

NOTICE AND CALL OF PUBLIC MEETING

GOVERNMENTAL BODY: THE CITY COUNCIL OF CRESCO, IOWA

DATE OF MEETING: JUNE 4, 2012

TIME AND PLACE OF MEETING: 7:00 P.M. AT CRESCO CITY HALL

PUBLIC NOTICE IS HEREBY GIVEN THAT THE ABOVE MENTIONED GOVERNMENTAL BODY WILL MEET AT THE DATE, TIME AND PLACE SET OUT ABOVE. THE TENTATIVE AGENDA FOR SAID MEETING IS AS FOLLOWS:

ROLL CALL: CARMAN, BOUSKA, McGEE, McCARVILLE, LOVELESS

ACT ON THE CONSENT AGENDA: All items listed under the consent agenda will be enacted by one motion. There will be no separate discussion of these items unless a request is made prior to the time council votes on the motion.

1. Approval of the Agenda
2. Approval of the Claims
3. Approval of Minutes from May 21, 2012
4. Approval of Minutes from May 21, 2012 Worksession
5. Approval of Cigarette/Tobacco Permit Applications for:
 - A. Casey's Marketing dba Casey's General Store #2511;
 - B. Fareway Stores Inc. dba Fareway Store #815;
 - C. JAGDAMBE, LLC dba Cresco Mart;
 - D. Ron B. Rear & Evelyn L. Kingsley dba Cresco Liquor Store;
 - E. Big Daddy Hideaway Corp. dba Hideaway Lounge;
 - F. Kwik Trip, Inc. dba Kwik Star #428;
 - G. Thomas J. Kleve & Mary F. Kleve dba Kleve's Pub
6. Approval of Pay Request #2 from Upper Explorerland Regional Planning Commission for Comprehensive Planning for \$13,630.74

STAFF REPORTS: There may be action taken on each of the items listed below.

1. Public Works
2. Police
3. Administration
4. Committee Updates

BUSINESS: There may be action taken on each of the items listed below.

1. Diane Kueker to Discuss Old City Hall Building
2. Resolution Approving Wage Increase
3. Resolution Allowing for the Transfer of Funds from General Fund to Nuisance House Fund
4. Discussion on the Code of Ordinance Updates
 - a. Chapter 46 Curfew
 - b. Chapter 52 Weeds
 - c. Chapter 41 and Chapter 47 Drug Paraphernalia

COMMENTS FROM AUDIENCE:

ADJOURN:

THIS NOTICE IS GIVEN AT THE DIRECTION OF THE MAYOR PURSUANT TO CHAPTER 28A, CODE OF IOWA AND THE LOCAL RULES OF SAID GOVERNMENTAL BODY. POSTED MAY 31, 2012.

1. Wage Increase – Personnel Committee is recommending a 2% raise for the Fire Chief and the City Hall Custodian which is consistent with what the full-time employees have been granted this year.
2. Transfer – See attached summary of all the nuisance house revenue and expenses since July 1, 2006. This leaves a balance of \$11,801 more revenue than expense so this is the amount that will be transferred to the new fund. All expenses related to nuisance houses will then be coded out of this fund and hopefully it will be self-sufficient.
3. Ordinance Chap 47 – Curfew – Tim suggested we replace our Curfew Ordinance with the sample they sent but replace the last paragraph for penalties with our penalties as written in our Ordinance. Note that the age is under 18 on the sample whereas our old one was under 16 years old. The times are left blank in the sample so I am assuming we would stay with 11:00pm to 5:00am every day.
4. Ordinance Chap 52 – Weeds – Rod reviewed and just made a small change regarding mailing in the last paragraph.
5. Ordinance Chap 41 & 47 – Drug Paraphernalia – Iowa Codification pointed out that this is listed in two chapters. Tim suggested that we keep Chap 47 as written and chap 41 section 13 we just say “see Chapter 47” so that it is still referenced under Public Health and Safety too.
6. Worksession – It has been brought up by several people that perhaps we need another worksession regarding the watermain looping in the campsite subdivision. We would like to schedule one at a time that we don’t have a time constraint and feel the pressure of needing to be done at a certain time. It seems like there were some unresolved issues and questions and that we really need to get back together to just talk about it all again. There was a lot of information in a short time and I don’t want anyone feeling like it was pushed through. Key questions are whether we do loop it or not and if so then when is the best time to do it. Please bring your calendars so we can try to get together in June.

