

**CHAPTER 24**

**PUBLIC OFFENSES**

**SUBCHAPTER 1**

**PUBLIC PEACE**

24.01 ASSAULT. No person shall, without justification, do any of the following:

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

(Code of Iowa, 1995, Sec. 708.1 [1])

2. Threat of Pain or Injury. Any act which 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, 1995, Sec. 708.1 [2])

3. Dangerous Weapon. Intentionally point any firearm toward another, or display in a threatening manner any dangerous weapon toward another.

(Code of Iowa, 1995, Sec. 708.1 [3])

4. Exceptions. Provided, that where the person doing any of the above 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, the act shall not be an assault.

(Code of Iowa, 1995, Sec. 708.1)

24.02 WILLFUL INJURY. No person shall do any act which is not justified and which is intended to cause and does cause serious injury to another.

(Code of Iowa, 1995, Sec. 708.4)

24.03 HARASSMENT. No person shall with intent to intimidate, annoy or alarm another person, do any of the following:

1. Communications. Communicate with another by telephone, telegraph, or writing without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(Code of Iowa, 1995, Sec. 708.7 [1])

2. Simulated Explosive. Place any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by such person.

(Code of Iowa, 1995, Sec. 708.7 [2])

3. Merchandise or Services. Order 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, 1995, Sec. 708.7 [3])

4. False Reports. Report or cause 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, 1995, Sec. 708.7 [4])

5. Stalking. Willfully follow, pursue, or harass, on more than one occasion, another person and, while doing so and without legitimate purpose, make a credible threat against the other person. "Credible threat" means a threat made with the intent to place a reasonable person in like circumstances in fear of death or bodily injury, coupled with the apparent ability to carry out the threat. "Harass" means repeated, intensive, or unwarranted acts, words or gestures that are intended adversely to affect the safety, security, or privacy of another person, regardless of the relationship between the offender and the intended victim.

(Code of Iowa, 1995, Sec. 708.11)

24.04 WILLFUL DISTURBANCE. No person shall willfully disturb any deliberative body or agency of the state, or subdivision thereof, with the purpose of disrupting the functioning of such body or agency by tumultuous behavior, or coercing by force or the threat of force any official conduct or proceeding.

(Code of Iowa, 1995, Sec. 718.3)

24.05 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, 1995, Sec. 723.4 [1])

2. Noise. Make loud and raucous noise in the vicinity of any residence or place of business, or building to which the general public may enter, which causes unreasonable distress either to the occupants thereof or to any person in the vicinity of the residence, business, or public building.

(Code of Iowa, 1995, Sec. 723.4 [2])

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

(Code of Iowa, 1995, 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, 1995, 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, 1995, 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 a public offense.

(Code of Iowa, 1995, Sec. 723.4[6])

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, 1995, Sec. 723.4[7])

No person shall host, sponsor, permit or allow any congregation or assembly of persons, exceeding five (5) 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.

24.06 RIOT. A riot is three (3) or more persons assembled together in a violent manner, to the disturbance of others, and with any use of unlawful force or violence by them or any of them against another person, or causing property damage. It shall be unlawful for any person willingly to join in or remain part of a riot, knowing or having reasonable grounds to believe that it is such.

(Code of Iowa, 1995, Sec. 723.1)

24.07 UNLAWFUL ASSEMBLY. It shall be unlawful for three (3) 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 that it is such.

(Code of Iowa, 1995, Sec. 723.2)

24.08 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, 1995, Sec 723.3)

24.09 TERRORISM. No person shall shoot, throw, launch, or discharge a dangerous weapon at or into any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person, or within an assembly of people, and thereby place the occupants or people in reasonable apprehension of serious injury or threaten to commit any such act under circumstances raising a reasonable expectation that the threat will be carried out.

(Code of Iowa, 1995, Sec. 708.6)

24.10 VANDALISM AND DISORDERLY CONDUCT ON COMMON CARRIERS. No person shall, while a passenger on any vehicle used as a common carrier, which transports members of the public at large from place to place for a fare, do any of the following acts:

1. Intentionally injure, deface, break, or destroy any portion of the interior or

exterior of such carrier.

2. Consume any beverage or food, or throw, deposit, or place any paper, bottles, cans, or any garbage or solid waste in or upon such vehicle.
3. Throw any object of any kind within such vehicle or out of any door or window of such vehicle.
4. Spit, urinate, or defecate in or upon any part of such vehicle.
5. Play any radio, cassette, tape player, record player or similar electronic sound amplification device unless it is played through an earphone so that it is totally inaudible to all other passengers.
6. Bring any pet or animal onto such vehicle other than a seeing-eye dog accompanying a blind person or an animal in a cage or held exclusively on the lap of the rider.
7. Stand or remain in front of any white line marked on the forward end of the floor of such vehicle after being asked to step back by the driver.
8. Act in any other manner which disturbs the peace and quiet of another person or disrupts or impedes the safe operation of that public vehicle.

The driver of any vehicle or common carrier may refuse to transport and/or at his or her discretion may order off of the carrier any person violating the provisions of this section, and upon refusal of any person to remove himself or herself after being so directed, may report such conduct for further action appropriate under this or other ordinances of the City or statutes or laws of the State of Iowa.

24.11 VIOLATION OF INDIVIDUAL RIGHTS - HATE CRIME. No person shall willfully commit, engage in, or assist a hate crime. Hate crime means one of the following public offenses when committed against a person or a person's property because of the person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability, or the person's association with a person of a certain race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability:

1. Assault in violation of individual rights under Code of Iowa, Section 708.2C.
2. Violations of individual rights under Code of Iowa, Section 712.9.
3. Criminal mischief in violation of individual rights under Code of Iowa, Section 716.7A.

4. Trespass in violation of individual rights under Iowa Code, Section 716.8, subsections 3 and 4.

(Code of Iowa, 1995, Sec. 729A.2)

**SUBCHAPTER 2****PUBLIC MORALS**

**24.12 DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this Subchapter, have the meanings in this section.

1. "Prostitution" means a person who sells or offers for sale his or her services as a partner in a sex act, or who purchases or offers to purchase such services.

2. "Sex act" means any sexual contact between two or more persons, by penetration of the penis into the vagina or anus, by contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

3. "Pimping" means a person who solicits a patron for a prostitute or who knowingly takes or shares in the earnings of a prostitute, or who knowingly furnishes a room or other place to be used for the purpose of prostitution, whether form compensation or not.

4. "Pandering" means a person who persuades or arranges for another to become an inmate of a brothel, or to become a prostitute, such person not having perviously engaged in prostitution, or to return to the practice of prostitution after having abandoned it, or who keeps or maintains a brothel or who knowingly takes a share in the income from a brothel.

