

**CITY OF MUSCATINE
ORDINANCE 2023-0403**

ORDINANCE REVISING TITLE 3, CHAPTER 2 – USE OF CITY RIGHT OF WAY

WHEREAS, The City of Muscatine’s current Use of City Right-of-Way regulations can be found in Chapter 2 of Title 3 of the City Code of Muscatine; and

WHEREAS, City Council directed City staff to prepare changes to portions of Chapter 2 of Title 3 of City Code related to Use of City Right-of-Way regulations; and

WHEREAS, a public hearing was conducted on August 17, 2023 by the City Council of Muscatine prior to the adoption of this ordinance.

NOW THEREFORE, be it ordained by the City Council of the City of Muscatine, in the State of Iowa, as follows: The currently adopted versions of Chapter 2 of Title 3 of the City Code are hereby deleted and Exhibit A as attached hereby to is adopted in lieu thereof.

SECTION 1: **REPEAL** “3-2-18 Completion By The City” of the Muscatine Municipal Code is hereby *repealed* as follows:

R E P E A L

~~3-2-18 Completion By The City (Repealed)~~

~~Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.~~

SECTION 2: **REPEAL** “3-2-19 Responsibility For Costs” of the Muscatine Municipal Code is hereby *repealed* as follows:

R E P E A L

~~3-2-19 Responsibility For Costs (Repealed)~~

~~All costs and expenses incident to the excavation shall be borne by the property owner/permit holder. The property owner/permit holder shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.~~

SECTION 3: **REPEAL** “3-2-20 Notification” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-20 Notification~~ (*Repealed*)

~~At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.~~

SECTION 4: **REPEAL** “3-2-21 Permit Fee” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-21 Permit Fee~~ (*Repealed*)

~~The permit fee required by this Section shall be set by resolution of the City Council, and is listed in the Schedule of Permit and Licensing Requirements contained in Appendix B to this Code of Ordinances.~~

SECTION 5: **REPEAL** “3-2-22 Permit Issued” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-22 Permit Issued~~ (*Repealed*)

~~Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.~~

SECTION 6: **REPEAL** “3-2-23 Permits May Be Examined” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-23 Permits May Be Examined (Repealed)~~

~~All permits and written authorizations issued by the City shall at all times be kept by an individual at the excavation site and shall be surrendered for examination upon the demand of any officer of the City.~~

SECTION 7: **REPEAL** “3-2-24 Save Harmless” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-24 Save Harmless (Repealed)~~

~~The applicant shall agree to hold and save harmless the City, its Agents, Officers, and Employees from any liability or responsibility for damage to any person or property injured by the performance of any excavation work performed by an applicant or by the negligence of the applicant, his employees, or agents in carrying out the excavation permitted under this Chapter.~~

SECTION 8: **REPEAL** “3-2-25 Pavement Failure After Excavation Repair” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-25 Pavement Failure After Excavation Repair (Repealed)~~

~~If the repaired street surface cracks or subsides more than 1 inch across the excavation within 4 years of the surface replacements, the applicant shall remove the pavement, compact or replace the backfill as required and replace the pavement at no cost to the City.~~

SECTION 9: **REPEAL** “3-2-26 Emergency Excavations” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-26 Emergency Excavations (Repealed)~~

~~Emergency excavations are excavations for the repair of such vital utilities as gas, water, sewer, and electricity, which by their nature necessitate immediate action.~~

SECTION 10: **REPEAL** “3-2-27 Emergency Detours And Closings” of the

Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-27 Emergency Detours And Closings~~ (*Repealed*)

- A. If the emergency occurs during normal office hours, eight o'clock (8:00) A.M. to five o'clock (5:00) P.M. weekdays, the agency doing the work shall first notify the City and obtain approval of said work. The applicant shall obtain the permit in person at the permit office before the close of the next work day.
- B. During normal working hours, emergency detour routes may be requested by telephoning the Department of Public Works.
- C. If the emergency occurs during other than normal working hours, the applicant shall call the Public Safety dispatcher and give the dispatcher the location and nature of the emergency before starting the work. The applicant is then required to get said permit before noon of the next work day.
- D. On other than normal working hours, emergency street closing and detours shall be reported by notifying the dispatcher at the Public Safety Building.