This is all I have at this time. I will be gone on Friday so I don’t anticipate a change in the agenda unless an emergency comes up.

Have a good weekend,
Michelle

The Cresco City Council met May 21, 2012, at 7:00 pm at City Hall. Council members Carman, Bouska, McGee, McCarville and Loveless were present. No council members were absent.

Bouska moved to approve the consent agenda which included approval of the: agenda; claims; minutes of the May 7, 2012 meeting; minutes of the May 7, 2012 worksession (as amended); minutes of the May 14, 2012 special meeting; street closing for portion of N. Elm Street for Annual Car Show on 9/15/12; street closing for portion of N. Elm Street for Ridiculous Day on 7/20/12; street closing for portion of S. Park Place for street dance on 6/30/12; permit for supervised display of fireworks on 7/3/12 from the Cresco Jaycees; tax abatement under the Urban Revitalization Plan for James & Mary Ann Kuhn. Loveless seconded and it passed all ayes.

Public Works Director Rod Freidhof reported: (a) with the resignation of Kevin Chesmore, the Personnel Committee, PWD and City Clerk decided not to replace him and to combine the water and sewer departments. One person from the water/sewer department will work full-time with street department from Dec. through March each year. Water/Sewer Dept are cross-training and one person will work every 6th weekend instead of two people working every third; (b) 2nd Avenue project is over half done installing the new watermain and then we will let everything settle before pouring the new street. Completion date is scheduled for August 3rd; (c) Street Dept. is replacing concrete around town and repairing manholes. They are done cutting trees for now unless there is an emergency. They will paint streets and start chip sealing next month as well as the scheduled yardwaste pickup; (d) sent out several lawn mowing, junk and nuisance letters in the past few weeks. One nuisance property has been submitted to the attorney to proceed with the next step.

Police Chief Tim Ruroden reported that they have started installing equipment into the new police cars. They are preparing for the summer activities and working on scheduling. McCarville asked about the golf cart ordinance. Ruroden has some samples and is working on developing one to present to Council.

Fire Chief Neal Stapelkamp reported it has been quiet and are working on routine follow-up issues from the fire a few weeks ago. He has been busy with the meeting last week between the City and Rural Fire Department and reviewing the agreement for the merger.

City Clerk Michelle Girolamo reported: (a) Chad Harvey from NE Iowa Service has offered to sandblast, repair and paint the bike rack at the Library at no charge to the City which was appreciated by the Library and Council; (b) financial statements in April looked good but May expenses are high so will review after May is closed; (c) Theatre concession stand counter has been built and some of the Theatre Commission members are donating their time and labor to install it; (d) sidewalk at the Theatre has been poured and Louie Balk Lime & Ready Mix donated the cement and Gosch's Inc donated the sidewalk heating system. The Council expressed their appreciation to both businesses for their generous donations.

Mayor Bohle reported that the Personnel Committee met with the employees of the Water/Sewer Department regarding hours paid for the weekends worked. The real cost saving to the City is realized by not replacing Kevin and having the three departments work together with one less employee.

Mayor Bohle opened the public hearing to amend the budget for fiscal year ending June 30, 2012. There were no oral or written comments and the Mayor closed the public hearing. Bouska made the motion to approve the resolution amending the current budget for the fiscal year ending June 30, 2012. Loveless seconded and it passed all ayes.

Carman made the motion to approve the downpayment and commitment for the chassis for a new fire truck to be purchased jointly with the Cresco Community Fire Protection District. McCarville seconded and it passed all ayes.

McCarville made the motion to approve a sewer credit for Willow Creek Rentals for water not entering the sanitary sewer system due to a leak under the trailers. McGee seconded and it passed all ayes.

Girolamo explained a letter received from the bank regarding an account that we have requiring dual signatures. To continue with the dual signature requirement, the City would need to sign a "Dual Signature Release and Hold Harmless Agreement". Otherwise the Council could change it to a single signature account. A check is written about every other month and the largest amount has been \$5,000. Loveless made the motion to approve a resolution changing the account to single signature and declaring Rod Freidhof or Michelle Girolamo as authorized signers. McGee seconded and it passed all ayes.

