated by a handicapped or impaired person.

**40.08.22 MISDEMEANOR.** Any person who violates Sections 40.08.01 through 40.08.20 of this subchapter shall be guilty of a misdemeanor. Any person violating Section 40.08.21 of this subchapter, in lieu of the standard penalty provided for violation of this Code of Ordinances, may suffer the person's roller skates, in-line skates, skateboard, coaster, scooter, bicycle, or similar device to be impounded for not less than five days for a first offense, ten days for a second offense, and 30 days for the third offense. The violator must pay an impound release fee of \$15.00, \$25.00, and \$35.00, respectively, in order for the impounded property to be released to the violator. Any person violating the provisions of Section 40.08.21 more than three times will forfeit the person's skates, scooter, coaster, skateboard, or bicycle and be subject to a fine of not less than \$250.00 or more than \$750.00.

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## **CHAPTER 40 – PUBLIC OFFENSES**

### **SUBCHAPTER 40.09**

## **OTHER PUBLIC OFFENSES ENFORCEMENT PROVISIONS**

**40.09.01 Peddlers, Solicitors, and Transient Merchants**  
**40.09.02 Adult Entertainment Facilities**

**40.09.03 Sidewalk Regulations**

#### **40.09.01 PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS.**

1. License Required. See Section 122.02 of this Code of Ordinances for provisions relating to licenses required for persons engaged in peddling and soliciting.
2. Display of License. See Section 122.07 of this Code of Ordinances for provisions requiring peddlers and solicitors to keep license available.
3. Time Restrictions. See Section 122.09 of this Code of Ordinances for provisions relating to times when peddlers and solicitors may operate.

**40.09.02 ADULT ENTERTAINMENT FACILITIES.** See Chapter 125 of this Code of Ordinances for provisions relating to the operation of an adult entertainment facility.

#### **40.09.03 SIDEWALK REGULATIONS.**

1. Interference with Sidewalk Improvements. See Section 136.12 of this Code of Ordinances for provisions relating to driving vehicles upon or removing, destroying, marring or defacing any part of a sidewalk.
2. Fires or Fuels. See Section 136.15 of this Code of Ordinances for provisions relating to fires or fuels on sidewalks.
3. Defacing. See Section 136.16 of this Code of Ordinances for provisions relating to painting or writing on sidewalks.
4. Debris. See Section 136.17 of this Code of Ordinances for provisions relating to throwing or depositing trash or debris of any kind on sidewalks.
5. Merchandise Display. See Section 136.18 of this Code of Ordinances for provisions relating to sale of merchandise on sidewalks.
6. Sales Stands. See Section 136.19 of this Code of Ordinances for provisions relating to vending machines or other sales stands on sidewalks.

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