5. "Public property" means, in addition to its usual meaning, any street, highway, avenue, alley, sidewalk, skywalk bridge, public place, other real property owned or controlled by the City, or the doorway or other opening of any building adjacent to such place.

(Code of Iowa, 1995, Secs. 725.1, 725.2 and 725.3)

**24.13 PROSTITUTION, PIMPING, PANDERING, PROHIBITED.** No person shall engage in prostitution, pimping or pandering as defined in Section 24.11 and Chapter 725 of the Code of Iowa.

(Code of Iowa, 1995, Secs. 725.1, 725.2, 725.3)

24.14 LEASING PREMISES OR TRANSPORTATION FOR PROSTITUTION.

1. No person shall rent or let any building, structure or part thereof, boat, trailer or other place offering shelter or seclusion, knowing or having reason to know, that the lessee or tenant is using such for the purpose of prostitution, and any person shall immediately upon acquiring such knowledge, terminate the tenancy or effectively put an end to such practice of prostitution in such place.
2. No person shall knowingly transport, offer to transport or knowingly aid or assist in transporting any person, in, on, over or through public property by means of a motor vehicle for hire, for the purpose of prostitution.

24.15 USE OF PUBLIC PROPERTY FOR PURPOSES OF PROSTITUTION.

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 commit an act of prostitution.
2. The violator's conduct must be such as to demonstrate a specific intent to induce, invite, entice, persuade, solicit or procure another to commit an act of prostitution.
3. Intent to induce, invite, entice, persuade, solicit or procure another to commit an act of prostitution 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.

24.16 PUBLIC EXPOSURE.

1. 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 or persons located in any public place:
  - A. A woman's nipple, the areola thereof, or full breast, except as necessary in the breast-feeding of a baby.

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

2. This section shall 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.

3. This section shall not apply to exposures occurring in live stage plays, live theatrical performances, or live dance performances conducted in a theatre, concert hall or similar establishment which is primarily devoted to theatrical performances.

**SUBCHAPTER 3****MINORS**

24.17 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, that 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 airgun or B-B gun unless under the direct supervision of an adult.

24.18 SALE OR GIFT OF TOBACCO PRODUCTS TO MINORS.

1. No person shall furnish to any minor under eighteen years of age by gift, sale, or otherwise, any smokeless tobacco, cigarette or cigarette paper, or any paper or other substance made or prepared for the purpose of use in making of cigarettes. No person shall directly or indirectly or by an agent, sell, barter, or give to any minor under eighteen years of age any tobacco in any other form whatever except upon the written order of the minor's parent or guardian or the person in whose custody the minor is.

24.18A USE OR POSSESSION OF TOBACCO PRODUCTS BY MINORS

1. No person under eighteen years of age shall smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.

(Code of Iowa, 1995, Sec. 453A.2)

**SUBCHAPTER 4****PUBLIC HEALTH AND SAFETY**

24.19 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, 1995, Sec. 727.1)

24.20 FIREWORKS. The sale, use or exploding of fireworks within the City shall be subject to the following:

1. Definition. The term "fireworks" means and includes any explosive composition, or combination of explosive substances, or Subchapter prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance.

(Code of Iowa, 1995, Sec. 727.2)

2. Regulations. It shall be unlawful for any person to offer for sale, expose for sale, sell at retail, use, possess, or explode any fireworks; provided the City may, upon application in writing, grant a permit for the display of 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: \$ 500,000.00 per person.
- B. Property Damage: \$ 100,000.00.
- C. Total Exposure: \$2,000,000.00.

(Code of Iowa, 1995, Sec. 727.2)

3. Exceptions. This shall not be construed to prohibit any resident, dealer, manufacturer or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped out of state; or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads, trucks, for signal purposes, or by a recognized military organization; and provided further that nothing in this section shall apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

(Code of Iowa, 1995, 727.2)

24.21 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.

24.22 KNIVES. No person shall possess, own or carry on or about his or her person, whether concealed or not, any knife or 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.

24.23 USE OF BLOWGUNS, ETC. 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.

24.24 USE OF SLINGS, SLINGSHOTS, ETC. 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.

24.25 USE OF BOWS AND ARROWS. No person shall shoot a bow and arrow, except pursuant to the following sections, 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.

24.26 REGULATIONS FOR USE OF BOWS AND ARROWS. No person shall shoot a bow and arrow within the City or in a city-owned park except as follows:

1. 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.

2. 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.
3. Any participant may shoot a bow and arrow in a tournament which either has been approved by the City Administrator or his or her designee at least one week prior to the time of the tournament and for which tournament rules have been submitted to the City Administrator or his or her designee, or is conducted a licensed lane or range.
4. Any person may shoot a bow and arrow on private or school property provided the requirements of the following section are met.

24.27 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.

24.28 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.

24.29 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.

24.30 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.

24.31 FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES. No person shall report or cause to be reported false information to a fire department or a law enforcement authority, knowing that the information is false, or shall report the alleged occurrence of a criminal act knowing the same did not occur.

(Code of Iowa, 1995, Sec. 718.6)

24.32 FALSE REPORTS OF DESTRUCTIVE SUBSTANCE. No person shall, knowing the information to be false, convey or cause to be conveyed to any person any false information concerning the placement of any incendiary or explosive device or material or other destructive substance or device in any place where persons or property would be endangered.

(Code of Iowa, 1995, Sec. 712.7)

24.33 IMPERSONATING A PUBLIC OFFICIAL. No person shall falsely hold himself or herself out or assume to act as an elected or appointed officer, magistrate, peace officer, or person authorized to act on behalf of the state or any subdivision thereof, having no authority to do so.

(Code of Iowa, 1995, Sec. 718.2)

24.34 IMPERSONATING AN OFFICER. No person shall adopt or wear upon any street or in any public place the official uniform worn by the Police Department of the City or a uniform likely to be confused with such official uniform nor shall any person, not a member of the Police Department, represent himself or herself as, or assume to be, a police officer.

24.35 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer or firefighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of the officer 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.

(Code of Iowa, 1995, Sec. 719.1)

24.36 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, 1995, Sec. 719.2)

24.37 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, 1995, 718.4)

24.38 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, 1995, Sec. 727.3)

24.39 RECKLESS USE OF FIRE OR EXPLOSIVES. No person shall so use fire or any incendiary or explosive device or material as to recklessly endanger the property or safety of another.

(Code of Iowa, 1995, 712.5)

24.40 BOMB THREATS. No person shall threaten to place or attempt to place any incendiary or explosive device or material, or any destructive substance or device in any place where it will endanger persons or property.