SECTION 11: **REPEAL** “3-2-28 Curb Cuts” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-28 Curb Cuts~~ (*Repealed*)

~~No person shall make or cause to be made any curb cut for driveways or any other purpose without first obtaining a curb cut permit from the City and pay a fee in the amount set by resolution of Council and specified in the Schedule of Permit and Licensing Requirements contained in Appendix B to this Code of Ordinances.~~

- A. Curb cuts shall be made in conformance with the specifications as established by the City.
- B. Curb cut locations shall be established with the assistance of the Director of Public Works to maximize traffic safety.
- C. Curb cuts in the Central Business District (C-2 zoning districts) shall require the approval of the City Council after review and recommendations by the City staff.
- D. Curb cut permits along designated State highways shall be processed through the Iowa Department of Transportation.

SECTION 12: **REPEAL** “3-2-29 Penalty” of the Muscatine Municipal Code is hereby *repealed* as follows:

REPEAL

~~3-2-29 Penalty (Repealed)~~

~~Any person violating any provision of this Chapter, or failing or neglecting to comply with any requirement, shall be deemed guilty of a separate misdemeanor or civil penalty for each and every day during any part of which such violation or noncompliance occurs. Any person who violates any provision of this Chapter may further be refused any permits until he shall have complied with the provisions of this Chapter. Any incidence of violation of this Chapter shall be cause for the City to immediately revoke or suspend an excavation permit without prejudice to other action on the violation.~~

SECTION 13: **AMENDMENT** “3-2-1 Excavation Compliance” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-1 ~~Excavation~~ Compliance

~~No person or entity shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following provisions of this Chapter.~~ No person or entity shall perform any work within the public right of way except in accordance with the following provisions of this Chapter.

SECTION 14: **AMENDMENT** “3-2-2 Permit Required” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-2 ~~Permit~~Permits Required

~~No excavation, including curb cuts, shall be commenced without first obtaining a permit therefor in accordance with the Schedule of Permit and Licensing Requirements in Appendix B to this Code of Ordinances. A written application for such permit shall be filed with the Community Development Department and shall contain the following:~~

- A. ~~The name and residence of the applicant~~ **Service Installation Permit**
~~This permit shall be required for all work within the City of Muscatine’s Right of Way associated with installing or repairing a utility service for a subject property from the main to the building. This work may include, but not be limited to: excavation, sidewalk removal, pavement removal, trench bedding, pipe installation, trench backfill~~

and compaction, topsoil placement, seeding, subgrade compaction, rock subbase placement and compaction, sidewalk placement, roadway placement and joint sealing.

B. ~~The purpose for which the excavation is to be made.~~ **Work In Right of Way Permit**

~~The name and address of the person for whom the excavation is to be made.~~ This permit shall cover all work to be performed within the City of Muscatine's Right of Way that is not covered by the Service Installation Permit.

C. Any permit issued under the provisions of this Chapter shall be obtained by a contractor licensed by the State of Iowa and permitted by the City of Muscatine to perform the work described in the scope of work portion of the permit application.

1. A property owner may replace up to 3 panels of sidewalk adjacent to their own property per year without a bond or proof of insurance.
2. A property owner may only excavate in the city right-of-way for mailbox posts. Any other minor excavations in the city right-of-way must be approved by the City Engineer.

D. City of Muscatine Public Works employees working in the course of employment for the City of Muscatine, or its contractors working under the direct supervision of the City, are exempt from the permit requirements set out in this Chapter.

