

CHAPTER 1 OFFENSES

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3-1-1 VIOLATION OF CHAPTER AND PENALTY. Commission of any of the acts named in the following Sections by any person shall constitute a violation of this Chapter and shall be a municipal infraction. The penalty for a conviction of a violation of these acts shall be as set forth in Ordinance 1-3-1. (Ord. 991, Passed April 19, 2004) (Ord. 1142, Passed June 2, 2018)

3-1-2 PUBLIC PEACE.

ASSAULT. A person commits an assault when, without justification, the person does any of the following:

1. 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.
2. 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.
3. Intentionally points any firearm toward another or displays in a threatening manner any dangerous weapon toward another.

Provided, that where the person doing any of the above enumerated acts, and such other person are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonable foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace, the act shall not be an assault.

3-1-3 DISORDERLY CONDUCT. Any person commits a simple misdemeanor when the person does any of the following:

1. 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.
2. Makes loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.
3. 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.

4. 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.
5. 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.
6. 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 a public offense.
7. Without authority or justification, the person obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others. (Ord. 1142, 06-02-2018)

3-1-4 FAILURE TO DISPERSE. A Peace Officer may order the participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. Any person within hearing distance of such command, who refuses to obey, commits a municipal infraction. (Ord. 1142, 06-02-2018)

3-1-5 UNLAWFUL ASSEMBLY DEFINED.

1. An unlawful assembly is three or more persons assembled together, in any public place with any of them acting in a violent manner and with intent that they or any of them will commit a public offense: or,
2. An unlawful assembly is a group of three or more persons who have gathered or collected together on public property of the City of Maquoketa or are occupying, parading, or marching on any public street of the City of Maquoketa under the circumstance that an assembly permit has not been granted by the City Manager for the assembly.

3-1-5.1 PERMIT APPLICATION. Before any group of persons shall collect or gather together or parade or march upon the streets or public places of the City, they shall first obtain a permit from the City Manager, which permit, when issued, shall be without charge, and shall state the time, manner and conditions of such march, parade or assembly.

An application for a permit containing the information required herein shall be filed with the City Manager by any group desiring to use any street or public place as provided in this article. Applications shall be made on forms prepared by the City Manager and shall contain the information required herein. The City Manager shall have a reasonable time to grant or deny the permit. The length of time that is reasonable shall be determined by the type of use requested: the information supplied: the time of filing of the application: and the extent of advance preparation or planning demonstrated and reasonably required.

The City Manager shall grant or deny the permit, in writing, according to the standards set forth in Section 3-1-5 herein and shall provide the written decision to the applicant by regular mail or by personal delivery.

3-1-5.2 PENALTY. A person who participates in or remains a part of unlawful assembly, knowing or having reasonable grounds to believe that it is such, commits a municipal infraction.

(Ord. 1142, 06-02-2018)

3-1-5.3 APPLICATION FORM The application form for the use of any street or public place shall contain the following information:

1. Name and address of the applicant and the sponsoring organization, if any.
2. The type of event that is planned.
3. Proposed location or locations.
4. Expected size of group.
5. Date, time and expected length of the use.
6. Names and addresses of the person or persons to be in charge of the proposed use at the specified location.
7. Names and addresses of any persons to be featured as entertainers or speakers.
8. List of mechanical or electronic equipment to be used.
9. Number and type of any motor vehicles or other forms of transportation to be used, including bicycles.
10. Number and type of any animals to be used.
11. A description of any sound amplification to be used.
12. Proposed monitoring of the group, including the number of people who will set up and clean up.

The application shall include an agreement pursuant to which the applicant shall agree to indemnify, defend and save harmless the City of Maquoketa and its agents, Officers and employees, from any and all claims, lawsuits, damages, losses and expenses, of whatever nature, which may result from or arise from the activity or event covered by the permit, irrespective of whether said claims are frivolous or meritorious.

3-1-5.4 STANDARDS FOR ISSUANCE. The City Manager shall examine the application, and shall grant or deny said permit based upon the following standards:

1. In light of the date and time of said proposed use, whether the use will unreasonably interfere with the privacy, safety, security, convenience and tranquility of the residents or inhabitants of the area.
2. Whether the proposed street or public place can accommodate the group or use, based both on group size and on health and sanitation facilities, whether available or to be provided by applicant.
3. Whether the proposed use or activity is compatible with the normal activity of the street or public place at the requested time or date.
4. Whether the application demonstrates the applicant has the means, planning and coordination to hold the proposed event, considering the time of day, location, public facilities available, traffic

control, parking requirements and any monitoring required to protect the public health and safety.

5. Whether the event will interfere with another event for which a permit has already been granted.
6. Whether the proposed use would substantially interrupt the flow of street and/or pedestrian traffic.
7. Whether the use would require the excessive diversion of Police from other duties, or substantially interfere with the City's fire fighting operations.

3-1-5.5 REVOCATION. After a permit is granted, in the event it is determined that the applicant has misstated any material fact in the application, or that there is a substantial and material variance between the information in the application and the actual facts or those facts that appear reasonably to have occurred, the City Manager may review such application and revoke such permit if not in compliance with this Article. Such permit may also be revoked when it is determined by the Chief of Police that by reason of disaster, public calamity, riot or other emergency, the public safety requires such revocation.

