

CHAPTER 7 MISCELLANEOUS OFFENSES

SECTION 7.1 ALCOHOLIC BEVERAGE; POSSESSION OF IN OPEN CONTAINER

No person shall drink or possess in an open or partially consumed container any alcoholic beverages as defined in Chapter 138, Section 1 of Massachusetts General Laws while on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without consent of the owner or person in control thereof. All alcoholic beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

SECTION 7.1(A) PROHIBITION OF PERSONS BRINGING ALCOHOLIC BEVERAGES TO ESTABLISHMENTS, ETC.

7.1(A) (1) No club, organization, association, restaurant, bar, tavern, or other business establishment (hereafter collectively "establishment") shall permit any member, traveler, stranger, patron or customer to carry, deliver, transport or bring any alcoholic beverages, malt beverage, wine, liqueur or cordial, as defined in M.G.L. Chapter 138, to said establishment for consumption thereat by said person.

7.1(A) (2) No member, traveler, stranger, patron, or customer shall carry, deliver, transport or bring any alcoholic beverages, malt beverage, wine, liqueur or cordial, as defined in M.G.L. Chapter 138 to any club, organization, association, restaurant, bar, tavern, or other business establishment (hereafter collectively "establishment") for consumption by said person, or guests, invitees, and/or licensees of said person.

SECTION 7.2 RESERVED

SECTION 7.3 BICYCLE PERMITS

It shall be unlawful for any person to ride a bicycle unless properly registered with the Police Department. Every bicycle being operated on the highway shall have a registration number attached to the same which, together with a permit, shall be furnished to the owner of a bicycle by the Police Department at a cost of twenty-five cents. The rider shall carry such permit at all times. The Police Department shall keep a record showing the name and address of the owner,

registration number, make of bicycle, description and serial number.

SECTION 7.4 BLIND PERSON- USES OF WHITE CANE; OPERATION OF VEHICLES

It shall be unlawful for any person, except one wholly or partially blind, to carry or use in the City any cane or walking stick which is white with red color.

Any operator of a motor or other vehicle who approaches or comes in close proximity with a person rightfully carrying a cane or walking stick under this section shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid injury to such person.

SECTION 7.5 CARNIVALS PROHIBITED ON PUBLIC GROUNDS AND PARKS

No public entertainment commonly known as a carnival shall be permitted on any public playground or public park, unless licensed by the Department of Public Works and the City Council.

SECTION 7.6 DUMPING PROHIBITED

No person shall throw or place or cause to be thrown or placed any trash, refuse, rubbish, debris or material of any kind for purposes of disposal or abandonment on any property in the city without permission of the owner.

The following shall be considered illegal dumping within the meaning of this ordinance:

1. Disposal of trash generated by a business or residence and carried to the site of a barrel placed on city property for the convenience of residents and motorists;
2. Disposal of trash generated by a business or residence and deposited in a dumpster located at a city owned or operated facility.

No property owner shall permit any trash, refuse, rubbish, debris or material of any kind to be thrown or placed on property under his control for purposes of disposing or abandoning use of the same.

Violations of this ordinance may be punished in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable by a fine of \$300.00 per offense. Each twenty four hour period during which a violation exists shall constitute a separate offense for which a separate and additional fine shall be imposed.

SECTION 7.7 SNOWBALL THROWING PROHIBITED

No person shall throw any snowball, stone or other substance, or engage in any amusement, game or exercise, interfering with the free, safe and convenient use of any street.

SECTION 7.8 DEFACING PUBLIC PROPERTY PROHIBITED; MALICIOUS DAMAGE PROHIBITED

No person shall write upon, or wantonly mar, injure, deface or destroy any building, fence, wall, guidepost, signboard, awning pole, lantern or any other structure or thing in or on any public street, park, or other place to which the public has a right of access.

SECTION 7.9 NOISE ABATEMENT; DISTURBING THE PEACE PROHIBITED

.1 PURPOSE

The purpose and intent of this ordinance is to protect, promote and preserve public health, safety and welfare and to enhance the use, value and enjoyment of property and the conduct of business by minimizing the exposure of residents to the potentially negative physiological and psychological effects of excessive and unnecessary noise or nuisance in the environment.

.2 EXCESSIVE NOISE DEFINED

Unless otherwise specified, excessive noise, as used in this ordinance shall mean:

- .1** between the hours of 9 p.m. and 7 a.m., noise measured in excess of 50 dBA at the property line or clearly audible by a person of normal hearing at a distance of one hundred feet from the source;
- .2** between the hours of 7 a.m. and 9 p.m., noise measured in excess of 70 dBA at the property line or clearly audible by a person of normal hearing at a distance of three hundred feet from the source.

dBA shall mean A-weighted sound level in decibels, as measured by a general purpose, properly calibrated sound level meter complying with the provisions of the American National Standard Institute Specifications for Sound Level Meters (ANSI SIR 19711).

