

Title 3 – Public Ways and Property

Chapter 1 – Streets and Sidewalks

SECTIONS:

- 3-1-1 Definitions
- 3-1-2 Sidewalk Installation and Repair; Right-of-Way Maintenance
- 3-1-3 Encroaching Steps
- 3-1-4 Sidewalk Snow and Ice Removal
- 3-1-5 Commercial Use of Sidewalk in Commercial Zones
- 3-1-6 Outdoor Restaurant Seating License
- 3-1-7 Street Obstructions
- 3-1-8 Location of Steps, Cellarways, and Spouts
- 3-1-9 Playing in Streets
- 3-1-10 Traveling on Barricaded Street or Alley
- 3-1-11 Removal of Barricades

3-1-1 Definition(s)

- A. "Property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title as listed on the property records maintained by the Muscatine County Recorder's Office.

(Code of Iowa, Sec. 364.12[1])

3-1-2 Sidewalk Installation and Repair; Right-of-Way Maintenance.

- A. **Permit Required.** No person or entity shall construct or repair any sidewalk upon the streets of the City, unless such person shall first have obtained a permit therefore in accordance with the **Schedule of Permits and Fees** in the **Appendix** to this Code of Ordinances.
- B. **Specifications.** All sidewalks must be installed and repaired according to all applicable specifications established by the City Engineer.
- C. **New Sidewalks.** In areas of the City where there are no sidewalks, they shall be installed as follows:
 1. **New Construction.** New sidewalks shall be installed in accordance with **Title 11 of this Code.**
 2. **Other Areas.** The City Council shall determine the necessity of installing sidewalks in the areas of the City where none exist after holding a public hearing in accordance with the special assessment provisions of the Code of Iowa.
 3. **Cost of Installation.** If as provided elsewhere in this Code of Ordinances it is determined that a sidewalk should be installed, the abutting property owners shall share the cost of installing new sidewalks with the City of Muscatine in accordance with the special assessment rules and regulations for sidewalks as adopted by the City Council. If no such determination is made, abutting property owners may install a sidewalk at their own expense, as along as the sidewalk conforms to the specifications set by the City Engineer and the permit required has been obtained.

MEMORANDUM

Date: 2014-08-11

To: Mayor and City Council

From: Gregg Mandsager, City Administrator

RE: SUMMARY OF CODE CHANGES

Please see the following summary of changes to the next four titles of the City Code provided by City Attorney Matt Brick:

A. GLOBAL CHANGES: nearly all of the chapters in the modified draft were impacted by two global changes. The first global change was to remove all references to specific fees or fine amounts and instead refer to the fee schedule in the appendix. The second global change was to add cites to the current Iowa Code provision governing a particular ordinance. Though not mentioned in the summary below, these changes were made throughout the code. (Please note that the appendix and fee schedules still need to be compiled.)

B. TITLE 3: PUBLIC WAYS AND PROPERTY: the main changes to this title include collapsing the sidewalk, snow and ice removal, street obstructions, and commercial use of sidewalk chapters into one chapter, Chapter 3-1. Other major changes replaced precise construction specifications with reference to city engineer and placed liability on the abutting owner of a sidewalk for injuries caused by abutting owner's failure to remove natural accumulations of snow and ice. The most substantial changes to this chapter were made to the parade and public assembly chapter. The definition of what constitutes a parade or public assembly and the circumstances under which one must seek a permit were modified to comport with recent 1st amendment cases. Finally, the cemetery maintenance chapter was modified to coincide with the language of Iowa Code Section 523.I.507.

C. TITLE 4: REVENUE AND TAXATION: the biggest change to Title 4 was that it was made from a general miscellaneous Title to a Revenue and Taxation title only. In addition, the text of the ordinances establishing the Urban Revitalization and Urban Renewal Tax Increment areas were removed from codification and adopted by reference.

D. TITLE 5: BUSINESS REGULATIONS: the main changes to this Title include adding a general business license chapter, creating a general Alcohol Control

chapter, which encompasses the liquor, wine, and beer permit and license requirements, as well as the prohibited acts related to the possession, distribution, and consumption of alcohol, wine, and liquor. Within that chapter, there is also a newly added provision prohibiting minors from being in certain establishments past 10 pm. In addition, the cigarette chapter was modified to coincide with Iowa Code 453A.13, the Pawn Broker chapter was modified to include reporting requirements for pawn brokers to law enforcement, and an ambulance licensing chapter was added.

E. TITLE 6: POLICE AND PUBLIC SAFETY: this Title was formerly dedicated to Fire Regulations. Now, Fire regulations appear in Title 15. This Title is now dedicated to Police and Public Safety. Main changes to the Police and Public Safety code include collapsing most offenses into a general offense chapter, modifying the parental responsibility chapter to comport with recent case law on the matter, adding a specified crime property chapter to prohibit various activities within a dwelling, adding an aggressive pan handling chapter, and extending the curfew to 12:00 pm under the current draft. In addition, traffic violations were removed from this Title and placed in Title 7.

D. **Duty of Owner to Repair.** The abutting property owner shall maintain all public right of way located between the edge of the street or curb line and the property line, and shall keep such area in a safe condition free from defects, debris, nuisances, obstructions or any other hazard. The abutting property owner may be liable for damages caused by failure to maintain the public right of way located between the edge of the street or curb line and the property line. The abutting property owner shall maintain the sidewalk in a safe condition, in a state of good repair, and free from defects. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk. Notwithstanding the obligations imposed hereunder, the property owner shall in no event remove diseased trees or dead wood or plant, trim, remove or treat any tree or plant material on public right of way without first obtaining permission from the City.

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

E. **Maintenance of Area Between Lot Line and Curb Line.** It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines or improved public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, among other things, timely mowing, trimming trees and shrubs and picking up litter.

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

F. **Notice.** The City may serve notice on the abutting property owner, by certified mail to the property owner as shown by the records of the county auditor, requiring the abutting property owner to repair, replace, or reconstruct sidewalks.

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

G. **Costs.** If the abutting property owner does not perform an action required within a reasonable time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

3-1-3 Encroaching Steps. No steps from the sidewalk to the first floor above the ground of any building shall hereafter be erected upon any part of the sidewalk.

3-1-4 Snow and Ice Removal. The abutting property owner is responsible for the removal of the natural accumulations of snow and ice from the sidewalks within twenty-four 24 hours of the termination of the last snowfall and may be liable for damages caused by the failure to use reasonable care in the removal of the snow or ice. If a property owner fails to remove snow, ice, or accumulations within a reasonable time after snowfall, the City, after attempting to notify the adjoining property owner, may cause the snow to be removed and may assess the costs against the property owner for collection in the same manner as a property tax.

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

3-1-5 Commercial Use of Sidewalk in Commercial Zone

A. **Permits for Commercial Use:**

1. Sidewalk sales. The City Administrator is authorized to issue permits to businesses or business organizations for the temporary use of sidewalks for commercial sales in

commercially zoned districts. Such permits shall be limited to the temporary use of sidewalks abutting said business or business organization, and shall be limited to no more than two days for any one permit. All other commercial use of public right-of-way shall be prohibited unless such use is authorized by the City Council, by resolution.

2. It shall be unlawful for any business or business organization to use the public sidewalks in commercially zoned districts for commercial sales promotions without first having obtained a permit from the City Administrator, as provided in this Chapter.

B. **Permit Procedure and Standards for Issuance.** The permit application and issuance procedures set forth in Chapter 3 of this Title, shall govern the permit requirements of Section 3-1-5 of the City Code.

C. **Permit Provisions Shall not Apply to Peddlers or Solicitors.** The permit provisions of this Chapter shall not apply to peddlers or solicitors, as defined in Title 5 Chapter 10 of the City Code of the City of Muscatine.

3-1-6 Outdoor Restaurant Seating License. No person or entity shall operate a restaurant which provides outdoor seating on public property for the purpose of serving food or beverages, without a valid outdoor restaurant seating license.

A. **Application for License.** An outdoor restaurant seating license shall be granted only to the operator of a restaurant which is in conformance with City of Muscatine Zoning Ordinance. An application for an outdoor restaurant seating license shall be on a form provided by the City Clerk and shall additionally include:

1. **Applicant Contact Information.** The name, mailing address, phone number, and email address of the applicant.
2. **Drawing.** A detailed drawing to scale of the proposed site indicating the following: the existing facade, the points of ingress and egress, the proposed location of the tables, chairs, serving equipment, planters, borders, awnings, umbrellas, or other facilities to be included in the outdoor seating area. If the outdoor seating area is proposed to be located on a City sidewalk or other public right-of-way, the drawings must also include the location of existing public improvements, including fire hydrants, street signs, street lights, traffic signals, bus shelters, mail boxes, trees and tree grates, parking meters, planting boxes or planting areas, fire escapes or other overhead obstructions, and any other public obstruction.
3. **Fee.** The annual license fee for a seating area on public property shall be as set by resolution of council and is set out in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.
4. **Indemnification.** Licensee shall sign an agreement to indemnify, defend, and hold harmless the City for any and all claims for liability or damages arising from the operation of the outdoor restaurant seating area.
5. **Insurance.** Certificates of general liability insurance, workers compensation insurance, and, if applicable, dram shop insurance are required. The amount of required coverage shall be as set by resolution of council and is set out in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances. The City shall be named as an additional insured on the face of the certificate.

6. Administrative Review. When the City Clerk determines that the application is complete, the application shall be reviewed by the City Council. Upon approval of the City Council, the City Clerk shall issue the outdoor restaurant seating license.

B. **License Requirements.** Issuance and continued enjoyment of the outdoor restaurant seating license shall be conditioned on the following:

1. The licensee shall comply with all applicable Federal, State, and City health and sanitation laws and regulations, and operation of the outdoor restaurant seating area shall not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity.
2. No outdoor keeping or storage of food or beverages to be served shall be permitted. No open keeping or storage of used dishes, utensils or food scraps shall be permitted. Self-closing outside trash containers shall be used.
3. Operation of outdoor restaurant seating areas shall be permitted only:
 - a. Between April 15 and October 15, and
 - b. At such times as the main place of business is open, and
 - c. Between 6:00 a.m. and 11:00 p.m.
4. No animals, except those assisting the disabled, shall be allowed in the outdoor restaurant seating area.
5. Smoking is prohibited in an outdoor seating area governed by this permit.
6. The sale and consumption of alcoholic beverages in the outdoor seating area shall be restricted by the liquor license governing the restaurant. Any outdoor seating area where alcoholic beverages are sold or consumed shall be enclosed by a border. No alcoholic beverages may be removed from the outdoor seating area; except to the interior of the restaurant.
7. The outdoor seating area shall not obstruct any fire exit, fire escape, or other required ingress or egress.
8. The use of public sidewalks or right-of-way for outdoor restaurant seating shall be permitted only when incidental to the operation of a restaurant on private contiguous property and only along the frontage of said restaurant. Or in the case of a corner location, the City Council may consider the side of the intersecting street.
9. In no event shall the operation of the outdoor restaurant seating area interfere with the passage of pedestrian or vehicular traffic, or reduce the open portion of the public sidewalk to less than four (4) feet clear of all obstructions, measured from edge of the sidewalk closest to the curb (or lampposts or parking meters where such exist).
10. In no event shall the placement of furnishings for the outdoor restaurant seating area or the operation of the outdoor restaurant seating area obstruct access to any crosswalk, mailbox, curb cut, parking space or any other public property, or obstruct necessary access to any fire hydrant, fire escape or fire door, or obstruct the clear view of any traffic signal, regulatory sign or street sign.
11. The licensee shall be responsible for the maintenance and upkeep of the public right-of-way used for the outdoor restaurant seating area and the replacement of damaged public property. No furniture or furnishings may be attached by any means to the public sidewalk or any other public property.

12. When notified by the City to do so, the licensee shall promptly remove all furnishings and obstructions from the public sidewalk or right-of-way, to accommodate special events permitted by the City or to accommodate City repair or maintenance of the public sidewalk or right-of-way.
13. No electrical appliances or conductors, open flame devices, petroleum products or other flammable liquids, shall be placed or kept in the outdoor seating area.
14. No furnishings and obstructions shall be permitted on the public sidewalk or right-of-way from November 1 each year through and including April 30 of the succeeding year.

C. Each outdoor restaurant seating license shall be valid for a term of one (1) year, and may be renewed annually thereafter. A renewal application shall provide all the same information as an original application, but copies of the previous year's site plan may be used if there are no changes from the last submission.

D. License Revocation. Outdoor restaurant seating licenses may be suspended or revoked by the City Council for any violation of license requirements as described herein.

E. License Termination. Outdoor restaurant seating licenses for use of the public sidewalk or other public property shall not constitute personal property, and the City shall retain at all times the right to terminate any license for use of public property, or may completely eliminate this class of license, upon thirty (30) days written notice to the license holder(s). Should the City terminate any license other than for reason of a violation of the requirements of this section, the City shall refund to the licensee the pro-rated portion of the annual fee paid by the licensee.

3-1-7 Street Obstructions.

- A. **Unlawful Obstructions.** It is unlawful for any person or entity to in any way obstruct or cause to be obstructed, any street or alley by placing therein or thereon any stone, lumber, brick, wood or other thing or by making or causing to be made any excavation therein or thereon without having first secured written permission from the City to do so.
- B. **Unlawful Deposits.** It is unlawful for any person to throw or deposit on any street or alley any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris or substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

- C. It is unlawful for any person to deface, alter, or destroy any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

- D. **Dumping of Snow.** It shall be unlawful for any person to throw, push or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks or driveways onto the traveled way of streets so as to obstruct gutters or impede the passage of vehicles upon the street or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district, if it is absolutely necessary to move the snow onto the streets temporarily, such accumulation shall be removed within forty-eight (48) hours by the property owner or his agent, and only after first making arrangements for such prompt removal at the

owner's cost of the accumulation within a reasonable short time, but no later than 48 hours following the event.

3-1-8 Location of Steps, Cellarways, Spouts. If any person shall erect or cause to be erected in any street or public alley, any step, cellar door, or cellarway more than four feet (4') from the line of the street into the sidewalk or street, or more than three feet (3') from the line in any alley into the same, and if any person shall erect any porch, bulk, jut window, or other encumbrance, or shall so place or cause to be placed any spouts or gutters whereby the passage of any street or alley shall be obstructed, he shall be deemed guilty of a misdemeanor or subject to civil penalty and shall immediately cause such step, cellar door, cellarway, porch, bulk, jut window, or other encumbrances, spouts, and gutters to be removed. Nothing in this Section shall be construed to authorize the use of any part of any street, sidewalk, or alley for the erection of stairs, steps, or other modes of access to the second stories to buildings, or to authorize the enclosure by rail or otherwise of any portion of any sidewalk, street, or alley, or the erection of any railing upon any sidewalk, street, or alley as a means of obtaining access or a passageway to the cellar or basement by occupying part of the sidewalk for that purpose. Such railings already existing, while not hereby legalized, shall not be abated, unless upon the special direction of the Council.

3-1-9 Playing in Streets. It is unlawful for any person to sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

3-1-10 Traveling on Barricaded Street or Alley. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department without having first obtained prior approval from the City.

3-1-11 Removal of Barricades and Warning Lights. It is unlawful for a person to willfully move, remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

Title 3 – Public Ways and Property
Chapter 2 – Use of City Right of Way

SECTIONS:

- 3-2-1 Excavation Compliance
- 3-2-2 Permit Required
- 3-2-3 Public Convenience
- 3-2-4 Barricades, Fencing and Lighting
- 3-2-5 Bond Required
- 3-2-6 Insurance
- 3-2-7 Pre-Construction Conference
- 3-2-8 Commencement Period
- 3-2-9 Steel Tracks; Cleated Equipment
- 3-2-10 Tunneling Under Street
- 3-2-11 Compliance
- 3-2-12 Excavation Material
- 3-2-13 Protect Adjoining Property
- 3-2-14 Restoration of Public Property
- 3-2-15 Inspection
- 3-2-16 Back Fill
- 3-2-17 Supervision of Connections and Repairs to Sewers
- 3-2-18 Completion by the City
- 3-2-19 Responsibility for Costs
- 3-2-20 Notification
- 3-2-21 Permit Fee
- 3-2-22 Permit Issued
- 3-3-23 Permits May be Examined
- 3-2-24 Save Harmless
- 3-2-25 Payment Failure After Excavation Repair
- 3-2-26 Emergency Excavations
- 3-2-27 Emergency Detours or Closings
- 3-2-28 Curb Cuts
- 3-2-29 Penalty

3-2-1 Excavation Compliance. No person or entity shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following provisions of this chapter.

3-2-2 Permit Required. No excavation, including curb cuts, shall be commenced without first obtaining a permit therefor in accordance with the **Schedule of Permits and Fees** in the **Appendix** to this Code of Ordinances. A written application for such permit shall be filed with the Community Development Department and shall contain the following:

- A. The name and residence of the applicant.
- B. The purpose for which the excavation is to be made.
- C. The name and address of the person for whom the excavation is to be made.
- D. The location of the proposed excavation.
- E. When traffic control devices are used as part of the excavation, the name and telephone number of a person who can be reached twenty-four (24) hours a day, seven (7) days a week.

Exempt. City of Muscatine Public Works employees excavating in the course of employment for the City of Muscatine, or its contractors working under the direct supervision of the City, are exempt from the permit requirements set out in this section.

3-2-3 Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3-2-4 Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

3-2-5 Bond Required. The bond required by this section shall be set by resolution of Council and is listed in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances. The bond shall be issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section.

3-2-6 Insurance. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the city as additional insured and applicant and all its agents and employees for the amounts set by resolution of council and specified in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.

3-2-7 Pre-Construction Conference. The City may require a pre-construction conference before the issuance of a permit. The conference may involve representatives of the Public Works Department, Police and Fire Departments, City Engineer, utility companies, and the construction agency representative.

3-2-8 Commencement Period. The applicant shall begin the excavation within twenty-four (24) hours of the granting of the permit. Failure to begin excavating within twenty-four (24) hours will cause the permit to become null and void.

3-2-9 Steel Tracks; Cleated Equipment. Under no circumstances shall steel tracked or steel cleated equipment or machinery be permitted on any street, alley, sidewalk, or way unless authorized in writing by the City.

3-2-10 Tunneling Under Street. No person shall tunnel under any street, alley, sidewalk, road, pavement, or way or public place unless authorized in writing by the City Engineer.

3-2-11 Compliance. The applicant shall comply with all excavation and backfill requirements as shall be set forth by the Director of Public Works.

3-2-12 Excavation Material. The person making the excavation shall haul away all excess excavated material. The City may require material to be imported for backfill of any excavation whenever it is evident that backfill is of such nature that it is unsuitable for use. Backfill may be deemed unsuitable by the City if, among other reasons, it is frozen or contains excess moisture or excess debris. Failure of a person making an excavation to backfill the excavation as directed by the City shall be a violation of this Chapter.

3-2-13 Protect Adjoining Property. Any person making an excavation shall at all times and at his own expense preserve and protect from damage or injury all adjoining property of any nature by providing proper foundations, sheeting, bracing, shoring, and drainage, as well as

such other protective measures as may be required. The person making the excavation shall be responsible for all damages to public or private property resulting from or occasioned by the excavation.

3-2-14 Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

3-2-15 Inspection. All work shall be subject to inspection by the City.

3-2-16 Back Fill. Upon completion of the work performed under the excavation permit, the applicant shall cause the excavation to be back-filled within twenty-four hours. Back fill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

3-2-17 Supervision of Connections and Repairs to Sewers.

- A. All excavations entailing connections, extensions, replacement, or repairs to public sewers in any public place, as well as the connections, extensions, replacement, or repairs themselves, shall be made according to the standards as established by the Director of Public Works, or his or her designee.
- B. All excavations for installation of new sewers shall be made only in conformity with a set of plans which shall have been approved by the Director of Public Works.
- C. Plans are to be submitted to the Director of Public Works by the person, or his agent, who shall desire to have the new sewer constructed, whenever such sewer shall then or thereafter be located in, under, within, or upon any public place.
- D. No person shall hereafter install, lay, bury, place, or replace in or upon any ditch, trench, drainage ditch, driveway, field entrance, or public place any pipe, sewer, drain, water main, culvert, or conduit unless it shall be approved. All sewer pipe materials, fittings, and connections, including sewer service laterals and connections on public property shall be according to standards established by the Director of Public Works or otherwise approved by the Director of Public Works.

3-2-18 Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

3-2-19 Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the property owner/permit holder. The property owner/permit holder shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

3-2-20 Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under **Section 480.4 of the Code of Iowa.**

3-2-21 Permit Fee. The permit fee required by this section shall be set by resolution of the City Council, and is listed in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.

3-2-22 Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

3-3-23 Permits May be Examined. All permits and written authorizations issued by the City shall at all times be kept by an individual at the excavation site and shall be surrendered for examination upon the demand of any officer of the City.

3-2-24 Save Harmless. The applicant shall agree to hold and save harmless the City, its Agents, Officers, and Employees from any liability or responsibility for damage to any person or property injured by the performance of any excavation work performed by an applicant or by the negligence of the applicant, his employees, or agents in carrying out the excavation permitted under this Chapter.

3-2-25 Pavement Failure After Excavation Repair. If the repaired street surface cracks or subsides more than 1 inch across the excavation within 4 years of the surface replacements, the applicant shall remove the pavement, compact or replace the backfill as required and replace the pavement at no cost to the City.

3-2-26 Emergency Excavations. Emergency excavations are excavations for the repair of such vital utilities as gas, water, sewer, and electricity, which by their nature necessitate immediate action.

3-2-27 Emergency Detours and Closings.

- A. If the emergency occurs during normal office hours, eight o'clock (8:00) A.M. to five o'clock (5:00) P.M. weekdays, the agency doing the work shall first notify the City and obtain approval of said work. The applicant shall obtain the permit in person at the permit office before the close of the next work day.
- B. During normal working hours, emergency detour routes may be requested by telephoning the Department of Public Works.
- C. If the emergency occurs during other than normal working hours, the applicant shall call the Public Safety dispatcher and give the dispatcher the location and nature of the emergency before starting the work. The applicant is then required to get said permit before noon of the next work day.
- D. On other than normal working hours, emergency street closing and detours shall be reported by notifying the dispatcher at the Public Safety Building.

3-2-28 Curb Cuts. No person shall make or cause to be made any curb cut for driveways or any other purpose without first obtaining a curb cut permit from the City and pay a fee in the amount set by resolution of council and specified in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.

- A. Curb cuts shall be made in conformance with the specifications as established by the City.
- B. Curb cut locations shall be established with the assistance of the Director of Public Works to maximize traffic safety.

- C. Curb cuts in the Central Business District (C-2 zoning districts) shall require the approval of the City Council after review and recommendations by the City staff.
- D. Curb cut permits along designated State highways shall be processed through the Iowa Department of Transportation.

3-2-29 Penalty. Any person violating any provision of this Chapter, or failing or neglecting to comply with any requirement, shall be deemed guilty of a separate misdemeanor or civil penalty for each and every day during any part of which such violation or noncompliance occurs. Any person who violates any provision of this Chapter may further be refused any permits until he shall have complied with the provisions of this Chapter. Any incidence of violation of this chapter shall be cause for the City to immediately revoke or suspend an excavation permit without prejudice to other action on the violation.

Title 3 – Public Ways and Property
Chapter 3 – Parades and Public Assemblies Regulated

SECTIONS:

- 3-3-1 Parades and Public Assemblies Regulated
- 3-3-2 Definitions
- 3-3-3 Permit Required
- 3-3-4 Permit Application
- 3-3-5 Standards for Issuance
- 3-3-6 Hours
- 3-3-7 Permit Fees and Insurance Requirements
- 3-3-8 Parade/ Public Assembly Not a Street Obstruction
- 3-3-9 Control by Police and Firemen
- 3-3-10 Notice and Appeals
- 3-3-11 Alternative Permit
- 3-3-12 Revocation

3-3-1 Parades and Public Assemblies Regulated. No person shall conduct or cause any parade or public assembly as defined herein on any street or public way except as provided below.

3-3-2 Definitions.

- A. "Parade" means any march or procession of twenty-five (25) persons, animals, vehicles or things, or a combination thereof, organized for marching or moving on the streets, sidewalks or other public ways in an organized fashion, or any march or procession of persons, animals, vehicles or things, or a combination thereof, represented or advertised to the public as a parade.
- B. "Public Assembly" means any meeting, demonstration, picket line, rally or gathering of more than twenty five (25) persons on the public right of way or one hundred (100) persons in a park for a common purpose as a result of prior planning that interferes with the normal flow or regulation of pedestrian or vehicular traffic on the public right of way or in a park or occupies any area in the public right of way or in a park.

3-3-3 Permit Required. No parade or public assembly shall be conducted without first obtaining a written permit from the City Administrator.

3-3-4 Permit Application.

- A. A person seeking a parade or assembly permit shall file an application under oath with the city clerk's office on a form provided by the city clerk.
- B. **Single, Non-Recurring Parades:** For single, nonrecurring parades or assemblies, an application for a permit shall be filed at least three days and not more than one year before the parade or assembly is proposed to commence. For good cause shown, the City Administrator may waive the three days limit. Good cause shall be shown when the application can be processed in compliance with the provisions of this Chapter in sufficient time to allow the parade or assembly to proceed as scheduled and without hazard to the public safety given due consideration of the date, time, place, anticipated number of participants, and the city services required in connection with the parade or assembly.

C. **Recurring Parades:** For parades or assemblies held on a regular or recurring basis on a substantially similar route or location, an application for a permit shall be filed at least 60 days and not more than one year before the parade is proposed to commence. For good cause shown, the City Administrator may waive the 60 days limit. Good cause shall be shown when the application can be processed in compliance with the provisions of this chapter in sufficient time to allow the parade or assembly to proceed as scheduled and without hazard to the public safety given due consideration of the date, time, place, anticipated number of participants, and the city services required in connection with the parade or assembly.