(Code of Iowa, 1995, Sec. 712.8)

24.41 ANTENNA AND RADIO WIRES. No person shall allow antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk, or public property.

(Code of Iowa, 1995, Sec. 364.12 [2])

24.42 DISCHARGING WEAPONS. No person shall shoot, fire or discharge rifles, shotguns, revolvers, pistols, guns, airguns, B-B guns, or firearms of any kind within the City limits except by authorization of the Council.

The term "airgun" 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 "B-B" gun" means any such gun capable of propelling a B-B or other projectile from the barrel by means of a spring mechanism or air. The term "shoot", "fire", or "discharge" means the

act of triggering the mechanism of such airgun or B-B gun so that it propels a pellet, B-B or other projectile from the barrel of such gun.

24.43 THROWING AND SHOOTING. No person shall throw stones or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or into any street, highway, alley, sidewalk or public place, except when under proper supervision of persons authorized by the Council.

(Code of Iowa, 1995, Sec. 364.12 [2])

24.44 CARRYING WEAPONS. No person shall go armed with a dangerous weapon concealed on or about his person, or shall, within the limits of the City, go armed with a pistol or revolver, or any loaded firearm of any kind, whether concealed or not, or shall knowingly carry or transport in a vehicle a pistol or revolver, or go armed with a knife concealed on or about the person if the person uses the knife in the commission of a crime, provided that this section shall not apply to any of the following:

(Code of Iowa, 1995, Sec. 724.4)

1. Own Premises. A person who goes armed with a dangerous weapon in his or her own dwelling or place of business, or on land owned or possessed by the person.
2. Peace Officer. Any peace officer, when his or her duties require the person to carry such weapons.
3. Armed Forces. Any member of the armed forces of the United States or of the national guard or person in the service of the United States, when the weapons are carried in connection with his or her duties as such.
4. Within Container. Any person who for any lawful purpose carries an unloaded pistol, revolver, or other dangerous weapon inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person.
5. Within Vehicle. Any person who for any lawful purpose carries or transports an unloaded pistol or revolver in any vehicle inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person or inside a cargo or luggage compartment where the pistol or revolver will not be readily accessible to any person riding in the vehicle or common carrier.
6. Target Practice. Any person while he or she is lawfully engaged in target practice on a range designed for that purpose or while engaged in lawful hunting for game in any place designated by local law as a hunting area.

7. Valid Permit. Any person who has in his or her possession and who displays to any peace officer on demand a valid permit to carry weapons which has been issued to the person, and whose conduct is within the limits of that permit. No person shall be convicted of a violation of this section if the person produces at his or her trial a permit to carry weapons which was valid at the time of the alleged offense and which would have brought the person's conduct within this exception if the permit had been produced at the time of the alleged offense.
8. Correctional Officer. Any correctional officer, when his or her duties require, serving under the authority of the Iowa department of corrections.
9. Knife. Any person carrying a knife used in hunting or fishing while actually engaged in lawful hunting or fishing.
10. Law Enforcement Officer from Another State. Any law enforcement officer from another state, when the officer's duties require the officer to carry the weapon and the officer is in Iowa for (a) extradition or other lawful removal of a prisoner; (b) pursuit of a suspect in compliance with Code of Iowa Chapter 806; or (c) activities in the capacity of the officer with the knowledge and consent of the Police Chief of the City.
11. For purposes of this section, weapons includes pistols or other firearms, brass knuckles or knuckles of lead, brass or other metal or materials, airgun of any description, dagger, Bowie knife, stiletto, butterfly knife, switchblade knife or other knife or instrument which opens automatically 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, and any dangerous weapon, instrument or device as defined by Chapter 702 of the Code of Iowa.

24.45 PREVENTING APPREHENSION, OBSTRUCTING THE PROSECUTION, OR OBSTRUCTING DEFENSE. Any person who, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, does any of the following acts, is guilty of a misdemeanor:

1. Destroys, alters, conceals or disguises physical evidence which would be admissible in a trial for a public offense, or makes available false evidence or furnishes false information with the intent that it be used in the trial of that case.
2. Induces a witness having knowledge material to the subject at issue to leave the state or conceal himself or herself, or to fail to appear when subpoenaed.
3. Induces or attempts to induce a witness having knowledge material to the subject at issue to give false or misleading information to a public official or peace officer, or to give false or misleading testimony in court.

(Code of Iowa, 1995, Sec. 719.3)

24.46 SAFETY BELTS AND SAFETY HARNESSSES REQUIRED. Each driver and each front seat occupant of any motor vehicle subject to registration in Iowa, except a motorcycle or motorized bicycle or bus, shall wear a properly adjusted and fastened safety belt or safety harness any time the vehicle is in motion on a street or highway, except that a child under six years of age shall be secured as required under Section 24.36. The driver and front seat passenger may be charged separately with violations of this section for any failure to use or to use properly safety belts or safety harnesses.

24.47 CHILD RESTRAINT DEVICES. The operator of a motor vehicle shall have the responsibility to provide that each child under the age of six years is properly restrained while a passenger in such motor vehicle in accordance with the following provisions:

1. A child under three years of age who is being transported in a motor vehicle manufactured subsequent to 1965 except a school bus, motorcycle, or authorized emergency vehicle shall be secured during transit by a child restraint system that meets federal motor vehicle safety standards.
2. A child at least three years of age but under six years of age who is being transported in a motor vehicle manufactured subsequent to 1965, except a school bus, motorcycle, or authorized emergency vehicle shall be secured during transit by either a child restraint system that meets federal motor vehicle safety standards and is used in accordance with the manufacturer's instructions, or by a safety belt or safety harness.
3. A child who has been certified by a physician licensed under Chapter 148, 150, or 150A as having a medical, physical, or mental condition which prevents or makes inadvisable securing the child in a child restraint system, safety belt or safety harness shall be exempt from this subsection.

24.48 SALE OR POSSESSION OF NOXIOUS SUBSTANCES--DEFINITIONS.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following term shall, for the purpose of sections 24.48 and 24.49 have the meanings in this section.

1. "Noxious substance(s)". A noxious substance shall be defined as any substance or material or any device containing a substance or material, which contains any of the following materials, has any of the following effects, or which may be described in any of the following ways: stench bombs, sneezing powder, tear gas, mustard gas, phosgene gas, chlorine gas, chloracetophenone (CN), orthochlorobenzal-malononitrile (CS), oleoresin capsicum, or any other obnoxious substances or nauseating gases or mixtures of chemicals designed to produce and capable of producing vile, injurious or nauseating odors or gases or which produce tears, sneezing or any other bodily discomfort.