.3 DISORDERLY CONDUCT AND NOISE-PRODUCING ACTIVITY - IN GENERAL

- .1** No person shall, in any public way, park or other place to which the public has a right of access, behave in a rude or disorderly manner, or use indecent, profane or insulting language or gestures. No person shall remain on any doorstep, portico or other projection from any house or building or stand with others

on any public way in such a manner as to obstruct the free passage of pedestrians or vehicles.

.2 No person shall, in any public way, park or other place to which the public has a right of access, operate an amplifying device to the annoyance of public, as determined by a Malden Police Officer or upon sworn statement of at least two witnesses.

.3 No person shall, while upon public ways or public property, operate any sound producing or sound amplifying device so as to create excessive noise. For purposes of this section, a sound producing or sound amplifying device shall include, but not be limited to, the following: radios, tape players, compact disc players and similar electronic devices; musical instruments; loud speakers; motors or engines, whether or not muffled to minimize sound;

.4 No person shall permit an alarm device on an automotive or recreational vehicle under his ownership or control to sound without cause. Any such alarm system which emits a continuous and uninterrupted signal for more than 15 minutes shall be deemed to be in violation of this ordinance, and the Malden Police may take all reasonable steps to abate said nuisance. All cost associated with said abatement shall be borne by the record owner of the vehicle. In addition to the costs associated with abatement of the nuisance, the owner of a vehicle found in violation of this ordinance may be assessed an additional penalty as outlined below.

.4 NOISE EMANATING FROM BUSINESS ACTIVITIES

.1 No person shall use any amplifying device, radio, bell, horn or siren operated from any building, vehicle or store for advertising purposes.

.2 No hawker or peddler shall cry his wares within 300 feet of a cemetery or between the hours of 9 p.m. and 7 a.m., unless specifically licensed therefor by a permit issued under Section 6.5C.

.3 No person engaged in the business of construction, demolition, excavation or landscaping or engaged in construction, demolition, excavation or landscaping for profit shall operate mechanical, motorized or sound-producing equipment, except on weekdays between the hours of 7 a.m. & 5 p.m.; provided that said equipment may be operated on Saturdays to such an extent that excessive noise is not created.

.5 NIGHT TIME NOISE DISTURBING THE PEACE AT RESIDENTIAL PROPERTIES

.1 For purposes of this section, between the hours of 11 p.m. and 7 a.m., excessive noise shall include, but not be limited to, noise clearly audible from the nearest dwelling unit which results from any of the following sources:

.1 the operation of a radio, phonograph or related electronic devices;

.2 the playing of musical instruments;

.3 the use of any device designed to amplify sound;

.4 singing, shouting or loud speech by a person or group

of persons.

- .2 No person owning or controlling residential property in the city shall permit the inhabitants or occupants to disturb the peace of others through the creation of excessive noise. The police shall instruct persons creating a disturbance to cease and desist and shall take note of the time and place of such disturbance has occurred.
- .3 Violations of this ordinance may be punished by the City Treasurer, based upon information provided by the Police Chief, in the manner provided in MGL Chapter 41, Section 21D in accordance with the following schedule of fines:

1 st offense	warning
2 nd offense	\$100.00
3 rd offense	\$200.00
4th & subsequent offenses	\$300.00

.6 EXEMPTIONS

The following noise producing activities are specifically exempt from the provisions of this ordinance:

- .1 work performed by the City of Malden, the Commonwealth of Massachusetts or any of its political subdivisions; provided that no emergency medical or public safety vehicle shall operate a siren between the hours of 9 p.m. and 7 a.m. unless said siren is deemed essential to the safety of emergency personnel or the public;
- .2 emergency work authorized by the Chief Police, when in his opinion, the prohibition of said work would endanger the public health, safety or welfare;
- .3 any work or activity which has been specifically licensed or permitted by a city department, board or commission; provided that the noise created is limited to the days and hours contained in this ordinance or by the terms of a license or permit;
- .4 any sound resulting from a religious observance, provided that such activity occurs between the hours of 8 a.m. and 10 p.m.

.7 ADDITIONAL REGULATIONS ON NOISE

The Board of Health may promulgate additional regulations on noise not inconsistent with the provisions of this ordinance. Said regulations may perfect the provisions of this ordinance or place restrictions on noise emanating from other sources and may be enforced in the manner provided herein.

