

## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

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**41.01 DISTRIBUTING DANGEROUS SUBSTANCES.** No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

*(Code of Iowa, Sec. 727.1)*

**41.02 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES.** No person shall do any of the following:

*(Code of Iowa, Sec. 718.6)*

1. 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 report the alleged occurrence of a criminal act knowing the act did not occur.
2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.
3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

**41.03 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 to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. No person shall unreasonably and without lawful cause, refuse or neglect to render assistance when so requested.

*(Code of Iowa, Sec. 719.2)*

**41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.** No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

*(Code of Iowa, Sec. 718.4)*

**41.05 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person

of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

*(Code of Iowa, Sec. 719.1)*

**41.06 ABANDONED OR UNATTENDED REFRIGERATORS.** No person shall abandon or otherwise leave unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, nor shall any person allow any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person’s possession or control, abandoned or unattended and so accessible to children.

*(Code of Iowa, Sec. 727.3)*

**41.07 ANTENNA AND RADIO WIRES.** It is unlawful for a person to allow antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk, public way, public ground or public building without written consent of the Council.

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

**41.08 BARBED WIRE AND ELECTRIC FENCES.** It is unlawful for a person to use barbed wire or electric fences to enclose land within the City limits without the written consent of the Council unless such land consists of ten (10) acres or more and is used as agricultural land.

**41.09 DISCHARGING WEAPONS.**

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or other firearms of any kind within the City limits except by written consent of the Council. The provisions of this subsection do not apply to a qualified peace officer in the discharge of official duties, military personnel in the discharge of official duties within the boundaries of Camp Dodge, or to personnel or patrons of indoor shooting ranges, as allowed by chapter 172.03.12 of the City of Johnston Code of Ordinances.

*(Ord. 908 – June 15 Supp.)*

2. No person shall intentionally discharge a firearm in a reckless manner.

**41.10 THROWING AND SHOOTING.** It is unlawful for a person to throw stones, bricks or missiles of any kind or to shoot paintballs, rubber guns, slingshots, air rifles, BB guns or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground or public building.

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

**41.11 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.

**41.12 FIREWORKS.** The sale, use or exploding of fireworks within the City is subject to the following:

1. Definitions. For the purposes of this section:

A. Consumer fireworks means those fireworks, as defined by SF489, that may be sold within the City of Johnston regardless of whether the use of those items is prohibited.

B. "First-class consumer fireworks" means the following consumer fireworks, as described in APA (American Pyrotechnics Association) standard 87-1, chapter 3:

- (1) Aerial shell kits and reloadable tubes.
- (2) Chasers.
- (3) Helicopter and aerial spinners.
- (4) Firecrackers.
- (5) Mine and shell devices.
- (6) Missile type rockets.
- (7) Roman Candles
- (8) Skyrockets and bottle rockets.
- (9) Multiple tube devices under this paragraph "b" that are manufactured in accordance with APA 87-1, section 3.5.

C. "Second-class consumer fireworks" means the following consumer fireworks, as described in APA standard 87-1, chapter 3:

- (1) Cone fountains.
- (2) Cylindrical fountains.
- (3) Fitter sparklers.
- (4) Ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.
- (5) Ground spinners.
- (6) Illuminating torches.
- (7) Toy smoke devices that are not classified as novelties pursuant to APA standard 87-1, section 3.2.
- (8) Wheels.
- (9) Wire or dipped sparklers that are not classified as novelties pursuant to APA standard 87-1, section 3.2.

D. "Display fireworks" includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in APA standard 87-1, section 3.

E. "Novelties" includes all novelties enumerated in APA standard 87-1, section 3 and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

*(Code of Iowa, Sec. 727.2)*

2. Regulations.

A. The City of Johnston deems the use of consumer fireworks as a threat to public safety and a nuisance to residents and property owners and therefore prohibits the use of consumer fireworks.

B. The sale of consumer fireworks shall be regulated by the State Fire Marshal (SFM) who shall establish dates of permitted sales, the minimum requirements for obtaining a consumer fireworks seller license, and shall issue such licenses.