D. Application Contents:

1. The date and time for the parade or assembly;
2. The time at which units of the parade will begin to assemble;
3. The name, address and telephone number of applicant;
4. The route of the parade or location of assembly; and
5. The approximate number of persons, animals, and vehicles in the parade or assembly.

3-3-5 Standards for Issuance. The city shall issue the applicant a permit unless:

- A. The City Administrator determines that the time, route or size of the parade or assembly will disrupt the use of any street or sidewalk which is ordinarily subject to significant congestion or traffic;
- B. Another parade or assembly permit has already been issued for that day;
- C. Another parade or assembly permit application for the same time but not location is already granted or has been received and will be granted, and the police resources required for that prior parade or assembly are so great that in combination with the subsequent proposed application, the resulting deployment of police services would have an immediate and adverse effect upon the welfare and safety of persons and property;
- D. The concentration of persons, animals and/or vehicles caused by the parade or assembly will interfere unduly with proper fire and police protection of or ambulance service to areas contiguous to the parade or assembly or other areas of the city;
- E. The proposed parade or assembly will interfere with previously scheduled maintenance or repair work to be carried out on the streets or public ways to be used;
- F. Another event is scheduled elsewhere in the city where the police resources required for that event are so great that the deployment of police services for the proposed parade or assembly would have an immediate and adverse effect upon the welfare and safety of persons and property;
- G. The proposed parade or assembly violates any other governing law or ordinance.

3-3-6 Hours. No permit shall be granted for a parade through a residential district, except during the hours of eight o'clock (8:00) A.M. to eight o'clock (8:00) P.M.

3-3-7 Permit Fees and Insurance Requirements. Fees and Insurance requirements for the parade or assembly permit shall be in the amount established by council and set out in the Schedule of Permits and Fees in the Appendix to this Code of Ordinances. The fees under this section shall not apply to parades or assemblies conducted for the primary purpose of public issue speech protected by the First Amendment of the U.S. Constitution.

3-3-8 Parade/Public Assembly Not A Street Obstruction. Any parade or public assembly for which a permit shall have been issued as herein required and the persons lawfully participating therein shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

3-3-9 Control by Police and Firemen. Persons participating in any parade or public assembly shall at all times be subject to the lawful orders and directions in the performance of their duties of the members of the police and fire departments.

3-3-10 Notice and Appeals.

- A. The City Administrator will either issue the parade or assembly permit or deny it within 30 days after the application is filed. In the case of applications filed less than 30 days prior to the proposed parade or assembly the City Administrator will act on the application as soon as reasonably practicable but not less than 48 hours prior to the proposed start time of the parade or assembly unless extenuating circumstances prevent notice to be made in that time frame. If denied the notice shall state the reasons for denial. The notice of issuance or denial shall be served by personal delivery, regular or certified mail or in any other fashion reasonably calculated to provide notice to the applicants.
- B. The decision of the City Administrator may be appealed to the city council by making a request to the city clerk in writing that the issue of the parade permit's issuance or denial be placed upon the next council meeting agenda. If the council is not scheduled to meet prior to the proposed parade, then a special council meeting may be called to hear the appeal.
- C. The decision of the city council shall be based upon the standards contained in Section 3-3-5 and shall be a final determination subject to review in District Court of Muscatine County as may be provided by law. Any party aggrieved by the decision may seek review thereof but in no event later than 30 days after the date of the final determination.

3-3-11 Alternative Permit. The City Administrator, in denying an application for a parade permit, may authorize the conduct of the parade at a date, time, location, or route different from that named by the applicant in consideration of the standards in Section 3-3-5. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the City Administrator, file a written notice of acceptance with the City Administrator.

An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit issued under this chapter.

3-3-12 Revocation.

- A. The City Administrator or designee, or the City Council, if issued following an appeal, may revoke a parade/public assembly permit if:
 1. It is determined that the permittee has misstated any material fact in the application;
 2. There is a substantial and material variance between the information in the application and the actual facts or those facts which appear reasonably to have occurred;
 3. When it is determined by the chief of police or the fire chief that, by reason of disaster, public calamity, riot or other emergency, the public safety requires such revocation;
 4. The permittee's insurance, if any was required, has been canceled; or
 5. The permittee is operating in violation of the terms and conditions of the permit or local, state, or federal law.

A permit holder may appeal the revocation in the same manner as appealing the issuance or denial of a permit.

Title 3 – Public Ways and Property
Chapter 4 – Public Demonstrations

SECTIONS:

- 3-4-1 Definitions
- 3-4-2 Use of Sidewalks for Picketing
- 3-4-3 Interference with Business or Public Facility
- 3-4-4 Focused Residential Picketing Prohibited
- 3-4-6 Duty to Disperse as Directed by Police
- 3-4-7 Criminal Trespass for Obstruction of Public Ways, Buildings or Property

3-4-1 Definitions. As used in this Chapter, the following definitions shall apply:

- A. Picketer: A person who engages in picketing with or without signs or placards.
- B. Picketing: The practice of standing, marching, congregating, protesting, demonstrating, or patrolling by one or more persons for the purpose of persuading, discussing, educating, advocating, or informing another person or persons or for the purpose of protesting some action, attitude, policy, or belief. It does not include social, random, or other everyday communication.
- C. Private Residence: A single-family, duplex, or multi-family dwelling.
- D. Public Way: Any public street, alley, roadway, walkway, right-of-way, or any other public way or property designed for vehicular, bicycle or pedestrian travel or congregation, and dedicated to public use.

3-4-2 Picketing on Streets Prohibited Except by Permit. No picketing shall be conducted on that portion of the streets used primarily for vehicular traffic, except as authorized by a permit issued under **Chapter 3 of this Title.**

3-4-3 Interference with Business or Public Facility. Picketers shall not block or obstruct free passage of any pedestrian or vehicular traffic, or interfere with ingress or egress to any business or public facility.

3-4-4 Focused Residential Picketing Prohibited.

- A. No person or persons shall engage in picketing before or about a residence or dwelling where the picket focuses solely on the residence or dwelling of a particular, identifiable individual.
- B. Nothing herein shall prohibit: 1) the residential picketing of a residence which is used as the occupant's sole place of business; 2) the residential picketing of a private residence used as a public meeting place; 3) a person or group of persons from marching without stopping at a particular private residence; or 4) a person or group of persons from marching on a defined route without stopping at any particular private residence.
- C. Before a person may be cited for violation of this provision, the person must have been ordered to move, disperse, or otherwise remedy the violation by either a police officer or a person with authority to control the use of the private residence which is the focus or target of the residential picketing.

3-4-5 Duty to Disperse as Directed by Police.

- A. Police officers are authorized to disperse persons who are picketing whenever such picketing is in violation of this Title or poses a threat to public health, safety or the orderly flow of vehicular and/or pedestrian traffic.
- B. It shall be unlawful for any person to refuse to disperse or move on when so directed by a police officer, as herein provided.

3-4-6 Criminal Trespass for Obstruction of Public Ways, Buildings or Property.

Whenever the free passage of any street, sidewalk, public way, public building or property in the City of Muscatine is obstructed by picketers and such obstruction continues after a police officer has requested dispersal and removal, such obstruction shall constitute the public offense of criminal trespass.

(Code of Iowa, Section 716.7)

Title 3 – Public Ways and Property

Chapter 5 – Public Parks

SECTIONS:

- 3-5-1 Scope
- 3-5-2 Enforcement
- 3-5-3 Hours of Operation
- 3-5-4 Regulate Activities
- 3-5-5 Amusements
- 3-5-6 Assemblies
- 3-5-7 Permits
- 3-5-8 Traffic
- 3-5-9 Animals
- 3-5-10 Other Regulations

3-5-1 Scope. This Chapter applies to all City parks, greenbelts, and recreational facilities for efficient regulation of conduct in City parks. For the purpose of this Chapter, "Park" includes, but is not limited to, all public parks, trails, greenbelts, and recreational facilities owned by the City of Muscatine, except that the riverfront from Mad Creek to Orange Street extended and from Cedar Street extended to Linn Street extended between Mississippi Drive and the Mississippi River and the roadway known and identified as O'Brien Parkway between Orange and Cedar Streets extended is hereby designated as Riverfront Recreation and Tourism Area. The riverfront from Orange Street extended to Cedar Street extended between the southeasterly edge of the roadway known and identified as O'Brien Parkway and the Mississippi River is designated as Riverside Park.

3-5-2 Enforcement. The Police Department shall assist the Parks and Recreation Department in enforcing all ordinances and regulations relating to all parks and recreational facilities under the City's jurisdiction.

3-5-3 Hours of Operation. The parks, exclusive of the Aquatic Center, and that portion of the Riverfront Recreation and Tourism Area between Mad Creek and Cedar Street extended shall be open daily to the public between the hours of five o'clock (5:00) A.M. and eleven o'clock (11:00) P.M. of any one day. It shall be unlawful for any person to be in said parks and that portion of the Riverfront Recreation and Tourism Area herein designated during any hours in which the parks are not open to the public, except with permission of the Parks and Recreation Department. The Council may by resolution change the hours indicated above.

3-5-4 Regulate Activities. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all.

3-5-5 Amusements. No amusement or other events for gain or for which a charge is made shall be conducted in a park without obtaining a permit in accordance with City policy.

3-5-6 Assemblies. No person shall engage in, participate in, aid, form, or organize any assembly or group of people or make any speeches, or conduct any musical program or festival, in any park unless a permit has been obtained in accordance with City policy.

3-5-7 Permits. Applications for park permits shall be filed with the Parks and Recreation Department on the form provided. The City of Muscatine may require the posting of a bond by the permittee in such amount as is necessary to protect the City of Muscatine against loss of and damage to public property and to indemnify against public liability. The permit fee and bond amounts, if any, required by this section shall be set by resolution of the City Council and listed in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.

3-5-8 Traffic. No person in a park shall:

- A. Ride or drive an automobile, motorcycle, moped, mini-bike, go-cart, snowmobile, or other vehicle, except upon the established roads and ways.
- B. Exceed a speed limit of fifteen (15) miles per hour at any time or such lower speed limits as posted in designated areas of the parks.

(Code of Iowa, Sec. 321.236[5])

- C. Fail to obey all posted traffic signs.
- D. Leave a motor vehicle unattended in any park after closing. Any motor vehicle left unattended in any park after closing shall be deemed abandoned and the City of Muscatine shall cause the same to be towed from the Park and the same shall not be redeemed by the owner or the person responsible therefore until reasonable towing and storage charges are paid.
- E. Parking of trucks that are wider than eighty inches (80"), self-propelled motor homes, buses, mobile homes, or any motor vehicle with trailer attached are prohibited in Weed Park from nine o'clock (9:00) A.M. on Friday to eleven o'clock (11:00) P.M. on Sunday.
- F. Operate or park semi-tractors and/or semi-trailers at any time, except when engaged in delivery, pick-up, loading, or unloading equipment and goods as approved by the Department of Parks and Recreation.

3-5-9 Animals. It shall be unlawful to:

- A. Kill, trap, tease, annoy, disturb, or interfere with any animal, bird or other fowl, or fish kept in any Park except as permitted by the City of Muscatine.
- B. Disturb the nest of any bird or any other fowl.
- C. Bring any dangerous animal into any Park.
- D. Permit any dog to be in a park unless such dog is on a leash not more than six feet (6') long.
- E. Permit a horse to be in a park, except in designated areas.
- F. Any unattended animal, or animal not in the designated areas, shall be impounded and its owner may redeem the same upon paying the reasonable costs of such impoundment.

3-5-10 Other Regulations. It shall be unlawful to:

- A. Operate radio controlled equipment in the Parks, except as authorized by the Parks and Recreation Department.
- B. Move benches, seats, and tables from their places, except on picnic grounds within designated areas.
- C. Loiter in any Park workshop or interfere with any Park employee performing his or her duties.
- D. Willfully mark, deface, disfigure, injure, tamper with, displace, or remove any building, bridge, table, bench, fireplace, railing, paving or paving material, waterline or other public utility or part thereof, sign, notice or placard, whether temporary or permanent, monument, stake, post, or other boundary marker, or other structure or equipment, facility, park property, or appurtenance whatsoever, either real or personal.
- E. Throw discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park, any substance, matter of thing, liquid, or solid which will or may result in the pollution of said waters.
- F. Bring in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse, or other trash. No such refuse or trash shall be left anywhere on the grounds, but shall be placed in the proper receptacles where these are provided; where receptacles are not provided, such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.
- G. Pick or cut, break, or in any way injure or deface any tree, shrub, or plant; remove any wildflower, flower, tree, shrub, plant, or any soil or material of any kind; dig in or otherwise disturb grass areas; or in any other way injure or impair the natural beauty or usefulness of any park area.
- H. Light or make use of any fire in the parks, except such portions thereof as may be designated by the Parks and Recreation Department for such purpose.
- I. Post, paste, fasten, paint, or affix any placard, bill, notice, or sign upon any structure, tree, stone, fence, or enclosure, unless approved by the Parks and Recreation Department and provided such is not in violation of the City's sign ordinance.
- J. Distribute, cast, throw, or place any handbill, pamphlet, circular, advertisement, or notice of any kind for commercial purposes without approval.
- K. Sell or offer for sale any article or service without a permit as required by the City of Muscatine.
- L. Beg or solicit alms.
- M. Carry any firearms, air or pellet guns, bows and arrows, rockets, weapons, firecrackers, fireworks, or other explosives, except as permitted by the City of Muscatine.

- N. Carry, possess, drink alcoholic beverages, including beer, except at the municipal golf course and special events at the river front from Mad Creek to Linn Street extended between Mississippi Drive and the Mississippi River, when a permit has been issued by the City Council pursuant to Title 5, Chapter 3 of the City Code.
- O. Possess, use, or transfer any controlled substance.
- P. Disturb the peace.
- Q. Endanger the safety of any person by any conduct or act.
- R. Swim, bathe, or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefore and in compliance with such regulations as are permitted by the City of Muscatine.
- S. Fish in the lagoon, unless such person is age fourteen (14) or under.

Title 3 - Public Ways and Property
Chapter 6 - City Cemeteries

SECTIONS:

- 3-6-1 Scope
- 3-6-2 Trusteeship
- 3-6-3 Records
- 3-6-4 Sale of Interment Rights
- 3-6-5 Rules and Regulations
- 3-6-6 Perpetual Care

3-6-1 Scope. This Chapter applies to all City owned Cemeteries to provide for the efficient regulations and operations of the City Cemeteries.

3-6-2 Trusteeship. Pursuant to **Section 523I.502 of the Code of Iowa**, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

(Code of Iowa, Sec. 523I.502)

3-6-3 Records. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

- A. Sales or Transfers of Interment Rights.
 - 1. The name and last known address of each owner or previous owner of interment rights.
 - 2. The date of each purchase or transfer of interment rights.
 - 3. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
- B. Interments.
 - 1. The date the remains are interred.
 - 2. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.
 - 3. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

3-6-4 Sale of Interment Rights. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by **Chapter 523I of the Code of Iowa**. The payment of all fees and charges shall be made at the City Cemetery's office where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

3-6-5 Rules and Regulations. The rules and regulations for the cemetery shall be adopted, and may be amended from time to time, by resolution of the Council and shall cover the hours of opening and closing, the use of roads within the cemetery, the hours for burials, the decorating of graves, the fees for services rendered in connection with interments or the placing of markers and the cost of lots or payments for perpetual care as deemed necessary. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials or memorializations are damaged or defaced by acts of vandalism.

(Code of Iowa, Sec. 523I.304)

3-6-6 Perpetual Care. The Council shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council shall provide for the payment of interest annually to the appropriate fund to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and **Chapter 523I of the Code of Iowa**.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

Title 3- Public Ways and Property
Chapter 7- Railroads

SECTIONS:

- 3-7-1 Definitions
- 3-7-2 Warning Signals
- 3-7-3 Obstructing Streets
- 3-7-4 Crossing Maintenance

3-7-1 Definitions. For use in this chapter, the following terms are defined:

- A. "Operator" means any individual, partnership, corporation or other association which owns, operates, drives, or controls a railroad train.
- B. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

3-7-2 Warning Signals. Operators shall sound a horn at least 1,000 feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

3-7-3 Obstructing Streets. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street, or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, Sec. 327G.32)

- A. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
- B. Avoid Striking. When necessary to avoid striking any object or person on the track.
- C. Disabled. When the train is disabled.
- D. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
- E. In Motion. When the train is in motion except while engaged in switching operations.
- F. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee's action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

3-7-4 Crossing Maintenance. Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)

Title 3 - Public Ways and Property
Chapter 8 - Levees

SECTIONS:

- 3-8-1 Permit Required
- 3-8-2 Application
- 3-8-3 Fees
- 3-8-4 Approval of Use
- 3-8-5 New Permit
- 3-8-6 Injuring or Diverting - Damages
- 3-8-7 Anchoring, Mooring or Tying-up Along Riverbank
- 3-8-8 Penalty

3-8-1 Permit Required. No person shall build upon, alter, deface, destroy, move, injure, or obstruct by fastening vessels thereto or otherwise or in any manner whatsoever use or occupy the Mississippi or Mad Creek levees lying within the City limits, without having first received a permit from the City in accordance with the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances..

3-8-2 Application. Application for a permit to use or occupy the Mississippi or Mad Creek levees shall be in writing and shall describe in detail the use to which the levee is to be put, type of structure to be placed thereon, and the time the applicant intends to occupy or use such levee.

3-8-3 Fees. A permit to use or otherwise occupy the Mississippi or Mad Creek levees and the waterfront may be granted by the City Council to any person upon the payment of such sum as set by resolution of Council and is listed in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.

3-8-4 Approval of Use. A permit to use or occupy the Mississippi or Mad Creek levees shall only be issued after the City Council has been satisfied that the use of such levee by the applicant will not in any way impair the levee and will not interfere with the general public use of the levee.

3-8-5 New Permit. No person who has secured a permit to use or occupy the Mississippi or Mad Creek levees shall change or alter his occupancy or use of the levee without having first secured a new permit showing the alteration intended by him, which permit shall be granted by the City Council after it is satisfied that the use or occupancy of the levee will not be impaired, upon the payment of such sum as may be deemed proper.

3-8-6 Injuring or Diverting - Damages. Any person who shall willfully break down or through or injure any levee or bank of a settling basin, or who shall dam up, divert, obstruct, or willfully injure any ditch, drain, or other drainage improvement authorized by law shall be liable to the person or persons owning or possessing the lands for which such improvements were constructed in double the amount of damages sustained by such owner or person in possession; and in case of a subsequent offense by the same person, he shall be liable in treble the amount of such damages.

3-8-7 Anchoring, Mooring or Tying-up Along Riverbank. No person shall anchor, moor or tie-up along the right bank of the Mississippi River between Mad Creek and Pine Street, both extended to the right edge of the channel of the river, any towboat, barge, excursion boat, commercial boat, or any other boat or vessel without the permission of the City acting through the City Administrator or designee of the City Administrator.

3-8-8 Penalty. Any person who violates any Section of this Chapter shall be deemed guilty of a municipal infraction and subject to a civil penalty as provided in **Title 1 Chapter 3** of this Code of Ordinances.

Title 3 – Public Ways and Property
Chapter 9 – Trees and Shrubs

SECTIONS:

- 3-9-1 Removal and Trimming of Dangerous Tree; Compliance
- 3-9-2 Abutting Property Owners
- 3-9-3 Notice to Trim; Failure to Comply
- 3-9-4 Trimming by City; Recovery of Cost
- 3-9-5 Liability Insurance; Tree Removal
- 3-9-6 Obstructing Streets; Barricades
- 3-9-7 Removal of Debris
- 3-9-8 Street Trees (Existing)
- 3-9-9 Street Trees (New)
- 3-9-10 New Street Trees (City Program)
- 3-9-11 Injuring; Defacing; Removing
- 3-9-12 Reserved

3-9-1 Removal and Trimming of Dangerous Tree; Compliance.

- A. If the City deems any shade, ornamental, or other tree situated on private property in the City to be diseased or dead, it shall cause to be served a notice upon the owner, in accordance with the most recently enacted Code of Iowa, if known within the City, or if not, then upon the occupant of the lot, to cut down such tree and remove the same and all debris therefrom. Said tree and debris shall be hauled to an area designated or approved by the City and/or the Iowa Department of Water, Air, and Waste Management.

(Code of Iowa, Section 364.12[2][c])

- B. If such notice is not complied with within ten (10) days, the City shall cause such tree to be cut down or removed and the cost of cutting down and removing it shall be certified to the County Treasurer and be assessed against the real estate in the same manner as a property tax.

(Code of Iowa, Section 364.12[2][e])

- C. All diseased trees shall be sprayed, if required by the City, at the site of their cutting down or removal before being hauled or transported through the City to an approved disposal site.

(Code of Iowa, Section 364.12[2][c])

- D. The General Manager of any utility shall have the authority to trim any tree which interferes with utility property and equipment, after notification and approval by the City.
- E. The City shall have authority to trim any tree, located on private property, which interferes with the proper distribution of light from street lights or signs following notification to the property owner in accordance with **Sections 3-9-3 and 3-9-4** of this Chapter.

3-9-2 Abutting Property Owners. Any person owning any real estate within the City with trees located upon said real estate or located in the street right-of-way (including parking) adjacent to said real estate, shall trim such trees in such manner that no overhanging branches thereof shall in any way obstruct any such street or sidewalk below the height of ten feet (10') above the surface of the sidewalk and fourteen feet (14') from the surface of the street.

(Code of Iowa, Section 364.12[2][c])

3-9-3 Notice to Trim; Failure to Comply. Any person or owner of property as described in this Chapter who shall have been served by the City with a notice by Certified Mail, and shall not comply with the notice within ten (10) days of the receipt of the notice, shall be guilty of a misdemeanor and subject to penalty as provided in **Section 1-2-14** of this Code of Ordinances.

3-9-4 Trimming by City; Recovery of Cost. When the owner or occupant of real property in the City having trees upon or in front of the same, the branches of which overhang the street or any part thereof, and having had notice to trim the same and fails or refuses to comply therewith for more than ten (10) days after service of notice, then it shall be lawful for the City to trim such trees to the height provided in **Section 3-9-2** of this Chapter and certify the cost of the same to the County Treasurer to be assessed against the real estate in the same manner as a property tax.

(Code of Iowa, Section 364.12[2][e])

3-9-5 Liability Insurance; Tree Removal. All persons and/or corporations engaged in removal of trees within the City R.O.W. shall obtain a license therefor. The licensee must pay the fee and present a copy of an insurance policy for liability insurance in the amounts set by resolution of the City Council and listed in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.

3-9-6 Obstructing Streets; Barricades.

- A. Before any street or thoroughfare can be shut off or blocked in any way for tree removal, permission must be granted by the City.
- B. Streets when barricaded or shut off must be barricaded by proper barricades appropriately marked and readily seen by all.
- C. All persons, and/or corporations barricading any street or thoroughfare for the purpose of trimming or removing any tree shall first notify the City of Muscatine Police and Fire Departments stating the location and time period that such street or thoroughfare will be closed.
- D. No street or thoroughfare shall be closed for the purpose of removing any tree unless the required permit is secured as provided in this Chapter.

3-9-7 Removal of Debris. Removal of debris, stumps, logs, etc. shall be made upon or in trucks and no hauling shall be allowed hanging from outside by booms or dragging from such vehicle.

3-9-8 Street Trees (Existing).

- A. All existing trees located within the public right-of-way as of the effective date of this Section shall be the responsibility of the adjacent property owner.
 1. Exception. Any street tree which is diseased, dead, or otherwise poses an immediate threat to the public health and welfare shall be the responsibility of the City.

(Code of Iowa, Section 364.12[2][c])

- B. It shall be the duty and right of the adjacent property owner to trim, remove, treat, or otherwise maintain all existing street trees in a manner that promotes the public health, safety, and welfare and in accordance with the provisions of this Chapter.

(Code of Iowa, Section 364.12[2][c])

- C. Any person or corporation removing any existing street tree shall obtain a permit to do so from the City in accordance with the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances for the purpose of maintaining a citywide inventory. The Tree Removal Permit shall be provided at no charge to the applicant.
- D. Nothing contained in this Chapter shall be construed so as to prevent the immediate removal and/or trimming by officers of the City of any tree from the streets, when in the judgment of the City, such removal or trimming is necessary for the purpose of making street improvements or to eliminate obstructions of public signs which, by design, promote safety of persons or property.

3-9-9 Street Trees (New).

- A. As of the effective date of this Section, all proposals to plant trees in the public right-of-way shall require a permit from the City in accordance the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.
- B. The permit application provided by the City shall state the applicant's name, address, type of tree to be planted, exact location, and any additional information that may be needed by the City to determine whether the application should or should not be approved.
- C. The application shall be recommended for approval or disapproval by the City prior to issuance. Failure to secure a positive recommendation by the City shall constitute a denial of the application.
- D. Permit Requirements:
 1. The permit shall state that the applicant agrees to plant the street tree(s) in accordance with the requirements of this Chapter.
 2. The permit shall state that the applicant will plant a specific type of tree which shall be an approved species for street trees; a list of which shall be provided to the applicant upon request.

3. The permit shall state that once the street tree is planted, it becomes the property of the City of Muscatine and the applicant agrees to relinquish all interest in said tree. The permit shall state that the owner agrees to donate the tree to the City, at the applicant's expense, and that the applicant agrees to adhere to the provisions of **Title 3, Chapter 11, Section 8** of this Code.
4. The permit shall include a provision which indemnifies the City from any and all claims for damage to private and public property as a result of the permit to plant a street tree.

3-9-10 New Street Trees (City Program).

- A. The City may, at its discretion and with the approval of the City Council, initiate a program for the purpose of planting, maintaining, trimming, and removal of new street trees.
- B. It shall be the policy of the City to notify abutting property owners before planting any street tree in front of any residential structure in the City.
- C. The owner of the abutting property shall be required to sign a permit in accordance with **Chapter 9**, except the tree will be planted by the City at no expense to the abutting residential property owner.