Bouska made the motion to authorize the Mayor to sign a three-year contract for inspection of the Library elevator with National Elevator Inspection Services, Inc. This contract is \$58 per year whereas we had been paying the State over \$125 per year. Carman seconded and it passed all ayes.

Loveless made the motion to award Scholbrock Masonry, LLC the \$12,000 contract for runway repairs. The other bid was from Concrete Foundations Inc. for \$17,460. The grant from the Iowa DOT will pay for 70% of the project. Carman seconded and it passed all ayes.

McGee made the motion to close City Hall on Friday June 29, 2012 for year end processing. Bouska seconded and it passed all ayes.

Bouska made the motion to approve a resolution authorizing the Mayor to enter into an agreement with Principal Life Insurance Company. This contract is for \$10,000 term life insurance policies on eligible full-time employees per the union contract and non-union resolution. Carman seconded and it passed all ayes.

McCarville made the motion to approve a resolution approving a wage and benefit agreement for non-union employees. Benefits would be the same as the union contract which included a 2% raise, increase pay for grade certifications, increase life insurance to a \$10,000 policy, allowing up to 6 sick days to be used for child, parent or spouse, and changing the policy that vacation hours will not count as hours worked when calculating overtime. Bouska seconded and it passed all ayes.

McGee made the motion to change City Hall hours to 8:00 am to 4:30 pm. Loveless seconded and it passed all ayes.

Bouska made the motion to approve a resolution allowing partial tax exemption under the Urban Revitalization Plan for Arthur and Jean Kuhn. McGee seconded and it passed all ayes.

Freidhof discussed the street shop roof. We found 5 spots in approximately a 300 foot area that were wet so we suspect that there is more than one sheet leaking. Mr. Bollman, Mr. Steinlage, the bond holder, and Mr. Kloster from Larson Contracting, an independent roofing contractor, looked at five additional spots and found one that was wet. They are going to come next week and pull some sheets off and inspect again. Consensus of Council was that we need to replace the entire roof and insulation and request a one year warranty. Freidhof was instructed to contact the Bonding Company and request a new roof.

Freidhof discussed options regarding chip sealing. Because the cost of oil increased, each load will cost \$1,860 more so therefore we may only be able to purchase 2 loads of oil this summer. If we order 3 loads then we will be short next summer. The two most controversial areas are 5th Street SE and 12th Avenue which cost \$4,200 and \$3,600 respectively and the chip sealing does not hold up through the winter and spring. An alternative to chip sealing would be to purchase more rock, build a good base, and crowning the road including cutting the edges and digging out the ditches. Dust control will be an issue if they are not chip sealed. Consensus of Council was to rock the two streets and build a good base with the understanding that they would

be chip sealed next year. Hopefully with the good base built up the chip sealing would then work better. Staff was also instructed to get costs for dust control.

Mayor discussed the merger of the water and sewer departments. The staff is working together and cross-training. The cost savings will be that we there will be one less employee and is spread over all three departments. We will have to analyze whether we start contracting out snow removal on sidewalks or lawn mowing. The staff seemed positive about the change and willing to work together.

Iowa Codification Inc. offered a sample of a different ordinance for the personal mobility devices if we wanted to change our ordinance. Consensus of Council was to keep our ordinance because it requires registering and a flag. Council felt for the safety of the users that we keep our existing ordinance.

Iowa Codification Inc. suggested that we review a sample Vicious Animals Ordinance. Council liked the wording of our Wild or Dangerous Animals Ordinance and therefore consensus was to keep our ordinance.

Mayor asked if there were any comments from the audience. Willard Balk stated that the Balk family would like to donate cement in the alley behind the Notre Dame School to square off the existing cement where people are driving. The City appreciated their generous donation and granted permission for Balks' to cement that portion of the alley.

Carman moved to adjourn at 7:58 pm. McGee seconded and it passed all ayes. The next regular Cresco City Council meeting will be June 4, 2012, at 7:00 pm at Cresco City Hall.

