

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Fire Hydrants

42.08 Parades, Marches, Walks and Demonstrations

42.01 TRESPASSING. 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 Sec. 716.7 and 716.8)

1. **Entering Property Without Permission.** Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate.

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

2. **Entering or Remaining on Property.** Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

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

3. **Interfering with Lawful Use of Property.** Entering 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])

4. **Using Property Without Permission.** Being 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])

None of the above shall be construed to prohibit 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 be retrieved, quits 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))

42.02 CRIMINAL MISCHIEF. It is unlawful, for any person who has no right to do so, to intentionally damage, deface, alter or destroy tangible property.

(Code of Iowa, Sec. 716.1)

42.03 DEFACING PROCLAMATIONS OR 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, Sec. 716.1)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

42.05 FRAUD. It is unlawful for any person to commit a fraudulent practice as defined in Section 714.8 of the Code of Iowa.

(Code of Iowa, Sec. 714.8)

42.06 THEFT. It is unlawful for any person to commit theft as defined in Section 714.1 of the Code of Iowa.

(Code of Iowa, Sec. 714.1)

42.07 FIRE HYDRANTS. No person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

42.08 PARADES, MARCHES, WALKS AND DEMONSTRATIONS.

1. Application. It is unlawful for any parade, demonstration, march or rally of any kind or nature to be held upon the public street, sidewalk or public ground unless a hold harmless agreement is first obtained. The application for a hold harmless agreement shall be filed with the City Manager's Office and shall contain a description of the proposed activities, their duration and location within the City. If a parade or march is contemplated, then the route shall be shown in detail. The correct name of the sponsoring organization shall be set out in the application along with the name and address of all officers and directors or owners or partners, depending upon the type of legal organization. The application must be filed with the City not less than seventy-two (72) hours before the proposed activity.

2. Issuance Standards. The City Manager shall issue the hold harmless agreement as requested upon the applicant's written agreement to comply with the terms of the hold harmless agreement unless the City Manager finds that:

A. The time, route and size of the parade, demonstration, march, or rally will disrupt to an unreasonable extent the movement of other traffic.

B. The parade, demonstration, march, or rally is of a size or nature that requires the diversion of so great a number of police officers of the City to properly police the area and areas contiguous thereto that allowing the parade, demonstration, march or rally would deny reasonable police protection to the City.

C. The parade, demonstration, march, or rally will interfere with another parade, demonstration, march, or rally for which a hold harmless agreement has been issued.

D. An application for an event covered by this Chapter that is expected to exceed sound, noise, or time limits shall be subject to Council approval as provided for within Chapter 53 of the Marion Code of Ordinances.

3. Denial Standards. The City Manager shall deny an application for a hold harmless agreement as requested and shall notify the applicant of the denial where:

A. The City Manager makes a finding contrary to the findings required to be made for the issuance of the hold harmless agreement.

B. The information contained in the application is found to be false or nonexistent in any material detail.

C. The applicant refuses to abide by or comply with all conditions of the hold harmless agreement.

(Ord. 16-16 – Feb. 17 Supp.)

4. Appeal. Upon a denial by the City Manager of an application made pursuant to this section, the applicant may appeal from the determination of the City Manager within five (5) days thereafter to the Council by filing a written notice of appeal for hearing by the Council at its next meeting. Upon such appeal, the Council may reverse, affirm, or modify in any regard the determination of the City Manager. In the event an application is not filed within the required time as specified in this section, the applicant may request a waiver of such requirement by the Council at its next regular meeting, or at a special meeting which may be called prior thereto by the Council to consider the matter, and the Council, if it finds unusual circumstances and in the exercise of its sound discretion, may waive such requirement.