#### 24.49 SALE OF NOXIOUS SUBSTANCES.

1. No person shall sell, offer for sale or keep for sale any noxious substance, or any device which releases a noxious substance as defined in section 24.47, unless the same has been certified as not being a hazardous substance pursuant to the provisions of the Federal Hazardous Substances Act of 1961, Title 15, Chapter 47, U.S.C.A. and any amendments thereto.

2. In the event a noxious substance or device is classified as a hazardous substance pursuant to the provisions of the above mentioned Federal Act, then the provisions of that Act and of regulations promulgated pursuant thereto shall control as to the limitations on the sale or possession of such substances or devices. No person shall sell, offer for sale, or keep for sale any noxious substance or device which releases a noxious substance which is not controlled by the provisions of the Federal Act unless the same is accompanied by a complete description of the device's capabilities and effects, including the following:

- A. Whether the particular device fires a stream or mist and the scope of the stream or mist.
- B. The maximum range of the particular device.
- C. The effect that a breeze or wind may have on the accuracy of the stream or spray.
- D. The effects that the particular device or substance will have on an individual who is sprayed.
- E. The antidote or recommended treatment for the effects of the substance.

#### 24.50 USE OF NOXIOUS SUBSTANCES.

No person shall maliciously or without just cause release or cause or procure to be released in any private home, place of business or place of public gathering any noxious substance which results in bodily injury to any person from such release. Nothing herein contained shall prevent the use of noxious substances by peace officers in the proper performance of their duties or by any person or

persons in the lawful protection of a person or property.

24.51 EMPTYING FLAMMABLE LIQUIDS INTO SEWERS. No person shall place, dump, throw, empty or deposit into any public sewer or into any sewer connecting with a public sewer any benzine, benzole, naphtha, gasoline or any other liquid product of petroleum except as may be approved by Fire Chief.

**SUBCHAPTER 5****PUBLIC PROPERTY**

**24.52 DEFACING PUBLIC GROUNDS.** It shall be unlawful for a person to cut, break or deface any tree or shrub on public property or on any public way by willfully defacing, cutting, breaking or injuring.

(Code of Iowa, 1995, Sec. 364.1, 364.12 [2])

**24.53 INJURING NEW PAVEMENT.** It shall be unlawful for a person to injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.

(Code of Iowa, 1995, Sec. 364.12)

**24.54 DESTROYING PARK EQUIPMENT.** It shall be unlawful for a person to destroy or injure any property or equipment in public playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.

(Code of Iowa, 1995, Sec. 364.12 [2])

**24.55 DEFACING PROCLAMATIONS OR NOTICES.** It shall be unlawful for a person intentionally to deface, obliterate, tear down, alter, or destroy in whole or in part, any transcript or extract from or of any law of the United States or this 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, 1995, Sec. 716.1)

**24.56 INJURY TO FIRE APPARATUS.** It shall be unlawful for a person willfully to destroy or injure any engine, hose, hook and ladder truck, or other thing used or kept for extinguishment of fires.

(Code of Iowa, 1995, Sec. 716.1)

**24.57 DAMAGE TO PUBLIC OR UTILITY PROPERTY.** It shall be unlawful for a person willfully to injure, remove, or destroy any railway or apparatus belonging thereto; or any bridge, rail or plank road; or place, or cause to be placed, any obstruction on any railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or to cut, burn or in any way break down, injure, or destroy any post or pole used in connection with any system of electric lighting, railway, or telephone or telegraph system; or to break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way to cut, break, or injure the

wires of any apparatus belonging thereto; or to tap, cut, injure, break, disconnect, connect, make connection with, or destroy any of the wires, mains, pipes, conduits, meters, or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant, or water plant; or to aid or abet any other person in any of the acts described in this section.

(Code of Iowa, 1995, Sec. 716.1)

24.58 DEFACE PUBLIC BUILDINGS. It shall be unlawful for a person willfully to write, make marks, or draw characters on the walls or any other part of any church, college, academy, schoolhouse, court house, city hall, city park structure, or other public building, or on any furniture, apparatus, or fixture therein; or willfully to injure or deface the same, or any wall or fence enclosing the same.

(Code of Iowa, 1995, Sec. 716.1)

24.59 OBSTRUCTING DRAINAGE. It shall be unlawful to divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or to break down any levee lawfully established, constructed or maintained.

(Code of Iowa, 1995, Sec. 716.1)

24.60 CRIMINAL MISCHIEF. Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act, and shall be unlawful.

(Code of Iowa, 1995, Sec. 716.1)

24.61 UNAUTHORIZED ENTRY. No person shall enter any public building or public enclosure unless authorized to do so. An entry into public buildings and enclosures shall be considered to be unauthorized when said buildings or enclosures are closed and secured against entry and not open to the public. When open to the public, a failure to pay a required admission fee, if any, shall also constitute an unauthorized entry.

(Code of Iowa, 1995, Sec. 364.1)

24.62 REMOVAL OF WARNING DEVICES. It shall be unlawful for a person willfully to remove, throw down, destroy, deface, or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other Subchapter or things, or extinguish any lamp or

other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, 1995, Sec. 716.1)

24.63 OBSTRUCTING OR DEFACING STREETS AND PUBLIC PLACES. It shall be unlawful for any person to obstruct, deface, damage, or injure any public road in any manner, or to defecate or urinate in or upon any street, alley, sidewalk, public corridor or other place open to public view.

(Code of Iowa, 1995, Sec. 716.1)

24.64 PLACING DEBRIS ON STREETS. It shall be unlawful for any person to throw or deposit on any street any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal or vehicle.

(Code of Iowa, 1995, Sec. 321.369)

24.65 REMOVING INJURIOUS MATERIAL FROM STREET. Any person who drops, or permits to be dropped or thrown, upon any street, any destructive or injurious material or other material shall immediately remove the same or cause it to be removed.

24.66 PLAYING IN STREETS. It shall be unlawful for any person to coast, slide or play games on streets or highways.

(Code of Iowa, 1995, Sec. 364.12 [2])

24.67 USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES. 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.

24.68 TRAVELING ON BARRICADED STREET PROHIBITED. It shall be unlawful for any person to travel or operate any vehicle on any street or public way 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.

24.69 USE OF PARKINGS. It shall be unlawful, temporarily or permanently, to park, store, or place any car, truck, vehicle, junk or any other goods, wares and merchandise of any kind upon any street parking without permission of the Council.

