

Chapter 4: Offenses Subject to a Municipal Infraction Penalty

- 4.1 Municipal Infraction Penalty.** A violation of this Chapter or the omission or failure to perform any act or duty required by the same, is a municipal infraction punishable by civil penalty not to exceed seven hundred and fifty dollars (\$750.00) for the first offence and not to exceed one thousand dollars (\$1,000.00) for each repeat offense. Each day that a violation occurs or is permitted to exist constitutes a repeat offense.
- 4.2 Authority to Issue Municipal Infractions.** Any officer authorized by the City to enforce the City Code may issue a civil citation to a person who commits a municipal infraction. The issuing officer shall retain a copy of the citation, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
- A. The name and address of the defendant.
 - B. The name or description of the infraction attested to by the officer issuing the citation.
 - C. The location and time of the infraction.
 - D. The amount of civil penalty to be assessed or the alternative relief sought, or both.
 - E. The manner, location, and time in which the penalty may be paid.
 - F. The time and place of court appearance.
 - G. The penalty for failure to appear in court.
- 4.3 Alternative Relief.** Seeking a civil penalty as authorized in 4.2 of this Chapter does not preclude the City from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.
- 4.4 Criminal Penalties.** This Chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.
- 4.5 Failure to Obtain License or Permit.** It shall be unlawful for any person to fail to obtain any license or permit required by the Code. Specific Chapters requiring a license or permit include the following:
- A. Chapter 7.4(K), Requirement to License Animals
 - B. Chapter 6.8(D), Requirement for Right-of-Way Work Permit
 - C. Chapter 8.5(G), Requirement for Building Permit
 - D. Chapter 8.4(A), Requirement of Rental Certificate
 - E. Chapter 8.8(A)(4), Requirement for Zoning Permit
 - F. Chapter 8.8(K)(2), Requirement for Sign Permit
 - G. Chapter 8.9(F), Floodplain Development Permit
 - H. Chapter 8.11(C), Requirement for Right-of-Way Tree Planting or Removal

- I. Chapter 8.12(A), Requirement for Peddler, Solicitor, or Transient Merchant License
- J. Iowa Code Chapter 453A, Requirement for Tobacco License

4.6 Regulation of Nuisances. It shall be unlawful to create, cause, or maintain a nuisance as defined in Chapter 9 of this Code.

4.7 Regulation of Weapons. The following regulations shall apply to the ownership, possession, legal transfer, transportation, registration, licensing, or discharge of weapons within the corporate boundaries of the City.

A. Offensive Weapons Prohibited. It shall be unlawful for any person to carry, possess, display, transfer, or discharge any offensive weapon, as defined in Chapter 9 of this Code, within the incorporated area of the City of Avoca.

B. Dangerous Weapons Prohibited. The following regulations shall control the carrying, possession, display, discharge, or use of dangerous weapons, as defined in Chapter 9 of this Code:

1. It is unlawful for any person to carry, possess, or display any dangerous weapon in or on any City Property. Notwithstanding this regulation, any of the following is authorized to possess a dangerous weapon in or on City Property:
 - a. Any public safety official in the ordinary course of duty, or
 - b. Any member of the armed forces of the United States or of the National Guard in the ordinary course of duty, or
 - c. Any nonprofessional currently authorized by an appropriate permit under state law to carry weapons, or
 - d. Any veteran's organization possessing and using firearms adapted for the firing of blank ammunition in the course of ceremonial activities, or
 - e. Any person who under the laws of this state and the United States, is lawfully engaged in the business of supplying those authorized to possess such devices when such activities are permitted to take place on public property, or
 - f. A resident of this state who possesses a weapon which is a curio or relic firearm under the federal Firearms Act, 18 U.S.C. ch. 44, solely for use in the official functions of a historical reenactment organization of which the person is a member, if the offensive weapon has been permanently rendered unfit for the firing of live ammunition. The offensive or dangerous weapon may, however, be adapted for the firing of blank ammunition, or
 - g. A nonresident who possesses a weapon which is a curio or relic firearm under the federal Firearms Act, 18 U.S.C. Ch. 44, solely for use in official functions in this state of a historical reenactment organization of which the person is a member, if the weapon is legally possessed by the person in the person's state of residence and the weapon is at all times while in this state rendered incapable of firing live ammunition. A nonresident who possesses an offensive weapon under this subsection while in this state shall not have in the person's possession live ammunition. The offensive weapon may, however, be adapted for the firing of blank ammunition.