(1) It shall be unlawful without a state issued license and a city issued Certificate of Zoning Compliance for any person to offer for sale, consumer fireworks within the corporate limits of the city.

(2) Consumer fireworks sales facilities shall conform to the applicable requirements of the National Fire Protection Association 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition, as well as, Chapters 155, 159, and 165 to 173 of the City of Johnston Code of Ordinances.

(3) Sales from permanent structures as defined by the SFM shall be allowed between June 1 and July 8 and between December 10 and January 3 each year, all dates inclusive.

(4) Sales from temporary structures as defined by the SFM shall be allowed between June 13 and July 8 each year, both dates inclusive.

(5) A retailer or community group to be issued a license pursuant to this section must provide proof of and maintain commercial general liability insurance with minimum per occurrence coverage of at least one million dollars and aggregate coverage of at least two million dollars.

C. The sale and use of Novelties known as snappers, party poppers, glow worms, snakes, toy smoke devices and sparklers are permitted at all times.

D. The city may, upon application in writing, grant a permit for the use of display fireworks by a city agency, fair association, amusement park and other organizations or groups of individuals approved by city authorities when such fireworks display will be handled by a competent, licensed operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- (1) Personal Injury: ..... \$250,000 per person.
- (2) Property Damage: ..... \$50,000
- (3) Total Exposure: ..... \$1,000,000

*(Code of Iowa, Sec. 727.2, 461A.42)*

3. 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, Sec. 727.2, 100.19, 100.19A)*

*(Ord. 979 – Nov. 17 Supp.)*

#### **41.13 SHOOTING OF BOWS AND ARROWS.**

1. For the purpose of this section “shooting a bow and arrow” means to place the notch of the arrow in the string of a bow or any other object and to release the arrow in such fashion that when the string is pulled or made taut and released, the arrow thrusts or shoots.

2. It is unlawful for a person to shoot a bow and arrow within the City limits except for:

A. A person participating in a supervised program of physical education or competitive sports in a public or private school.

B. A person shooting a bow and arrow at a public or private lane or range that has been certified by the Archery Lane Operators Association or the National Field Archery Association.

C. A person participating in a tournament which either: (i) has been approved by the City Administrator at least one week prior to the time of the tournament and tournament rules have been submitted to the Administrator; or (ii) is conducted at a licensed lane or range.

D. A person shooting a bow and arrow in the Johnston Special Deer Management Zone, as designated by resolution of the Council, for the purpose of hunting and shooting of antlerless deer on dates designated by the Iowa Department of Natural Resources, provided such person shall:

(1) Pass a bow hunting proficiency test approved by the DNR or by resolution of the Council with a score of at least 80 based upon a total score of 100.

(2) Be at least eighteen years of age, possess and carry a valid deer hunting license and comply with all rules and regulations of the DNR.

(3) Obtain written permission from any private property owner within the zone and carry such permission at all times while hunting.

(4) Possess at all times a valid zone map of the area being hunted.

(5) Take all shots from an elevated stand and shoot no further than 25 yards. An elevated stand means a minimum height of at least six (6) vertical feet off the ground in an artificial or erected stand, or a natural growth, to ensure that the hunter’s body is not in contact with the ground and ensure a downward thrust of the arrow released by bow hunter.

(6) Not shoot an arrow within 300 feet of the property line of any school or any day care licensed and/or registered in the state of Iowa.

(7) Not shoot an arrow within 100 feet of any recreation trail, bicycle path, street or road. All hunters must position themselves

with their backs toward the recreation trail, bicycle path, street or road so all shots are in the opposite direction of the recreation trail, bicycle path, street or road.

*(Ord. 815 – Mar. 10 Supp.)*

(8) Hunters cannot hunt within 200 feet (66.6 yards) from a home or building except when hunting on their own property while adhering to the distance requirement from a home or building of adjoining property owners or except when a property owner waives the distance requirement in a written statement filed with the City.

(9) Recover and remove all deer carcasses shot and either donate the carcasses to a charity or process them in accordance with applicable Federal and State rules and regulations.

(10) The hunter and property owner or manager must sign a release and hold harmless statement indemnifying the City from any law suit or action brought against the City for all activities associated with the deer hunting program.