24.70 USE OF STREETS FOR BUSINESS PURPOSES. It shall be unlawful to park, store or place any machinery, or any other goods, wares, and merchandise of any kind upon any street

for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

24.71 WASHING VEHICLE ON STREETS PROHIBITED. It shall be unlawful for any person to use any public sidewalk or street 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 shall not be construed to prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street.

24.72 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.

24.73 USE OF PUBLIC PROPERTY FOR PURPOSES OF 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.

**SUBCHAPTER 6****PRIVATE PROPERTY**

**24.74 TRESPASSING PROHIBITED.** It shall be unlawful for a person to commit one or more of the following acts:

1. Enter Property Without Permission. Enter 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, to use, remove therefrom, alter, damage, harass or place thereon or therein anything animate or inanimate, or to hunt, fish or trap on or in the property.

(Code of Iowa, 1995, Sec. 716.7[2a])

2. Vacate Property When Requested. Enter or remain 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 by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

(Code of Iowa, 1995, Sec. 716.7[2b])

3. Interfere with Lawful Use of property. Enter upon or in private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(Code of Iowa, 1995, 716.7[2c])

4. Use of Property Without Permission. Be upon or in property and wrongfully use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, 1995, Sec. 716.7[2d])

**24.75 ELECTRONIC AND MECHANICAL EAVESDROPPING.** No person, having no right or authority to do so, shall tap into or connect a listening or recording device to any telephone or other communication wire, or shall by any electronic or mechanical means listen to, record, or otherwise intercept a conversation or communication of any kind; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication;

and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.

(Code of Iowa, 1995, Sec. 727.8)

24.76 DAMAGE TO PROPERTY. It shall be unlawful to cut, hack, break, deface or otherwise injure any ornamental or shade tree, fence, private building, railing or other property.

(Code of Iowa, 1995, Sec. 716.1)

24.77 THEFT. Any person guilty of theft commits a simple misdemeanor. A person commits theft when the person does any of the following:

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 his or her 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 his or her own use, when the owner of such property is known to him or her. Failure by a bailee or lessee of personal property to return the property within seventy-two hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation.
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. Where compensation for goods and services is ordinarily paid immediately upon the obtaining of such goods or the rendering of such services, the refusal to pay or leaving the premises without payment or offer to pay or without having obtained from the owner or operator the right to pay subsequent to leaving the premises gives rise to an inference that the goods or services were obtained 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. The fact that the person is found in possession of property which has been stolen from two or more persons on separate occasions, or that the person is a dealer or other person familiar with the value of such property and has acquired it for a consideration which is far below its reasonable value, shall be evidence from which the court or jury may infer that the person knew or believed

that the property had been stolen.

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, or written order on any bank, credit union, person or corporation, and obtains property or service in exchange therefor, if the person knows that such check, share draft, draft or written order will not be paid when presented.

Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer from such facts that the maker knew that the instrument would not be paid on presentation. Notice of refusal of payment shall be by certified mail, or by personal service in the manner prescribed for serving original notices.

Whenever the drawee of such instrument has refused payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation.

(Code of Iowa, 1995, Sec. 714.1.)

**SUBCHAPTER 7****SHOPLIFTING**

24.78 DEFINITIONS. The following words, when used in this Subchapter, shall, for the purposes of this Subchapter, have the meanings respectively ascribed to them in this section:

1. "Goods": shall mean goods, wares or merchandise when the value does not exceed fifty (50) dollars.
2. "Merchant": shall mean the owner, operator or person in charge of a store.
3. "Store": shall mean the store or mercantile establishment where goods are offered for sale.

24.79 SHOPLIFTING PROHIBITED. If any person shall willfully take possession of the goods of any store with the intention of converting the same to his or her own use, or the use of another, without paying the purchase price thereof, he or she shall be guilty of the crime of shoplifting.

24.80 EVIDENCE OF INTENTION. The fact that any person has concealed unpurchased goods of any nature (a) on the premises of such store, (b) outside the premises of such store, (c) on his or her person, (d) on the person of another, (e) among his or her belongings or (f) among the belongings of another shall be material evidence that such goods were so concealed by such person with the intention of converting the same to his or her own use, or the use of another, without paying the purchase price thereof.

24.81 DETENTION AND SEARCH. If any peace officer, merchant or merchant's employee has reasonable grounds to believe that any person has committed the crime of shoplifting, the peace officer, merchant or merchant's employee may detain and search such person provided that the detention is for a reasonable length of time, the search is conducted in a reasonable manner by a person of the same sex and the search is conducted under the direction of a peace officer. If the person to be searched consents in advance, the search need not be conducted under the direction of a peace officer.

24.82 DETENTION AND SEARCH - IMMUNITIES. The detention and search of any person pursuant to the provisions of Section 24.65 hereof shall not render any peace officer, merchant or merchant's employee liable, in a criminal or civil action, for false arrest or false imprisonment.

**SUBCHAPTER 8****CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA**24.83 DEFINITIONS.

1. The term "controlled substance" as used in this Chapter shall be defined as the term "controlled substance" is defined in the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.
2. The term "drug paraphernalia" as used in this Chapter shall mean 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:
  - A. 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.
  - B. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
  - C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
  - D. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
  - E. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
  - F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use or designed for use in cutting controlled substances.

G. 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.

H. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.

I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

J. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

K. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

L. 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:

- (1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
- (2) water pipes, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, chillums, bonds, ice pipes or chillers;
- (3) carburetion tubes and devices;
- (4) smoking and carburetion masks;
- (5) 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;
- (6) miniature cocaine spoons and cocaine vials.

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

A. Statements by an owner or by anyone in control of the object concerning its use.

B. Prior convictions, if any, of an owner or anyone in control of the object under any state or federal law relating to any controlled substances.

C. The proximity of the object in time and space to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Iowa Code.

D. The proximity of the object to controlled substances.

E. The existence of any residue of controlled substance on the object.

F. Direct or circumstantial evidence of the intent of any owner or of anyone in control of the object, to deliver it to persons whom he 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.

G. 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 Iowa Code, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

H. Instruction, oral or written, provided with the object concerning its use.

I. Descriptive materials accompanying the object which explain or depict its use.

J. The manner in which the object is displayed for sale.

K. 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.

- L. Direct or circumstantial evidence of the ratio of sales of the object[s] to the total sales of the business enterprise.
- M. The existence and scope of legitimate uses for the object in the community.
- N. Expert testimony concerning its use.

24.84 UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE. It is unlawful for any person knowingly or intentionally to possess a controlled substance, as defined in Chapter 204 of the Code of Iowa, unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by Chapter 124 of the Code of Iowa. Any person who violates this provision of the ordinance is guilty of a simple misdemeanor.