3-9-11 Injuring; Defacing; Removing. Any person who shall willfully, maliciously, or negligently, in any manner, injure, deface, remove, or destroy any street tree or boxing placed around the same, or any shrub upon any public grounds and right of ways shall be deemed guilty of a misdemeanor, and shall reimburse the City for any costs incurred by such action if directed to do so by the Iowa District Court for Muscatine County.

Title 4-Revenue and Taxation
Chapter 1 – Hotel-Motel Tax

SECTIONS:

- 4-1-1 Definitions
- 4-1-2 Imposition of Tax
- 4-1-3 Exemptions

4-1-1 Definitions. For the purposes of this chapter, unless the context otherwise requires:

- A. "Lodging" means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. Lodging does not include rooms that are not used for sleeping accommodations.
- B. "Renting" or "rent" means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration and includes any kind of direct or indirect charge for such lodging or its use.
- C. "Sales price" means the consideration for renting of lodging.

(Code of Iowa, Section 423A.2)

4-1-2 Imposition of Tax. There is hereby imposed a hotel and motel tax of seven percent (7%) upon sales price from the renting of lodging.

(Code of Iowa, Section 423A.4)

4-1-3 Exemptions. There are exempted from the provisions of this chapter and from the computation of any amount of tax imposed by **Section 4-1-2** the following:

- A. The sales price from the renting of lodging which is rented by the same person for a period of more than thirty-one (31) consecutive days.
- B. The sales price of lodging furnished to the guests of a religious institution if the property is exempt under **Section 427.1, Subsection 8**, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

(Code of Iowa, Section 423A.5)

Title 4- Revenue and Taxation
Chapter 2- Value Added Exemption; Industrial Property

SECTIONS:

- 4-2-1 Partial Exemption
- 4-2-2 Definitions
- 4-2-3 Amount Eligible for Partial Exemption
- 4-2-4 Duration of Partial Exemption
- 4-2-5 Assessment Restriction
- 4-2-6 Application
- 4-2-7 Repeal
- 4-2-8 Dual Exemptions Prohibited

4-2-1 Partial Exemption. This article does hereby provide for a partial exemption pursuant to Chapter 427B of the Code of Iowa from property taxation of the actual value added to the industrial real estate.

(Code of Iowa, Section 427B.1[1])

4-2-2 Definitions:

- A. New Construction. New construction as referred to herein means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures.

(Code of Iowa, Section 427B.1[1])

- B. Reconstruction. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Development Commission.

(Code of Iowa, Section 427B.1[1])

- C. Actual Value Added. Actual Value Added, as used in this Chapter, means the actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the assessor as of January 1 of each year for which the exemption is received.

(Code of Iowa, Section 427B.3[1])

4-2-3 Amount Eligible for Partial Exemption. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

- A. For the first year, seventy-five percent.
- B. For the second year, sixty percent.
- C. For the third year, forty-five percent.
- D. For the fourth year, thirty percent.
- E. For the fifth year, fifteen percent.

(Code of Iowa, Section 427B.3[3a])

4-2-4 Duration of Partial Exemption. The actual value added to industrial real estate for the reasons specified in **Section 427B.1** is eligible to receive a partial exemption from taxation for a period of five years. However, if property ceases to be classified as industrial real estate or ceases to be used as a warehouse or distribution center, the partial exemption for the value added shall not be allowed for subsequent assessment years.

(Code of Iowa, Section 427B.3[2])

4-2-5 Assessment Restriction: The granting of the exemption under this section for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

(Code of Iowa, Section 427B.3[4])

4-2-6 Application. An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the director of revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the director of revenue.

A person may submit a proposal to the City Council of the City to receive prior approval for eligibility for a tax exemption on new construction. The City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the zoning plans for the City. The prior approval shall also be subject to the hearing requirements of **Section 427B.1**.

Prior approval does not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the city council to approve or reject.

(Code of Iowa, Section 427B.4)

4-2-7 Repeal. When in the opinion of the City Council continuation of the exemption granted in this Article ceases to be of benefit to the City, the City Council may repeal this Ordinance, but all existing exemptions shall continue until their expiration.

(Code of Iowa, Section 427B.5)

4-2-8 Dual Exemptions Prohibited. A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Code of Iowa, Section 427B.6)

Title 4 – REVENUE AND TAXATION
Chapter 3 – Urban Renewal Tax Increment Areas

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Tax Increment Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
Ord. 85596	August 29, 1994	Downtown and Industrial Connector Urban Renewal Area
Ord. 86359-1196 as amended by Ord. 94493-0111 and Ord. 92035-0512	November 7, 1996; January 6, 2011; May 17, 2012	Highway 38 Northeast Urban Renewal Area
Ord. 88960-0104	January 15, 2004	Northeast Urban Renewal Area (Cedar Development)
Ord. 88962-1206	December 7, 2006	Muscatine Mall Urban Renewal Area
Ord. 91144-0310	March 4, 2010	2010 Industrial Urban Renewal Area
Ord. 91998-0412	April 19, 2012	2012 Addition to Urban Renewal Area (Fridley's)

Title 4 – Revenue and Taxation
Chapter 4 – Urban Revitalization Areas

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Revitalization Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
Ord. 97473-0100	January 6, 2000	Progress Park
Ord. 88554-1102	November 21, 2002	Downtown Area
Ord. 92403-0513	May 16, 2013	2013 Muscatine Housing Urban Revitalization Area

Title 5- Business Regulations

Chapter 1- Business Licenses Generally

SECTIONS:

- 5-1-1 License Required
- 5-1-2 Application Fees, Bonds, and Insurance Requirements
- 5-1-3 Application for License
- 5-1-4 Issuance of License
- 5-1-5 Record of Licenses
- 5-1-6 Transferability; Changes In Location
- 5-1-7 License Suspension or Revocation
- 5-1-8 Hearing

5-1-1 License Required. It shall be unlawful for any person to engage in any business for which a license or permit is required by this Chapter or any other provision of this Code without first procuring a license or permit therefor.

5-1-2: Application Fees, Bonds, and Insurance Requirements. No license or permit shall be issued to any person under this Code until such person has paid to the City Clerk or other officer specified in this Code the fee required, and until such person shall have filed with the City Clerk the bond therefor and evidence of insurance, if any be required. The fee, bond, and insurance requirements for the issuance of a license or permit issued shall be set by resolution of the City Council and are listed in the **Schedule of Permits and Fees** in the **Appendix** to this Code of Ordinances.

5-1-3 Application for License. All persons who are required under any ordinance of the City to procure a license for the purpose of engaging in any business shall first make application to the City Clerk on the forms required by the City Clerk for such license, except as otherwise provided.

5-1-4 Issuance of License. Except where some other method is prescribed by law or ordinance, all licenses required for engaging in a business shall be issued by the City Clerk in the exercise of the City Clerk's discretion; provided, however, that the Clerk may refuse a license in any case where the applicant is not of good moral character, free from disease, or trustworthy in such applicant's business dealings or for any other reason that satisfies the Clerk that the interests of the public would be best protected by withholding a license from the applicant.

5-1-5 Record of Licenses. All licenses required shall be signed by and filed with the City Clerk.

5-1-6 Transferability; Changes In Location. Licenses issued under this Title or other ordinances for engaging in a business shall not be transferable and shall cease whenever the licensee ceases to operate thereunder. Nothing in this section shall prevent a licensee from operating under such licensee's license, at a place other than that described in the license, provided information regarding such change in location is furnished to the City Clerk.

5-1-7 License Suspension or Revocation.

- A. **Authority to Suspend or Revoke:** The City Clerk may, upon good cause, suspend or revoke for a period not to exceed one year any license issued under this Chapter.

- B. **License Issuance Prohibited During Period of Suspension or Revocation:** No new license shall be issued to any applicant, the spouse or relative within the first degree of consanguinity as defined by the Iowa Code of any licensee so suspended or revoked during said period of suspension or revocation.
- C. **Issuance of Notice of License Suspension or Revocation:** The City Clerk shall cause to be issued a notice that said license is suspended or revoked and therein set forth the reason(s) therefor. Said notice shall be sent by first class United States mail to the registered business address on file with the City Clerk.

5-1-8 Hearing. Unless otherwise provided, any person aggrieved by the action of any city official or the City Clerk in denying or revoking a license shall have the right to a hearing before the City Council on any such action, provided a written request therefor is filed with the City Clerk within 10 days after receipt of the notice of such denial, suspension, or revocation. The City Council may grant the license or confirm any suspension or revocation of the license, or reinstate the license. The action taken by the City Council after a hearing shall be final.

**Title 5-Business Regulations
Chapter 2- Alcohol Control**

SECTIONS:

ARTICLE A: LIQUOR, WINE, AND BEER PERMITS AND LICENSES

- 5-2-1 Application, License, and Permit Requirement
- 5-2-2 General Prohibition
- 5-2-3 Investigation
- 5-2-4 Action by Council
- 5-2-5 Prohibited Sales and Acts of License or Permit Holder

ARTICLE B: PROHIBITED ACTS GENERALLY

- 5-2-6 Amateur Fighting and Boxing
- 5-2-7 Consumption in Public Places; Possession of Open Containers; Intoxication
- 5-2-8 Persons Under Legal Age
- 5-2-9 Persons Under the Legal Age in Licensed or Permitted Establishments
- 5-2-10 Dancing Permitted; License
- 5-2-11 Removal from Licensed or Permitted Premises Prohibited

ARTICLE C: PENALTIES

- 5-2-12 Penalties

ARTICLE A: LIQUOR, WINE, AND BEER PERMITS AND LICENSES

5-2-1 Application, License, and Permit Requirement. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first applying for and securing a liquor control license, wine permit, or beer permit in accordance with the provisions of **Chapter 123 of the Code of Iowa**.

(Code of Iowa, Sec. 123.22, 123.31, 123.32, 123.122 & 123.171)

5-2-2 General Prohibition. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in **Chapter 123 of the Code of Iowa**, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

5-2-3 Investigation. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk shall forward it to the Police Chief, who shall then conduct an investigation as to the truth of the facts averred in the application. The Fire Chief and Community Development Director shall also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

5-2-4 Action by Council. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

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

5-2-5 Prohibited Sales and Acts of License or Permit Holder. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

- A. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49[1])

- B. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a Class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

- C. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

- D. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

- E. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

- F. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

- G. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

- H. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

(Code of Iowa, Sec. 123.49[2d])

- I. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents, or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

- J. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

- K. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

- L. Permit or allow any person under twenty-one (21) years of age to enter into or remain upon a licensed or permitted establishment past 10 p.m., except as permitted in Section 5-2-8.

- M. Allow or permit a public appearance on licensed premises by any person who is nude or who exposes to public view the human male or female genital or genitals, pubic hair, buttocks, or perineum of the human male, or female breasts or breast at or below the aerola thereof with less than a full opaque covering.
- N. Permit signs or other matter advertising any brand of alcoholic liquor, beer, or wine to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail. This subsection does not prohibit the use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises.

(Code of Iowa, Sec. 123.49[21])

- O. Permit or allow any person to carry from a licensed or permitted premises any open container of beer or alcoholic beverage, including but not limited to bottles, cans, glasses, mugs, and cups, except when such carryout is related to and necessary for custodial, maintenance, and other bona fide employment purposes.
- P. Permit or allow an amateur fighting or boxing match to occur on said licensed or permitted premises. "Amateur fighting and boxing match" means a boxing, wrestling, mixed martial arts fighting, extreme fighting, ultimate fighting or shoot fighting match, contest, event or exhibition for which the contestants are not paid or awarded a prize for their participation.

ARTICLE B: PROHIBITED ACTS GENERALLY.

5-2-6 AMATEUR FIGHTING AND BOXING.

- A. No person shall participate in an amateur fighting or boxing match in an establishment holding a liquor control license, wine or beer permit, which authorizes on the premises consumption.
- B. No person shall promote, advertise, or organize an amateur fighting or boxing match in an establishment holding a liquor control license, wine or beer permit, which authorizes on the premises consumption.
- C. "Amateur fighting and boxing match" means a boxing, wrestling, mixed martial arts fighting, extreme fighting, ultimate fighting or shoot fighting match, contest, event or exhibition for which the contestants are not paid or awarded a prize for their participation.
- D. Any person who violates this Section shall be deemed guilty of a municipal infraction and subject to a civil penalty as provided in Title 1 Chapter 3 of this Code of Ordinances.

5-2-7 Consumption in Public Places; Possession of Open Containers;

Intoxication. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending a public or private school-related function. A person shall not be intoxicated in a public place. A person shall not simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

(Code of Iowa, Section 123.46[2] & [3])

5-2-8 Persons Under Legal Age.

- A. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.
- B. A person or persons under legal age shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence, and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this Chapter.
- C. A person who is eighteen, nineteen, or twenty years of age, other than a licensee or permittee, who violates this Section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits a simple misdemeanor punishable as provided in **Iowa Code, Section 123.47**.

(Code of Iowa, Section 123.47)

5-2-9 Persons Under the Legal Age in Licensed or Permitted Establishments.

A. Prohibitions.

1. It shall be unlawful for any person under the legal age to enter or remain upon any premises between the hours of ten o'clock (10:00) P.M. and closing where more than fifty percent (50%) of the business conducted on such premises is the sale or dispensing of liquor, wine or beer except as set forth in Subsection B of this Section. The phrase "business conducted on such premises" shall be defined as the total business revenue generated on such premises during the previous calendar year.

2. If the establishment otherwise qualifies under the foregoing fifty percent (50%) criteria and has one or more restaurants in the building, no person under the legal age shall remain on the premises thirty (30) minutes after any restaurant on the licensed premises closes.

B. Exceptions. The prohibition of Subsection 1 of this Section shall not apply:

1. To a person under legal age who is an employee of the licensee or permittee, or performing a contracted service for the licensee or permittee on the premises.
2. To a person under legal age who is accompanied on the premises at all times by a parent, guardian or spouse who is not under the age for lawful purchase and/or possession of alcoholic beverages.
3. To a person under legal age on the premises during a period of time when the licensee or permittee, in accordance with a written plan given to and approved by the chief of police, has suspended dispensing alcoholic liquor, wine or beer on the licensed or permitted premises or in a clearly delineated area of the licensed or permitted premises. During such period of time, the licensee or permittee shall not permit any underage person to purchase or possess alcoholic liquor, beer or wine on the premises. Police officers shall be admitted to the premises at any time to monitor compliance with all applicable laws.

C. Persons Under Legal Age. No licensee or permittee or a licensee's or permittee's agent or employee shall allow any person under the legal age to enter or remain upon the premises between the hours of ten o'clock (10:00) P.M. and closing where the business conducted includes the sale and dispensing of alcoholic liquor, wine or beer, except as permitted in Subsections A and B of this Section. The licensee or permittee of any business that sells alcoholic liquor, wine or beer for on premises consumption shall be required to post in a conspicuous place a notice stating:

NOTICE TO PERSONS UNDER THE LEGAL AGE □□

**YOU ARE SUBJECT TO A FINE FOR BEING ON THESE PREMISES
BETWEEN THE HOURS OF 10:00 P.M. AND CLOSING UNLESS YOU
ARE EMPLOYED BY THE OWNER OR ARE ACCOMPANIED BY A
PARENT, GUARDIAN, OR SPOUSE WHO IS OF LEGAL AGE.**

D. Penalties.

1. A person under the legal age who violates the provisions of Subsection A of this section is guilty of a simple misdemeanor.
2. Violation of the provisions of Subsection C of this Section shall be a municipal infraction and subject to a civil penalty as provided in **Title 1 Chapter 3** of this Code of Ordinances.

5-2-10 Dancing Permitted; License.

- A. **Dancing Permitted.** No dancing shall be permitted in connection with the operation of a business under any Class "B" beer or wine permit or Class "C" liquor license unless the floor space used for dancing purposes therein contained at least two hundred (200) square feet, all of which shall be of the same general floor level as the place where the wine or beer or liquor is dispensed; said space to be used for dancing shall be in the same room as, or in a room adjacent to and opening directly from, the place where beer or liquor is dispensed and with full view at all times of the major portion thereof from the place where beer or wine or liquor is being dispensed. Said floor space shall not be obstructed or crossed in any part or portion by partitions or other obstructions of any kind except necessary structural posts, pillars, or similar supports and shall be used only for dancing.
- B. **Dancing License.** No Class "B" beer or wine permit holder or Class "C" liquor licensee shall permit dancing until a license therefore has been obtained from the City Clerk's office. No dancing license shall be issued until a fee has been paid to the City Clerk's office in accordance with **Title 5, Chapter 1** of the City Code, and until the premises to be used for dancing has been inspected and approved by the Police Chief, Fire Chief, and Building Inspector. A dancing license shall not be transferred. However, the City Council may, at its discretion, summarily revoke any license to dance. Clubs which comply with the requirements of state law shall not be required to obtain a dancing license.

5-2-11 Removal from Licensed or Permitted Premises Prohibited. It shall be unlawful for any person to carry from a licensed or permitted premises any open container of beer or alcoholic beverage, including but not limited to bottles, cans, glasses, mugs, and cups, except when such carryout is related to and necessary for custodial, maintenance, and other bona fide employment purposes.

ARTICLE C: PENALTIES

5-2-12 Penalties.

- A. Any person who violates any provision of this Chapter or any provision of **Iowa Code, Section 123.49** shall be guilty of a simple misdemeanor.
(Code of Iowa, Section 123.50)
- B. Any violation of **Subsection P of Section 5-2-5** shall be subject to a civil penalty as provided in the **Schedule of Civil Penalties and Fees** attached to this Code of Ordinances.

Title 5 – Business Regulations
Chapter 3 – Cigarette and Tobacco Permits

SECTIONS:

- 5-3-1 Definitions
- 5-3-2 Permit Required
- 5-3-3 Application
- 5-3-4 Fees
- 5-3-5 Application; Approval of
- 5-3-6 Mayor to Sign Permit; Term
- 5-3-7 Reporting
- 5-3-8 Refunds
- 5-3-9 Persons Underage
- 5-3-10 Permit Revocation

5-3-1 Definitions.

- A. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. Provided the definition herein shall not be construed to include cigars.
- B. "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, partnership, corporation, trustee, agency or receiver, or respective legal representative.
- C. "Retailer" shall mean and include every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes irrespective of quantity or amount or the number of sales.
- D. "Tobacco products" means cigars; little cigars as defined in **Section 453A.42, Subsection 5 of the Iowa Code**; cheroots; stogies; periques; granulated; plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; or refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not mean cigarettes.

5-3-2 Permit Required.

- A. **Cigarette Permits.** It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

- B. **Tobacco Permits.** It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

5-3-3 Application. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk by the deadline established by the City Council.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

5-3-4 Fees. The fee for a retail cigarette or tobacco permit shall be as provided in Section 453A.13 of the Code of Iowa.

5-3-5 Application; Approval of. At each regular meeting of the Council, the Clerk shall report to the Council each application for a permit to sell cigarettes and cigarette papers and wrappers then filed in this office. The Council shall then proceed to the consideration of such application and if it finds the same proper and sufficient, shall by motion grant the permit applied for. Thereupon the Clerk shall endorse upon the application the fact and date of the granting of the permit by the Council.

5-3-6 Mayor to Sign Permit; Term. Whenever the Council shall grant a permit as authorized in this Chapter, it shall be the duty of the Mayor to sign and issue the same, but such permit shall by its terms expire June thirtieth (30) following its issuance.

5-3-7 Reporting. Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of issuance.

(Code of Iowa, 453A.13 & 453A.47A)

5-3-8 Refunds. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in **Section 453A.13 or 453A.47A of the Code of Iowa.**

(Code of Iowa, 453A.13 & 453A.47A)

5-3-9 Persons Underage. No person shall sell, give, or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this Section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

- A. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
- B. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this Subsection.
- C. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
- D. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
- E. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

5-3-10 Permit Revocation. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of **Division I of Chapter 453A of the Code of Iowa** or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic

Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

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

Title 5 – Business Regulations
Chapter 4 – Amusements

SECTIONS:

- 5-4-1 Definitions
- 5-4-2 License Required
- 5-4-3 Duration of License
- 5-4-4 Fire Inspections

5-4-1 Definitions: "Theater" as used in this section means any place of public amusement in which plays, moving pictures or other exhibitions are presented, except that it does not include places in which lectures on scientific, historical, or literary subjects are given.

5-4-2 License Required. No person shall keep, conduct, carry on, or operate any roller skating rink, shooting gallery, theatre, arcade, or any machine or apparatus for amusement or trial of skill or strength, including but not limited to, pin ball machines and video games, and other electronic mechanical amusement devices not otherwise provided for in this Section, for a fee, charge, or profit, unless he or she shall first procure a license and pay a fee therefore in accordance with **Title 5, Chapter 1 of the City Code.**

5-4-3 Duration of License. The licenses required under this Chapter shall expire on the expiration of the day, week, or month for which issued, and in the case of annual licenses, such license shall expire on the thirty-first (31st) day of December after its issuance.

5-4-4 Fire and Building Inspections. No license shall be issued for a roller skating rink (indoor), shooting gallery, theatre, or any other building which requires an amusement permit before such building has been inspected by the Fire Department and Building Inspector and has been certified that such building is in compliance with the fire and building codes.

Title 5 – Business Regulations

Chapter 5 – Billiards; Bowling

SECTIONS:

- 5-5-1 License Required
- 5-5-2 Application
- 5-5-3 Display of License
- 5-5-4 Gambling
- 5-5-5 Exemption
- 5-5-6 Fire and Building Inspections

5-5-1 License Required. It shall be unlawful for any person, without having obtained a license for that purpose in accordance with **Title 5, Chapter 1 of the City Code** to own, operate, or maintain any room in which such person owns, operates, or maintains any pocket billiard, billiard, or similar table or any bowling alley for hire or profit, or for the privilege of using which the public or patrons of such room are required to pay, either directly or indirectly, with money or with any other thing of value. All pocket billiard, billiard, or similar tables located or kept in any place of amusement or place of public resort shall be deemed to be so located and kept for the purpose of permitting persons to play thereon for hire and profit within the meaning of this Chapter.

5-5-2 Application. Every person applying for a license under the terms of this Chapter shall make and deliver to the Clerk a written application, setting out the place in which he or she desires to maintain or operate pocket billiard, billiard, or similar tables or bowling alleys, the number of tables or alleys to be maintained, and who is the real and true owner of the tables or alleys to be operated.

5-5-3 Display of License. Every person holding a license shall display such license in a conspicuous place in the room in which the tables or alleys thereby licensed are maintained and operated.

5-5-4 Gambling. Any person who shall gamble, or permit gambling upon any game played on any pocket billiard, billiard, or similar table, or bowling alley, except as provided in **Chapter 99B of the Code of Iowa**, shall be guilty of a misdemeanor, and the Council, upon hearing, may revoke any license issued under this Chapter to such person or suspend the same for any period not less than ten (10) days.

5-5-5 Exemption. This Chapter shall not apply to any pocket billiard, billiard, or similar table or bowling alley privately maintained in a private family or in social, political, philanthropic, benevolent, educational, or in a secret club or association, when such club or association maintains or operates such table and alley for the use of its members exclusively, and when such club or association maintains and operates such tables and alleys as an incident only to the general purposes of such club or association, and where such club or association has not been organized for the purpose of maintaining, operating, or running a pocket billiard, billiard, or bowling club.

5-5-6 Fire and Building Inspections. No license shall be issued for any pocket billiard, billiard, or similar table or bowling alley, or any other building which requires a license or permit under this Chapter before such building has been inspected by the Fire Department and Building Inspector and has been certified that such building is in compliance with applicable fire and building codes.

Title 5 – Business Regulations
Chapter 6 – Outdoor Commercial Entertainment Establishment Permit

SECTIONS:

- 5-6-1 Outdoor Commercial Entertainment Establishment Permit
- 5-6-2 Hours Restriction
- 5-6-3 Duration of License
- 5-6-4 Renewal Application

5-6-1 Outdoor Commercial Entertainment Establishment Permit. No person, association, firm or corporation shall operate an outdoor commercial entertainment establishment for profit which engages in the playing or rendition of music or singing using amplification of sound or amplification of the human voice without first applying for and acquiring a valid permit issued by the city clerk for such establishment pursuant to **Title 5, Chapter 1.**

5-6-2 Hours Restriction. The permit shall allow such operation only between the hours of 10:00 o'clock a.m. and 1:30 o'clock a.m. on the following morning.

5-6-3 Duration of License. Application for an outdoor commercial entertainment establishment permit shall be filed with the city clerk pursuant to **Title 5, Chapter 1.** A permit may be applied for and issued through December 31st of the year of issuance.

5-6-4 Renewal Application. An application for a renewal of a permit shall be filed not later than two weeks prior to the date of expiration of the permit.

Title 5 Business Regulations

Chapter 7-Bill Posting

SECTIONS:

- 5-7-1 Definitions
- 5-7-2 Permit Required
- 5-7-3 Requirements
- 5-7-4 Merchants Requirements
- 5-7-5 Billposters, Restrictions
- 5-7-6 Consent Required
- 5-7-7 Use of Nails or Tacks
- 5-7-8 Removal

5-7-1 Definitions. "Bill posters," within the meaning of this Chapter, includes all persons who engage in the business or occupation of posting by tacking, posting, painting or otherwise, or the distribution upon the streets of any advertising matter, bills, posters, pictures or any other thing, matter or device whatsoever, advertising the business of any person, whether that of merchant, manufacturer, publisher or person engaged in any business or industrial pursuit or of any shows, theaters, circuses or other exhibitions. Nothing herein contained shall be construed to apply to the painting of store, office or other signs by sign painters or to the posting of legal notices by public officers or attorneys in the manner and in the places prescribed by law.

5-7-2 Permit Required. No person shall post or distribute any advertising bills, posters, or written, printed, or illustrated matter, without having first obtained a permit therefor from the City in accordance with **Title 5 Chapter 1**.

5-7-3 Requirements. City of Muscatine resident businessmen may distribute their own advertising matter without a permit as required in **Section 5-7-1**, provided that such distribution shall be made in such a manner as not to create a nuisance or litter and such advertising or billposting shall not be permitted on public streets or property. Such businessmen shall conform in all respects with the provisions of this Chapter except as to the requirement as to the permit.