2. It shall be unlawful to discharge or use dangerous weapons on any private or public property within the incorporated limits of the City, unless in conformance with the Zoning Code or in defense of self or property.
3. **Intent Not to Conflict With Weapons Free-Zones Under 724.4A.** The intent of this ordinance is not to abrogate Iowa Code 724.4A which mandates any public park facility owned by the City be a "Weapon Free-Zone." Carrying, possession, display, discharge, or use of dangerous weapons in any public park shall remain unlawful.

C. Detection of Weapons. Persons in or upon any City Property may be subject to search if reasonable suspicion exists to believe they are unlawfully carrying or in possession of a dangerous weapons or offensive weapons.

4.8 Operation of Snowmobiles: The following regulations shall apply to the operation of snowmobiles within the City:

A. Operation of Snowmobiles Restricted. Unless a street, highway, or area is specifically restricted below, snowmobiles may be operated on public ways within the incorporated limits of the City as follows:

1. By any person authorized to operate snowmobiles by the laws of the State of Iowa; and
2. In a single-file manner in the proper lane of traffic, but as close to the curb as possible under existing circumstances; and
3. Snowmobiles traveling on permitted public streets, highways and areas shall not exceed the posted speed limits; and
4. Snowmobiles must be operated in conformance with all traffic controls which would otherwise apply to automobiles; and
5. All snowmobiles operated in permitted areas or streets shall be equipped with a muffler in good working order to prevent excessive and unusual noise; and
6. Snowmobiles may not be operated upon the following public streets, highways or areas within the municipal limits of the city:
 - a. Public parks and recreation areas, or
 - b. Graceland Cemetery, or
 - c. Highway 59, or
 - d. Highway 83, or
 - e. Crocker Street from Highway 59 west to Maple Street, or
 - f. Lyon Street from Highway 59 west to Maple Street, or
 - g. Maple Street from Lyon Street north to Crocker Street, or
 - h. Elm Street from Lyon Street north to Wool Street, or
 - i. Any public sidewalk or any area between a street and the sidewalk.

4.9 Curfew and Truancy. Individuals under the age of eighteen (18) shall be subject to the following regulations:

A. Night-Time Curfew. It is unlawful for any person under the age of eighteen (18) years old to be upon the streets, sidewalk, parks, public places and vacant lots, places of public accommodation, or to ride in or upon, drive or otherwise operate or be a passenger of any automobile, bicycle, or other vehicle in, upon, over or through the streets, or other public places between the hours of twelve a.m. and five a.m.

B. Truancy. It is unlawful for any person under the age of eighteen (18), who is subject to compulsory education, alone or in concert with others, to be present in or upon streets, sidewalk, parks, public places and vacant lots, places of public accommodation, or to ride in or upon, drive or otherwise operate or be a passenger of any automobile, bicycle, or other vehicle in, upon, over or through the streets, or other public places during the hours of the day when the school, which the person would normally attend, is in session, on days when that school is in session.

C. Exceptions. The provision of the 4.9(A) and 4.9(B) of this section do not apply under the following conditions:

1. A person under the age of eighteen (18) under accompanied by his or her guardian(s); or
2. A person under the age of eighteen (18) traveling to or returning from;
 - a. Employment, or
 - b. Religious, political, economic or cultural assembly, or
 - c. Legitimate parentally approved errand, or
3. A person under the age of eighteen (18) who has been legally emancipated from his or her guardian(s); or
4. A person under the age of eighteen (18) who is married; or
5. A person under the age of eighteen (18) engaged in interstate travel for a lawful purpose with the consent of the parent; or
6. A person under the age of eighteen (18) on the sidewalk in front of his or her parent's home, with the permission of his or her parent; or
7. A person under the age of eighteen (18) on the sidewalk in front of the home of someone else, with the permission of his or her parent and the permission of the abutting property owner of the sidewalk the minor is on.

D. It is unlawful for the guardian(s) of a person under the age of eighteen (18) to knowingly permit or allow such minor person to violate 4.9(A) and 4.9(B) of this section.