3-1-6 DISCHARGING FIREARMS. Any person who discharges an air gun, rifle, shotgun, pistol, or firearm of any kind within the City limits, with exception of indoor or outdoor firing ranges authorized by the Chief of Police or in the act of self-defense of property authorized by State law or Police officers in the line of duty, commits a municipal infraction. The Chief of Police shall have the authority to authorize adult individuals to discharge shotguns or air guns for the eradication of pigeons, sparrows, crows, and starlings. The shooting shall be under the direct supervision of the Chief of Police or another designated officer. The permission of the property owner shall be obtained prior to any shooting on their premises. Chief shall allow only birdshot or equivalent shot on such occasions.

(Ord. 1142, 06-02-2018)

3-1-7 POSSESSION OF OPEN CONTAINERS. It shall be unlawful for any person to possess any open container of beer or alcoholic beverages upon the public streets or highways, including the sidewalk, within the public right of way and in any public place except upon a premises covered by a Liquor Control License.

3-1-8 INDECENT EXPOSURE. It shall be unlawful for any person to urinate or defecate in or upon any street, alley, or any place open to public view. (Ord. 1075, 10-05-2009)

3-1-9 NOISE DISTURBANCE. Any violation of Maquoketa City Ordinance Title VI, Chapter 8 is a municipal infraction. (Ord. 1142, 06-02-2018)

3-1-10 CURFEW.

3-1-10.1 PREAMBLE. The City of Maquoketa, Iowa, City Council finds that offenses by minors, especially at night, detracts from the health, safety, and welfare of the minors and adults who live in Maquoketa.

The Council finds that older citizens hesitate to use the public sidewalks at night and fear calling the police to break up groups of youth who disturb the peace late at night. The Council also finds that the following law violations by juveniles are likely to occur after 11:00 o'clock P.M.:

1. Disturbance of the peace by loud noise or abusive language.
2. Drinking of alcoholic beverages.
3. Interference with pedestrian and vehicular traffic.
4. Thefts of motor vehicles.
5. Burglary of public, commercial, industrial, and private buildings.
6. Possession of firearms.
7. Vandalism of public and private property: and,
8. Assaults against juveniles and by juveniles.

The Council finds that a curfew will assist law enforcement officials in curbing the violations listed above.

The Council also finds that a curfew will assist parents in obtaining compliance by children with parent's directions about when to be home.

3-1-10.2 INTERPRETIVE CLAUSE. The City of Maquoketa recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This Ordinance should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religion and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

3-1-10.3 PROHIBITION. Now, Therefore, It Is Ordained by the City of Maquoketa that any minor under the age of 18 shall not be upon the streets or sidewalks of the City of Maquoketa between the hours of 11:00 o'clock P.M. and 5:00 o'clock A.M. except under one of the following exceptions:

1. The minor is traveling to or returning from employment or a religious, political, economic, or cultural assembly.
2. The minor is traveling a direct route to or from home and the location of an errand that the minor is accomplishing at the request of a parent: or the minor is traveling a direct route home from a school or recreational or social event that the minor attended with the approval of his/her parent:
3. The minor is accompanied by a parent.
4. Repealed (Ord. No. 1054, 03-17-08)
5. The minor is traveling interstate with the consent of a parent.

3-1-10.4 DEFINITIONS.

1. “Minor” means any person under the age eighteen (18) but shall not include any minor who has attained their majority by marriage.
2. “Parent” means biological parent, a guardian or custodian appointed by the court, or an adult who has accepted the supervision of a minor at the request of the biological parent, guardian, or custodian.
3. “Assembly” means any gathering of persons for a religious, political, economic, or cultural purpose and does not require the presence of chaperones or adults. (Ord. 1054, 03-17-2008)

3-1-10.5 PENALTY AND ENFORCEMENT. A minor who is in violation of this Ordinance may be reunited with his/her parents or may be taken home by the Police officers or may be directed to travel immediately home: and, in addition, a minor who violates this Ordinance shall be guilty of a municipal infraction and shall be subject to the penalty provided in Maquoketa Ordinance 1-3-1.

(Ord. 1142, 06-02-2018)

3-1-11 DRUG PARAPHERNALIA.

3-1-11.1 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.

3-1-11.2 EXEMPTION. "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

3-1-11.3 PROHIBITION. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia. (Code of Iowa, Sec. 124.414)

3-1-12 LITTERING PROHIBITED.

1. As used in this Code, “discard” means to place, cause to be placed, throw, deposit or drop, and “litter” means any garbage, rubbish, trash, refuse, waste material and yard waste.
2. No person shall discard any litter within the City of Maquoketa, except as provided and approved by the City of Maquoketa, by collecting and discarding such litter in approved areas or approved receptacles.
3. It is unlawful for any person to deposit or place any garbage, rubbish, trash, refuse, waste material or yard waste in any street, alley, lane, public place, private property, or body of water within the City.

4. It is unlawful to place garbage, refuse or yard waste on the private property of another, or into another garbage, refuse or yard waste containers for the purpose of being hauled away.
5. It is unlawful to permit garbage, yard waste or refuse to remain for more than ten (10) days on private property that is under one's ownership, possession, or control. Yard waste may be retained more than ten (10) days if composting is being completed.
6. Notwithstanding the above provisions, garbage, refuse or yard waste may be placed on the untraveled portions of streets, alleys, lanes, public places or on private property to be hauled away, provided the garbage, refuse or yard waste is kept in place in the manner prescribed in this Code. (ECIA Model Code Amended in 2017)

TITLE III COMMUNITY PROTECTION

