

## CHAPTER 40

### PUBLIC PEACE

40.01 Assault  
40.02 Harassment  
40.03 Disorderly Conduct  
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**40.01 ASSAULT.** No person shall, without justification, commit any of the following:

1. Pain or Injury. 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])*

2. Threat of Pain or Injury. 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)*

**40.02 HARASSMENT.** No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy or alarm another person, the person does any of the following:

A. Communicates with another by telephone, telegraph, writing or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

*(Ord. 00-26 – Aug. 00 Supp.)*

*(Code of Iowa, Sec. 708.7)*

B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by the other person.

*(Code of Iowa, Sec. 708.7)*

C. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.

*(Code of Iowa, Sec. 708.7)*

D. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur.

*(Code of Iowa, Sec. 708.7)*

2. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

**40.03 DISORDERLY CONDUCT.** No person shall do any of the following:

1. Fighting. Engage 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.

*(Code of Iowa, Sec. 723.4 [1])*

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

*(Code of Iowa, Sec. 723.4 [2])*

3. Abusive Language. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

*(Code of Iowa, Sec. 723.4 [3])*

4. Disrupt Lawful Assembly. Without lawful authority or color of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

*(Code of Iowa, Sec. 723.4 [4])*

5. False Report of Catastrophe. By words or action, initiate or circulate a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

*(Code of Iowa, Sec. 723.4 [5])*

6. Disrespect of Flag. Knowingly and publicly use 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.

*(Code of Iowa, Sec. 723.4 [6])*

7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

*(Code of Iowa, Sec. 723.4 [7])*

8. Funeral or Memorial Service. A person shall not do any of the following within five hundred feet of the building or other location where a funeral or memorial service is being conducted, or within five hundred feet of a funeral procession or burial:

A. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

B. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

C. Disturb or disrupt the funeral, memorial service, funeral procession or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession or burial.

D. This subsection applies to conduct within sixty minutes preceding, during and within sixty minutes after a funeral, memorial service, funeral procession or burial.

*(Code of Iowa, Sec. 723.5)*

*(Ord. 06-21 – Nov. 06 Supp.)*

**40.04 UNLAWFUL ASSEMBLY.** It is unlawful for three (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

*(Code of Iowa, Sec. 723.2)*

**40.05 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. No person within hearing distance of such command shall refuse to obey.

*(Code of Iowa, Sec. 723.3)*

**40.06 PUBLIC NUDITY.**

1. Definitions. The following terms are defined for use in this section:
  - A. “Nudity” means the showing of the human male or female genitalia, pubic hair or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.
  - B. “Public place” includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.
2. Prohibition. No person shall knowingly or intentionally, in a public place:
  - A. engage in sexual intercourse,
  - B. appear in a state of nudity, or
  - C. fondle the genitals of himself, herself or another person.
3. Exceptions. The prohibition set forth in subsections 2 (b) and (c) shall not apply to:
  - A. Any child under ten (10) years of age; or
  - B. Any individual exposing a breast in the process of breastfeeding.

#### **40.07 DISORDERLY HOUSES.**

1. As used in this section “disorderly house or property” means and includes any land, building, house, structure, enclosure or place, including any adjacent yard or bare ground, where riotous, noisy or disorderly conduct or loud or unusual noises or loud profane or vulgar language or drunkenness, quarreling or fighting is engaged in or permitted; or to which persons resort to for the purpose of prostitution, lewdness or vagrancy; or where drug paraphernalia is possessed in violation of Chapter 48 of the Code of Ordinances of Marion; or where runaway minors or fugitives or persons with outstanding arrest warrants are harbored or where stolen property is being hidden, received, stored, sold or distributed or a place where intoxicating liquors or beer are illegally kept, sold, served, or given away; or a place where a person who is of legal age sells, gives, or otherwise supplies alcoholic liquor, wine or beer to a person under legal age, except a licensee or permittee under Chapter 123 of the Iowa Code and except as allowed in Section 123.47(2) of the Iowa Code.

2. No person shall keep, maintain, operate or be concerned in keeping, maintaining or operating within the City, any disorderly house or property, illegal gambling place, house of prostitution, place where illegal controlled substances are kept, used, sold or given away, and no person shall frequent any such place or be present therein or be employed therein.

*(Ord. 12-12 – May 12 Supp.)*

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