Mayor Mark Bohle

City Clerk Michelle Girolamo

Following is a list of claims approved for payment:		
ADVANCED SYS	MAINT	56.20
ALLIANT	ELECT	13,191.10
AMBER UHLENHAKE	REF DEP	68.55
BAKER & TAYLOR	BKS	1,428.09
BERGO ENVIRON	HSG REHAB	2,250.00
BLACK HILLS	GAS	468.54
BC / BS	INSUR	25,690.06
BOB'S ELEC	SUPP	77.92
BROWN SUPP	SUPP	265.44
CARDMEMBER	SUPP	570.69
CARQUEST	RPRS	527.82
CITY OF CRES	UTIL, REF	79.05
CITY OF CRES	INSUR	2,852.97
CLAIR PECINOVSKY	SRVC	206.44
CRES FIRE EQUIP	SRVC	1,221.10
CRES INS AGEN	INSUR	120,177.00
CRICGET AVE 2	TOURISM	3,000.00
EFFICIENCY PROD	EQUIP	5,203.58
FAREWAY	SUPP	34.78
FOLEY'S BACKHOE	SUPP	973.53
GALLS	UNIFORM	496.44
GOSSLING WOOD	SRVC	4,942.00
GREGORY COUNSELL	REF DEP	80.00
GROUP SRVCS	FEE	369.00
HAWKEYE REC	ELECT	6,285.56
HAWKEYE SAN	SRVC	98.61
HOW-WINN SCH	TIF PAY	4,722.75
HUMPHRIES FARM TURF	SUPP	258.76
IA FINAN AUTHOR	LOAN PMT	73,940.88
IA ONE	SRVC	73.80
MARCO	SRVC	225.00
MCGEE CONST	SRVC	2,381.69
MVTL	ANAYLSIS	243.45
NE IA REG HSNG	PLEDGE	5,000.00
PAYROLL		60,640.65
PETTY CASH	POSTAGE	26.52
PLANTPEDDLER	REFUND DEP	65.16
POPULAR SUBS	SUBS	50.00
POST-BULLETIN	SUBS	192.40
POSTMASTER	POSTAGE	100.00
RICOH	SUPP	48.29
RILEY'S	SUPP	412.66
RIVER CITY PAV	SUPP	599.49
RUPPERT	SUPP	9.49
RYAN BECKER	MAINT	112.50
SCHOLBROCK	SRVC	2,075.00
SIGNS & DESIGNS	SRVC	85.00
SPORTSMITH	SUPP	32.44
TASC	FEE	197.20
TYLER TECH	MAINT	1,116.83
U.S. CELLULAR	PHONE	255.99
UNIFORM & ACC	SUPP	197.54
UPPER IA TOOL&DIE	SRVC	1,487.00
WEBER PAPER	SUPP	48.75
WELLS FARGO	LOAN PMT	285,168.75
WILLIAM JAMERSON	BOOK	20.00
WILSON TREE	SRVC	530.25
WINDSTREAM	PHONE	53.83
	General Fund	130,482.38
	General Hotel/Motel	3,000.00
	Road Use Tax	20,549.09
	Emp Benefits	25,939.82
	Emergency Fund	670.75
	Local Option Tax	21,380.99

	Urban Renewal TIF	4,722.75
	Cresco Telecom	705.7
	Rehab / Housing	2,250.00
	Debt Service	299,493.75
	Water Utility	25,812.06
	Water Deposits	240
	MSSU Operation	34,889.25
	MSSU Rev Bond	59,615.88
	Water & Sewer C.I.	231.42
	Yard Waste	1,002.70
	EXPENDITURES	630,986.54
	Revenues 05/8 to 05/21/12	286,635.97

Mayor Mark Bohle called a special meeting of the Cresco City Council to order at 5:03 pm on May 21, 2012 at City Hall. Council Members Jan Carman, Amy Bouska, Teresa McGee, Steve McCarville and John Loveless were present. No council members were absent. Also present were Bill Angerman and Daren Sikkink from WHKS, Jason Passmore from Howard County Business and Tourism, and City Attorney Joe Braun.