(11) Pass a bow hunter safety course approved by the Iowa Department of Natural Resources or approved equivalent.

*(Ord. 947 – Nov. 16 Supp.)*

The City will participate in the Buck Incentive Program as recommended by the Polk County Deer Task Force and administered by the DNR and the Polk County Deer Task Force. Hunters shall also abide by all of the rules and regulations established for the Buck Incentive Program.

E. Persons, with permission of the owner or tenant of the premises, may engage in shooting or discharging a bow and arrow on private property for the purpose of target practice subject to the following conditions:

(1) The person(s) engaged in target practice must pass a bow hunter safety course approved by the Iowa Department of Natural Resources or approved equivalent.

(2) The person(s) engaged in target practice must be 18 years or older. Individuals from 12-17 years old may engage in target practice under the supervision of a responsible adult who has passed a bow hunting safety course.

(3) The person(s) engaged in target practice must notify adjoining property owners or residents that are in the direction in which the arrow will travel of their intent to engage in target practice.

(4) The arrow does not travel beyond the boundaries of the private property.

(5) Arrows must be shot toward a backstop of sufficient size and substance that the arrow will not pass through or beyond the backstop.

*(Ord. 947 – Nov. 16 Supp.)*

**41.14 TRAPPING.** No person shall set or use a steel or claw trap outside of any structure or building or on any City-owned property, including City Parks, 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:

1. Any box trap or other trap which complies with State law, designed to keep the animal alive and unharmed in the trap.
2. Any trap designed for the primary use of capturing mice, rats, gophers, moles or aquatic rodents which are trapped in water.
3. Any trapping by a governmental unit to capture animals which are creating a public nuisance or for the protection of public or private property.

*(Ord. 854 – Aug. 12 Supp.)*

**41.15 FEEDING OF DEER PROHIBITED.**

1. Residents are prohibited from overtly and intentionally feeding deer for the following reasons:

A. There is an increased risk of spreading disease among the herd when the deer are concentrated in one place through purposeful feeding, by promoting contact between a sick animal and a higher number of healthy animals.

B. An increased chance to expose self, family, or pets to deer ticks that carry Lyme Disease (*Borrelia burgdorferi*).

C. Reduced fear of humans, leading to increased property damage, car/deer accidents, and other concerns.

2. Prohibition.

A. No person may place or allow any device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of attracting or feeding deer.

B. Each property owner or occupant of the property shall have the duty to remove any materials placed on the owner's property in violation of this section. Failure to remove such materials within twenty-four (24) hours after notice from the City shall constitute a violation of this section.

C. Each property owner or occupant of the property shall have the duty to remove any device placed on the owner's property to which deer are attracted or from which deer actually feed. Alternatively, a property owner or occupant may modify such a device or make other changes to the property that prevent deer from having access to or feeding from the device. Failure to remove such a device or to make such modifications within twenty-four (24) hours after notice from the City shall constitute a violation of this section.

3. Rebuttable Presumption. There is a rebuttable presumption that the placement of fruit, grain, mineral, plant, salt, vegetable, or other materials in a drop feeder, deer feeder kit, automatic feeder, or similar device regardless of the height of the fruit, grain, mineral, plant, salt, vegetable, or other material is for the purpose of feeding deer.

4. Exceptions.
  - A. Naturally Growing Materials. This section does not apply to naturally growing materials, including but not limited to fruit, grain, nuts, seeds, and vegetables.
  - B. Planted Materials. This section does not apply to planted materials growing in gardens, as standing crops, or in a wildlife food plot.
  - C. Stored Crops. This section does not apply to stored crops, provided that the stored crop is not intentionally made available to deer.
  - D. Incidental Spills. This section does not apply to spills of seed materials intended for planting or to crop materials that have been harvested if the spills are incidental to normal agricultural operations and such materials are not intentionally made available to deer.
5. Fine/Penalties. Any resident that violates Section 41.15 Feeding of Deer, shall be guilty of a municipal infraction and subject to fines and penalties as set forth in Chapter 3, Municipal Infractions, of this Code of Ordinances.

*(Ord. 816 – Mar. 10 Supp.)*