5-7-4 Merchants Requirements. Merchants may hand bills and advertisements to persons willing to accept the same, at the entrances, or within their own storerooms, but shall refrain from scattering the same along the public sidewalks, gutters, streets, alleys, and property.

5-7-5 Billposters, Restrictions. No licensed billposter or distributor shall scatter any bills, posters, or written, printed, or illustrated matter or deliver such upon the streets or alleys of the City, hand the same to persons passing along the streets, or throw the same into yards of private buildings or the halls of public buildings or elsewhere, except to persons willing to accept the same.

5-7-6 Consent Required. No person shall post, paste, or attach, or cause to be posted, pasted, or attached, any bill, placard, poster, announcement, or advertisement on any house, window, sidewalk, street, building, wall, fence, or tree, or to telephone, or electric light or power pole or water hydrant without first obtaining the written consent of the owner or, if City property, of the Council. No such poster or

advertisement shall be attached to any building, structure, tree, or any other object in conflict with the City's Sign Ordinance.

5-7-7 Use of Nails or Tacks. No person shall use tacks or nails to fasten any such bill, placard, poster, announcement, or advertisement on any wall or surface along any street, sidewalk, or alley line where such nails or tacks may loosen and fall or may reach such street, alley, or sidewalk.

5-7-8 Removal. All bills, placards, posters, announcements, or advertisements as permitted in this Chapter shall be removed immediately upon the request of the owner of private property and, if on public property, as directed by the City.

Title 5 – Business Regulations

Chapter 8 – Circuses; Carnivals

SECTIONS:

- 5-8-1 Definitions
- 5-8-2 License Required; Circus
- 5-8-3 Circus License; Fee
- 5-8-4 License Required; Carnival
- 5-8-5 Carnival License; Fee
- 5-8-6 Right of Entry for Inspection
- 5-8-7 Public Property
- 5-8-8 Amusement Rides; State Reports and Permits Required

5-8-1 Definitions. The following terms shall have the following meanings as used in this Chapter:

- A. "Amusement ride" means any mechanized device or combination of devices which carries passengers along, around or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills or excitement.
- (*Code of Iowa, Section 88A.1*)
- B. "Carnival" means and includes amusement activities; merry-go-rounds, ferris wheels and similar types of amusement rides; booths for the conduct of games of skill; food dispensing facilities; and sideshows; which are temporarily conducted out-of-doors and not within a theater, auditorium, gymnasium or other permanent building.
- C. "Circus" means and includes an event with a variety of shows, including, but not limited to, animal acts, feats of physical skill and daring and performances by entertainers such as jugglers or clowns, which is temporarily conducted out-of-doors and not within a theater, auditorium, gymnasium or other permanent building.

5-8-2 License Required; Circus. No person shall keep, conduct, carry on, or operate any circus or like exhibition unless he shall first procure a license therefor.

5-8-3 Circus License; Application and Fee. For every circus or like exhibition, there shall be an application submitted and approved in accordance with **Title 5, Chapter 1**.

5-8-4 License Required; Carnival. No person shall keep, conduct, carry on, or operate any carnival, unless he shall first procure a license therefor.

5-8-5 Carnival License; Fee. For every carnival there shall be an application submitted in accordance with **Title 5, Chapter 1**.

5-8-6 Right of Entry for Inspection. If the proposed event involves the erection of a tent for the use of the public, the operator or sponsor of the event shall so state on the application submitted to the City Clerk on the forms provided, and the applicant must give consent to members of the Fire, Police, and Health Departments and the Building Inspector of the City, to enter and inspect the premises and tents, exhibits, side shows, performances, stands, or racks, without a warrant during business hours

to inspect for violations of Iowa Law and City Ordinances. No such tent may be used until inspected and approved by inspectors of the department of Community Development and the Fire Department.

5-8-7 Public Property. No circus or carnival shall be conducted on any public street, park, or other public property before first having obtained approval of the City Council.

5-8-8 Amusement Rides; State Reports and Permits Required. If the proposed event involves amusement rides, the operator or sponsor shall attach to the application copies of current inspection reports or permits as required by **Chapter 88A of the Iowa Code.**

Title 5 – Business Regulations

Chapter 9 – Pawnbrokers

SECTIONS:

- 5-9-1 License Required
- 5-9-2 License Fees
- 5-9-4 License; Expiration Date
- 5-9-5 Bond
- 5-9-6 Transfer License
- 5-9-7 Dealing with Minors
- 5-9-8 Record of Transaction
- 5-9-9 Police Order to Hold Property
- 5-9-10 Memorandum Required
- 5-9-11 Sales by Pawnbrokers

5-9-1 License Required. No person shall carry on business as a pawnbroker, who shall not have first procured a license therefore in accordance with **Title 5, Chapter 1 of the City Code** and complied with the requirements of this Chapter.

5-9-2 Right of Action. Any person aggrieved by the acts of any pawnbroker may sue upon such bond and recover such damages as he shows himself entitled to.

5-9-3 License; Expiration Date. The license required by Section 5-9-1 of this Code, obtained from the City, shall expire on December thirty-first (31st) after its issuance.

5-9-5 Transfer of License. No license as required by Section 5-9-1 of this Code shall be assignable or transferable.

5-9-6 Dealing with Minors. No pawnbroker shall purchase or receive in pawn any article or property from a minor without the written consent of his parents or guardian.

5-9-7 Record of Transaction; Duty to Report; Inspection.

- A. Record of Transaction. Every pawnbroker, second-hand dealer or junk dealer shall keep and maintain an accurate account of each and every purchase, pawn, or exchange. The record of each transaction shall be entered and maintained using the software required by the Police Department and shall include the date and time of the transaction, a description of the customer selling, pawning, or exchanging tangible personal property, which description shall include the person's name, address, date of birth (month/day/year), sex, social security number. The record shall also include a complete, detailed, and accurate description of each article pawned, purchased, or taken in.
- B. Transmission. The record of transaction shall be transmitted to the Chief of Police or his designee by not later than noon of the next day following the transaction.

C. Inspection of Record. The record of transaction as well as each item of tangible personal property pawned, pledged, or purchased shall, at all reasonable times, be open to inspection upon demand by any member of the criminal investigation department (CID) of the Police Department. Each licensee shall keep, file and maintain copies of the records of transaction for at least one year from the date of the transaction.

5-9-8 Police Order to Hold Property. The Police are authorized to seize property, without warrant, or to require the dealer to hold property which they have probable cause to believe is stolen property. A receipt will be given to the pawnbroker for all property seized.

5-9-9 Memorandum Required. Every pawnbroker shall, at the time of each loan or purchase, deliver to the person pawning any article of goods a memorandum or note signed by him, containing the substance of the entry required to be made in his notebook. No charge shall be made for such entry, memorandum, or note.

5-9-10 Sales by Pawnbrokers. No pawnbroker shall sell any pawn or pledge until the same shall have remained two (2) months in his possession after the payment of the amount loaned becomes due.

Title 5 – Business Regulations
Chapter 10 – Peddlers, Solicitor, and Transient Merchants

SECTIONS:

- 5-10-1 Definitions
- 5-10-2 License Required
- 5-10-3 Application for License
- 5-10-4 License Fees
- 5-10-5 Insurance Required
- 5-10-6 License Issued
- 5-10-7 Display of License
- 5-10-8 License Not Transferable
- 5-10-9 Time Restriction
- 5-10-10 Suspension or Revocation of License
- 5-10-11 Penalty
- 5-10-12 Rebates
- 5-10-13 License Exemptions
- 5-10-14 Prohibited Activities

5-10-1 Definitions. For use in this chapter the following terms are defined:

- A. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
- B. "Solicitor" means any person who solicits or attempts to solicit from house to house, business to business, or from street to street for the purpose of obtaining or attempting to obtain orders for: 1) the sale of goods, wares and merchandise, personal property of any nature whatsoever, for future delivery whether or not such individual has, carries or exposes for sale a sample of the subject of such sale; 2) or for services to be performed in the future whether or not such individual is collecting advance payment on such sales or not; or 3) a request, whether vocalized or not, for a donation or contribution other than in response to an inquiry from another person.
- C. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

5-10-2 License Required. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this Chapter.

5-10-3 Application for License. An application in writing shall be filed with the Clerk for a license under this Chapter. Such application shall set forth the applicant's name, permanent and local address, and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time

sought to be covered by the license. An application fee in an amount fixed by resolution of the Council and set out in the **Schedule of Permits and Fees** in the **Appendix** to this Code of Ordinances shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

5-10-4 License Fees. The fee required for the issuance of a license issued under this Chapter shall be set by resolution of the City Council and is listed in the **Schedule of Permits and Fees** in the **Appendix** of this Code of Ordinances.

5-10-5 Insurance Required.

- A. Before a license under this Chapter is issued to a peddler, solicitor, or transient merchant, an applicant shall provide to the Clerk a certificate of insurance naming the City as an additional named insured. Said certificate of insurance shall be in a minimum amount of \$2,000,000.00 providing coverage against any and all property damage, injuries, including injury resulting in death, or wrongful fraudulent or illegal conduct by reason of, or related to, the licensee's use of public streets, sidewalks, right of ways or other public places to engage in activity pursuant to this Ordinance. Said insurance shall be maintained throughout the duration of the license period one (1) year thereafter and failure to do so shall be a violation of this Ordinance. All certificates of insurance issued pursuant to this Chapter shall contain a clause that 10 days' prior written notice of cancellation or change shall be given to the City Clerk of the City of Muscatine.
- B. An applicant shall also submit an executed agreement to indemnify and hold harmless the City of Muscatine and its officers, employees, agents and assigns from any and all claims, actions, injuries and damages of every kind and description which may accrue to or be suffered by any person by reason of or related to the vending of merchandise by said applicant or the granting of a license to do so.
- C. Failure to comply with the requirements of this Section shall be cause for denial or revocation of the license.

5-10-6 License Issued. If the Clerk finds the application is completed in conformance with the requirements of this Chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

5-10-7 Display of License. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this Chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

5-10-8 License Not Transferable. Licenses issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

5-10-9 Time Restriction. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 8:00 p.m.

5-10-10 Suspension or Revocation of License.

A. Grounds; Notice:

1. The City Clerk may suspend any license issued under this Chapter, pending the outcome of an administrative hearing, for any of the following reasons:
 - a. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
 - b. The licensee has violated this Chapter or any other Chapter of this Code or has otherwise conducted his/her business in an unlawful manner.
 - c. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.
 - d. The City Clerk has received and investigated multiple written complaints during the licensed period from residents of the City who are dissatisfied with the manner in which the licensee is conducting business.
2. The City Clerk shall immediately serve notice to the licensee with notice either in person or by regular mail to the licensee's local address of the license suspension, the specific reason(s) for such action, and date and time of hearing with the City Clerk to review the particulars of the suspension.

B. Hearing: A hearing shall be conducted by the City Clerk not more than five (5) business days after he/she has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this Chapter. Should the licensee or his/her authorized representative fail to appear without good cause, the City Clerk may proceed with the hearing and make his/her findings to a conclusion.

C. Revocation: After the City Clerk has reviewed the facts, he/she shall revoke a license if he/she finds by the preponderance of the evidence that a violation of this Chapter has occurred. The revocation shall be effective immediately.

D. If the City Clerk revokes or refuses to issue a license, the licensee or the applicant shall have a right to a hearing before the municipal appeal code hearing officer as provided in **Section 4-4-9** of this Code. The municipal appeal code hearing officer may reverse, modify, or affirm the decision of the City Clerk.

E. Effect of Renovation: Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this Chapter for a period of one year from the date of the revocation or denial. There shall be no refund of any fees for any revocation.

5-10-11 Penalty. Anyone violating any of the provisions of this Ordinance shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a fine not exceeding one hundred dollars (\$100.00). Each day that a violation continues to exist shall constitute a separate offense.

5-10-12 Rebates. No licensee shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires.

5-10-13 License Exemptions. The following are excluded from the application of this Chapter.

- A. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
- B. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
- C. Local Residents and Farmers. Local residents and farmers who offer for sale their own products on their own property.
- D. Students. Students representing area schools or school districts conducting projects sponsored by organizations recognized by the school.
- E. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
- F. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
- G. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the Code of Iowa. All such organizations seeking to act as a peddler, solicitor and/or transient merchant are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 5-10-14 of this Chapter.

5-10-14 Prohibited Activities. No peddler, solicitor, transient merchant, or other person engaged in other similar activities shall conduct business in any of the following manner:

- A. Calling attention to his or business, the items to be sold or the donations being solicited by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise so as to be unreasonably audible within an enclosed structure.
- B. Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
- C. Standing in a street, including any roadway medians, curbs, traffic islands, shoulders or crosswalks, for the purpose of soliciting contributions, donations, distributing materials or selling merchandise.
- D. Acting in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.

- E. Failing to provide proof of license, or registration, and identification when requested.
- F. Using the license or registration of another person.
- G. Conducting his/her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant.
- H. Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
- I. Remaining on the property of another when requested to leave.
- J. Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Title 5 – Business Regulations
Chapter 11– Residential Sales

SECTIONS:

- 5-11-1 Purpose
- 5-11-2 Definitions
- 5-11-3 Signs
- 5-11-4 Residential Sales Regulations
- 5-11-5 Enforcement

5-11-1 Purpose. The purpose of this Chapter is to regulate the signage and actual sale of personal property from residentially zoned property to prevent undue commercialization of residential neighborhoods.

5-11-2 Definitions. For the purposes of this Chapter, the following terms set forth have the following meanings:

- A. "Residential Sale" shall mean the sale from a lot or parcel of items of personal property either belonging to the owner or permitted by the owner to be sold on said parcel or lot. "Residential Sale" shall include the commonly referred terms "yard sale", "porch sale", "garage sale", "rummage sale", "bazaar", etc. "Residential Sale" shall not be defined as any sale of new property, property sold from any zone other than residential, and special events which would require approval of the City.
- B. "Residential Zone" shall be any lot or parcel which is located in an "R" District as shown on the official Zoning Map for the City.
- C. "Substantiated Complaint" shall be a complaint received by the City alleging a violation of this Chapter which shall require the complaining party to assist the City in a prosecution; up to and including testimony in a court of law.
- D. "Sign" shall mean any temporary sign advertising a residential sale.

5-11-3 Signs. The following regulations shall govern the number, type, location, and duration for all signs associated with residential sales:

- A. A resident shall be limited to not more than one non-illuminated sign, which shall be wholly maintained on private property, not to exceed four (4) square feet in area, to advertise the sale. Other signs are prohibited.
- B. Residential sale signs shall not be erected until twenty-four (24) hours prior to the sale and shall be removed within twenty four (24) hours of the expiration of the same.
- C. Signs shall not be placed within any public right-of-way. Signs which are noticed by any City employee placed in violation of this Section shall be removed immediately by that employee and disposed of.

5-11-4 Residential Sales Regulations. Persons conducting residential sales shall comply with the following regulations governing these sales:

- A. A residential sale shall be limited to a term not exceeding seventy-two (72) hours in length.
- B. Not more than three (3) residential sales may be conducted from any lot or parcel during the calendar year.

5-11-5 Enforcement. It shall be the policy of the City to enforce the regulations under this Chapter by "substantial complaint", except as provided in [Section 5-11-3](#).

Title 5 – Business Regulations
Chapter 12 – Sales on City Property

SECTIONS:

- 5-12-1 Selling on City Property
- 5-12-2 Selling of Merchandise
- 5-12-3 Soliciting for Worthy Cause

5-12-1 Selling on City Property. No individual, company, corporation, or organization shall sell any product or service upon any city property without receiving the proper approval of the City Council.

5-12-2 Selling of Merchandise. Local merchants and organizations composed of local merchants may sell merchandise on City owned property in conjunction with special promotional events subject to the approval by the City Council. Requests to close or use streets and sidewalks shall be reviewed by the Police Chief and Fire Chief before such approval is granted.

5-12-3 Soliciting for Worthy Cause. Local civic, service, educational, health, welfare, and similarly related organizations may sell merchandise or solicit on City owned property upon approval by the City Council.

Title 5 – Business Regulations
Chapter 13 – Massage Establishments and Technicians

SECTIONS:

- 5-13-1 Definitions
- 5-13-2 Compliance with Chapter Required
- 5-13-3 Exemptions
- 5-13-4 Licenses for Massage Business
- 5-13-5 Denial, Suspension, or Revocation of License
- 5-13-6 Massage Technician License
- 5-13-7 Denial, Suspension, or Revocation of Massage Technician Licenses
- 5-13-8 Health Standards
- 5-13-9 Unlawful Acts

5-13-1 Definitions.

- A. "Massage or massage service" means any method of treating the external parts of the body, consisting of rubbing, stroking, kneading, tapping, or vibrating; such treatments being performed by the hand or any other body parts, or by any mechanical or electrical instrument.
- B. "Massage establishment" means any establishment having a fixed place of business where any person, firm, association, or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in Section (A) and Section (C) of this Chapter. Any establishment engaged in or carrying on, or permitting any combination of massage and bath house shall be deemed a massage establishment.
- C. "Public bath house" means any place, including a private club or organization, wherein any person, firm, association, corporation, or partnership engages in, conducts or carries on or permits to be engaged in, conducted, or carried on, the business of giving or furnishing Russian, Finnish, Swedish, hot air, vapor, electric cabinet, steam, mineral, sweat, sale, Japanese, sauna, fomentation, or electric baths or baths of any kind whatever, excluding ordinary tub baths where an attendant is not used or required.
- D. "Massage technician" means any person, including a trainee, who engages in the business of performing massage services on or for other persons by use of any or all of the treatments, techniques, or methods of treatment referred to in the definition of massage or massage service.
- E. "Massage patron" means any person who receives or pays to receive a massage or massage services from a massage technician for value.
- F. "Applicant" means any person applying for a license to operate or conduct a massage business and in addition thereto shall include all partners in a partnership and all stockholders of a corporation where the controlling interest of the corporation is held by five (5) or less persons of legal entities.

- G. "Accredited school" means any school which furnishes a certified statement of courses offered, including anatomy and physiology, and is accredited by the American Massage and Therapy Association, which provides for not less than 1,000 hours of instruction and which shall furnish a certificate or diploma of successful completion of such course of study or learning.
- H. "Licensee" means the operator of a massage establishment.

5-13-2 Compliance with Chapter Required. No person, firm, or corporation shall operate, own, conduct, carry on, or permit to be operated, owned, conducted, or carried on any massage establishment of any type or kind including, but not limited to massage parlor, massage service business, or any massage business or service offered in conjunction with or as part of any health club, health spa, resort, health resort, gymnasium, athletic club, or other business, without compliance with the provisions of this Chapter. No person shall perform the services, duties, or work of a massage technician except in compliance with the provisions of this Chapter.

5-13-3 Exemptions. The following persons and institutions are excluded from the operation of this Chapter:

- A. Persons licensed by the State of Iowa under the provisions of Chapters 148, 148A, 148B, 148C, 148D, 149, 150, 150A, 151, 152, 152A, 152B, 152C, 153, 157, or 158 of the Iowa Code, when performing massage therapy or massage services as part of the profession or trade for which licensed.
- B. Persons performing massage therapy or massage services under the direct supervision of a person licensed as described in paragraph (A) hereinabove.
- C. Persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician.
- D. Nurses' aides, technicians, and attendants at any hospital or health care facility, licensed pursuant to Chapters 135B, 135C, or 145A of the Iowa Code, in the course of their employment and under the supervision of the administrator thereof or of a person licensed as described in paragraph (A) hereinabove.
- E. An athletic coach or trainer in any accredited public or private school, junior college, college, or university, or employed by a professional or semi-professional athletic team or organization in the course of his employment as such coach or trainer.
- F. Non-profit corporations or associations.

5-13-4 Licenses for Massage Business.

- A. No person, firm, or corporation shall operate, own, conduct, carry on, or permit to be operated, owned, conducted, or carried on any massage business in the City unless the premises at which such business is located meet the minimum standards set forth in this Chapter and unless a license to operate a massage establishment is obtained from the City in compliance with the provisions of this Chapter and Title 5, Chapter 1 of the City Code.

B. Application Procedures. Any person, firm, or corporation seeking a license to operate a massage establishment shall make an application for a massage establishment license and shall refer the application to the Building Inspection Department, the Fire Department, and the Public Health Department, which shall inspect the premises proposed to be operated as a massage establishment and shall make written recommendations to the City Clerk concerning compliance with the codes that they administer. The Clerk shall also refer the application to the Police Department.

C. Application Contents. The application shall contain the following:

1. The full name, address, and social security number of the applicant.
2. The full name of the business and the address of the premises for which the application is being made.
3. The criminal record of the applicant, if any.
4. Written proof that the applicant is at least 18 years of age.
5. The type of business entity, such as sole proprietorship, partnership, or corporation and, in the case of a corporation, the names and addresses of all officers and directors of the corporation.
6. Applicants must furnish a diploma or certificate of graduation from an accredited school or other institution of learning wherein the method, profession, and work of massage is taught, provided; however, that if the applicant will have no physical contact with his customer or clients, he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession, and work of massage is taught.
7. All information required herein of any applicant shall also be provided for every person who, directly or indirectly, has any right to participate in the management or control of the business to be conducted at the premises of the proposed massage establishment.
8. The name and address of the owner of the building where such massage business will be located.
9. Certified copies of any lease or rental agreement governing the applicant's rights in said building.
10. The signature of the applicant or applicants or, if the application is in the name of a corporation, the signature of each officer of the corporation.

D. License Fees. The fee for the issuance of a license issued under this chapter shall be set by resolution of the City Council and is listed in the **Schedule of Permits and Fees** in the **Appendix** of this Code of Ordinances.

E. Issuance of License. The Building, Fire, Health, and Police departments shall make written reports of their investigations and shall submit such reports to the City Clerk within forty-five (45) days of the date of the application. The City Clerk shall issue a license if all requirements for a massage establishment described in this Chapter are met and shall issue a license to all persons who apply to perform massage services unless he finds:

1. That the operator as proposed by the applicant, if permitted, would not have complied with all applicable laws, including, but not limited to, the Building, City Zoning, Housing, and Fire Codes of the City of Muscatine or regulations adopted by the Health Department.
2. That the applicant has not fully complied with all of the requirements of this Subchapter, or that the applicant is not of good moral character, or that the applicant has falsified his or her application.

In the event that the City Clerk determines that the applicant has not fully complied with all the requirements of this Chapter, then the City Clerk shall, after consultation with the Legal Department, advise the City Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing as set forth in **Section 5-13-5(B)** of this Chapter shall apply before the license shall be issued.

F. Separate License for each Place of Business. Each massage business shall have a separate license for each place of business, which shall be valid only for the business conducted at that location.

G. License to be Displayed. Each massage business shall display its license conspicuously in the lobby or waiting room area where such license may be readily observed by all persons entering such premise.

H. Sale or Transfer. No massage establishment license shall be sold or transferred. The purchase or purchases of any massage business or of the majority of the stock of any corporation operating a massage business shall obtain a new license before operating such business at the location for which the license has been issued.

5-13-5 Denial, Suspension, or Revocation of License.

A. Grounds. The massage establishment license of any such applicant or licensee may be denied, suspended, or revoked for violation of the provisions of this Chapter; for failure to comply with applicable fire regulations, building regulations, or health ordinances; for permitting massage technicians, who are either employed by the licensee or who are allowed by the licensee to perform the services or work of a massage technician upon the premises of the licensee, to violate the provisions of this Chapter; or if it is found that the applicant has falsified an application.

B. In the event the City Clerk is apprised of information indicating that grounds for denial, suspension, or revocation of a massage establishment may exist, he or she shall cause an investigation of such grounds to be made by the appropriate city department or departments, and after consultation with the

Legal Department, shall advise the City Council in writing of the results of the investigation. If the City Council determines that the report reveals the probable existence of grounds for suspension or revocation, it shall direct written notice by ordinary mail to the licensee named on the application at the massage establishment address informing such person of the intention to hold a public hearing on the question of whether such license should be denied, suspended, or revoked, the grounds therefore, and the date and time of said hearing. Upon said hearing, if the City Council shall determine that such cause does exist,

1. If the determination is the first such for that licensee, it may withhold action on an application for one month from the date of hearing or suspend an existing license for up to one month, and thereupon such licensee shall cease massage business at that location or at any other location for the period of suspension.
2. If the determination is the second such for that licensee or if the City Council finds against the applicant or licensee on two or more grounds at such hearing, it may deny an application or revoke an existing license at that location, and in either event, no massage establishment license shall be issued nor shall such business be conducted at that location for a period of one year, nor shall the licensee be permitted to conduct such business in the City for that period.

5-13-6 Massage Technician License.

- A. License Required. No person shall perform the services, duties, or work of a massage technician without first receiving a massage technician license from the City Clerk. Such license shall not be required for the owner of a licensed massage establishment who performs the services, duties, or work of a massage technician in his or her own establishment, provided such person provides the information required in Subsections (C) 5 and (C) 7 hereof on the application for massage establishment license and states that such owner will be a massage technician at such establishment.
- B. Application Procedures. Any person seeking a massage technician license shall apply to the City Clerk. The City Clerk shall cause an investigation of such applicant by the Police Department to determine if such person has a criminal record.
- C. Application Contents. The application shall contain the following information:
 1. The full name, address, age, and social security number of the applicant.
 2. The criminal record of the applicant, if any.
 3. Written proof that the applicant is at least eighteen (18) years of age.
 4. The name of a licensed massage establishment where the applicant will be employed.

5. The name and address of the accredited school attended, the date attended, and a copy of the diploma or certificate of graduation awarded indicating the applicant has completed not less than 1,000 hours of instruction.
6. A statement that the contents of the application are true.
7. A certificate issued by a licensed physician stating that the applicant is free from communicable diseases and venereal diseases, such as syphilis and gonorrhea, executed within one week preceding the date of the application.