Bill Angerman presented a list of key points from the Public Works Committee regarding two watermain loops that were previously authorized by the City Council. One loop on 5th Ave SW would replace the substandard 4" watermain and then extend from Vernon Road west to 7th St SW. This would improve water quality, pressure and provide water for future economic development. A portion of the project may be eligible for TIF financing. The project could be repaid by establishing a benefitted district charge. The City Attorney would need to write an ordinance. Consensus of Council was to proceed with the loop and direct the attorney to write the ordinance for a benefitted district charge.

Another watermain loop discussed would extend the watermain west along Highway 9 from Balk's to Alco/Cresco Motor Company to form a loop. The biggest issue is who should pay for the watermain. An option would be that the developer would extend the deadend watermain north to Highway 9 and then the City would pay for the extension along the south side of Highway 9. A benefitted district charge could be established to assign half of the cost to the area to the north. There was a lot of discussion regarding who should pay for the watermain. Possible annexation of the Campsite subdivision was discussed. There are four properties that have TIF's with the County for another 10 years. The City wants to work with the County and the property owners to lessen the impact of annexation. It is possible to offer a graduated tax exemption over a ten year period. Council will gather more information and determine the best financing option before making a final decision.

WHKS was instructed to perform a feasibility study for possible industrial expansion to the east side of the City. They will work with staff to prepare an agreement which will be presented to Council.

It was moved by McGee to adjourn at 6:50 pm. The motion was seconded by Carman, and passed all ayes.

Mayor Mark Bohle

City Clerk Michelle Girolamo

RESOLUTION NO. _____

RESOLUTION APPROVING WAGE INCREASE

WHEREAS, the Fire Chief and City Hall custodian are permanent part-time positions, and

WHEREAS, the City Council of Cresco, Iowa understands the value of both individuals serving in those capacities, therefore

BE IT RESOLVED, that the Fire Chief monthly wage and the City Hall Custodian hourly rate will be increased 2% effective July 1, 2012.

PASSED AND APPROVED THIS 4th DAY OF JUNE, 2012.

Mayor Mark Bohle

Attest: _____
City Clerk Michelle Girolamo

RESOLUTION NO. _____

RESOLUTION ALLOWING FOR THE TRANSFER OF FUNDS

WHEREAS, monies in the General Fund are to be used for general operating expenses for the City of Cresco, and

WHEREAS, the City Council wants to account for the funds received and expended for nuisance house abatements separately, and

WHEREAS, the gross amount received from sale of nuisance houses has been \$63,750 and the amount expended for nuisance houses has been \$51,949 from 7/1/06 through 5/31/12, and

WHEREAS, a new fund 165 Nuisance House Fund has been established to track the revenue and expenses.

BE IT THEREFORE RESOLVED, that the City of Cresco is transferring the balance of \$11,801 from Fund 001 General Fund to Fund 165 Nuisance House Fund.

BE IT ALSO RESOLVED, that the City Clerk be directed by the Mayor and the City Council to make the above referenced changes and correct the books accordingly.

PASSED AND APPROVED THIS 4th DAY OF June, 2012

Mayor Mark Bohle

ATTEST: _____
City Clerk Michelle Girolamo

City of Cresco
 Analysis of Nuisance Houses
 7/1/06 - 5/31/12

	Total	Lammers 10/13/08	Usher 7/17/09	Landswerk 4/20/11	Malek 7/28/11	Alliance 1/31/12	Tuchek 2/6/12	Pass Nuisances	Other Nuisances	Fisher
Income										
SOLD	63,750	5,000	1,000	1,750	26,000	3,000	27,000			
Expenses										
Property tax	13,077	4,122	580	0	1,139	4,199	3,037	0	0	0
Misc	22,738	16,330	318	0	0	5,607	483	0	0	0
Attorney	15,126	665	1,478	1,525	1,106	2,051	2,086	906	3,784	1,526
Adv/Notices	<u>1,008</u>	<u>88</u>	<u>277</u>	<u>134</u>	<u>465</u>	<u>44</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Expenses	51,949	21,204	2,653	1,659	2,710	11,901	5,606	906	3,784	1,526
Net Profit (Loss)	11,801	(16,204)	(1,653)	91	23,290	(8,901)	21,394	(906)	(3,784)	(1,526)

46.01 CURFEW. The Council has determined that a curfew for minors is necessary to promote the public health, safety, morals and general welfare of the City and specifically to reinforce the primary authority and responsibility of adults responsible for minors; to protect the public from the illegal acts of minors committed after the curfew hour; and to protect minors from improper influences and criminal activity that prevail in public places after the curfew hour.