(Code of Iowa, 1995, Sec. 124.401)

24.85 GATHERINGS WHERE CONTROLLED SUBSTANCES UNLAWFULLY POSSESSED. It shall be unlawful for any person to sponsor, promote, aid, or assist in the sponsoring or promoting of a meeting, gathering, or assemblage with the knowledge or intent that a controlled substance be present, distributed, used, or possessed.

(Code of Iowa, 1995, Sec. 124.407)

24.86 UNLAWFUL 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 Substances Act, Chapter 124 of the Code of Iowa. Any person who violates this provision of the ordinance is guilty of a simple misdemeanor.

24.87 UNLAWFUL MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, 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, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, in hale, 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. Any person who violates this provision of the ordinance is guilty of a simple misdemeanor.

24.88 PENALTY. Any person, firm or corporation violating any provision, section or paragraph of this ordinance shall be subject to the general penalty provisions of the City Code of Windsor Heights for simple misdemeanor violations.

**SUBCHAPTER 9****CONTROL OF GRAFFITI****24.89 DEFINITIONS.**

1. "Graffiti" means any inscription, drawing, picture, letter, number, symbol or other written communication sprayed, painted or in some manner inscribed on street, sidewalk, building or wall surfaces not intended primarily for such use.
2. "Minor" means any person under 18 years of age.
3. "Spray paint" means any liquefied or semi-liquefied substance that when released under pressure will produce a colored substance where sprayed without the use of any other implement or mechanism.

**24.90 LICENSE REQUIRED.**

1. No person shall by use of any substance whatsoever inclusive of spray paint, inscribe graffiti upon any structure, sidewalk or other property privately held without the consent and under the direction of the owner.
2. No person shall by use of any substance whatsoever, inclusive of spray paint, inscribe graffiti upon any structure, street surface or any other public property without obtaining a license.
3. All applicants for a license to inscribe graffiti on public property shall apply in writing to the City Clerk. The application shall be submitted at least thirty (30) days prior to the proposed date of engaging in graffiti activity.
4. All applications for a license shall contain the following information:
  - A. Name, address and age of applicant if natural person; if the application is made on behalf of an organization, the name and address of the organization.
  - B. Names and phone number of contact persons.
  - C. Description and drawing of intended graffiti including exact area and structures that will be the subject of the graffiti activity.

24.91 MINORS. No license to engage in graffiti activity shall be issued to a minor. Any minor engaging in graffiti activity shall be under the direct supervision and control of the person or organization issued a license.

24.92 LICENSE FEE AND ISSUANCE OF LICENSE. When the City Administrator is satisfied that all the application requirements have been met successfully and the applicant has submitted a fee in the amount of \$25.00, the license shall be issued.

24.93 CIVIL VIOLATIONS AND PENALTIES. Any person, corporation or other legal entity who violates or resists the enforcement of any of the provisions of this chapter shall be guilty of a municipal infraction punishable by a civil penalty of \$100.00 for the initial offense and \$200.00 for each repeat offense. Each day that a municipal infraction occurs constitutes a separate offense. Any person, corporation or other legal entity who violates a provision of this Chapter after having previously been found guilty of violating the same provision of this Chapter at the same location or at a different location shall be guilty of a repeat offense.

Seeking a civil penalty as authorized in this section does not preclude the City from seeking alternative relief, including any order for abatement or injunctive relief, from the court in the same action or as a separate action.

**SUBCHAPTER 10****PROPERTIES AFFECTING PUBLIC HEALTH AND WELFARE**24.94 DEFINITIONS.

1. **"Bootlegging"** means the illegal sale or service of alcoholic liquor, wine, or beer in violation of Chapter 123 of the Code of Iowa.
2. **"Chief of police"** means the person who has the responsibility to supervise and direct the police department as defined in Chapter 18 of this Code and for purposes of this subchapter may include his or her designee.
3. **"Controlled substance"** means a drug, substance or immediate precursor as defined by section 24.83(1) of this Code and Chapter 124 of the Code of Iowa.
4. **"Owner"** means any person, agent, firm, corporation, association, or a partnership, including a mortgagee in possession in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and the right to present use and enjoyment of the premises, or an occupant of that structure.
5. **"Person"** means any natural person, association, partnership, corporation, or other legal entity capable of owning or using property.
6. **"Prostitution", "pimping", and "pandering"** means those acts or activities as defined by section 24.12 of this Code or by Chapter 725 of the Code of Iowa.
7. **"Offensive property"** means any structure in which activity involving the unauthorized delivery or manufacture of a controlled substance, illegal gambling, bootlegging, prostitution, pimping or pandering is occurring.
8. **"Structure"** means any building or structure including but not limited to edifice, units, or any portion thereof.

24.95 OFFENSIVE PROPERTY PROHIBITED. No person shall use or allow to be used any structure as an offensive property.

24.96 CIVIL VIOLATIONS AND PENALTIES. Any person who violates or resists the enforcement of any of the provisions of this subchapter shall be guilty of a municipal infraction punishable by a civil penalty of \$100.00 for the initial offense and \$200.00 for each repeat offense. Any person who violates a provision of this subchapter after having previously been found guilty of violating the same provision of this subchapter at the same location, shall be guilty of a repeat offense.

Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including but not limited to any order for abatement or injunctive relief from the court in the same action or as a separate action.

24.97 PROCEDURE FOR ENFORCEMENT. When the chief of police has a reasonable belief that a structure is being used or maintained in violation of this subchapter, the chief of police shall notify the owner of record in writing that the structure has been declared to be an offensive property.

A reasonable belief that a structure is being used as an offensive property may be found from but is not limited to, evidence of drug paraphernalia in or around the structure, an increase in vehicular or pedestrian traffic in or around the structure, observations of the exchange of money, verified citizen complaints of bootlegging, unauthorized delivery or manufacture of a controlled substance, illegal gambling, bootlegging, prostitution, pimping, or pandering and any other activity which leads a police officer to reasonably believe violations exist.

24.98 NOTICE. The notice required in section 24.97 above shall notify the owner of record in writing that a structure owned by him or her has been declared to be an offensive property and such notice shall contain the following information:

- (1) The street address and a description sufficient for identification of the premises on which the structure is located; and
- (2) A statement that the chief of police has found the structure to be in violation of this subchapter with an explanation as to why the structure has been declared an offensive property.