D. Issuance of the License. The Police Department shall make a written report of its investigation to the City Clerk within thirty (30) days of the date of the application. The City Clerk shall, upon presentation of the certificate described in Subsection (C)7 hereinabove, issue a temporary massage technician permit to the applicant if the application is otherwise proper and pending receipt of the written police report. Upon receipt of the police report and the certificate, the City Clerk shall approve the application if the applicant has fully complied with all the requirements of this Chapter, and the City Clerk shall thereupon issue a permanent massage technician license to the applicant. The permanent license shall expire one year from the date of issuance. In the event that the City Clerk determines that the applicant for a new or renewal license has not fully complied with all of the requirements of this Subchapter, or that the applicant is not of good moral character, or that the applicant has falsified his or her application, then the City Clerk shall, after consultation with the legal department, advise the City Council of the basis for questioning the applicant's qualification, and the procedures for notice and hearing as set forth in Section 5-13-7[B] of this Code shall apply before the permanent license is issued.

E. License Valid Only for Establishment Listed on the Application. The massage technician license, when issued, shall be valid only for the massage establishment listed on the application. A massage technician changing place of employment shall have his or her license amended by the permit clerk to show that the establishment proposing such employment holds a valid massage establishment license before commencing work for the new employer.

F. License to be Kept at Place of Employment. All massage technicians having licenses issued pursuant to this Chapter shall keep said licenses at their place of employment as massage technicians

G. License Fees. The fee for the issuance of a license issued under this chapter shall be set by resolution of the City Council and are listed in the Schedule of Permits and Fees in the Appendix of this Code of Ordinances.

5-13-7 Denial, Suspension, or Revocation of Massage Technician Licenses.

A. Grounds for Denial, Suspension, or Revocation. A massage technician license may be denied, suspended, or revoked for any violation of this Chapter, including but not limited to the failure to comply with new or renewal procedures, a finding of criminal offenses, or falsification of new or renewal applications.

B. Denial, Suspension, or Revocation Proceedings. The City Clerk shall, upon receipt of information alleging that grounds exist to deny, suspend, or revoke the massage technician license of any applicant or licensee under this Subchapter and after consultation with the Legal Department, report the circumstances to the City Council, which in such case shall cause a notice to be sent by ordinary mail to the applicant or licensee, which notice shall state that a denial, suspension, or revocation hearing has been set before the City Council; the grounds for the proposed denial, suspension, or revocation; the date and time of the hearing; and the place where the hearing will be conducted. Upon such hearing, if the City Council shall determine that one or more of such grounds do exist, it may deny an application or suspend or revoke an existing license. In the event such license is revoked, no massage technician license shall be issued to that licensee for a period of one year.

5-13-8 Health Standards.

A. No massage establishment shall be established, maintained, or operated in the City that does not conform or comply with the following standards:

1. Each room or enclosure where massage services are performed on patrons shall be provided with a minimum of eight foot (8') candles as measured four feet (4') above the floor.
2. The premises shall have adequate equipment for disinfecting and cleaning non-disposable instruments and materials used in administering massage services. Such materials and instruments shall be cleaned after each use.
3. Hot and cold running water shall be provided at all times.
4. Closed cabinets shall be provided and used for the storage of all equipment, supplies, and clean linens. All used disposable materials and soiled linens and towels shall be kept in covered containers or cabinets, which containers or cabinets shall be kept separate from clean storage cabinets.
5. Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.
6. All massage tables, bathtubs, shower stalls, sauna baths, steam or bath areas, and all floors shall have surfaces which may be readily cleaned.
7. Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean containers or cabinets.
8. Adequate bathing, dressing, locker, and toilet facilities shall be provided for all patrons served at any given time. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker, toilet, and massage room facilities shall be provided.
9. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be

thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

10. Each massage technician shall wash his or her hands in hot running water using soap or disinfectant before and after administering a massage to each patron.
11. The premises shall be equipped with a service sink for custodial services, which sink shall be located in a janitorial room or custodial room separate from massage service rooms.
12. No person shall consume food or beverages in massage work areas.
13. Animals, except for seeing eye dogs, shall not be permitted in massage establishments.
14. All massage establishments shall continuously comply with all applicable building, fire, or health ordinances and regulations.

B. No massage technician shall administer a massage:

1. If said massage technician believes, knows, or should know that he or she is not free of any contagious or communicable disease or infection.
2. To any massage patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided, however, that a physician duly licensed to practice in the State of Iowa may certify that such person may be safely massaged prescribing the condition therefore.
3. To any person who is not free of communicable disease or infection or whom the massage technician believes or has reason to believe is not free of communicable disease or infection.

5-13-9 Unlawful Acts.

- A. It shall be unlawful for any person in a massage establishment to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital part of any other person.
- B. It shall be unlawful for any massage technician, while in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body.
- C. It shall be unlawful for massages to be administered to massage patrons of different sexes in the same room or enclosure at the same time.
- D. It shall be unlawful for any person owning, operating, or managing a massage establishment knowingly to cause, allow, or permit in or about such massage establishments any agent, employee, or any other person under his control to perform such acts prohibited in Subsections (A), (B), and (C) of this Section.

- E. For the purposes of this Section, the following words shall have the meaning assigned below: "Sexual or genital parts" shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
- F. Every person owning, operating, or managing a massage establishment shall post a copy of this Section in a conspicuous place in the massage establishment so that it may be readily seen by persons entering the premises.

Title 5 – Business Regulations

Chapter 14 – Taxicabs

SECTIONS:

- 5-14-1 Definition
- 5-14-2 Exemption
- 5-14-3 License and Fee Required
- 5-14-4 Term of License
- 5-14-5 Insurance Policy
- 5-14-6 General Liability Exception
- 5-14-7 Soliciting Passengers
- 5-14-8 Filing; Posting; Rate Schedule

5-14-1 Definition. Whenever the word "taxicab" is used in this Chapter, it shall mean any vehicle used for the transportation of people for hire from one place to another within the City.

5-14-2 Exemptions. This Chapter shall not apply to any transportation company operating upon designated routes or between fixed terminals under an ordinance duly passed by the City. Taxis that are operated principally in other cities that use the streets of the City only temporarily and on isolated occasions need not have a license under this Chapter.

5-14-3 License and Fee Required. No person shall engage in the business of maintaining or operating any taxicabs without first procuring from the Council a license. The fee for the issuance of a license issued under this Chapter shall be set by resolution of the City Council and is listed in the **Schedule of Permits and Fees** in the **Appendix** of this Code of Ordinances. Every driver of a licensed taxi shall also possess a valid Iowa commercial driver's license, as defined by **Section 321.1(11)** of the **Code of Iowa**.

5-14-4 Term of License. Taxi licenses shall be valid for one year after the date of issue.

5-14-5 Insurance Policy. Any person operating any taxicab shall post and deposit with the Clerk an insurance policy issued by an authorized company to do business in the state, and such insurance policy shall be as set by resolution of the City Council and listed in the **Schedule of Permits and Fees** in the **Appendix** of this Code of Ordinances. The insurance policy shall be for each vehicle operated within the City and shall insure to the benefit of any person who shall suffer bodily injury or property damage or to his estate should he be killed by reason of negligence or misconduct on the part of the driver or operator of such vehicle.

5-14-6 General Liability Exception. The general liability requirement as set out in the **Schedule of Permits and Fees** in the **Appendix** of this Code of Ordinances is waived for taxi owners who do not have a fixed place of business.

5-14-7 Soliciting Passengers. It shall be unlawful for any person operating any taxicab to accost, stop, or approach and solicit any person to become a passenger in any such taxicab upon any street, alley, or other public place within the City.

5-14-8 Filing; Posting; Rate Schedule. Any person operating a taxicab shall file, with the application for a license, a schedule of rates to be charged for the use of such

taxicab. A copy of this schedule of rates shall be posted in a conspicuous place in each taxicab. Any changes to the rate structure during the term of the license shall be submitted to the City Clerk's Office and filed with the license.

Title 5 – Business Regulations
Chapter 15 – Salvage, Junk Dealers and Refuse Haulers

SECTIONS:

- 5-15-1 Purpose
- 5-15-2 Scope
- 5-15-3 License Required
- 5-15-4 Screening
- 5-15-5 Collection Vehicles License
- 5-15-6 Disposal
- 5-15-7 Violation

5-15-1 Purpose. The purpose of this Chapter is to protect the public health, safety, and welfare by regulating junk dealers, refuse and garbage haulers, and salvage dealers and to assure compliance with all applicable Ordinances of the City of Muscatine.

5-15-2 Scope. The scope of this Chapter shall encompass all land within the Corporate Limits of the City of Muscatine and any future land annexed thereto. The regulations of this Chapter shall apply to all person(s) who actively pursue a livelihood by collecting, salvaging, distributing, or processing any junk, refuse, or garbage as defined in **Title 10, Chapter 1 and Title 10, Chapter 23** of this Code and applies to all salvage, refuse, or junk dealers, whether new or existing.

5-15-3 License Required. All junk, salvage, or refuse dealers shall apply for an annual license to operate their business. Application forms must be signed by the appropriate City Officials indicating that the salvage or junk yard complies with all applicable Ordinances and regulations for the City of Muscatine. The completed application shall then be returned to the City Clerk and an annual license fee as set by resolution of council and listed in the **Schedule of Permits and Fees** in the **Appendix** to this Code of Ordinances shall be paid. Upon receipt of the completed application and fee, the City Clerk shall issue the annual license. All annual licenses shall be renewed prior to January 1st of each calendar year or such license will become null and void.

5-15-4 Screening. All owners of salvage or junk yards shall screen all parts of their salvage or junk yards which are visible from any public thoroughfare by plantings, fencing, or other opaque materials to a height not exceeding eight feet (8'), except natural plantings may exceed eight feet (8').

5-15-5 Collection Vehicles License. All trucks used for the business of hauling salvage, junk, refuse, or garbage shall be licensed annually by the City of Muscatine and shall pay a fee for each vehicle in the amount set by resolution of City Council and listed in the **Schedule of Permits and Fees** in the **Appendix** to this Code of Ordinances. Annual licenses shall be renewed prior to January 1st of each calendar year, and shall be retained at all times in the vehicle for which it is issued.

Prior to the issuance of a license for each vehicle, the owner must certify the following and provide proof of the same if requested by the City, and the City may inspect the vehicle if it deems necessary:

- A. Vehicle is owned or leased by applicant.
- B. Vehicle is properly identified with paint or decal indicating the name of the company or individual owning or operating such truck.
- C. Vehicle has been properly inspected in accordance with the laws of Iowa to assure such vehicle is safe.
- D. Vehicle is properly equipped with a safe and watertight compactor or dump box which is fully enclosed and adequate and safe to transfer any salvage, refuse, garbage, or junk without spilling such upon the public streets or endanger the general safety of the public.

5-15-6 Disposal. All salvage, refuse, garbage, or junk must be disposed of at a local landfill in accordance with [Title 10, Chapter 4 of the City Code.](#)

5-15-7 Violation. Any owner of a salvage or junk yard or refuse or garbage collector who shall fail to license their businesses or vehicles, renew their license, or operate in violation of any other City, State, or Federal Law are guilty of a simple misdemeanor and shall be subject to a fine as provided in [Section 1-2-14 of this Code of Ordinances.](#)

Title 5 – Business Regulations
Chapter 16 - Ambulance Service License

SECTIONS:

- 5-16-1 Definitions
- 5-16-2 License and Fee Required
- 5-16-3 Exemptions
- 5-16-4 Application for License
- 5-16-5 Criteria for License
- 5-16-6 Standards for Ambulance Service
- 5-16-7 Liability Insurance
- 5-16-8 Revocation of License
- 5-16-9 Fees for Assistance

5-16-1 Definitions. The following definitions are used in this Chapter:

- A. "Ambulance" refers to any motor vehicle that is specifically designed, modified, constructed, equipped, staffed, and used regularly to transport patients.
- B. "Ambulance Service" means any service program that utilizes ambulances to provide emergency medical services and emergency or non-emergency ground transport of patients to or from a health care facility or between health care facilities.
- C. "EMS" means pre-hospital emergency medical services.
- D. "Medical Direction" means direction, advice or orders provided by a Medical Director or a supervising physician or physician designee as defined in **641 Iowa Administrative Code 132.1**.
- E. "Patient" or "Patients" means any living individual(s) who is (are) injured, sick or otherwise incapacitated and in need of emergency medical services or ground transport to or from health care facilities in an ambulance.
- F. "Person" means an individual, partnership, association, corporation (governmental or private), limited liability company or any other legal entity including any receiver, trustee, assignee or similar representative.

5-16-2 License and Fee Required. No person shall operate an ambulance service within the limits of the City unless such a person holds a current and valid license for such ambulance service pursuant to this Chapter. Every ambulance service retained by any person to provide prospective or standby service at designated events or gatherings within the limits of the City shall comply fully with every requirement of this Chapter. No ambulance service license shall be transferable. In the event of a change of ownership, the new owner shall be required to obtain a license pursuant to this Chapter and to comply in all respects with all applicable statutes, ordinances, rules, and regulations relating to the operation of an ambulance service in the City at that time. Each license issued under this chapter shall be valid for a period of one year unless earlier suspended, revoked or terminated.

5-16-3 Exemptions. This Chapter does not apply to the following. Vehicles being used in an emergency when a lack of transporting resources, such as when no ambulance is available or in a disaster situation, would cause an unnecessary delay in patient care; Vehicles owned or controlled by the United States government or the government of the State of Iowa; Vehicles operated only on private property or within the confines of institutional grounds; Vehicles responding at the request of a licensed ambulance service pursuant to a mutual aid agreement approved by the City; Medical aircraft requested by a licensed ambulance or an ambulance service that has a valid mutual aid agreement with a licensed ambulance service; Persons or vehicles providing ambulance service for patient transports originating outside the limits of the City, or nonstop patient transports through the City; First responders who provide EMS care but are not engaged in the transport of patients; Persons not regularly engaged in the business of ambulance or medical transportation services who provide incidental emergency assistance to family members and acquaintances, including transportation to a medical facility in a private vehicle; Persons or vehicles of the Muscatine County Sheriff's Office, Muscatine Police Department, or other law enforcement agencies transporting persons in custody to or from health care facilities.

5-16-4 Application for License. Applications for licenses shall be made upon forms as prepared and administered by the City Clerk. The applications shall include: Name and address of the applicant and the owner of the ambulance service and ambulances; The trade or other name, if any, under which the applicant does business and proposes to do business; The training and experience of the applicant in the transportation and care of patients; A description of each ambulance, including the make, model, year of manufacture, motor and chassis number, current state license number, the length of time the ambulance has been in use; the color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate applicant's ambulance; The location and descriptions of the place or places from which the applicant intends to operate; Description of system of providing medical direction; An accompanying license fee in the amount set by resolution of the City Council and set out in the **Schedule of Permits and Fees** in the **Appendix** to this Code of Ordinances.

5-16-5 Criteria for License. In order to be eligible to receive a license to operate an ambulance service within the limits of the City, an applicant shall meet the following criteria from the time of application through the end of any approved licensure period:

- A. Hold and maintain a valid certificate of ambulance service authorization issued by the Iowa Department of Public Health pursuant to **641 IAC 132** to operate at the paramedic specialist/critical care transport level (PS/CCT);
- B. Have available for operation within the City at all times an adequate number of ambulances and qualified personnel to provide twenty-four (24) hour per day, seven (7) day per week ambulance service, including a minimum of two (2) advanced life support ambulances properly staffed. The Council shall determine what constitutes an adequate number of ambulances and qualified personnel;
- C. Must have the capability to operate an ambulance dispatch center, which shall meet or exceed the current level of service provided by Muscatine Joint Communications (MUSCOM). This requirement includes the proper use and maintenance of an Emergency Medical Dispatch (EMD) protocol. The dispatch center shall provide the Muscatine Fire Department with proper EMS information for their integration as first responders. The dispatch center shall

be capable of communicating on the radio systems of all emergency responders presently served by MUSCOM, as well as all applicable State and regional medical and fire frequencies. A joint dispatch arrangement with another organization that meets the requirements of this section is permitted;

D. Must have and maintain its own multiple-patient response capability to simultaneously immobilize and treat a minimum of three (3) patients in addition to the capacity of those ambulances staffed and in service within the system; Must be able to provide EMS services to outlaying areas of Muscatine County and nearby portions of Illinois at a level at least as great as what is currently provided.

5-16-6 Standards for Ambulance Service. Once licensed, every ambulance service shall conform to the standards, requirements, and regulations provided for in this Chapter, **Chapter 147A, Code of Iowa, 641 Administrative Code Chapter 132** and any other statute, ordinance, rule, or regulation relating to the operation of ambulance services or ambulances; Notify the Council, in writing, of its intent to discontinue operations at least 30 days prior to the effective date of the intended discontinuance of ambulance service.

5-16-7 Liability Insurance. No ambulance service license shall be issued or valid, nor shall any ambulance be operated in the City, unless there is at all times in force and effect insurance coverage issued by an insurance company licensed to do business in the State of Iowa for the ambulance service and for each and every ambulance owned and/or operated by or for the applicant or licensee, and also naming the City and its officers and employees as additional insureds. The minimum limits of liability of the insurance policy will be in the amounts set by resolution of Council and listed in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances; Certificates evidencing said insurance policies shall be submitted prior to the issuance of any license.

5-16-8 Revocation. Any violation of this Chapter or of regulations promulgated hereunder shall be sufficient grounds for revoking any license or permit issued pursuant to this Chapter. A revoked ambulance service shall not operate within the City.

5-16-9 Fees for Assistance. Any non-licensed ambulance operating within the limits of the City may be subject to a fee for service, if such ambulance requests and is given assistance by a City Department, if that assistance involves the treatment, lifting, moving or other activities related to patient care and handling.

Title 6 – Police and Public Safety

Chapter 1- Police Department

SECTIONS:

- 6-1-1 Department Established
- 6-1-2 Organization
- 6-1-3 Chain of Command
- 6-1-4 Sergeant at Arms
- 6-1-5 Peace Officer Qualifications
- 6-1-6 Peace Officers Appointed
- 6-1-7 Required Training
- 6-1-8 Duties of Chief of Police
- 6-1-9 Uniforms
- 6-1-10 Obedience to Superior Officials
- 6-1-11 Rules
- 6-1-12 Taking Weapons

6-1-1 Department Established. The police department of the City is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the City.

6-1-2 Organization. The department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the Council.

6-1-3 Chain of Command. The chain of command in the Police Department shall be as prescribed in the rules and regulations of the Department.

6-1-4 Sergeant at Arms. The Chief of Police, or his or her designated representative, shall serve as Sergeant at Arms of the Council, and as such, shall attend its meetings, keep the Council Chambers in order, and promptly serve or have served all notices or orders required of him or her by the Mayor or Council.

6-1-5 Peace Officer Qualifications. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

6-1-6 Peace Officers Appointed. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Police Chief shall select, subject to the approval of the Council, the other members of the department.

(Code of Iowa, Sec. 372.4)

6-1-7 Required Training. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

(Code of Iowa, Sec. 80B.11 [2]) (IAC, 501-3 and 501-8)

6-1-8 Duties of Chief of Police. The Police Chief has the following powers and duties subject to the approval of the Council.

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

- A. General. Perform all duties required of the Police Chief by law or ordinance.
- B. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
- C. Writs. Execute and return all writs and other processes directed to the Police Chief.
- D. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

- E. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
- F. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
- G. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
- H. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
- I. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
- J. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

6-1-9 Uniforms. Each member of the Police Department shall be required to properly wear suitable uniforms as directed by the Police Chief; the same to be according to the design, color, and material as prescribed by the Police Chief.

6-1-10 Obedience to Superior Officers. All members of the Police Department shall observe and obey the orders of their superior officers.

6-1-11 Rules. The Police Chief shall have authority to adopt such departmental rules as he or she deems necessary for the orderly administration and operation of the Police Department.

6-1-12 Taking Weapons. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.

(Code of Iowa, Sec. 804.18)

Title 6 – Police and Public Safety
Chapter 2 – Alarm Regulations

SECTIONS:

I. General Provision

- 6-2-1 Purpose
- 6-2-2 Definitions
- 6-2-3 Automatic Protection Devices
- 6-2-4 Direct Alarm Systems
- 6-2-5 Alarm System Restrictions

II. Licensing Requirements and Procedures

- 6-2-6 Alarm Business -- License Required
- 6-2-7 Alarm Agent -- License Required
- 6-2-8 Alarm System -- Permit Required
- 6-2-9 Central Station System -- License Required
- 6-2-10 Modified Central Station -- License Required
- 6-2-11 Telephone Answering Service -- License Required
- 6-2-12 License and Permit Applications and Fees
- 6-2-13 License and Permit Renewal, Modifications
- 6-2-14 Issuance of License, Permit, or Renewal
- 6-2-15 Revocation and Suspension of Licenses and Permits
- 6-2-16 Notice of Decision
- 6-2-17 Appeal Notice
- 6-2-18 Appeal Procedure
- 6-2-19 Business License Tax
- 6-2-20 Posting of Licenses and Permits
- 6-2-21 Transfer of License or Permit Prohibited
- 6-2-22 Failure to Pay Ad Valorem Taxes
- 6-2-23 Service Available
- 6-2-24 Responsibility for Alarm Response
- 6-2-25 City's Right to Own Certain Equipment

III. Enforcement and Administration

- 6-2-26 Generally
- 6-2-27 Testing of Equipment
- 6-2-28 False Fire Alarms
- 6-2-29 False Police Alarms
- 6-2-30 Change of Location
- 6-2-31 Regulation of Charges
- 6-2-32 Liability of the City Limited
- 6-2-33 Conflict of Interest Prohibited
- 6-2-34 Violations and Penalties

I. GENERAL PROVISIONS

6-2-1 Purpose. It is the purpose of this Ordinance to protect the Muscatine Police and Fire departments and property owners from the erroneous and mistaken use of security and fire alarms which results in increased false response calls by the Police and Fire departments and is creating a hazard to the members of the departments and to the general public. It is further the purpose of this Ordinance to control the use of security and fire alarms connected to the City's Public Safety Building.

6-2-2 Definitions. For the purpose of this Chapter, the following words and phrases shall be construed to have the meaning set forth in this Section unless it is apparent from the context that a different meaning is intended.

- A. "Alarm agent" means any person engaged in or employed by an alarm business, either directly or indirectly, whose duties include any of the following activities: selling, maintaining, leasing, servicing, inspecting, repairing, altering, replacing, moving, or installing an alarm system on any building, place, or premises.
- B. "Alarm business" means the business of selling, leasing, maintaining, inspecting, servicing, repairing, replacing, altering, moving, or installing an alarm system.
- C. "Alarm system" means an assembly of equipment or devices arranged to send a signal to a remote receiving station to make known the occurrence of a robbery or an attempted robbery or an unauthorized intrusion requiring urgent attention and to which the police are expected to respond and includes both automatic and manually operated systems. Alarm systems shall include automatic holdup alarm systems, burglar alarm systems, holdup alarm systems, manual holdup alarm systems. This term also includes an assembly of equipment or devices, or a single device, which monitors temperature, humidity, or other conditions, arranged to send a signal to a remote receiving station to make known the occurrence of a fire or fire-related condition requiring urgent attention and to which the Fire Department is expected to respond and includes both automatic and manually operated system. Fire alarms are included in this definition of alarm systems.
- D. "Alarm user" means the person, firm, partnership, corporation, company, association, or other organization of any kind which has an alarm system to protect its premises, regardless of whether it owns or leases the alarm system. Each premises having a separate connection to the Police or Fire Department, or to a central station system, a modified central station, or a telephone answering service shall be considered a separate alarm system user for purposes of calculating false alarms subject to the following: in the event a building or group of buildings is connected to or part of a single integrated alarm system, the entire building or group of buildings shall be considered to have a single alarm system for purposes of calculating false alarms; but if the building or group of buildings is not so connected, then each individual alarm system shall be treated as a separate premises. However, any building or group of buildings which contains multiple leaseholds or condominium agreements shall be considered to be a single alarm system as to the common areas of the buildings or group of buildings which are not covered by leasehold or condominium ownership for other than common usage. All other premises not specifically mentioned shall, as to each separate ownership, lease, or other interest owning, maintaining, or using an alarm system, be considered to have a separate alarm system for purposes of calculating false alarms.
- E. "Automatic protection device" means an instrument which automatically sends a pre-recorded voice alarm actuated by a physical force or condition characteristic of a fire, other casualty, or unauthorized intrusion, over regular telephone lines.
- F. "Burglar alarm system" means a method of detecting and signaling the presence, entry, or attempted entry of an intruder into a protected premises.
- G. "Central station system" means a system or group of systems, usually operated for customers by a person, in which the signals and messages of automatic protection devices and alarm systems are transmitted to, recorded in, and supervised from a central location which has trained operators and guards on duty at all times who shall take appropriate action upon receipt of a signal or message including the relaying of messages to the Police Department.

- H. "City" means the City of Muscatine, Iowa, or such officers or employees as may be designated by this Chapter to have specific duties in relation to this Chapter.
- I. "Direct alarm system" means an alarm system which has the capability of transmitting signals for reception by the communications center of the Police Department.
- J. "Direct line" means a private line circuit ring down telephone line leading directly to the communications center of the Police Department that is for use only to report emergency messages and signals on a person-to-person basis.
- K. "False fire alarm" means the activation of a fire alarm system through technical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his or her employees or agents. False fire alarm does not include the activation of an alarm system which is caused by storms, tornadoes, or other violent weather conditions. False fire alarm does not include alarm system activations or failures caused by water, gas, electrical, telephone or other transmission devices not under the control of an alarm user or his or her employees or agents, the willful act of any person other than the alarm user or his or her agent or employee, and does not include alarm activations or failures due to conditions clearly beyond the control of the alarm user or his or her agents or employees.
- L. "False police alarm" means the activation of an alarm system through technical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his or her employees or agents. False police alarm does not include the activation of an alarm system which is caused by storms, tornadoes, or other violent weather conditions. False police alarm also does not include the activation or failure of an alarm system caused by transmission lines not under the control of an alarm user or alarm agent, the willful act of any person other than the alarm user or his or her employees or agents or the alarm agent, and does not include activations or failures due to conditions clearly beyond the control of the alarm agent or alarm user. False police alarm does include the activation or use of an alarm system for purposes other than warning or notification of an unauthorized intrusion, or robbery or attempted robbery, or other emergency situations.
- M. "Fire Chief" means the Chief of the Fire Department of the City, or the Chief's authorized representative.
- N. "Fire Department" means the Fire department of the City.
- O. "Holdup alarm system" means a method of signaling a robbery or attempted robbery or unauthorized intrusion of a premise in which the signal transmission is initiated by the direct action of a person.
- P. "Indicator" means the instrumentation on a monitor panel at the receiving terminal of a signal line which produces both visual and audible alarm signals when activated by a signaling device at an identifiable location or origin.
- Q. "Key" (to a telephone line) means to use a telephone line for transmitting a message, either by direct connection or by a mechanism not so connected, that utilizes the microphone of a standard telephone to do so.
- R. "Modified central station" means a central station operated for the customers of an alarm business by a person which provides at all times the service of monitoring and relaying messages for customers to the Police or Fire Department communications center in connection with automatic protection devices and alarm systems, but which does not

meet the requirements nor provide all the services of a central station. This definition includes "monitoring stations".