.8 PENALTIES FOR VIOLATION

Violations of this ordinance may be enforced in the manner provided in MGL Chapter 41, Section 21D in accordance with the following schedule of fines:

1 st offense	\$100.00
2 nd offense	\$200.00
3 rd /subsequent offenses	\$300.00

**SECTION 7.9A SCHOOL SAFETY ZONES ESTABLISHED;
RESTRICTION ON ENTRY INTO SCHOOL SAFETY
ZONES**

For purposes of this section, school safety zone shall mean a lot on which a school is located or any public way, public property or place to which the public has a right of access within 500 feet of the boundary of said lot.

No person, whether or not a student, shall, without reason or without a purpose sanctioned by a school administrator, enter or remain within a school safety zone. Violation of this provision shall be punishable by a fine of \$150.00 per offense.

Whoever, after being specifically forbidden to remain within a specific school safety zone by a member of the Malden Police Department, remains or re-enters said school safety zone shall be deemed to be in wilful violation of this ordinance. Wilful violation of this ordinance may be punished by arrest without a warrant, as provided in Massachusetts General Laws Chapter 272 Section 59, and a fine of not more than \$300.00 per offense.

The city shall take reasonable steps to post appropriate signage relative to school safety zones; provided that lack of signs or lack of knowledge of school boundaries shall not be a defense to violation of this section.

SECTION 7.10 DISCHARGE OF WEAPONS IN STREET PROHIBITED

No person shall fire or discharge a cannon, gun, fowling piece, air rifle or firearm within the limits of the City except:

1. at a military exercise authorized by the military authority of the Commonwealth or by the City Council or Mayor of the City; or
2. in the lawful defense of the person or property of a citizen; or
3. by police officers in the lawful performance of their duty; or
4. by persons engaged in target shooting within the building of a gun club licensed to be used for such purpose.

**SECTION 7.11 ENTERING GARDEN WITHOUT PERMISSION
PROHIBITED**

It shall be unlawful for any person to enter any enclosed or unenclosed vegetable garden or orchard located within the City without the consent of the owner or tenant, or agent in charge thereof, and there cut down, injure, damage, destroy, eat or carry away any portion of such garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any other protective device or any other thing useful for the development, cultivation, maintenance and use of the aforesaid gardens

or orchards.

SECTION 7.12 FALSE ALARMS

No person shall ring in a citizen's alarm without proper authority and without due cause.

SECTION 7.13 FOODSTUFF; RE-WEIGHING; APPLICATION OF RULES

Every person engaged in the selling of meat, poultry, or edible fish shall provide each sales outlet with a computing scale, and shall re-weigh a prepacked item of meat, poultry, or edible fish in the presence of a prospective purchaser, when so requested. Failure to do so shall be punished by a fine of not less than twenty dollars (\$20.00).

A computing scale shall indicate the money values of a commodity weighed at predetermined unit prices throughout all or part of the weighing range of the scale.

SECTION 7.14 GAMING

No person shall expose on any street, common or other public place any table or device of any kind, intended for playing a game of hazard or chance; and no person shall play any such game or other unlawful game in any street, common or other public place.

SECTION 7.15 GASOLINE PRICES TO BE MARKED ON PUMP

Every person engaged in the sale of gasoline shall display the price thereof by sign or other similar marking attached to the pump or pumps to which the price applies. No other sign or marking shall be permitted, unless such sign or other marking clearly indicates the pump or pumps to which the price applies.

SECTION 7.16 PEEPING TOMS

No person shall enter upon the premises of another with the intention of peeping into the windows of a house or spying upon any person or persons therein; provided, however, that officers of the law may enter such premises in the performance of their duties.

SECTION 7.17 SPRAY PAINT - SALE TO MINORS PROHIBITED

A. No person shall, within the City, sell, display, expose or keep for

sale any aerosol spray paint can, muriatic acid, any product containing lighter fluid or butane, or any marker containing a fluid which is not water soluble and which has a point, brush, applicator or other writing surface, unless at the point of display or sale there is posted a sign with letters not less than one and one-half inches in height bearing the following words:

Sale of spray paint and muriatic acid, any product containing lighter fluid or butane, and/or broad indelible markers to persons under eighteen and the unlawful purchase or possession of such substances by persons under eighteen is punishable by a one hundred dollar fine.