1. Definitions. For use in this section, the following terms are defined:
 - A. "Emergency errand" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury, or loss of life.
 - B. "Knowingly" means knowledge that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - C. "Minor" means any unemancipated person under the age of eighteen (18) years.
 - D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
 - E. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and also includes such parts of buildings and other premises, whether publicly or privately owned, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.
 - F. "Responsible adult" means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of ____ p.m. and ____ a.m. of the following day on days

commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of _____ p.m. and _____ a.m. on Friday and Saturday.

3. Exceptions. The following are exceptions to the curfew:
 - A. The minor is accompanied by a responsible adult.
 - B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 - C. The minor is present at or is traveling between home and one of the following:
 - (1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;
 - (2) Minor's place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
 - D. The minor is on an emergency errand for a responsible adult;
 - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.
5. Enforcement Procedures.
 - A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.
 - B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any nonsecured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical

violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

D. Minor Without Adult Supervision. If a law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.

6. Penalties.

A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a municipal infraction.

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

D. Minor's Second Violation. For the minor's second and subsequent violations of any of the provisions of this section, the minor is guilty of a municipal infraction.

CHAPTER 49

CURFEW REGULATIONS

49.01 Definition
49.02 Curfew
49.03 Exceptions

49.04 Responsibility of Adults
49.05 Responsibility of Business Establishments
49.06 Penalties

49.01 DEFINITION. The term minor, as used in this chapter, shall mean an unemancipated person below the age of 16 years.

49.02 CURFEW. It shall be unlawful for any minor to be or to remain upon or to travel, loiter, wander, stroll or play in or upon any of the alleys, streets, public places, places of business, places of amusement, buildings, vacant lots or other unsupervised places in the City of Cresco, Iowa , from 11:00 P.M. to 5:00 A.M. on any day of the week or on any weekend.

49.03 EXCEPTIONS. The restrictions provided herein shall not apply to any minor who is accompanied by a parent, guardian or other person over the age of 18 years who is charged with the care and custody of such minor. The restrictions provided herein shall not apply to any minor who is traveling between his or her home or place of residence and any place of employment or where a church, municipal or school function is being held. The restrictions provided herein shall not apply to any minor who is upon an emergency errand nor shall the restrictions apply if such minor has a written consent, currently dated, signed by a parent, guardian or other adult person responsible for or having legal custody of such minor, stating the reason that such minor is in the prohibited place after curfew.

49.04 RESPONSIBILITY OF ADULTS. It is unlawful for any parent, guardian or other adult responsible for or having the legal care, custody and control of any minor to allow, permit or suffer such minor to violate the provisions of this chapter except as provided in Section 49.03.

49.05 RESPONSIBILITY OF BUSINESS ESTABLISHMENTS. It is unlawful for the owner or operator of a place of business or amusement to allow, permit or suffer any minor to be in or upon such place of business or amusement within the curfew hours set forth in this chapter, except as otherwise provided in this chapter. It shall be the duty of the owner or operator of the business to order such minor to leave the premises if the minor is in violation of this chapter and if such minor refuses to leave the premises then the owner or operator shall notify the police department immediately.

✕ 49.06 PENALTIES. Any parent, guardian or other adult person responsible for or having the legal care, custody and control of any minor who allows, permits or suffers such minor to violate any of the provisions of this chapter shall be guilty of a simple misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$100.00 for the first offense and not to exceed \$250.00 for a second or subsequent offense. Any owner or operator who allows, permits or suffers any minor to be in or upon any place of business or amusement in violation of this chapter and who fails to order such minor to leave the premises, or fails to notify the police department that such minor was ordered to leave the premises and has refused, shall be guilty of a simple misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$100.00 for a first offense and not to exceed \$250.00 for a second or subsequent offense.

(Ch. 49 – Ord. 421 - Feb. 10 Supp.)