- S. "Person" means any individual, partnership, corporation, association, or other organization, but does not include the City.
- T. "Police Chief" means the Chief of the Police Department of the City or the Chief's authorized representative.
- U. "Police Department" means the Police Department of the City.
- V. "Protected premises" means that part of a building or real estate to which protection is afforded by an alarm system.
- W. "Primary trunkline" means a telephone line leading directly into the communications center of the Police or Fire Department that is for the purpose of handling emergency calls on a person-to-person basis, and which line is identified as a Public Safety Response line such as "911" or by a specific listing among any Police Department numbers in any telephone directory issued by any telephone directory publisher serving the City and surrounding area.
- X. "Secondary trunkline" means a telephone line leading into the Police or Fire Department or City Hall that is identified by a specific listing among the telephone numbers in any telephone directory issued by any telephone directory publisher serving the City and surrounding area that is for handling administrative and other non-emergency calls on a person-to-person basis.
- Y. "Signaling device" means an instrument that, upon detection of physical force or condition characteristic of an emergency, will activate a signal line in such a way as to cause both visual and audible signals to be registered by indicators on a monitor panel at the receiving terminal of the signal line in a central location.
- Z. "Signal line" means a line not connected to any standard telephone equipment which leads into an indicator panel in the communications center of the Police or Fire Department, or into such a panel in either a central station system or a modified central station and which is designated to transmit an alarm signal readily identifiable as to location or origin.
- AA. "Telephone answering service" means a business operating a telephone answering activity that includes the service whereby trained employees on duty at all times receive pre-recorded voice messages from automatic protection devices and who have the duty to relay immediately by live voice any such emergency message to the police or fire department.
- BB. "This chapter" includes any regulations adopted pursuant to the provisions of Section 6-2-26 and the standards, rules, and regulations established by the chief for direct alarm systems.

6-2-3 Automatic Protection Devices.

- A. Restrictions on keying.
 - 1. No person shall install, cause to be installed, or permit the installation or operation of an automatic protection device keyed either to a primary or secondary trunkline on premises of any kind within the corporate limits of the City.
 - 2. An owner or lessee of an automatic, protection device who has an alarm system permit may authorize an alarm business licensed by this Chapter to intercept the signal or message and relay it by direct line to the communications center of the Police or Fire Department, provided that the device meets the requirements of this Chapter and, further provided that the operations of such device will not interfere with the normal functions of the Police or Fire Department.
 - 3. No person, except an alarm business or alarm agent with a license from the City as required by this Chapter, shall install any automatic protection device within the corporate limits of the City.
- B. Keying to Intermediaries - Any person who has an automatic protection device within the corporate limits of the City may arrange to have such device keyed to any of the following intermediaries who are authorized to relay emergency messages to the communications center of the Police or Fire Department, as appropriate:
 - 1. A licensed central state system;
 - 2. A licensed modified central station;
 - 3. A licensed telephone monitoring

6-2-4 Direct Alarm Systems.

- A. No direct alarm system shall be permitted with the Police or Fire Department except such as is connected to an indicator panel installed in uniform consoles within the communications facilities of the Police or Fire Department pursuant to a permit issued in accordance with the provisions of this Chapter.
- B. The chief may limit the number of such permits and may set standards, rules, and regulations governing direct alarm systems.

6-2-5 Alarm System Restrictions.

- A. No central station system, modified central station, or telephone answering service shall relay messages from any alarm system to the Police or Fire Department other than through a direct line.
- B. Any audible signal or noise from an alarm system which can be heard directly outside the perimeter of the protected premises must automatically terminate within fifteen (15) minutes from the time it was activated.

II. LICENSING REQUIREMENTS AND PROCEDURES

6-2-6 Alarm Business - License Required. No person shall conduct an alarm business within the corporate limits of the City unless they possess a currently valid alarm business license issued pursuant to this Chapter.

6-2-7 Alarm Agent - License Required. No person shall conduct themselves as an alarm agent within the corporate limits of the City unless they have a currently valid alarm agent business license issued pursuant to this Chapter. A person holding a valid alarm business license is exempt from the requirement of obtaining an alarm agency license.

6-2-8 Alarm System - Permit Required.

- A. No person shall install, cause to be installed, or permit the installation or operation of an alarm system unless a currently valid alarm system permit or direct alarm system permit has been issued by the City Clerk for such alarm system pursuant to the provisions in this Chapter. A separate alarm system permit shall be obtained for each fire, burglar, or holdup alarm which transmits a signal or message to the City of Muscatine Police/Fire Department communication center, a central station system, a modified central station, a telephone answering service or an on-premises audible and/or visual alarm device which can be heard or observed outside the perimeter of the protected premises.
- B. Those conducting alarm businesses shall be responsible for procuring and processing all applications, and any renewals, for their subscribers, and for transmitting completed applications to the Police and Fire Chief and all fees to the City Clerk. Those conducting alarm businesses are further required to report, within thirty (30) days, the discontinued use of any alarm system serviced by the alarm business to the Police and Fire Chief.
- C. Where the alarm system is in operation and is not serviced by an alarm business, the person owning, or possessing such alarm system shall be responsible for obtaining the permit and shall make direct application to the Police and Fire Chief. When an alarm system not serviced by an alarm business is no longer in operation, the person owning or possessing such alarm system shall report, within thirty (30) days, the discontinued use of the alarm system to the Police and Fire Chief.

6-2-9 Central Station System - License Required. No person shall operate a central station system, which relays messages to the Police or Fire Department in the absence of a currently valid central station system license issued pursuant to the provisions of this Chapter.

6-2-10 Modified Central Station - License Required. No person shall conduct a modified central station system which relays messages to the Police or Fire Department in the absence of a currently valid license issued pursuant to the provisions of this Chapter.

6-2-11 Telephone Answering Service - License Required. No person shall conduct a telephone answering service which includes in such service the receipt and relay of messages to the Police or Fire Department from automatic protection devices in the absence of a currently valid telephone answering service license issued pursuant to the provisions of this Chapter.

6-2-12 License and Permit Applications and Fees.

- A. Applications for licenses and permits required by this Chapter shall be filed with the City Clerk on forms provided for that purpose, and shall be reviewed by the Police and Fire Chief.

B. Each application shall be accompanied by a receipt for a non-refundable fee from the City Clerk. The fee required by this Section shall be set by resolution of the City Council and is listed in the [Schedule of Permits and Fees](#) contained in the [Appendix](#) to this Code of Ordinances.

6-2-13 License and Permit Renewal, Modifications.

- A. All licenses and direct alarm system permits issued pursuant to this chapter shall expire annually on June 30. All applications for renewal of such licenses and permits shall be filed with the Clerk and reviewed by the Police and Fire Chief on forms provided for that purpose. The fee for the renewal of each license and direct alarm system permit shall be the same as the initial application fee and shall be paid to the City Clerk prior to the time the license or permit renewal is issued.
- B. Alarm system permits need not be renewed.
- C. Any modification of, change in ownership of, change in location of, or addition to an alarm system requires that a new application, new application fee, and new alarm system permit be issued pursuant to this Chapter.

6-2-14 Review of License, Permit, or Renewal.

- A. The Police and Fire Chief shall have a reasonable time to investigate the application for a license, or for the renewal thereof, and the background of the applicant to the extent deemed necessary. Thereafter, the license shall be issued unless the Police and Fire Chief finds that:
 1. The applicant has submitted an application that contains a misstatement or omission of any material fact, or
 2. Some matter or activity in the background of the applicant reasonably related to the activities to be engaged in is such that a reasonable person would conclude that there would be an undue risk to the public health, safety, or welfare if the license were granted, or
 3. The applicant has been convicted of a felony within the last fifteen (15) years from the date of the application.
- B. The Police and Fire Chief shall have a reasonable time to investigate the application for a permit, or for the renewal thereof, to the extent deemed necessary. The Police and Fire Chief may also inspect the alarm system and protected premises to the extent deemed necessary. Thereafter, the permit shall be issued unless the Police and Fire Chief finds that:
 1. The applicant has submitted an application that contains a misstatement or omission of any material fact, or
 2. The alarm system was, or will be, installed by an unlicensed alarm business or alarm agent, or
 3. The alarm system is not in conformance with this Chapter, or
 4. The alarm system has generated an excessive number of false alarms such that it has interfered with the conduct of the business of the Police Department or Fire Department.

- C. After the Police and Fire Chief review and investigate an application for a license or permit under this Chapter, the Police and Fire Chief shall confer with one another within a reasonable time following the conclusion of their investigation and vote to either approve or deny such application. If one votes in the affirmative and another in the negative, the chief of each department shall within a reasonable time submit to the City Administrator his or her respective decision and any supporting explanation or documentation. The City Administrator shall then decide whether the application should be denied or approved within a reasonable time following receipt of all relevant information and shall provide notice of such decision pursuant to **Subsection 6-2-14[D] or [E]**.
- D. If the license or permit, or renewal thereof, is denied, the reason for the denial shall be set forth in writing and provided to the applicant or his designee as provided in **6-2-16**.
- E. Upon approval by the Police and Fire Chief, or by the City Administrator in the event of disagreement between the Police and Fire Chief, of the application for a license or permit, or for the renewal thereof, the Chiefs or City Administrator shall endorse his/her approval thereon and transmit the application together with the receipt for the fee to the office of the City Clerk who shall be responsible for the issuance of the license, permit, or renewal thereof.

6-2-15 Revocation and Suspension of Licenses and Permits.

- A. **Grounds.** A license granted under this Chapter may be suspended or revoked by the Police and Fire Chief if together they find that the business operations of the licensee are being, or have been, conducted in violation of state law or local ordinance, or that there exists any of the grounds for not issuing an original license, or renewal, pursuant to this Chapter. For the purpose of this Chapter, the holder of a license shall be responsible for the conduct of its officers, agents, or employees. A permit may be suspended or revoked if there exists any of the grounds for not issuing an original permit, or renewal thereof, pursuant to this Chapter.
- B. **Notice and Hearing.** A license or permit, however, may not be revoked or suspended until a hearing has been held before the Police and Fire Chief. Written notice of the time and place for the hearing shall be served upon the licensee or permittee at least seven days prior to the date set for the hearing if such notice is personally served. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the license or permit. Notice shall be given either by personal delivery to the person to be notified or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified at the address appearing on the application. If notice is given by mail as provided, it shall be deemed given at the time of the deposit in the United States mail, but such notice shall be given at least seven days prior to the date set for such hearing.
- C. **Decisions.** After the Police and Fire Chief have held a pre-revocation or suspension hearing, the Police and Fire Chief shall confer with one another within a reasonable time following the conclusion of the hearing and shall vote either for or against revocation or suspension. If one votes in the affirmative and another in the negative, the Chief of each department shall within a reasonable time submit to the City Administrator his or her respective decision and any supporting explanation or documentation. The City Administrator shall then decide whether the application should be denied or approved within a reasonable time following receipt of all relevant information and shall provide notice of such decision pursuant to **Subsection 6-2-16**.

D. Any person aggrieved by the action of the Police and Fire Chief or City Administrator may appeal to the City Council within the time and manner provided in this Chapter.

6-2-16 Notice of Decision.

- A. Within ten (10) days after reaching a determination regarding an application for a license or permit; or after a hearing concerning the suspension or revocation of a license or permit, the Police and Fire Chief, or the City Administrator in the case of disagreement between the Police and Fire Chief, shall cause a written copy of the decision to be served on the applicant, licensee, or permittee at the address set forth in the application or renewal, or at an address specified by the applicant, licensee, or permittee. Said decision shall be deemed served when deposited in the United States mail.
- B. The copy of the decision shall apprise the applicant, licensee, or permittee of his right to appeal and of the time limitation and appeal procedures specified in this Chapter.

6-2-17 Appeal Notice.

- A. An applicant, licensee, or permittee aggrieved by the decision of the Police and Fire Chief or the City Administrator shall have the right to appeal to the City Council.
- B. Notice of appeal must be filed with the City Clerk within fifteen (15) days after service of the decision. The notice of appeal shall briefly state the basis for such appeal.

6-2-18 Appeal Procedure.

- A. Hearing. Upon receipt of the notice of appeal together with an appeal fee of fifty dollars (\$50.00), the City Clerk shall cause the matter to be placed on the agenda of the next regularly scheduled meeting of the City Council. The City Clerk shall cause a written notice of the time and place of meeting to be given to the appealing party. If the appealing party deems additional time is necessary to prepare a presentation for the hearing, the appealing party shall notify the City Clerk thereof and upon receipt of such notice the City Clerk shall continue the hearing to a later date, not to exceed thirty days beyond the original date set for hearing.
- B. Burden of Proof. At the time and place set for hearing upon the appeal, the City Council shall give the appealing party a reasonable opportunity to be heard in order to show just cause why the determination of the Police and Fire Chief, or the City Administrator, as the case may be, should not be upheld. In cases where a license or permit has been denied, the burden of proof to show that the action taken by the Police and Fire Chief or the City Administrator was arbitrary, capricious, or in excess of their authority shall be upon the appealing party. In cases where a license or permit has been suspended or revoked, or a license or permit renewal was denied, the burden of proof shall be upon the Police and Fire Chief, or the City Administrator if he or she made the final decision, to establish that appropriate grounds existed for such action.
- C. Notice of Decision. The City Council shall reach a decision on the matter within fourteen (14) days after the hearing and within ten (10) days after reaching a determination with reference thereto shall cause a written copy of the decision to be mailed to the appellant. At the same time the City Council shall give to the Police and Fire Chief a copy of such decision.

6-2-19 Business License Tax. Nothing contained in this Chapter shall be construed as a waiver or exemption from any business license tax otherwise applicable.

6-2-20 Posting of Licenses and Permits. A central station system, modified central station, telephone answering service, or an alarm business license shall be posted at all times at the premises from which the licensed activity is conducted. A person acting as an alarm agent shall carry their alarm agent registration card on their person at all times while so engaged and shall display said card to any police officer or fire fighter upon demand. An alarm system permit shall be posted at all times on the protected premises.

6-2-21 Transfer of License or Permit Prohibited. No license or permit issued pursuant to this Chapter shall be transferable.

6-2-22 Failure to Pay Ad Valorem Taxes. No license or permit shall be issued or renewed pursuant to this Chapter if any ad valorem taxes upon any real property or personal property used directly or indirectly in connection with the proposed business or service are delinquent. Where a license or permit has been issued and ad valorem taxes on such property thereafter become delinquent, the license or permit shall be subject to cancellation immediately without notice and without right of appeal.

6-2-23 Service Available. Each alarm business shall have licensed alarm agents and supplies and equipment so located as to be able to respond to a request for repair or adjustment of any alarm system that such an alarm business sold, maintained, or inspected within four (4) hours of the request for such service. They shall respond within four (4) hours of the request; except that if the request occurs within the hours that the protected premises is open for business or otherwise substantially occupied, repair or adjustment may be made at any time prior to the closing of the protected premises.

6-2-24 Responsibility for Alarm Response. Every person who has an alarm system on premises shall, upon notification that the alarm system is giving a signal, proceed immediately to the protected premises and render all necessary service. However, the owner or person in control of the protected premises may enter into an agreement with an alarm business or other responsible party or service to respond in that person's stead to the site of the alarm. A responsible person shall respond to every notification, without exception. Such response shall be made within thirty (30) minutes of notification. Failure to respond to such notification on more than one occasion will result in the revocation of the alarm permit

6-2-25 City's Right to Own Certain Equipment.

- A. All alarms will be routed through a central monitoring panel owned and maintained by a single alarm company. The City reserves the right to own all indicator panels and accessory equipment for direct alarm systems located within the Police or Fire departments. In such cases, each direct alarm system permittee, in addition to the annual permit fee, shall be required to pay an initial installation fee and an annual user fee in the amount as updated by City Council resolution and set out in the **Appendix** to this Code of Ordinances, and uniformly applied to cover the cost of the maintenance of such facilities. In the event the City decides not to own the equipment within the Police or Fire departments, but to provide for its installation and maintenance by a third party, the City shall establish and regulate reasonable fees and charges which may be charged by the direct alarm system permittee, and the third party shall, at no additional cost to the City, make the necessary connection to the indicator panel and maintain the required equipment for all direct alarm systems located within city-owned buildings as requested by the City. All such fees provided by this Subsection shall be payable annually on or before June 30 of each year.
- B. The Police or Fire Chief may set standards and rules and regulations governing all indicator panels and accessory equipment for direct alarm systems located within the Police and Fire departments.

III. ENFORCEMENT AND ADMINISTRATION

6-2-26 Generally.

- A. Enforcement and administration of this Chapter shall be functions of the Chiefs of the respective departments (Police or Fire) concerned except where this Chapter specifically assigns responsibility to other parties.
- B. The Chiefs may propose rules and regulations, not inconsistent with the terms of this Chapter, prescribing minimum equipment standards, facility standards, and operation standards for the installation, construction, maintenance and operation of alarm systems, central station systems, modified central stations, telephone answering services, and requiring inspection and approval of all such systems. Such rules and regulations shall have the full force and effect of law upon adoption by resolution by the City Council after a public hearing. No permit or license shall be issued for any device or system which does not comply with the provisions of this Chapter and said rules and regulations as finally adopted. Copies of these standards shall be furnished to all licensed alarm businesses, central station systems, modified central stations, and telephone monitoring services, and shall be available for inspection in the office of the chiefs and City Clerk.

6-2-27 Testing of Equipment. No person shall conduct any test or demonstration of an automatic protection device or a signaling device designed to make direct connection with the Police or Fire departments without first contacting the Public Safety Communications Center where the equipment to be tested or demonstrated is keyed to an intermediary. Such permission is not required unless the alarm or signal is to be relayed to the Police or Fire department.

6-2-28 False Fire Alarms.

- A. A report on a form approved by the Fire Chief shall be forwarded, if requested by the Chief, to the Fire Department within forty-eight (48) hours, Sundays and holidays excepted, with regard to each and every false alarm transmitted to the Public Safety Communications Center, and such additional information as may be reasonably required by the Chief to be supplied with regard thereto. The report shall be made by the alarm business where the alarm system is serviced by an alarm business. The report shall be made by the alarm system permittee in all other instances.
- B. Defective Equipment. If any false fire alarm occurs as a result of any defect of the fire alarm system or equipment, including the method of sounding or transmitting the alarm signal, or from any defect in the installation of the alarm equipment, including the method of sounding or transmitting the alarm signal, or the faults or neglect of the alarm system permittee of any of their employees, the report of the false fire alarm shall include a statement as to the action taken to remedy the false fire alarm cause.
- C. Interference with the Department. In addition to the foregoing remedy of suspension or revocation, when false fire alarms from any premises are so excessive as to interfere with the normal conduct of the business of the Fire Department, the Fire Chief may decline to respond to any alarms until the cause of such false fire alarms is corrected. The Fire Chief shall make reasonable effort to give prompt notice of such action to the owner or occupant of the protected premises.

6-2-29 False Police Alarms.

- A. Reports. A report on a form approved by the Police Chief shall be forwarded, if requested by the Chief, to the Police Department within forty-eight (48) hours, Sundays and

holidays excepted, with regard to each and every false alarm transmitted to the Public Safety Communications Center together with such additional information as may be reasonably required by the Chief. The report shall be made by the alarm business where the alarm system is serviced by an alarm business. The report shall be made by the alarm system permittee in all other cases.

- B. Defective Equipment. If any false police alarm occurs as a result of any defect of the alarm equipment, including the method of sounding or transmitting the alarm signal, or from any defect in installation of the equipment, including the method of sounding or transmitting the alarm signal or the faults or neglect of the alarm system permittee or any of their employees, the report of the false alarm shall include a statement as to the action taken to remedy the false police alarm cause.
- C. Interference with the Department. In addition to the foregoing remedy of revocation or suspension, when false police alarms from any protected premises are interfering with the normal conduct of the business of the Police Department, the Chief may decline to respond to any alarms until the cause of such false alarms is corrected. The Chief shall make a reasonable effort to give prompt notice of such action to the owner or occupant of the protected premises.

6-2-30 Change of Location. If the location of the communications facilities of the Police Department should be changed or moved, the cost of moving any alarm system or parts thereof shall be borne by the permittee.

6-2-31 Regulation of Charges. If alarm reporting equipment located inside the Police Department is privately owned and the owner makes any charge for the connection to that equipment, such charge shall be fully borne by the owner of the reporting equipment.

6-2-32 Liability of the City Limited. The City shall take every reasonable precaution to assure that alarm signals and messages received from central station systems, modified central stations, and telephone monitoring services regarding alarm signals received by the City are given appropriate attention and are acted upon with dispatch. The City shall not be liable for any defects in the operation of any alarm devices or signal line systems, for any failure or neglect to respond appropriately upon receipt of an alarm, nor for the failure or neglect of any person with a license or permit issued pursuant to this Chapter in connection with the installation, maintenance, or operation of equipment, the transmission of alarm signals and pre-recorded alarm messages, or the relaying of such signals and messages. In the event that the City finds it necessary to disconnect a defective automatic protection device or signaling device, the City shall incur no liability by such action.

6-2-33 Conflict of Interest Prohibited. No employee of the Police or Fire Department, nor a member of such employee's immediate family, shall have any interest, directly or indirectly, in any alarm business within the limits of the City. No such employee or family member shall be employed by an alarm business subject to the provisions of this Chapter.

6-2-34 Violations and Penalties. Violations of this chapter shall be deemed a municipal infraction and shall be punishable as provided in **Title 1, Chapter 3** of this Code of Ordinances.

**Title 6 – Police and Public Safety
Chapter 3 – General Offenses**

SECTIONS:

- 6-3-1 Penalty
- 6-3-2 Firecrackers; Explosives
- 6-3-3 False Information as to Incendiary Devices
- 6-3-4 False Reports to or Communications with Public Safety Entities
- 6-3-5 Threats of Incendiary or Explosive Devices.
- 6-3-6 Assault
- 6-3-7 Theft
- 6-3-8 Criminal Mischief
- 6-3-9 Defacing Notices
- 6-3-10 Trespass
- 6-3-11 Obstructing Public Officials
- 6-3-12 Drug Paraphernalia
- 6-3-13 Disorderly Conduct
- 6-3-14 Permitting Disorderly Conduct
- 6-3-15 Urinating or Defecating
- 6-3-16 Unlawful Assembly
- 6-3-17 Failure to Disperse
- 6-3-18 Nudity
- 6-3-19 Police Dogs; Willful Mistreatment- Interference
- 6-3-20 Weapons

6-3-1 Penalty. Except as otherwise provided, a violation of any of the provisions of this Chapter is a simple misdemeanor and shall be punished as provided in **Iowa Code Section 903.1(a)**, maximum sentence for misdemeanants, which is adopted by reference.

6-3-2 Firecrackers; Explosives. The sale, use, and exploding of fireworks within the City are subject to the following:

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

(Code of Iowa, Sec. 727.2)

- B. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided the City may, upon application in writing to the City Council at least one week in advance of the last Regular City Council meeting prior to date of the display, 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.

(Code of Iowa, Sec. 727.2)

- C. **Bond/Insurance for Fireworks Display Required.** The permittee shall furnish a bond or certificate of insurance in the amount set out in the **Schedule of Permits and Fees** in the **Appendix** to this Code of Ordinances for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or subcontractors.
- D. **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 theatre, 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.

(Code of Iowa, Section 727.2)

- E. **Disposal of Unfired Fireworks.** Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining.
- F. **Seizure of Fireworks.** The Police or Fire Chief shall seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored or held in violation of this article.

6-3-3 False Information as to Incendiary Devices. 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, Section 712.7)

6-3-4 False Reports to or Communications with Public Safety Entities. It shall be unlawful for any person to 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 to report the alleged occurrence of a criminal act knowing the act did not occur.

(Code of Iowa, Section 718.6)

6-3-5 Threats of Incendiary or Explosive Devices. 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, Section 712.8)

6-3-6 Assault. A person commits an assault when, without justification, the person does any of the following:

- A. 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, Sec. 708.1 [1])

- B. 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, Sec. 708.1 [2])

However, 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 or serious injury or breach of the peace, the act is not an assault. Provided, where the person doing any of the above enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds or at an official school function regardless of the location, the act is not an assault, whether the fight or physical struggle or other disruptive situation is between students or other individuals if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

(Code of Iowa, Sec. 708.1)

6-3-7 Theft. It is unlawful for any person to commit theft as defined in [Section 714.1 of the Code of Iowa](#).

(Code of Iowa, Section 714.1)

6-3-8 Criminal Mischief.

- A. It shall be unlawful for any person to intentionally damage, deface, alter, or destroy any tangible property when that person has no right to so act.

(Code of Iowa, Section 716.1)

- B. Multiple Acts. Whenever criminal mischief is committed upon more than one item of property at approximately the same location or time period, so that all of these acts of mischief can be attributed to a single scheme, plan, or conspiracy, such acts shall be considered as a single act of criminal mischief.