B. No person shall make a sale or delivery of any aerosol spray paint, muriatic acid, any product containing lighter fluid or butane, and/or any marker containing a fluid which is not water soluble and which has a point, brush, applicator or other writing surface in excess of one-half inch to any person under eighteen years of age, either for his own use or for the use of his parent or any other person; provided that such seller or deliverer or agent or employee thereof, who reasonably relies on a motor vehicle license issued pursuant to section eight of chapter ninety of the General Laws of Massachusetts for proof of a person's identity and age shall be presumed to have exercised due care in making such delivery or sale to a person under eighteen years of age.

C. No person being under the age of eighteen shall purchase and/or otherwise be in possession of any aerosol spray paint, muriatic acid, any product containing lighter fluid or butane, and/or any marker containing a fluid which is not water soluble and which has a point, brush, applicator or other writing surface in excess of one-half inch or remove the same from the premises where such items are sold or delivered or conceal the same thereafter; provided that nothing in this section shall prohibit possession of these products by a minor who is using said products for a lawful purpose and is under the supervision or control of a parent, guardian, employer or teacher.

D. Violation of this ordinance may be punished in the manner provided under M.G.L. c. 41 s. 21D. Fines for violation shall be as follows:

- (1) for the first offense, a fine of \$25.00;
- (2) for the second offense, a fine of \$50.00;
- (3) for the third and subsequent offense, a fine of \$100.00;

The Superintendent of Schools, the Director of Public Works, the Building Inspector, the Fire Chief, the Police Chief, and the Ordinance Compliance Officers or their designees shall act as enforcement officers of the within ordinance.

SECTION 7.18 CARRYING OF CERTAIN WEAPONS PROHIBITED

A. No person shall carry on his person, or carry on his person or under his control in a vehicle, including those weapons and instruments enumerated in Chapter 269, Section 10 Paragraph (b) of the General Laws, as amended, any Sabre, sword, or weapon of like or

similar nature; any knife having any type of blade in excess of two and one-half inches in length, or other object or tool so redesigned, fashioned, prepared or treated that the same may be used to inflict bodily harm or injury to another; provided that this section shall not apply to any person actually engaged in hunting, fishing, or fowling, or in traveling to or from such activities, or to persons whose employment requires the use of said articles.

B. Violation of any provisions of this section shall be subject to arrest and a fine of not more than Fifty Dollars (\$50.00) for each offense.

SECTION 7.19 WEAPONS PROHIBITED ON SCHOOL GROUNDS

No person shall, while in a school or on school grounds, carry on his person or under his control any knife, gun or other implement or device so designed or redesigned so that the same may be used to inflict bodily harm or injury to another. No person shall, while in a school or on school grounds, carry on his person or under his control any replica or reproduction of a gun, knife or other weapon, whether or not functional.

The provisions of this section shall not apply to any implement employed in activities sanctioned by school administrators and used under the direction of school personnel.

Violation of the provisions of this section shall be punishable by arrest or a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) for each offense and may be punished in the manner provided under Massachusetts General Laws Chapter 40 Section 21D.

SECTION 7.20 PROHIBITIONS ON USE OF MOTORIZED VEHICLES

As used in this section, a motorized vehicle is:

1. a motorized scooter or motorized bicycle, as defined in Massachusetts General Laws Chapter 90 Section 1, or
2. any other vehicle designed for propulsion by means other than muscular power and not otherwise regulated by law; provided that vehicles operated by handicapped persons and landscaping vehicles shall be exempt from the provisions of this ordinance.

No person shall operate a motorized vehicle on any public way, park, playground, school ground, city cemetery or property under the control of the City of Malden.

No person under the age of 16 shall operate a motorized vehicle on private property.

Motorized vehicles shall not be operated on private property between the hours of 7:00 p.m. and 8 a.m.

Every person engaged in the sale of motorized vehicles as described herein shall provide prospective buyers with a copy of this ordinance prior to completion of the sale.

Violation of this section may be punished in the manner provided in MGL Chapter 40, Section 21D in accordance with the following schedule of fines:

1 st offense	Warning
2 nd offense	\$100.00
3 rd & subsequent offenses	\$200.00

SECTION 7.21 SOLICITATION BY CHARITABLE ORGANIZATIONS; PERMIT REQUIRED

.1 No person shall remain on public or private property for the purpose of soliciting donations from the public without having obtained a permit therefor from the City Clerk.

.2 The City Clerk may issue permits for the solicitation of donations subject to the following restrictions:

.1 Permits may be issued only to Malden-based non-profit organizations. For purposes of this section, Malden-based shall mean an organization which is headquartered in the city, or a national or state organization with an authorized Malden representative.

.2 No more than one permit shall be issued for any location on any date.

.3 The permit shall specify the locations, dates, and hours during which donations may be solicited, and may contain such additional restrictions and conditions as the City Clerk may deem necessary to protect public safety and welfare.