4.10 Sale or Gift of Tobacco Products to Minors. The following shall apply:

A. Transfer to Minors Prohibited. It is unlawful for a person to sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen (18) years of age; or

- B. Use by Minors.** A person under eighteen (18) years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.
- C. Exception.** Possession of cigarettes or tobacco products by an individual under eighteen years of age does not constitute a violation under this section if the individual under eighteen years of age possesses the cigarettes or tobacco products as part of the individual's employment and the individual is employed by a person who holds a valid permit under this chapter or who lawfully offers for sale or sells cigarettes or tobacco products.
- 4.11 Trapping.** No person shall set or use a steel, claw, string, or box trap outside of any structure or building for the purpose of taking, killing, maiming, wounding, ensnaring, trapping, or capturing an animal or which is injurious to persons or animals except for the following:

 - A.** Any trap designed for the primary use of capturing mice, rats, gophers, moles, or aquatic rodents which are trapped in water; or
 - B.** Any trapping by a governmental unit to capture animals which are creating a public nuisance or for the protection of public or private property.
- 4.12 Private Communication and Energy System Equipment.** It shall be unlawful for any person to place any private communication equipment or energy system equipment within any public right-of-way.
- 4.13 Discharge Into Sanitary and Storm Sewers.** It shall be unlawful to discharge into the public sanitary sewer or stormwater sewer systems as follows:

 - A.** No person shall discharge or cause to be discharged into the public sanitary sewer or stormwater sewer systems any flammable or explosive material; or
 - B.** No person shall discharge or cause to be discharged into the public sanitary sewer or stormwater sewer systems any toxic or poisonous materials; or
 - C.** No person shall discharge or cause to be discharged into the public sanitary sewer or stormwater sewer systems any corrosive waste; or
 - D.** No person shall discharge or cause to be discharged into the public sanitary sewer or stormwater sewer systems any materials such as trash, garbage, rubbish, litter, offal, leaves, cement, or grass which could clog the system.
- 4.14 Destruction or Damage of Public Grounds, Property, Notices, or Proclamations.** It shall be unlawful for a person to destroy or damage any publicly owned grounds or property, personal or real, or to destroy or damage any notice or proclamation set up at any place within the City by authority of the law or by order of any court.
- 4.15 Golf Cart Operation on City Streets.** It shall be unlawful to operate a Golf Cart upon a public right-of-way unless the following requirements are met:

 - A.** The Golf Cart is operated on a public street or alley between sunrise and sunset, and
 - B.** The Golf Cart is equipped with a slow moving vehicle sign and a bicycle safety flag, and
 - C.** The Golf Cart is equipped with adequate brakes; and
 - D.** The individual controlling the Golf Cart has a valid driver's license.

- 4.16 Unlawful Painting of Curbs.** It shall be unlawful for any person to place or maintain paint or other material upon any curb, sidewalk or pavement in the City in a manner which purports to be, or is, an imitation of or resembles official indication of parking regulations.
- 4.17 Obstructing Drainage.** It shall be unlawful to divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or to break down any levee lawfully established, constructed or maintained.
- 4.18 Unauthorized Entry.** No person shall enter any public building or public enclosure unless authorized to do so. An entry into public buildings and enclosures shall be considered to be unauthorized when said buildings or enclosures are closed and secured against entry and not open to the public. When open to the public, a failure to pay a required admission fee, if any, shall also constitute an unauthorized entry.
- 4.19 Placing Debris on Street or Sidewalk.** It shall be unlawful for any person to throw or deposit on any street or sidewalk any yard waste, glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal, or vehicle.
- 4.20 Playing in Streets.** It shall be unlawful for any person to coast, slide, or play games on streets or highways.
- 4.21 Use of Coasters, Roller Coasters, or Similar Devices.** No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway except when crossing a street on a crosswalk.
- 4.22 Traveling on Barricaded Street.** It shall be unlawful for any person to travel or operate any vehicle on any street or public way temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of the City Manager, or his or her designee.
- 4.23 Use of Street for Business.** It shall be unlawful to park, store or place any machinery, or any other goods, wares, and merchandise of any kind upon any street, unless done so in compliance with a peddlers, solicitors, or transient merchant permit, or under the approval of the City.
- 4.24 Off-Road Vehicles Prohibited.** The follow regulations shall apply to the use of Off-Road Vehicles within the incorporated limits of the City.
- A.** No person shall operate an Off-Road Vehicle on public property or private property within the City of Avoca due to the creation of safety concerns, irritating dust, fumes, intrusive noise, and detrimental impacts on surrounding property owners. Detrimental impacts on surrounding property owners from these activities include, but are not limited to, disruption of normal daily activities, interference with enjoyment of property, extreme annoyance, and air pollution.
 - B.** Certain exceptions constitute uses of Off-Road Vehicles that do not create the detrimental impact on surrounding properties due to the public necessity, public character, conformance with the Zoning Code, or necessity to maintain private property inherent in the use. The following uses shall constitute exceptions to prohibition on use of Off-Road Vehicles:
 - 1. The operation of Off-Road Vehicles by public agencies, public employees or emergency personnel, and agents of public agencies in the course and scope of their employment, or
 - 2. The operation of Off-Road Vehicles in zoning districts where such use is permitted by the Zoning Code or where such use is incidental to a use permitted by the Zoning Code, or