(Code of Iowa, Section 716.2)

6-3-9 Defacing Notices. It is unlawful for a person intentionally to deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or the State, or any proclamation, advertisement or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Section 716.1)

6-3-10 Trespass. It is unlawful for a person to knowingly trespass upon the property of another. As used in this section, the term "property" includes any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure whether publicly or privately owned. The term "trespass" means one or more of the following acts:

(Code of Iowa, Section 716.7 and 716.8)

- A. To enter upon or in property without justification or without the implied or actual permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything inanimate or animate.

(Code of Iowa, Section 716.7[2a])

- B. To 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 the agent or employee of the owner, lessee, or person in lawful possession or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

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

- C. To enter upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

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

- D. To be upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

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

- E. Exception. Trespassing shall not include entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to retrieve the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

(Code of Iowa, Sec. 716.7 [3])

6-3-11 Obstructing a Public Official.

- A. Interference with Official Acts. It shall be unlawful for any person to knowingly resist or obstruct any one known by the person to be a peace officer in the performance of any act which is in the scope of the officer's lawful duty or authority, or to 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, Section 719.1)

- B. 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 an arrest, or to prevent the commission of any criminal act, shall render assistance as

required. It shall be unlawful for any person to unreasonably and without lawful cause to refuse or neglect to render assistance when so requested.

(Code of Iowa, Section 719.2)

- C. Harassment of Public Officers and Employees. It shall be unlawful for any person to willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Section 718.4)

6-3-12 Drug Paraphernalia.

- A. Definitions. 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:
 1. Manufacture a controlled substance.
 2. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
 3. Test the strength, effectiveness, or purity of a controlled substance.
 4. 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.

(Code of Iowa, Section 124.414[1])

- B. Manufacture, Deliver, Sell or Possession. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

(Code of Iowa, Section 124.414[2])

- C. Advertisement of Drug Paraphernalia Prohibited. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication of any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

6-3-13 Disorderly Conduct. It shall be unlawful for any person to do any of the following:

- A. Engages 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.
- B. Makes loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.
- C. Directs abusive epithets or makes any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

- D. Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.
- E. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.
- F. Knowingly and publicly uses the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault.

(Iowa Code, Section 723.4)

6-3-14 Permitting Disorderly Conduct. It shall be unlawful for any person to allow or permit any disorderly conduct prohibited in **Section 6-3-13** in any house or upon any premises owned, occupied, or possessed by him.

6-3-15 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.

6-3-16 Unlawful Assembly. It shall be unlawful for two (2) or more persons to assemble together, if any or all of them act in a violent manner, with the intent that any or all of them will commit a public offense. In addition, it shall be unlawful for any person to willingly join in or remain a part of an unlawful assembly knowing or having reasonable grounds to believe that it is such.

(Code of Iowa, Section 723.2)

6-3-17 Failure to Disburse. 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 disburse. It shall be unlawful for any person within hearing distance of such a peace officer to refuse to obey said command.

(Code of Iowa, Section 723.3)

6-3-18 Nudity. It shall be unlawful and considered disorderly conduct for a man or woman to display his/her private parts, as defined as person's genitalia, buttocks or a woman's breasts, in public.

6-3-19 Police Dogs, Willful Mistreatment — Interference. It shall be unlawful for any person to willfully or maliciously torture, torment, beat, kick, strike, mutilate, injure, disable, or kill any dog used by the Police Department in the functions or duties of such department, or to interfere with or tamper with any such dog while being used by the Police Department.

(Code of Iowa, Section 717B.9)

6-3-20 Weapons.

- A. Discharging Firearms. It shall be unlawful for any person to throw any missile upon any street, alley, public place or to discharge any firearm, B.B. gun, pellet gun, bow and arrow, sling shot, or any other device which discharges a projectile, within the corporate limits of the City of Muscatine, except on a recognized target range.

(Code of Iowa, Section 364.12[2])

Deer Hunting Exception. It shall not be deemed a violation of this Subsection to use a bow and arrow to hunt deer on parcels of two (2) acres or more, or to discharge a firearm, other than a centerfire rifle or other offensive weapon as defined by Iowa Code, to hunt deer on parcels of sixty (60) contiguous acres or more, subject to the following conditions:

1. The person is the owner of the property or has permission from the owner to allow for bow or firearm hunting.
2. The person bow hunting must successfully complete a proficiency test as approved by action of the Muscatine City Council.
3. The person has a license or permit required by the State of Iowa to hunt deer with a bow or firearm.
4. The person has a permit issued by the Muscatine City Clerk.
5. The bow hunt shall be authorized by action of the Muscatine City Council prior to October 1 of each year, during the time when such hunting is allowed by the law and regulations of the State of Iowa.
6. Hunting shall not occur within 50 yards of any residence, church, or occupied structure.
7. The bow hunt shall be limited to the sex of the deer allowed by the laws or regulations of the State of Iowa and as allowed by action of the Muscatine City Council.
8. The person hunting must demonstrate compliance with these requirements to any law enforcement officer upon request.
9. Persons wishing to participate in the bow hunting program are required to attend an informational meeting held by the City of Muscatine in advance of the designated season.
10. With the permission of City Council, designated public property may be used during the designated hunting season.
11. Property owners with adjoining lot lines will be permitted to combine properties to reach the minimum two (2) acres required for bow hunting and there will be no zoning restriction on this acreage. However, property owners are not allowed to join property in order to reach the sixty-acre (60) requirement needed to qualify for the firearm hunting exception allowed under this Section. The sixty (60) acres must be contiguous.

B. Carrying of Weapons. It shall be unlawful for any person to go armed with a dangerous weapon concealed on or about the person, or to, 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 to knowingly carry or transport in a vehicle a pistol or revolver, except as otherwise provided under **Chapter 724.4 of the Code of Iowa.**

(Code of Iowa, Section 724.4)

C. Peace Officers – Exception. Nothing in this Section shall be construed to prevent peace officers from using their weapons in the performance of their duties.

Title 6 – Police and Public Safety

Chapter 4 – Graffiti

SECTIONS:

- 6-4-1 Definitions
- 6-4-2 Graffiti Prohibited
- 6-4-3 Graffiti Declared a Nuisance
- 6-4-4 Implements of Graffiti – Restrictions
- 6-4-5 Penalties

6-4-1 Definitions.

- A. "Graffiti" means any sign, symbol, marking, drawing, name, initial, word, diagram, sketch, picture, or letter placed upon the real or personal property of an owner, excluding vehicles, without the owner's express consent; provided, however, consent of the owner shall not be an exception where the graffiti is visible from public property or right-of-way and tends to incite violence or disorderly conduct or is obscene under state law. After a *prima facie* showing that an inscription or marking is graffiti, the burden of proving the owner's express consent is upon the defendant.
- B. "Hearing officer" means the City Administrator or his/her designee.
- C. "Implement of graffiti" means a spray paint container, paint, ink, marking pens containing non-water soluble fluid, brushes, or other materials used for painting, marking, scratching or etching in a non-temporary way.
- D. "Minor" means any person under the age of eighteen years.

6-4-2 Graffiti Prohibited.

- A. It shall be unlawful for any person to place graffiti upon the real or personal property of another.
- B. It shall be unlawful for any person to have graffiti, visible from public property or right-of-way, upon his real or personal property for more than a reasonable time period not to exceed ten days.

6-4-3 Graffiti Declared a Nuisance. Graffiti, visible from public property or right-of-way, is hereby declared a nuisance and must be removed by the property owner within a reasonable time period not to exceed thirty (30) days after notification by the City. Said notice shall be delivered personally or telephonically to the property owner followed by written notice through the regular United States mail. The property owner shall be informed in said notice as to the deadline by which he or she must act. If the property owner wishes to appeal the notice, he or she may do so by filing a written notice of appeal with the office of the City Clerk and paying an appeal fee of twenty-five dollars (\$25.00). Said appeal shall be heard by the hearing officer. Upon hearing, the hearing officer shall make a determination if graffiti is present. If graffiti is found to be present, said hearing officer shall specify a time by which the graffiti shall be removed. If the graffiti remains after the deadline provided by the initial notice, or in the case of an appeal the deadline specified by the hearing officer, the City may remove the graffiti and assess the cost of abatement against the property.

6-4-4 Implements of Graffiti – Restrictions.

- A. No person shall sell or otherwise transfer any spray paint in cans larger than three fluid ounces to a minor. The sale or transfer of more than 3 cans containing 3 or less fluid ounces at any one time is prohibited.
- B. No minor shall, at the time of purchase of any spray paint container, furnish fraudulent evidence of majority.
- C. No minor shall possess a spray paint container in cans larger than three fluid ounces on any private property, except with the express permission of the lawful owner or manager of said private property.
- D. No minor shall possess an implement of graffiti upon public property at any time when not in the company of his/her parent or legal guardian.
- E. No person shall, absent express permission of the property owner, possess an implement of graffiti in any public building, or upon any public property or private property with the intent to use the same to deface said building or any property thereon.
- F. Any person whose business includes the sale of any spray paint container shall have posted in a conspicuous place a sign which clearly states that: "It is unlawful to sell spray paint in cans larger than three fluid ounces to any person under the age of 18 years."

6-4-5 Penalties. A violation of Section 6-4-2(A) or Section 6-4-4(A-E) may constitute either a simple misdemeanor or a municipal infraction. A violation of Sections 6-4-2(B), 6-4-3, 6-4-4(F) is a municipal infraction. Any simple misdemeanor violation under this Chapter shall be punished as set out in Section 1-2-14 of this Code of Ordinances. A municipal infraction violation under this Chapter shall be subject to a penalty as set out in Title 1, Chapter 3 of this Code of Ordinances.

Title 6 – Police and Public Safety
Chapter 5 – Minors

SECTIONS:

- 6-5-1 Curfew Definitions
- 6-5-2 Cigarettes and Tobacco
- 6-5-3 Contributing to Delinquency

6-5-1 CURFEW:

A. Definitions.

- 1. Minor - An unemancipated person who has not yet reached their 18th birthday.
- 2. Parent - A person having legal custody of a minor as a natural or adoptive parent, as a legal guardian, as a person who stands in loco parentis, or by virtue of Court Order.
- 3. Street - A way or place, of whatever nature, open to the use of the public as a matter of right for vehicular or pedestrian travel, including but not limited to streets, alleys, sidewalks, irrespective of what the right of way is called.

B. Hours of Curfew. It shall be unlawful for any minor under the age of eighteen (18) years to be or remain, in or upon any of the alleys, streets, or other public places in the City between the hours of twelve o'clock (12:00) a.m. and five o'clock (5:00) a.m..

C. Exceptions. In the following cases the presence of a minor on a City street or other public place shall not constitute a violation of this Ordinance:

- 1. When the minor is accompanied by the minor's parent.
- 2. When the minor is accompanied by an adult at least eighteen (18) years of age authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose
- 3. When the minor exercises First Amendment rights, such as free exercise of religion, freedom of speech, right of assembly, or right to petition the government, and the use of City streets or other public places is a necessary incident thereto.
- 4. When the minor is traveling, via direct route, to or from a place of employment, or such travel necessary in conjunction with employment duties.
- 5. When the minor is traveling through the City from and to destinations outside the City, with no point of destination within the City, when such travel is by direct route.
- 6. When the minor is returning home by a direct route from and within 30 minutes from the termination of a school or church activity, or government sponsored activity or event.
- 7. When the minor is traveling to or from a City, school or church sponsored after prom event.

- D. Responsibility of Adults. It shall be unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys or other public places within the curfew hours set by Subsection 6-5-1[B], except as otherwise provided in subsection 6-5-1[C].
- E. Enforcement. Any peace officer of this City while on duty is hereby empowered to arrest any minor who violates any of the provisions of this ordinance. Upon arrest, the minor shall be returned to the custody of the parent, legal guardian or other person charged with the care and custody of the minor.

6-5-2 Cigarettes and Tobacco. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen (18) years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.

6-5-3 Contributing to Delinquency. It is unlawful for any person to encourage any child under eighteen (18) years of age to commit any act of delinquency.

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

6-5-4 Penalty. A violation of any of the provisions of this chapter is a simple misdemeanor and is punishable as provided in Iowa Code section 903.1, maximum sentence for misdemeanants.

Title 6 – Police and Public Safety
Chapter 6 – Parental Responsibilities

SECTIONS:

- 6-6-1 Title and Purpose
- 6-6-2 Definitions
- 6-6-3 Parental Duties
- 6-6-4 Parental Violation and Penalty
- 6-6-5 Notification of Parents; Record of Notification
- 6-6-6 Liability of Parents; Record of Notification

6-6-1. Title and Purpose. This Ordinance is declared necessary to protect and preserve the rights, privileges, and property of the City of Muscatine, Iowa, or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents, and is intended to address situations where parents have failed to act responsibly and reasonably in the supervision of their minor children to the detriment of the general public.

6-6-2. Definitions.

- A. Delinquent Acts. Those acts which violate the laws of the United States, or the statutes of the state or the ordinances of the city or those acts which would cause or tend to cause the minor to come under the jurisdiction of the Juvenile Court but do not include traffic violations.
- B. Minor. For the purpose of this ordinance, Minor shall include persons who are under eighteen (18) years of age.
- C. Parent. A mother, father, legal guardian and any other person having the care or custody of a minor or any person acting in the parent's stead who has custody or control of the minor.
- D. Illegal Drugs. Controlled substances obtained without a legal prescription.
- E. Juvenile Delinquent. Those minors whose behavior interferes with the rights of others or menaces the welfare of the community.
- F. Recklessly. Conduct engaged in by a person in conscious disregard of a substantial and justifiable risk that circumstances exist or that a result will follow which constitutes an offense under this section and where such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

6-6-3. Parental Duties.

- A. It is the continuous duty of the parent of any minor to exercise reasonable control to prevent the minor from committing any delinquent act.

B. Included (without limitation) in this continuous duty of reasonable parental control are the following duties,

1. To keep illegal drugs or illegal weapons out of the home and provide that legal weapons and/or ammunition are inaccessible to the minor except as provided in **Iowa Code Section 724.22**.
2. To know the Curfew Ordinances (Title 6, Chapter 5, City Code) of the City of Muscatine, and to require the minor to observe the Curfew Ordinance.
3. To require the minor, if sixteen (16) years of age or younger, to attend regular school sessions and to forbid the minor to be absent from class without parental or school permission as provided in the Muscatine Community School District attendance policy unless the parent has filed the Affidavit as provided in **Iowa Code Section 299.6**.
4. To arrange proper supervision for the minor when the parent must be absent, in accordance with Iowa Department of Human Services guidelines.
5. To not knowingly allow or permit the minor to maliciously or willfully destroy real, personal or mixed property which belongs to the City of Muscatine, or is located in the City of Muscatine.
6. To not knowingly allow or permit the minor to keep stolen property, illegally possess weapons or illegal drugs, or associate with known juvenile delinquents, or criminal street gang members and to seek help from appropriate governmental authorities or private agencies in handling or controlling the minor, when necessary.

6-6-4. Parental Violation and Penalty.

- A. No parent of any minor under the age of 18 shall fail to exercise reasonable care.
- C. A violation of this chapter is a municipal infraction punishable as provided in **Section 1-3-2** of this Code of Ordinances. in addition to the civil penalty provided therein, upon the second violation of this Chapter the parent or guardian may also be required to participate in and fully complete a City approved community-based treatment program (such as parenting skills, family services, employment and training, etc.).
- C. "For the city to prove a first, second, or subsequent violation of the ordinance, it must prove by clear, satisfactory, and convincing evidence that a parent failed to exercise reasonable parental control of his or her minor, and the [delinquent act] was caused by the parent's failure to exercise reasonable parental control."

Hensler v. City of Davenport, 790 N.W.2d 569, 589 (Iowa 2010) & Iowa Code § 364.22(5)(b)

6-6-5. Notification of Parents; Record of Notification.

- A. When a minor is apprehended or detained for a delinquent or reckless act, the parent shall receive a written notice thereof, either by certified or registered mail, return receipt requested, or by personal service with a certificate of personal service returned, from

the police department of the City of Muscatine following said adjudication or nonjudicial sanction; and

- B. A record of such notification shall be maintained by the Records Division of the Muscatine Police Department.
- C. A copy of this notice shall be provided to the minor's school attendance center

6-6-6. Liability of Parents; Record of Notification.

- A. Liable for actual damages. The parent of an unemancipated minor who resides with such parent is liable for actual damages for the willful or malicious acts of such minor which cause injury to a person or property.
- B. Recovery. No recovery under this section may exceed \$2,000.00 actual damages for any one act or \$5,000.00 to the same claimant for two or more acts of such willful or malicious acts by the minor causing injury, in addition to taxable court costs. In determining the damages to be allowed in an action under this article for personal injury, only medical, dental and hospital expenses may be recovered.
- C. Other Liability. This article shall not affect the recovery of damages in any other cause of action where the liability of the parent is predicated on a common law or statutory basis.

Title 6 – Police and Public Safety
Chapter 7 – Specified Crime Property

SECTIONS

- 6-7-1 Definitions
- 6-7-2 Specified Crime Property
- 6-7-3 Penalties
- 6-7-4 Procedure for Enforcement
- 6-7-5 Notice
- 6-7-6 Service of Notice
- 6-7-7 Administrative Appeal
- 6-7-8 Conduct of Hearing
- 6-7-9 Effect of Notice

6-7-1. Definitions. The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. "Bootlegging" means the illegal sale or service of alcoholic liquor, wine or beer in violation of this Chapter or **Iowa Code Chapter 123**.
- B. "Controlled substance" means a drug, substance or immediate precursor as defined by **Iowa Code Chapters 204A and 204B**.
- C. "Gambling" means games of skill or chance as defined by **Iowa Code Chapter 99B** and prohibited by **Iowa Code Chapter 725**.
- D. "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.
- E. "Person" means any natural person, association, partnership, corporation or other legal entity capable of owning or using property.
- F. "Police Chief" means the person who has the responsibility to supervise and direct the Police Department, and for the purposes of this Chapter may include his/her designee.
- G. "Prostitution, pimping or pandering" means those acts or activities as defined by this Chapter or **Iowa Code Chapter 725**.
- H. "Specified crime property" means any structure, including the real property upon which it is situated, in which activity involving the unauthorized delivery, possession or manufacture of a controlled substance, illegal gambling, bootlegging, prostitution, pimping or pandering is occurring.
- I. "Structure" means any building, building complex or structure, including but not limited to edifice, units or any portion thereof, and the real property upon which such building, building complex or structure is situated.

6-7-2. Specified Crime Property. No person shall use or allow to be used any structure as specified crime property. When the structure and the property upon which it is situated are owned by different persons, each person shall not use or allow to be used such structure and property as specified crime property.

6-7-3. Penalties. Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a Municipal Infraction punishable by the Civil Penalty as provided by [Title 1, Chapter 3](#) of this Code of Ordinances.

6-7-4. Procedure for Enforcement.

- A. When the Police Chief has a reasonable belief that a structure is being used or maintained in violation of this chapter, the Police Chief shall notify the owner of record in writing that the structure has been declared to be a Specified Crime Property.
- B. A reasonable belief that a structure is being used as a Specified Crime 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.

6-7-5. Notice. The notice required in this Chapter shall notify the owner of record in writing that a structure owned by him/her has been declared to be a Specified Crime Property, and such notice shall contain the following information:

- A. The street address and a description sufficient for identification of the premises on which the structure is located; and
- B. A statement that the Police Chief has found the structure to be in violation of this Chapter, with an explanation as to why the structure has been declared a Specified Crime Property.

6-7-6. Service of Notice.

- A. A copy of the notice given pursuant to this Chapter 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 paid, return receipt requested, to each person at his/her address as it appears in the records of the County Auditor. 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 the service or mailing of the notice to the owner and no response or reply has been received by the City from the owner during that period of time.
- B. The failure of any owner to receive actual notice of the determination of the Police Chief shall not preclude future proceedings under this Chapter.

6-7-7. Administrative Appeal.

- A. Upon receipt of a notice of Specified Crime Property, as set out in **Section 6**, the owner of record may challenge such notice by filing a request for an administrative hearing. Such request for hearing shall be in writing and filed with the Clerk within ten (10) days of service of the notice of Specified Crime Property. A copy of this chapter is available, upon request, from City Hall for a copy fee.
- 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.

6-7-8. Conduct of Hearing.

- A. The hearing held pursuant to this Chapter shall be conducted before the Council within a reasonable period of time, but not to exceed fifteen (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 prepaid, to the owner of record.
- B. The sole issue before the Council shall be whether there exists a reasonable belief that the structure was being used as Specified Crime Property when the declaration of Specified Crime Property was made pursuant to **Section 1(H)**. The Council shall decide only that either (i) there is a reasonable belief that the structure was used as Specified Crime Property and that the provisions of this chapter shall apply, or (ii) there is not sufficient reasonable belief that the structure was being used as Specified Crime Property and that the procedures of this division shall be permanently stayed. A finding of no reasonable belief, however, shall not preclude a future independent complaint, investigation and notice of Specified Crime Property.
- C. The decision of the Council 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 Chapter.
- D. The decision of the Council shall be final.

6-7-9 Effect of Notice.

- A. Subsequent to the declaration and notice that there exists a Specified Crime Property, an owner shall have the opportunity to abate the illegal activity within ten (10) days. If a landlord/tenant relationship, the owner/landlord may be deemed to have abated the activity upon demonstration that he/she has taken legal action as allowed by **Iowa Code Chapter 562A**, to terminate the rental agreement and continue in good faith to follow abatement procedures and provide the Police Chief with copies of all notices served in accordance with **Iowa Code Chapter 562A**.

B. If after twenty (20) days the Police Chief determines that a Specified Crime Property has not been abated, a notice of fine and an order of abatement shall be filed in compliance with Iowa Code Chapter 364.22 and Title 1 Chapter 3 of this Code of Ordinances.

Title 6 – Police and Public Safety
Chapter 9 – Animal Regulations

SECTIONS:

- 6-8-1 Definitions
- 6-8-2 Vaccination and Identification Required
- 6-8-3 Registration and License
- 6-8-4 Commercial Breeders
- 6-8-5 Actions Constituting a Nuisance
- 6-8-6 At Large Prohibited
- 6-8-7 Impoundment, Notice, Disposition
- 6-8-8 Animal Care
- 6-8-9 Rabies Suspects and Animal Bites
- 6-8-10 Vicious Animals; Guard or Attack Dogs
- 6-8-11 Dogs in Heat
- 6-8-12 Keeping of Dangerous Animals
- 6-8-13 Seizure, Impoundment, and Disposition of Dangerous Animals
- 6-8-14 Penalties
- 6-8-15 Exemption for Police Service Dogs (K9s).

6-8-1 Definitions. For use in this Ordinance, the following terms are defined:

- A. "Dogs" means both male and female animals of the canine species whether altered or not.
- B. "Animal" means dogs, cats, all domestic animals, and any other animal owned by a person.
- C. "At large" means any animal found off the premises of his owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash, or "at heel" beside a competent person and obedient to that person's command.
- D. "Owner" means any person or persons, firm, association, or corporation owning, keeping, sheltering, or harboring an animal.
- E. "Vicious animal" means any animal that bites or attacks human beings or other animals or in a vicious and terrorizing manner attacks, or approaches in apparent attitude of attack, a person upon the streets, sidewalks, or any other public ground or place or any private property other than the premises of the owner, possessor, or keeper of such animal, or a dog that runs after and bites or barks at horses, bicycles, or any vehicle being ridden or driven upon the streets, sidewalks, or any public ground or place within the City.
- F. "Dangerous animals" means:
 - 1. Any animal which is not naturally tame or gentle; which is of a wild nature or disposition; and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so.
 - 2. Any animal declared to be dangerous by the City Council.

3. The following animals which shall be deemed to be dangerous animals per se:
 - a. Lions, tigers, jaguars, leopards, cougars, lynxes, cheetahs, and bobcats;
 - b. Wolves, coyotes, and foxes;
 - c. Badgers, wolverines, weasels, and skunks;
 - d. Raccoons;
 - e. Bears;
 - f. Monkeys and chimpanzees;
 - g. Alligators and crocodiles;
 - h. Scorpions;
 - i. Snakes that are venomous or constrictors;
 - j. Gila monsters; and
 - k. Any crossbreed of such animals which have similar characteristics to the animals specified above.
- G. "Altered" means a neutered male dog or cat which has been rendered sterile by a surgical procedure (orchiectomy), or a spayed female dog or cat which has been rendered sterile by a surgical procedure (ovariohysterectomy).
- H. "Unaltered" means a dog or cat that has not been altered as defined in this section.
- I. "Commercial Breeder" means an owner, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the owner. An owner who owns or harbors three or less breeding males or females is not a commercial breeder.

6-8-2 Vaccination and Identification Required.

- A. All dogs and cats six (6) months or older shall be vaccinated against rabies. The owner of any dog or cat shall cause to be placed upon the neck of such dog or cat so owned, kept, or harbored, a collar made of durable material having attached thereto a durable tag showing that the dog or cat has a current rabies vaccination and a durable tag indicating the name of the animal, if any, the owner's name, current address and telephone number, if any, and the license tag as provided in **Section 6-8-3** of the City Code of Muscatine. The collar with the attached tag shall be kept on such dog or cat at all times.
- B. All licensed veterinarians shall monthly furnish to the City Department of Finance a list of those dogs and cats receiving rabies vaccinations or inoculations listing the name, address and telephone number of the owner securing the rabies vaccination or inoculation.

6-8-3 Registration and License.