.3 A permit or a copy thereof shall be available for inspection by members of the Malden Police Department or Compliance Officers at every location at which donations are solicited. Each member of the licensed organization shall display identification, as specified in the organization's permit application, at all times while soliciting.

.4 No property owner shall suffer a solicitor to remain on his property without a permit issued for the dates and times during which such solicitation occurs.

.5 Violations of this ordinance may be punished in the manner provided in MGL Chapter 41, Section 21D in accordance with the following schedule of fines:

1 st offense	warning
2 nd offense	\$100.00
3 rd /subsequent offenses	\$200.00

SECTION 7.22 REMOVAL OF SHOPPING CARTS FROM RETAIL PREMISES

No person shall remove a shopping cart from the premises of a retail property providing such carts for use by customers. Possession of a

shopping cart more than 100 feet from the property line of the premises of the owner shall be prima facie evidence of violation of this ordinance, punishable by a fine of \$25.00. Violations of this ordinance may be enforced in the manner provided in Massachusetts General Laws Chapter 40, Section 21 D.

The provisions of this ordinance shall take effect on July 1, 2006.

SECTION 7.23 LIMITATION ON POSSESSION OF PAINT BALL GUNS AND/OR PAINT BALLS

As used in this section, the following words shall have the following meanings:

Paint Ball Gun: A devise designed for the propulsion of a pellet containing a colored fluid which is not water soluble.

Paint Ball: A pellet containing a non-water soluble fluid designed to burst and release said fluid upon impact.

No person under the age of 18 shall possess a paint ball gun or paint balls while on any public way, park, playground, school ground, city cemetery or property under the control of the City of Malden.

No person shall possess a paint ball or paint ball gun within the City of Malden, except when actively engaged in a permitted activity or traveling to or from a facility licensed for the conduct of games involving the use of said equipment.

Every person engaged in the sale of paint ball guns or paint balls as described herein shall provide prospective buyers with a copy of this ordinance prior to completion of the sale.

Violation of this section may be punished in the manner provided in MGL Chapter 40, Section 21D by a fine of \$300.00.

SECTION 7.24 RESTRICTIONS ON REGISTERED SEX OFFENDERS

1. Definitions

For purposes of this section, the following words shall have the following meanings:

Registered sex offender shall mean any person required to register pursuant to Chapter 6, Section 178C to P and who is finally classified as Level 2 or Level 3;

Recreational facility shall include, but not be limited to stadiums, auditoriums, pools, skating rinks and gymnasiums, whether publicly or privately owned.

.2 Restrictions on Activities of Registered Sex Offenders

No registered sex offender shall enter upon the property of a school, library, elderly housing facility or recreational facility without prior written authorization the administrator. Said authorization shall specify the dates and times during which entry is authorized and

may limit access to specific areas within the facility.
No registered sex offender shall enter any city park or playground.

No registered sex offender shall loiter within 500 feet of a school, library, elderly housing facility or recreational facility or within 500 feet of a school bus stop, as designated by the Malden School Department.

Any registered sex offender who, after receiving notification from the police that he or she is in violation of this provision of ordinance, remains within the proscribed area shall be deemed to be in wilful violation of this ordinance and shall be subject to arrest without a warrant under the provisions of Massachusetts General Laws Chapter 272 Section 59.

.3 Penalties for Violation

Violation of this section may be punished in the manner proscribed in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1 st offense	\$150.00
2 nd /subsequent offenses	\$300.00

.4 Exemptions

Nothing in this section shall be construed to prevent a registered sex offender from participating in any federal, state or municipal election or from attending any organized religious service.

SECTION 7.25 PUBLIC POSSESSION/USE OF MARIJUANA PROHIBITED

No person shall, while in or upon any property owned or controlled by the city or in any place accessible to the public, possess marijuana or tetrahydrocannabinol in an amount of one ounce or less.

No person shall, while in or upon any property owned or controlled by the city or in any place accessible to the public, smoke, ingest or otherwise use or consume marijuana or tetrahydrocannabinol.

No person shall, while in, on, or within or within one thousand feet of an educational facility or one hundred feet of a public park or playground, use or possess one ounce or less marijuana or tetrahydrocannabinol. As used in this section, educational facility shall include the real property comprising a public or private accredited preschool, accredited headstart facility, elementary, vocational, or secondary school whether or not in session.

Violation of any provision of this ordinance shall be punishable in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by a fine of \$300.00 for each offense. For purposes of enforcing this ordinance, a police officer may detain any individual who fails

to provide adequate identification.