3. The operation of any Off-Road Vehicles whose use is required for maintenance of real property or lawful uses thereon by the property owner or agent of the property, including commercial service providers. Typical examples of this exception include snow removal, grading, and spraying, or
 4. The operation of any Off-Road Vehicle in conjunction with a permitted parade within the City of Avoca, or
 5. The lawful operation of a properly licensed Off-Road Vehicle on a public street.
- 4.25 Operating of Curb Stops and Fire Hydrants.** No person, unless specifically authorized by the City, shall operate a curb stop or fire hydrant.
- 4.26 Unlawful Discharge.** No owner or occupant of any building shall discharge or permit to be discharged into the sanitary sewers or storm sewers any substances which will clog the pipes, produce, explosive mixtures, destroy or materially damage the pipes or joints, or interfere unduly with the sewage disposal process.
- 4.27 Dumping of Snow.** It is 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 a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; however, it is lawful for a person to redeposit into the street any snow accumulation that snow plows have pushed onto private driveways or sidewalks.
- 4.28 Illegal Dumping of Waste:** The following regulations shall constitute unlawful illegal dumping of waste:
- A. It is unlawful for any person in the city to throw or deposit any waste upon any street or other public way.
 - B. It is unlawful for any person to dump any waste at the Municipal Tree and Leaf Site other than those types of yard waste and tree waste that are permitted.
- 4.29 Burying Solid Waste.** It shall be a violation for any person to bury solid waste upon any property in the City and it shall be unlawful for any person to deposit solid waste upon any property in the City except in a container for collection and removal of the solid waste.
- 4.30 Burning of Solid Waste.** It shall be unlawful for any person or entity, at any time, to burn any solid waste on any property within the limits of the City of Avoca, Iowa. Solid waste includes garbage, refuse, rubber tires, chemicals, furniture, carpeting, household appliances, vinyl products (such as flooring or siding), trade waste, rubbish, building materials, residential waste, and other nonstructural materials shall not be burned. Solid waste shall not include landscape materials originated on the premises of the burning.
- 4.31 Dead Animals.** It is a violation for any person to bury any dead animal except small household pets upon any property within the City in conformance with Chapter 7.
- 4.32 Accumulation of Rubbish.** It shall be a violation for any person to accumulate rubbish in a manner which renders the property upon which the same is situated unsightly or in such an amount as to constitute a nuisance, a fire hazard, or a hazard to health. No person shall cause or permit to be disposed garbage, rubbish, refuse, dead animals or any other similar matter in or upon any street or alley or upon any premises within the City.

- 4.33 Responsibility for Damage by Animals.** It is unlawful for an owner or custodian to allow or permit an animal to attack persons or domestic animals, to destroy property, to cause personal injury or to place persons in danger of attack or injury.
- 4.34 Keeping of Livestock.** It is unlawful for a person to keep livestock within the City except in compliance with the City's zoning regulations.
- 4.35 Animal Abuse.** It shall be unlawful for any person to beat, starve or otherwise abuse any animal.
- 4.36 Animals for Entertainment.** It shall be unlawful for any person to use animals for entertainment purposes, including but not limited to: horse tripping, steer tailing, selling or giving away any animal as an incentive, prize or novelty; owning, breeding or training any animal (or other similar activity) for purposes of fighting between such animal with another animal or human being; intentionally killing or injuring any animal for sport, wagering or entertainment.
- 4.37 Poisoning Animals.** It shall be unlawful under this Chapter for any person to knowingly poison or cause to be poisoned any domestic animal, except for euthanasia performed by a licensed veterinarian.
- 4.38 Killing Animals.** It shall be unlawful under this Chapter for any person to knowingly kill any domestic animal, subject to the following exceptions:
- A.** In an emergency situation to end the immediate suffering of the animal; or
 - B.** When the animal is not under the supervision of its owner or custodian and is in the process of injuring, wounding or killing another animal or a human being; or
 - C.** Under the direction of a licensed veterinarian.
- 4.39 Load Limits Upon Certain Streets.** When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the streets or parts of streets for which said signs are erected.
- 4.40 Allowing Animals At-Large.** It shall be unlawful for the owner or custodian of any animal to fail to keep the same from running "at large" in the City, per the regulations of Chapter 7.3.
- 4.41 Owners and Custodians of Animals.** It shall be unlawful for the owners or custodians of animals to violate their duties and standards under Chapter 7.4.