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CHAPTER 52

WEEDS

- 52.01 Purpose
- 52.02 Duty to Cut Grass
- 52.03 City Action
- 52.04 Duty of Adjoining Property Owner
- 52.05 Notice

52.01 PURPOSE. The purpose of this chapter is to provide for the cutting by the property owners of all grass longer than six (6) inches and the cutting or destruction by the property owners of all weeds, vines, brush or other growth which constitutes a health, safety or fire hazard and to provide for such cutting or destruction by the City and for the assessment of the cost and expenses thereof to the property owner in the event of the owner's failure to comply after due notice.

52.02 DUTY TO CUT GRASS. The owner of any property shall cut grass longer than six (6) inches and cut or destroy all weeds, vines, brush or other growth which constitutes a health, safety or fire hazard.

52.03 CITY ACTION. If a property owner refuses or fails to cut grass longer than six (6) inches and fails to cut or destroy weeds, vines, brush or other growth which constitutes a health, safety or fire hazard, the Council may cause said grass longer than six (6) inches to be cut and cause said weeds, vines, brush or other growth to be cut or destroyed and the cost and expenses thereof shall be assessed to the property owner after due notice is given. The amount of such assessment shall be certified to the County Treasurer as provided by law and the same shall be collected with and in the same manner as general property taxes.

52.04 DUTY OF ADJOINING PROPERTY OWNER. The owner of the real estate adjoining a boulevard, being the portion of the right-of-way owned by the City lying between the edge of the public road or street to the edge of the real estate owned by the property owner, shall maintain the boulevard property. That is, the adjoining, property owner shall be responsible for cutting the grass longer than six (6) inches and cutting or destroying the weeds, vines, brush or other growth on the boulevard property. The Council may cause said grass longer than six (6) inches to be cut and cause said weeds, vines, brush or other growth to be cut or destroyed and the cost and expense thereof shall be assessed

to the adjoining property owner after due notice is given. The amount of such assessment shall be certified to the County Treasurer as provided by law and the same shall be collected with and in the same manner as general property taxes.

52.05 NOTICE. Notice of the action of the Council to provide for the cutting of grass longer than six (6) inches and the cutting or destruction of weeds, vines, brush or other growth shall be served on the property owner as provided in Section 52.03 above or served on the adjoining property owner as provided in Section 52.04 above, by serving a copy of a resolution of the Council, directing said property owner or owners to cut grass longer than six (6) inches and to cut or destroy weeds, vines, brush or other growth within a specified time, either personally or by mailing a copy of such resolution to the owner or owners of property ~~by certified mail, return receipt requested,~~ to the last known address of the owner or owners.

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hallway, steps, stairway, doorway or window thereof, or onto any public or private land.

41.12 FIREWORKS PERMIT. It is unlawful for any person to use or explode any fireworks as defined in Section 727.2 of the Code of Iowa; provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent 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:\$250,000.00 per person.
2. Property Damage:\$ 50,000.00.
3. Total Exposure:\$1,000,000.00.

(Code of Iowa, Sec. 727.2)

41.13 DRUG PARAPHERNALIA.

See Chapter 47

1. 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:

- A. Manufacture a controlled substance.
- B. Inject, ingest, inhale or otherwise introduce into the human body a controlled substance.
- C. Test the strength, effectiveness or purity of a controlled substance.
- D. Enhance the effect of a controlled substance.

Drug paraphernalia does not include hypodermic needles or syringes if manufactured, delivered, sold or possessed for a lawful purpose.

2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)

(Ord. 340 - Oct. 00 Supp.)

CHAPTER 47

DRUG PARAPHERNALIA

47.01 Definition

47.03 Prohibited Acts

47.02 Determining Factors

47.01 DEFINITION. The term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Dilutents. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- B. Water pipes;
- C. Carburetion tubes and devices;
- D. Smoking and carburetion masks;
- E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- F. Miniature cocaine spoons and cocaine vials;
- G. Chamber pipes;
- H. Carburetor pipes;
- I. Electric pipes;
- J. Air driven pipes;

- K. Chillums;
- L. Bongs;
- M. Ice pipes or chillers.

47.02 DETERMINING FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.
3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act.
4. Proximity To Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

47.03 PROHIBITED ACTS.

1. No person shall use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
2. No person shall deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
3. No person shall place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.