24.99 SERVICE OF NOTICE. A copy of the notice shall be served on the owner or an agent at least twenty (20) days prior to the commencement of any judicial action by the city. Service shall be made either personally or by mailing a copy of the notice by registered or certified mail, postage pre-paid, return receipt requested to each person at his or her address as it appears in the records of the Polk County Auditor. Additionally, copy of the notice shall be served on the occupant of the structure if that person is different than the owner and with said service occurring not less than ten (10) days prior to the commencement of any judicial proceeding and may be made either personally or by mailing a copy of the notice by first-class mail, postage pre-paid, to that person at the structure. In the event that notice is impossible to be served as set out above, a copy of the notice may be posted at the property if ten (10) days have elapsed from service or mailing of the notice to the owner and no response or reply has been received by the city from the owner or occupant during that period of time.

The failure of any person or owner to receive actual notice of the determination of the chief of police shall not preclude future proceedings under this subchapter.

24.100 ADMINISTRATIVE APPEAL.

(a) Upon receipt of a notice of an offensive property as set out in sections 24.98 and 24.99 above, the owner of record may challenge such notice by filing a request for an administrative hearing. Such request shall be in writing and filed with the city clerk or his or her designee within ten (10) days of the service of the notice of an offensive property. A copy of this subchapter shall be given to the person requesting a hearing.

(b) Failure to request a hearing within such time period or to attend a scheduled hearing, shall be deemed a waiver of the right to such a hearing.

(c) Upon filing of a request for an administrative hearing, further judicial action pursuant to this subchapter shall be stayed pending the outcome of the administrative hearing.

#### 24.101 CONDUCT OF HEARING.

(a) The hearing shall be conducted before a hearing officer designated by the city clerk within a reasonable period of time, but not to exceed 15 business days, excluding Saturdays, Sundays and city holidays, from the date of a written demand therefor. Such hearing may be continued for good cause. A notice of hearing including the time, date and location of the hearing, shall be made by mailing a copy of the notice by first class mail, postage pre-paid to the owner of record.

(b) The sole issue before the hearing officer shall be whether there exists a reasonable belief that the structure is being used as an offensive property. The hearing officer shall decide only that either (i), there is a reasonable belief that the structure is being used as an offensive property and that the provisions of this subchapter shall apply or (ii), there is not sufficient reasonable belief that the structure is being used as an offensive property and that the procedures of this subchapter shall be permanently stayed. A finding of no reasonable belief however shall not preclude a future independent complaint, investigation and notice of an offensive property.

(c) The decision of the hearing officer shall be issued within four (4) days of the hearing and the owner of record shall be notified consistent with the notice provisions of this subchapter.

(d) The decision of the hearing officer shall be final.

24.102 EFFECT OF NOTICE. Subsequent to the declaration and notice that there exists an offensive property, an owner shall have the opportunity to abate the offensive activity within ten (10) days. In the case of a landlord/tenant relationship, the owner/landlord may be deemed to have abated the activity upon demonstration that he or she has taken legal action as allowed by Chapter 562A and 562B of the Code of Iowa to terminate the rental agreement and continues in good faith to follow abatement procedures and provides the chief of police with copies of all notices served in accordance with Chapter 562A and 562B of the Code of Iowa.

If after twenty (20) days the chief of police determines that an offensive property has not

been abated, a notice of fine and an order of abatement shall be filed in compliance with section 364.22 of the Code of Iowa.

**SUBCHAPTER 11****PICKETING OF A RESIDENCE OR DWELLING**

**24.103 PICKETING RESIDENCE OR DWELLING UNLAWFUL.** It shall be 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 of Windsor Heights. 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.

For the purposes 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. As intended or reasonably calculated to cause emotional distress or disturbance to the occupants of the targeted residential lot or dwelling; or
- B. As causing emotional distress or disturbance to the occupants of the targeted residential lot or dwelling; or
- C. As intended or reasonably calculated to disturb the sense of peace and tranquillity of the occupants of the targeted residential lot or dwelling; or
- D. As causing a disturbance to the sense of peace and tranquillity of the occupants of the targeted residential lot or dwelling.

**24.104 PENALTY FOR VIOLATIONS.** Any person violating this ordinance shall be guilty of a simple misdemeanor and, upon conviction, be subject to a fine of not more than One Hundred Dollars (\$100.00) or imprisonment for not to exceed thirty (30) days, in accordance with Section 1.09 of the Code of Ordinances of the City of Windsor Heights, Iowa, 1997.

**SUBCHAPTER 12****USE OF LASERS OR SIMULATED LASER DEVICES**

**24.105 DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this Subchapter, have the meanings in this section.

1. "Laser" means any pointing device, siting device or other device that converts incident electromagnetic radiation or 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.
2. "Minor" means any person under eighteen (18) years of age.
3. "Person" or "Individual" means any natural person, corporation, partnership, firm, organization or other legal entity.
4. "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.
5. "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.
6. "Vehicle" means every device in, upon or by which any person or property is, or may be, transported or drawn upon a street, including a "motor vehicle", "motorcycle" or "bicycle" as defined in 25.02 of this code.

**24.106 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 24.01 of this Code and shall be punishable accordingly.

**24.107 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, state, or federal peace officer, investigator or emergency service worker. A violation of this provision shall be classified as an "assault" under 24.01 of this Code. Any person found guilty of this provision shall be punished with the maximum fine and jail time allowed by law.

24.108 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" shall include 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 24.03 of this Code and shall be punishable accordingly.

24.109 POINTING OF LASERS AT A POLICE OR EMERGENCY SERVICE 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 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, 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 24.03 of this Code. Any person found guilty of this provision shall be punished with the maximum fine and jail time allowed by law.

24.110 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 24.03 of this Code. Any person found guilty of this provision shall be punished with the maximum fine and jail time allowed by law.

24.111 USE OF LASERS BY MINORS. No person shall furnish to any minor by gift, sale, or otherwise, any laser or simulated laser unless: (1) 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 (2) said minor is using the laser or simulated laser on private property and in the direct supervision of an adult.

**SUBCHAPTER 13****ALARM SYSTEMS - POLICE**

**24.112 DECLARATION.** It is hereby declared that the occurrence of false alarms at premises protected by emergency alarm systems constitutes both a nuisance and a hazard to life and property. In light of (1) the traffic danger inherent in the emergency response of police vehicles, (2) the danger caused by possible decreased caution on the part of emergency personnel responding to a location where previous false alarms have occurred, and (3) the cost in money and manpower to respond where no actual emergency exists, the City Council finds it necessary to the health, safety, and welfare of citizens to enact the following provisions governing alarm systems.

