

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

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42.01 TRESPASSING.

1. 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)

A. 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])

B. 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])

C. Interfering with Lawful Use of Property. Entering upon or in private 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])

D. 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))

2. It is unlawful for any person (if said person knows that he or she is not licensed or privileged to do so) to do any of the following:

- A. Enter or secretly remain in or on any building or occupied structure, or any separately secured or occupied portion thereof, or
- B. Enter or remain in or on any place as to which notice against trespass is given by (i) actual communication to said person, or (ii) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders, or (iii) fencing or other enclosure manifestly designed to exclude intruders.

Provided, it is an affirmative defense to prosecution under paragraph A above that the building or occupied structure was abandoned, and to a prosecution under either paragraph A or B above that the premises was at the time open to members of the public and such person complied with all the lawful conditions imposed on access to or remaining in the premises, or that the said person reasonably believed that the owner of the premises or other person empowered to license access thereto would have licensed him or her to enter or remain.

- 3. Without limitation upon any restriction contained in subsection 2, it is unlawful for any person to do any of the following:
 - A. Knowingly enter upon, between the hours of sunset and sunrise as established by the United States Nautical Almanac Office Publication of Sunrise and Sunset Tables, any privately owned real property which is not available to the use of the public unless such person has obtained the consent of the owner or person in possession or control thereof.
 - B. Lodge, camp or sleep in any public way, park or place except at authorized camping areas, or
 - C. Lodge in any vehicle, or to occupy any vehicle without the permission of the owner or person entitled to possession.

A violation of any provision of this section is a misdemeanor.

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