~~E. When traffic control devices are used as part of the excavation, the name and telephone number of a person who can be reached twenty-four (24) hours a day, seven (7) days a week. **Exempt.** City of Muscatine Public Works employees excavating in the course of employment for the City of Muscatine, or its contractors working under the direct supervision of the City, are exempt from the permit requirements set out in this Section.~~

SECTION 15: AMENDMENT “3-2-3 Public Convenience” of the
Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-3 ~~Public Convenience~~Permit Issuance

~~Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.~~

A. Application Requirements

The application shall be on such form and include such detail as prescribed by the City Engineer.

B. Fee

The application fee shall be set by resolution of the City Council, and is listed in the Schedule of Permit and Licensing Requirements contained in Appendix B to this Code of Ordinances.

- C. Bond Required A bond shall be required guaranteeing the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this Section. Such shall be set by resolution of Council and is listed in the Schedule of Permit and Licensing Requirements contained in Appendix B to this Code of Ordinances. The bond shall be issued by a surety company authorized to issue such bonds in the State.
- D. Insurance Every applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the City as additional insured and applicant and all its agents and employees for the amounts set by resolution of Council and specified in the Schedule of Permit and Licensing Requirements contained in Appendix B to this Code of Ordinances.
- E. Pre-construction Conference The City may require a pre-construction conference before the issuance of a permit. The conference may involve representatives of the Public Works Department, Police and Fire Departments, City Engineer, utility companies, and the contractor and/or their representative.
- F. Street Closures
1. Requests to close all or part of any City Street must be made as part of this permit application.
 2. Full street closures must obtain City Council approval.
 3. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
- G. Grounds for Issuance
1. Upon approval of the application, filing of bond and submission of an insurance certificate, and payment of any required fees, a permit shall be issued.
 2. No person or entity shall have more than five open excavations at any time without written permission of the Right of Way Inspector.

SECTION 16: **AMENDMENT** “3-2-4 Barricades, Fencing And Lighting” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-4 ~~Barricades, Fencing And Lighting~~ Period of Validity for Permits

~~Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing~~

~~or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.~~

- A. Work shall begin within 7 days of obtaining the permit.
- B. Work shall be completed within 60 days of its commencement.
- C. If the work cannot be completed within the 60-day timeframe, the Contractor may request an extension at least seven days prior to the deadline.

SECTION 17: **AMENDMENT** “3-2-5 Bond Required” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-5 ~~Bond Required~~Permits May Be Examined

~~The bond required by this Section shall be set by resolution of Council and is listed in the Schedule of Permit and Licensing Requirements contained in Appendix B to this Code of Ordinances. The bond shall be issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this Section.~~All permits and written authorizations issued by the City shall at all times be kept by an individual at the work site and shall be surrendered for examination upon the demand of any officer of the City.

SECTION 18: **AMENDMENT** “3-2-6 Insurance” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-6 ~~Insurance~~Save Harmless

~~Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the City as additional insured and applicant and all its agents and employees for the amounts set by resolution of Council and specified in the Schedule of Permit and Licensing Requirements contained in Appendix B to this Code of Ordinances.~~The applicant shall agree to hold and save harmless the City, its Agents, Officers, and Employees from any liability or responsibility for damage to any person or property injured by the performance of any excavation work performed by an applicant or by the negligence of the applicant, his employees, or agents in carrying out the excavation permitted under this Chapter.

SECTION 19: **AMENDMENT** “3-2-7 Pre-Construction Conference” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-7 ~~Pre-Construction Conference~~Protect Adjoining Property

~~The City may require a pre-construction conference before the issuance of a permit. The conference may involve representatives of the Public Works Department, Police and Fire Departments, City Engineer, utility companies, and the construction agency representative.~~Any person working in the right of way shall at all times and at his own expense preserve and protect from damage or injury all adjoining property of any nature by providing proper foundations, sheeting, bracing, shoring, and drainage, as well as such other protective measures as may be required. The person making the excavation shall be responsible for all damages to public or private property resulting from or occasioned by the excavation.