**24.113 DEFINITIONS.** For the purposes of this Article, the following words and phrases shall have the meaning set forth herein:

1. “Alarm business” means any person engaged in the business of installing, planning the installation, assisting in planning the installation, servicing, maintaining, monitoring, repairing, replacing, moving or removing alarm systems in the City.
2. “Alarm Coordinator” means the individual designated by the Chief of Police to enforce the provisions of this Article.
3. “Alarm System” means any mechanism, equipment, or device which is designed to detect an unauthorized entry into any building or onto any property, or to direct attention to a robbery, burglary, or other emergency in progress, and to signal the above occurrences either by a local or audible alarm or by a silent or remote alarm. The following devices shall not constitute alarm systems within the meaning of this subsection:
  - a. Devices which do not register alarms that are audible, visible, or perceptible outside the protected premises;
  - b. Devices, which are not installed, operated or used for the purpose of reporting an emergency to the Windsor Heights Police Department.
  - c. Alarm devices affixed to motor vehicles; and
  - d. Alarm devices installed on a temporary basis by the Windsor Heights Police Department.
4. “Alarm User” means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof wherein an alarm system is maintained.
5. “Central Station” means an office to which alarm systems are connected, where

operators supervise the circuits, and where guards and/or service personnel are maintained continuously to investigate signals.

6. "Emergency" means the commission or attempted commission of a robbery, burglary or other criminal action.
7. "False Alarm" means the activation of an alarm system, which results in a response by the Windsor Heights Police Department where an emergency does not exist and for which no evidence or indication of criminal activity, or other hazard is discovered. False alarms shall include negligently or accidentally activated signals; signals, which are the result of faulty, malfunctioning or improperly installed or maintained equipment; signals, which are purposely activated to summon emergency personnel in non-emergency situations; and alarms for which the actual cause is not determined. False alarms also include an alarm signal caused by conditions of nature, which are normal for that area. "False Alarm" does not include an alarm signal caused by extraordinarily violent conditions of nature, which cannot be reasonably anticipated by the alarm user.
8. "Local Alarm" means any noise-making alarm device and any alarm, which emits a visual signal such as a strobe light.
9. "Person" means and includes natural persons, without regard to number or gender, and any partnership, corporation, and any other type of legal entity.
10. "Windsor Heights Police Department"- means the sworn and non-sworn personnel assigned by the City of Windsor Heights to the Windsor Heights Police Department and the contracted Communication Center that provides radio and alarm information to this department.

24.114 USER INSTRUCTIONS. Every alarm business selling, leasing or furnishing to any user an alarm system, which is installed on premises located in the City, shall furnish the user with written instructions that enable the user to operate the alarm system properly.

24.115 FALSE ALARMS.

- A. For each false alarm to which emergency personnel respond, the alarm user shall be issued a notice of a municipal infraction with a penalty of:

First false alarms:	\$50.00
Second and subsequent false alarms Within a 365-day period:	\$75.00

- B. If any fine is not paid within 10 (ten) days of receipt of notice, an additional notice of a

municipal infraction will be filed against the alarm user for non-payment.

- C. The City may use all available legal remedies to collect delinquent service fees and late penalties.

#### 24.116 RIGHT TO HEARING AND APPEAL.

- A. An alarm user shall have the right to a hearing to contest the imposition of any penalty under this Article. A court date will be provided with citation.
- B. For cases involving a Municipal Infraction the alarm user must file a written request for a hearing with the Alarm Coordinator within five (5) business days of the date of mailing of the notice of imposition of the penalty. The request for a hearing shall include the alarm user's name, address, telephone number, and a statement of the reasons for disputing the imposition of the penalty. A timely request for a hearing shall stay the imposition of any penalty until the hearing is decided. The City's determination of a false alarm and the imposition of an administrative service fee shall be considered final if the alarm user fails to request a hearing within the time period set forth above.
- C. Notice of the imposition of a penalty shall be considered satisfied if sent by regular mail to the alarm user's address.
- D. The City Administrator or his/her designated representative shall conduct hearings requested by alarm users and shall affirm, modify, or vacate the imposition of the penalty after considering all of the evidence presented.
- E. An alarm shall be presumed to be a false alarm unless the alarm user can establish the existence of an emergency or other hazard at the time of the alarm by a preponderance of the evidence. The burden of proving the existence of an emergency shall be upon the alarm user.

24.117 DELIBERATE FALSE ALARMS. No person shall cause any alarm to be transmitted to the Windsor Heights Police Department knowing the same to be false or without basis in fact. A violation of this section shall be a municipal infraction.

24.118 LOCAL POLICE ALARM SYSTEM – CUTOFF REQUIRED. Alarm systems which uses a local audible or visual alarm device to attract the attention of the public shall be equipped with an automatic cutoff device which will terminate the audible or visual alarm within fifteen (15) minutes. However, this section shall not apply to fire alarms, strobe lights, and fire gongs. A violation of this section shall be a municipal infraction.

24.119 POLICE CALL RECORDS. Alarm businesses which request the response of emergency personnel to alarm signals shall maintain a record of all alarms reported to the Windsor Heights

Police Department, stating the time, date and location of the alarm and the name, address, and phone number of the alarm user from which the alarm originated. The records shall indicate the cause of the alarm, if known. This record shall be current and shall be available to the Alarm Coordinator during normal business hours.

24.120 ADMINISTRATION AND ENFORCEMENT. Subject to the approval of the City Administrator, the Chief of Police shall have the authority to make such reasonable rules and regulations as may be deemed necessary to implement the provisions of this Article.

24.121 OPERATIONAL DEFECTS TO BE REMEDIED.

- A. The sensory mechanisms used in connection with alarm systems shall be adjusted to suppress false alarms so that the device will not be actuated by impulses due to transient pressure changes in water pipes, short flashes of light, wind noises such as the rattling or vibrating of doors or windows, vehicular noise adjacent to the installation, radio frequency energy, non-intrusive motion or other forces unrelated to genuine alarms.
- B. All components of an alarm system must be maintained in good repair by the alarm user so as to assure reliability of operation.

24.122 AUTOMATIC DIALING AND PRERECORDED MESSAGE ALARM SYSTEMS. It is unlawful to maintain, operate, connect, or allow to be maintained, operated or connected, any alarm system or automatic dialing device which automatically dials the Windsor Heights Police Department and then relays any prerecorded message indicating the existence of an emergency situation.

24.123 CITY LIABILITY LIMITATIONS. Nothing in this Article shall create or be construed to create a duty upon the Windsor Heights Police Department to respond to any alarm whether or not the alarm is false. An alarm, like any other request for service may be responded to within the resources of the Windsor Heights Police Department in light of other responses required at the time of the alarm.

24.124 VIOLATION PENALTY. Unless otherwise provided in this Article, the failure of any person to comply with the requirements of this Article shall constitute a municipal infraction.