- A. All dogs or cats six (6) months of age or older shall be registered by an owner who is 18 years of age or older and the owner, except owners of seeing-eye dogs or owners who are confined to a wheelchair who are exempt from paying the annual fee but shall register their dogs or cats, shall pay the annual fee to the City in the office of the Department of Finance and Records. The fee required by this Section shall be set by resolution of the City Council and is listed in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances. The license will be in full force and effect until the anniversary date of the rabies vaccination or inoculation of the animal and thereafter shall be renewable annually.
- B. It is the responsibility of the owner to furnish written proof that the dog or cat being registered is altered. Persons making a license renewal application received after thirty (30) calendar days of license expiration date shall pay as a penalty an additional sum of \$5.00.
- C. The provisions of this section shall not apply to dogs or cats in the custody of a veterinarian or animal shelter or animal rescuer or Animal Control Officer or Police Officer or whose owners are nonresidents temporarily within the City for a period not exceeding thirty (30) calendar days.
- D. It shall be a violation of this section for any person to knowingly issue a check for which funds are insufficient or to stop payment on any check written in payment of fees contained in this section. Any license(s) or penalties paid for with such checks are, in the case of the license, invalid, and in the case of the penalty, still outstanding.
- E. No dog or cat shall be registered or licensed under this Section unless a certificate of a licensed veterinarian certifying to the fact and date of rabies inoculation of such dog or cat shall have been filed with or exhibited to the authorized agent of the City in the Department of Finance and Records, showing vaccination or inoculation as required by **Section 6-8-2** of the City Code.
- F. Upon payment of the fee as provided in this Section and upon producing a certificate of inoculation or vaccination, the agent of the City in the Department of Finance shall furnish to the person paying such fee a numbered license tag and memorandum of registry for each dog or cat for which such fee has been paid. It shall be a violation of this Section for any person to sell or transfer ownership of any dog or cat over six (6) months of age without a dog or cat license.
- G. The Department of Finance and Records shall keep a complete registry of all licensed dogs and cats, their breed, color and sex, and shall also enter therein the name and address of the owner as given and the number of the license tag.

6-8-4 Commercial Breeders. An owner who is a commercial breeder and who holds a commercial breeders license or certificate, if federally licensed, issued by the State of Iowa, and a State of Iowa Sales Tax Certificate, is exempt from the provisions of this Chapter with regard to licensing, however, such owner shall register with and pay

an annual Commercial Breeders fee to the City in the office of the Department of Finance and Records and shall have proof of valid rabies vaccination as required by this Chapter. The fee required by this Section shall be set by resolution of the City Council and is listed in the **Schedule of Permits and Fees** contained in the **Appendix** to this Code of Ordinances.

6-8-5 Actions Constituting a Nuisance.

- A. It shall be unlawful for any person who possesses, harbors, or is in charge of any dog or other domestic animal not to immediately remove excrement deposited by said animal upon a common thoroughfare, street, sidewalk, play area, park, or upon any other public property, or upon any private property when permission of the owner or tenant of said property has not been obtained, and such is hereby deemed to be a public nuisance and prohibited. All excrements removed shall be placed in an airtight container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.
- B. It shall be unlawful for any owner of any animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.
- C. It shall be unlawful for an owner of any animal to allow or permit such animal to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, meowing, or otherwise; or by running after or chasing persons, bicycles, automobiles, or other vehicles.

6-8-6 At Large Prohibited. It shall be unlawful for any owner or person having the care, custody, or control of any animal to allow such animal to run at large within the City.

6-8-7 Impoundment, Notice, Disposition.

- A. Any animal found running at large shall be taken by the Animal Control Officer or any Police Officer and impounded in the local animal shelter and there confined in a humane manner for a period of not less than seven (7) days, and thereafter disposed of in a humane manner as authorized.
- B. When animals are found running at large and their ownership is known to the Animal Control Officer or Police Officer, such animal need not be impounded, but such officer may cite the owners of such animal to appear in court to answer charges of the violation of this Chapter.
- C. Immediately upon impounding animals, the Animal Control Officer or Police Officer shall make every possible reasonable effort to notify the owners of such animal so impounded and inform such owners of the conditions whereby they may regain custody of such animal.

6-8-8 Animal Care.

- A. No owner shall fail to provide his or her animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.
- B. No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal.
- C. No owner of an animal shall abandon such animal.
- D. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.
- E. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by a domestic animal, provided that it shall not be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substance.
- F. Owners of animals shall notify the U.S. Postal Service and utility companies when an "invisible fence" is in place to advise them of animals being kept on the premises of such owners and shall post a sign on the premises visible to the public indicating the presence of an "invisible fence". Proof of notification to the U.S. Postal Service and utility companies shall be filed with the City Clerk.

6-8-9 Rabies Suspects and Animal Bites. Any dog or cat which is suspected of having rabies, or which has bitten a person or other animal, shall be impounded and confined, either at the residence of the owner of said animal, or under the supervision of a licensed veterinarian, for observation. All fees for such impoundment and observation shall be the sole responsibility of the owner of such animal. Owners choosing to impound or confine animals at their residence shall complete a "Voluntary Animal Confinement Form" which shall be provided to them by the Animal Control Officer. At the completion of the fourteen (14) day confinement period, the owner shall present the confined animal along with the Animal Confinement Form to a licensed veterinarian. The veterinarian shall then examine the animal and complete the appropriate section of the Voluntary Animal Confinement Form. The owner of the animal shall then return this form to the Animal Control Officer.

- A. Any dog or cat impounded under the provisions of this section shall be placed in a suitable facility and quarantined for a period of not less than fourteen (14) days at the sole expense of the owner.
- B. Any such animal impounded under the provisions of this section shall be destroyed upon determination that such animal is infected with rabies.

C. It shall be the duty of the owner of any dog, cat, or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to the Animal Control Officer. It shall be the duty of physicians and veterinarians to report to the Animal Control Officer the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

6-8-10 Vicious Animals; Guard or Attack Dogs.

- A. It shall be unlawful for any person to keep or harbor a fierce or vicious animal, except in an authorized zoo or zoological park.
- B. If satisfied that an animal is accustomed to seizing and biting people or is vicious and has actually bitten one or more persons, the Chief of Police, or his or her designated representative, may, if he finds such animal at large, kill the same without previous notice to the owner.
- C. Dogs maintained as guard dogs or placed in an enclosed area for the protection of persons or property shall not be included under this Section as long as they remain in this enclosed area and are completely confined in a kennel, yard, or other space when not being used as a guard dog.
- D. The owner, or other person in control if not the owner, of all premises upon which attack and guard dogs are maintained shall post signs on, over, or next to all exterior doors stating that such dogs are on the premises. At least one (1) such sign shall be posted at each driveway or entrance way to said premises.

6-8-11 Dogs in Heat. Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

6-8-12 Keeping of Dangerous Animals. No person shall keep or permit to be kept any dangerous animal as a pet nor for display or for exhibition purposes, whether gratuitously or for a fee, except that this prohibition shall not apply to the keeping of dangerous animals in a public zoo, public aquarium, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view or for the purpose of instruction, research, or study; or for exhibition to the public by a bona fide traveling circus, carnival, exhibit, or show licensed to perform in the City; or in a bona fide licensed veterinary hospital for treatment. It shall be the duty of the persons permitted to keep dangerous animals under this Section to immediately report to the Police Department when any dangerous animal is found missing.

6-8-13 Seizure, Impoundment, and Disposition of Dangerous Animals.

- A. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, public waterway, lagoon, public sewer system, or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the Police Chief, or his or her designee, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
- B. Upon the complaint of any individual that a person is keeping, sheltering, or harboring a dangerous animal on premises in the City in violation of this Chapter or who keeps a dangerous animal which has demonstrated a propensity to attack or bite without provocation, the Police Chief, or his or her designee, shall cause the matter to be investigated, and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering, or harboring a dangerous animal in the City, the Police Chief, or his or her designee, shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed under **Section 6-8-12** of this Code to possess dangerous animals, or destroy the animal within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the Police Chief, or his or her designee shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
- C. The order to remove a dangerous animal issued by the Police Chief, or his or her designee, may be appealed to the City Council. In order to appeal such order, written notice of appeal must be filed with the City Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order.
- D. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled for the next regular Council meeting after receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the City Council may affirm or reverse the order of the Police Chief, or his or her designee. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three (3) days after the hearing or any continued session thereof.
- E. If the City Council affirms the action of the Police Chief, or his or her designee, the City Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such dangerous animal remove such

animal from the City; permanently place such animal with an organization or group allowed under Section 6-8-12 to possess dangerous animals; or destroy it. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the original order of the Police Chief, or his or her designee, is not appealed or is not complied with within three (3) days of the order of the City Council after appeal has been served, the Police Chief, or his or her designee, is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If, at the end of the impoundment period, the person against whom the decision and order of the Police Chief, or his or her designee, or City Council was issued has not petitioned the Muscatine County District Court for a review of said order, the Police Chief, or his or her designee, shall cause the animal to be disposed of by sale, permanently placing such animal with an organization or group allowed under Section 6-8-12 to possess dangerous animals, or destroy such animal in a humane manner. All impoundment fees shall be at the expense of the owner of the dangerous animal, which said fee shall be the actual cost of the feeding and care of the animal.

6-8-14 Penalties.

- A. Any person or owner of property who violates the provisions of this Chapter shall be guilty of a misdemeanor and subject to a penalty as set out in Section 1-2-14 of this Code of Ordinances.
- B. Any owner or person charged with a first or second violation of this Chapter may present such summons at the Public Safety Building in the City of Muscatine and pay such fine without appearance in court, and upon payment of the fine, shall be deemed to have pleaded guilty to the offense charged. Nothing herein contained shall be construed to prohibit any person charged with a violation of this Chapter from contesting such charge. The provisions of this Subsection shall not be applicable upon the filing of a complaint and summons for the third or subsequent violations of this Chapter.

6-8-15 Exemption for Police Service Dogs (K9s). This Chapter shall not apply to police service dogs (K9s) used by a law enforcement agency that is acting in the performance of its duties.

Title 6 – Police and Public Safety
Chapter 9 – Keeping of Pit Bull Dogs

SECTIONS:

- 6-9-1 Purpose
- 6-9-2 Keeping of Pit Bull Dogs Prohibited
- 6-9-3 Definition
- 6-9-4 Spayed or Neutered
- 6-9-5 Leash Requirement
- 6-9-6 Confinement
- 6-9-7 Confinement Indoors
- 6-9-8 Signs
- 6-9-9 Financial Responsibility
- 6-9-10 Identification Photographs and Microchips
- 6-9-11 Reporting Requirements
- 6-9-12 Sale or Transfer of Ownership Prohibited
- 6-9-13 Irrebuttable Presumptions
- 6-9-14 Failure to Comply
- 6-9-15 Violation - Penalty

6-9-1 Purpose. In order to protect the health, safety and welfare of the residents and citizens of the city, the provisions of this Chapter are enacted by the City Council.

6-9-2 Keeping of Pit Bull Dogs Prohibited. It is unlawful to keep, harbor, own or in any way possess within the corporate limits of the City, any pit bull dogs; provided that pit bull dogs licensed with the City within thirty (30) days of the effective date of this Chapter, August 1, 2003, may be kept within the City subject to the standards and requirements set forth in this Chapter.

6-9-3 Definition. "Pit bull dog" is defined to mean the following:

- A. Staffordshire terrier breed of dog;
- B. The American pit bull terrier breed of dog;
- C. The American Staffordshire terrier breed of dog;
- D. Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire terrier, American pit bull terrier, or American Staffordshire terrier.

6-9-4 Spayed or Neutered. All pit bull dogs shall be spayed or neutered within sixty (60) days of the effective date of this Chapter or by six months of age and a certificate that such dog has been spayed or neutered shall be filed with the City Clerk.

6-9-5 Leash Requirement. No person shall permit a licensed pit bull dog to go outside its kennel or pen unless such dog is securely muzzled and leashed with a leash no longer than six feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, dog houses or buildings.

6-9-6 Confinement. All licensed pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine licensed pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor of solid construction (such as concrete) to prevent escape and to allow for proper cleaning, odor control and health of the dog, attached to the sides of the pen or the sides of the pen must be imbedded in the ground no less than two feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the city. All such structures must be adequately ventilated and kept in a clean and sanitary condition.

6-9-7 Confinement Indoors. No pit bull dog may be kept on a porch, patio or in a part of the house or structure that would allow the dog to exit such building on its own volition. In addition, no pit bull dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

6-9-8 Signs. All owners, keepers or harborers of licensed pit bull dogs within the City shall within ten days of the effective date of the ordinance codified in this Chapter shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog, Pit Bull on Premises". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

6-9-9 Financial Responsibility. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the effective date of the ordinance codified in this Chapter provide proof to the City Clerk of financial responsibility. The financial responsibility requirements for the issuance of a license issued under this Chapter shall be set by resolution of the City Council and are listed in the **Schedule of Permits and Fees** in the **Appendix** of this Code of Ordinances. The financial responsibility requirement of this section may be met by a homeowner's or tenant's insurance policy if such policy clearly and specifically provides coverage in the amounts required. Such insurance policy shall provide that no cancellation of that policy will be made unless ten days written notice is first given to the City Clerk of the City.

6-9-10 Identification Photographs and Microchips. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the effective date of the ordinance codified in this Chapter provide to the City Clerk proof that an identification microchip has been implanted between the shoulder blades of the pit bull dog and shall affix a tag to the collar on the dog indicating that a microchip has been implanted between the shoulder blades of the pit bull dog.

6-9-11 Reporting Requirements. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the incident, report the removal from the City or death of a licensed pit bull dog or the new address of a licensed pit bull dog owner should the owner move within the corporate limits of the City in writing to the City Clerk.

6-9-12 Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a pit bull dog licensed with the City to any person within

the City unless the recipient person resides permanently in the same household and on the same premises as the licensed owner of such dog; provided, that the licensed owner of a pit bull dog may sell or otherwise dispose of a licensed pit bull dog to persons who do not reside within the City.

6-9-13 Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog listed or registered with any kennel, association or public authority as a pit bull dog as defined in this Chapter is in fact a dog subject to the requirements of this Chapter.

6-9-14 Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog licensed with the City to fail to comply with the requirements and conditions set forth in this Chapter. Any pit bull dog found to be the subject of a violation of this Chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply shall result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City.

6-9-15 Violation – Penalty. Any person violating or permitting the violation of any provision of this Chapter commits a municipal infraction and shall be subject to the civil penalty as provided in **Section 1-3** of this Code of Ordinances. In addition, the court shall order the license of the subject pit bull dog revoked and the dog removed from the City. Should the violator refuse to remove the dog from the City, the court shall find the violator in contempt and order the immediate confiscation and impoundment of the dog. Each day that a violation of this Chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this Chapter.

Title 6- Police and Public Safety
Chapter 10-Aggressive Panhandling Prohibited

SECTIONS:

- 6-10-1 Purpose
- 6-10-2 Definitions
- 6-10-3 Prohibited Acts
- 6-10-4 Penalty

6-10-1 Purpose.

- A. The purpose of this Section is to ensure unimpeded pedestrian traffic flow, to maintain and protect the physical safety and well-being of pedestrians, and to otherwise foster a safe and harassment free climate in public places in the City.
- B. This Section is not intended to limit any person from exercising such person's constitutional right to solicit funds, picket, protest, or engage in other constitutionally protected activity.

6-10-2 Definitions. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- A. "Aggressive Panhandling" is panhandling which demonstrates a specific intent to induce, solicit, or procure from another goods or money which includes one or more of the following actions:
 - 1. The touching of the solicited person without the solicited person's consent;
 - 2. Blocking the path of travel of the person being solicited;
 - 3. Blocking the entry or exit of a person being solicited to any vehicle or building;
 - 4. Continuing to solicit or request a donation from a person after that person has refused an earlier request verbally or has ignored the request;
 - 5. Following or remaining alongside a person who, after being solicited, walks away from the person panhandling and doing the same in a manner that would cause a reasonably prudent person to feel threatened, intimidated, or fearful;
 - 6. Making any statement, gesture, or other communication that would cause a reasonably prudent person to feel threatened, intimidated, or fearful;
 - 7. Soliciting a person who is in a situation in which it would be obvious to a reasonably prudent person that the person being solicited would not feel free to immediately walk away, and shall include, but is not limited to, soliciting the person at any bus stop, in any public transportation vehicle, in a line waiting for service or admission, or dining at an outdoor service area;

8. Soliciting a person within fifty feet (50') of an automatic teller machine or an entrance to a bank or similar institution.
9. Behavior which would deter a reasonably prudent person from passing through or remaining in or near any thoroughfare, or public place because of fear, concern, or apprehension caused by such behavior.

B. "Automated Teller Machine" is a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

C. "Intimidation" is conduct which repeatedly interferes with the free passage of other persons in or into public places or which demonstrates an attempt to discourage the free passage of other persons in or into public places.

D. "Panhandling" is any request for or solicitation of an immediate donation of money, and includes a request or solicitation to purchase an item for an amount far exceeding its value and circumstances where a reasonably prudent person would understand that the purchase is in substance a donation. Panhandling shall not include the act of passively standing, sitting, or engaging in a musical performance or other street performance with a sign or other indication that donations are being sought without any verbal request for a donation other than in response to an inquiry by another person.

E. "Public Place" is any area generally visible to public view and includes streets, rights of way, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, communication facilities, transportation facilities, and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways, entrances, or other openings in buildings or dwellings and the grounds enclosing them.

F. "Threats" are statements, gestures, or other forms of communication which a reasonably prudent person would perceive as intending to result in the procurement of money or goods by intimidation or coercion.

6-10-3 Prohibited Acts.

- A. It shall be unlawful for any person, either individually or as part of a group, to engage in aggressive panhandling in any public place.
- B. It shall be unlawful for two (2) or more persons to intentionally work in concert to commit acts that would constitute aggressive panhandling if those acts were performed by a single individual.
- C. To constitute a violation of this Section, the violator's conduct must be such as to demonstrate a specific intent to induce, solicit, or procure from another goods or money.

6-10-4 Penalty. A violation of this Section may be prosecuted as a criminal or civil matter, and, upon conviction, an individual is subject to a penalty and other relief in accordance with **Section 1-2-14 or 1-3-2** of this code.

Title 6- Police and Public Safety
Chapter 11 – Noise Regulations

SECTIONS:

- 6-11-1 Definitions
- 6-11-2 Disturbing the Peace
- 6-11-3 Permitting Disturbing the Peace
- 6-11-4 Disturbing the Peace by a Person, Association, Firm, or Corporation
- 6-11-5 Motor Vehicle Maximum Sound Levels
- 6-11-6 Motorized Vehicles Operating Off of Public Right-of-Way
- 6-11-7 Noise Measurement Procedures
- 6-11-8 Exceptions
- 6-11-9 Penalty

6-11-1 Definitions.

- A. "A weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level also read is designated dB(A) or dBA.
- B. "Decibel (dB)" means a unit for measuring the volume of a sound.
- C. "Emergencies" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- D. "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum load weight of a single vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum load weight of the combination vehicle, shall be used.
- E. "Measurement procedures" means the sound level measurement procedure for the enforcement of this noise control ordinance as adopted by the Chief of Police.
- F. "Motor carrier vehicle engaged in interstate commerce" means any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972, as amended, pertaining to motor carriers engaged in interstate commerce.
- G. "Motor vehicles" means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go carts, snowmobiles, amphibious crafts on land, dune buggies, or racing vehicles, but not including motorcycles.
- H. "Motorcycles" means an unenclosed vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and mini bikes.

- I. "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.
- J. "Persons" means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency, or instrumentality of a state or a political subdivision of a state.
- K. "Public right-of-way" means any street, avenue, boulevard, highway, sidewalk, alley, or similar place which is owned or controlled by a governmental entity.
- L. "Real property boundary" means an imaginary line along the ground surface, and its vertical extension which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.
- M. "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in the American National Standards Institute specifications for sound level meters. (ANSI SI.4 - 1971, or the latest approved revision thereof.) If the frequency weighting employed is not indicated, the A-weighting shall apply.
- N. "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

6-11-2 Disturbing the Peace. Every person who shall unlawfully disturb the public quiet of any street, alley, avenue, public square, or any religious or other public assembly or building, public or private, or any neighborhood, private family, person or law enforcement officer by giving loud false alarms of fire, by any loud noise, loud playing or loud rendition of music of any kind, loud singing, loud talking, loud amplification of sound, by loud ringing bells, loud blowing horns or other instruments, or by loud indecent, loud obscene, or loud profane language, loud conversation or conduct, or by loud quarreling, loud assaulting, loud fighting, loud honking horn, loud squealing tires, loud engine or loud muffler noise, or by any other loud device or loud means whatsoever including but not limited to the use of a mobile vehicle, which clearly can be heard by auditory senses (ears) by a reasonable person with reasonable hearing shall be deemed guilty of a misdemeanor. If the person holds a valid outdoor commercial entertainment establishment permit, or is granted permission to hold a special event, such as Great River Days, Holiday Stroll, parades, etc., this Section does not apply.

6-11-3 Permitting Disturbing of Peace. Every person who shall suffer or permit any loud hollering, loud howling, loud screaming, loud bellowing, loud dog barking, loud profane or loud obscene language, loud fighting, loud playing or loud rendition of music of any kind, loud singing, loud talking, loud amplification of sound, or any loud noise in any house, mobile vehicle, or upon any premises owned, occupied or possessed by him, or of which he has control as agent or otherwise, in such manner as to disturb any neighborhood or persons or law enforcement officer passing in the streets, which clearly can be heard by auditory senses (ears) by a reasonable person with reasonable hearing, shall be deemed guilty of a misdemeanor. The proof of such acts having been done in such place shall be *prima facie* evidence that the same was done with the permission of the owner, occupant, or possessor, but such presumption

may be rebutted by proof. If the person holds a valid outdoor commercial entertainment establishment permit, or is granted permission to hold a special event, such as Great River Days, Holiday Stroll, parades, etc., this Section does not apply.

6-11-4 Disturbing the Peace by a Person, Association, Firm, or Corporation Legally Holding an Outdoor Commercial Entertainment Establishment Permit.

Every person who has legally obtained an outdoor commercial entertainment establishment permit who shall suffer or permit any loud hollering, loud howling, loud screaming, loud bellowing, loud profane or loud obscene language, loud fighting, loud playing or loud rendition of music of any kind, loud singing, loud talking, loud amplification of sound within or outside of a building, or any loud noise upon the premises for which the permit was issued or of which he has control as agent which clearly can be heard by auditory senses (ears) by a reasonable person of reasonable hearing and after two (2) separate complaints by persons in a residential district have been made to the Police Department, verified by the Police Department that this section is being violated and after two (2) personal notifications by the Police Department to the person responsible for the premises, upon a third complaint by persons in a residential district to and verified by the Police Department that this Section is being violated, all within a period of twenty four (24) hours shall be deemed to have violated the terms of said permit, shall be charged with a municipal infraction and shall be subject to a civil penalty in the amount set by resolution of City Council and set out in the **Schedule of Penalties and Fees** in the **Appendix** to this Code of Ordinances. In addition, upon the receipt and verification of such three separate complaints, the City Administrator or his/her designee shall be authorized to immediately suspend the permit for three (3) days. After three convictions of a municipal infraction, the City Administrator or his/her designee is authorized to revoke the permit. The permit holder shall have the right to appeal any suspension or revocation of the permit under this Section to the City Council. All responsible persons shall be jointly and severally liable for civil penalties.

6-11-5 Motor Vehicle Maximum Sound Levels.

A. It shall be unlawful for any person to operate or cause to be operated a motor vehicle or motorcycle on a public right-of-way at any time, in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table One for the speed limit zone, regardless of the actual speed of the motor vehicle or motorcycle.

Table One. Motor Vehicle and Motorcycle Sound Limits Measured at 50 Feet
(Maximum Sound Level, Fast Meter Response)

Vehicle Class	Sound level in dBA	
	Speed Limit 35 MPH or Less	Speed Limit Over 35 MPH
Motor Carrier Vehicle engaged in Interstate Commerce of GVWR or GCWR of 10,000 lbs. or more.	86	90
All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more.	86	90
Any Motorcycle	82	86
Any other vehicle or any combination of Vehicles towed by any other motor vehicle.	76	82

B. Adequate Muffler or Sound Dissipative Devices.

1. No person shall operate or cause to be operated on a public right-of-way any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order, in constant operation, and that will sufficiently reduce sound to an acceptable level.
2. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or on a motorcycle.

C. Motor Vehicle Horns and Signaling Devices. The following acts and the causing thereof are declared to be unlawful:

1. The sounding of any horn, bell, or other auditory device on or in any motor vehicle on any public right-of-way or public space for the period of more than one (1) minute in any hourly period, except as a warning of danger.
2. The sounding of any horn or other auditory signaling device which produces a sound level in excess of 85 dBA at fifty (50) feet except as a warning of danger.
3. No person shall operate or shall permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle for a period not longer than five (5) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within one hundred fifty (150) feet of a residential area or designated noise sensitive area, between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. the following day.

6-11-6 Motorized Vehicles Operating Off of Public Right-of-Way.

A. It shall be unlawful for any person to operate or cause to be operated any motorized vehicle off of a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table Two at a distance of fifty (50) feet or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This Section shall apply to all motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious crafts, campers, and dune buggies.

Table Two. Motorized Vehicle Sound Limits Measured at 50 Feet
(Maximum Sound Level, Fast Meter Response)

Vehicle Type	Sound level in dBA
Snowmobile	78
Motorcycle	78
Any Other Motorized Vehicle	78

6-11-7 Noise Measurement Procedures. The Chief of Police shall promulgate the noise measurement procedures to be used for the enforcement of this Ordinance. These procedures shall be based on sound measurement methodology and instrumentation specified in the latest standards and recommended practices of the American National Standards Institute, Inc. (ANSI) and the Society of Automotive Engineers, Inc. (SAE). The procedure shall describe how to make sound measures at various distances from a sound source to obtain a valid result equivalent to a measurement of fifty feet (50').

6-11-8 Exceptions. The provisions of this chapter shall not apply to the following:

- A. The operation of vehicles owned by publicly owned or licensed utilities when engaged in repair or maintenance of said utilities.
- B. The ceremonial use of signals or warning devices when used in conjunction with an event given prior approval by the Chief of Police.

6-11-9 Penalty. Any person who violates any of the provisions of this Chapter shall be deemed guilty of a simple misdemeanor and is punishable as provided in **Section 1-2-14** of this Code of Ordinances.