

CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances	41.08 Abandoned or Unattended Refrigerators
41.02 False Reports to or Communications with Public Safety Entities	41.09 Antenna and Radio Wires
41.03 Providing False Identification Information	41.10 Barbed Wire and Electric Fences
41.04 Refusing to Assist Officer	41.11 Discharging Weapons
41.05 Harassment of Public Officers and Employees	41.12 Throwing and Shooting
41.06 Interference with Official Acts	41.13 Urinating and Defecating
41.07 Removal of an Officer's Communication or Control Device	41.14 Fireworks
	41.15 Drug Paraphernalia
	41.16 Residential Property Maintenance Regulations

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

41.12 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building, without written consent of the Council.

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

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

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

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

(Code of Iowa, Sec. 727.2)

2. Sales – General Regulations.

A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the Fire Chief:

- (1) License: Proof of valid license issued from the state fire marshal.

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

- (3) Fire Inspection: Any property, building, or premise whether it be permanent or temporary, intended for the sale of consumer fireworks shall have an initial fire inspection completed by the Fire Chief prior to engaging in the sale of consumer fireworks. The Fire Chief or their designee shall cause an annual inspection to occur meeting the requirements of the National Fire Protection Code 1124 (2006 Edition) and the current fire code adopted by the City of Oakland. Inspection costs shall be assessed as follows:

- (i) Permanent structure where fireworks are sold – annual inspection fee of \$100.

- (ii) Temporary or non-brick or mortar building where fireworks are sold – annual inspection fee of \$200.

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

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

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

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

(1) Not more than 100 pounds of total aggregate weight of DOT 1.4 class consumer fireworks shall be located inside a commercial business with other mercantile products for sale.

(2) Not more than 500 pounds of total aggregate weight of DOT 1.4 class consumer fireworks shall be located inside a building where fireworks are the primary business.

(3) Not more than 1000 pounds of total aggregate weight of DOT 1.4 class consumer fireworks shall be located in a temporary structure used primarily for fireworks sales.

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

(5) Any temporary structure having between 500 and 1000 pounds of total aggregate weight of DOT 1.4 class consumer fireworks shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.

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

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

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

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

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

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

- (10) Consumer fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.
 - (11) Locations shall have a minimum of two 10 pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher.
 - (12) All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are approved exit doors as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within 8 seconds.
 - (13) No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where consumer fireworks are sold as a primary business.
 - (14) No more than one conex container or approved explosive magazine shall be located on site for short-term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices. It is permitted to place containers in a security fenced area.
 - (15) Individual consumer fireworks devices or opened consumer fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.
 - (16) Consumer fireworks sales shall only be allowed in areas zoned for commercial use.
 - (17) Any person engaged in consumer firework sales in any other zone other than commercial zoned areas shall not be approved for sales within the City limits.
 - (18) No person shall sell a DOT 1.4 class consumer firework to a person under the age of 18.
 - (19) Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.
3. Fireworks – Discharging General Requirements.
- A. No person under the age of 18 shall discharge a DOT 1.4 class consumer firework without parental supervision.
 - B. A person shall only discharge a consumer fireworks device on real property they own or on property where consent has been given. Novelties, including snakes, sparklers, or caps, can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.
 - C. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

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

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

(1) July 1 thru July 8 from the hours of 9 a.m. until 10 p.m.

Exception: discharge hours are extended to 11 p.m. on July 4th only.

(2) December 31 thru 12:30 a.m. on January 1.

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

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

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

(1) Personal Injury: \$250,000 per person.

(2) Property Damage: \$50,000.

(3) Total Exposure \$1,000,000.

4. Violations. All violations of any provisions of this chapter are hereby declared simple misdemeanors and/or municipal infractions. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the Fire Chief or peace officer. Fines shall be set by resolution of the City Council. Violations of this chapter shall be reported to the state fire marshal.

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

(Section 41.14 – Ord. 50 – Feb. 18 Supp.)

41.15 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

1. As used in this section “drug paraphernalia” means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

- A. Manufacture a controlled substance.
- B. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
- C. Test the strength, effectiveness, or purity of a controlled substance.
- D. Enhance the effect of a controlled substance.

Drug paraphernalia does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

- 2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

41.16 RESIDENTIAL PROPERTY MAINTENANCE REGULATIONS.

- 1. Standards. It is a violation of this section for any landowner or person leasing, occupying, or having control of any real property used for residential purposes, to keep, maintain, deposit, or perform or permit on such property the outdoor use, outdoor storage or outdoor placement of household appliances, household furniture, or household furnishings, unless such items are designed for outdoor use and are used on the premises for purposes of the household. The term “outdoor” includes a porch. However, the use, storage, or placement of household appliances, household furniture, or household furnishings on a porch is not prohibited if the porch is completely enclosed by fully intact glass or fully intact screens. A porch is a platform completely covered by a roof located at and attached to or abutting against the entrance to a building. Screens are framed wire mesh or framed plastic mesh used to keep out insects and permit air flow.
- 2. Costs of Abatement. Pursuant to Section 364.29(9) of the *Code of Iowa*, when judgment has entered for a violation of this section, a court order shall be sought to authorize the City to abate or correct the violation and order the City’s costs for such abatement or correction of the violation be entered as a personal judgment against the defendant, or assessed against the property, or both.
- 3. Violation of this section is a municipal infraction punishable as provided in Chapter 3 of this Code of Ordinances.

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