SECTION 20: **AMENDMENT** “3-2-8 Commencement Period” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-8 ~~Commencement Period~~Completion by City

~~The applicant shall begin the excavation within twenty-four (24) hours of the granting of the permit. Failure to begin excavating within twenty-four (24) hours will cause the permit to become null and void.~~Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event work in the right of way is improperly done, the City has the right to finish or correct the work and charge any expenses therefor to the permit holder/property owner.

SECTION 21: **AMENDMENT** “3-2-9 Steel Tracks; Cleated Equipment” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-9 ~~Steel Tracks; Cleated Equipment~~ Responsibility for Costs

~~Under no circumstances shall steel tracked or steel cleated equipment or machinery be permitted on any street, alley, sidewalk, or way unless authorized in writing by the City. All costs and expenses incident to the work in right of way shall be borne by the property owner/permit holder. The property owner/permit holder shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such work.~~

SECTION 22: **AMENDMENT** “3-2-10 Tunneling Under Street” of the Muscatine Municipal Code is hereby *amended* as follows:

A M E N D M E N T

3-2-10 ~~Tunneling Under Street~~ Emergency Work

~~No person shall tunnel under any street, alley, sidewalk, road, pavement, or way or public place unless authorized in writing by the City Engineer.~~ Emergency work is work necessary for the repair of such vital utilities as gas, water, sewer, and electricity, which by their nature necessitate immediate action.

- A. If the emergency occurs during normal office hours, eight o'clock (8:00) A.M. to five o'clock (5:00) P.M. weekdays, the agency doing the work shall first notify the City and obtain approval of said work. The applicant shall obtain the permit in person at the permit office before the close of the next work day.
- B. During normal working hours, emergency detour routes may be requested by telephoning the Department of Public Works.
- C. If the emergency occurs during other than normal working hours, the applicant shall call the Public Safety dispatcher and give the dispatcher the location and nature of the emergency before starting the work. The applicant is then required to get said permit before noon of the next work day.
- D. On other than normal working hours, emergency street closing and detours shall be reported by notifying the dispatcher at the Public Safety Building.

SECTION 23: **AMENDMENT** “3-2-11 Compliance” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-11 ~~Compliance~~ Standards

~~The applicant shall comply with all excavation and backfill requirements as shall be set forth by the Director of Public Works.~~ All work in the City right of way shall conform to the most recent edition of the Iowa Statewide Urban Design and Specifications (SUDAS), as amended and published by the Institute for Transportation at Iowa State University and the following supplemental standards which take precedence over any chapters of SUDAS which may be in conflict therewith, or as directed by the City Engineer.

A. Sidewalks

1. Sidewalks equal to or less than 5 feet in width shall be minimum 4" Portland Cement Concrete (PCC) on 4" of Modified Subbase.
2. Sidewalks greater than 5 feet in width shall be minimum 6" Portland Cement Concrete (PCC) on 4" of Modified Subbase.
3. Sidewalks through a driveway section shall be built in accordance with 3-2-11.

B. Driveways Driveways shall be 6" PCC on 6" of Modified Subbase.

C. Street Patches

1. Thickness of Patch

- a. PCC Patches on PCC Streets Shall either match the thickness of the existing pavement or be poured 8" thick, whichever is greater, on 6" of Modified Subbase.
- b. PCC Patches on Hot Mix Asphalt (HMA) streets Shall be 10" thick on a 6" Modified Subbase.
- c. HMA Patches on HMA Streets Shall either match the thickness of the existing pavement or be placed 6" thick, whichever is greater, on a 6" Modified Subbase.

2. Size of Patches

- a. The Right of Way Inspector shall determine all patch sizes after the service has been installed.
- b. However, patch sizes shall not be smaller than 6' x 6' and shall not create any remnant panel to be smaller than 6' x 6'.

D. PCC, HMA, steel reinforcement, joint sealant and any other material necessary to patch sidewalks, driveways and roadways within the City's right of way shall conform to SUDAS Standard Specifications, Current Edition. See SUDAS Standard Specifications, Current Edition for detail drawings.

E. Backfill

1. All excavations shall be backfilled in accordance with Section 3010 of SUDAS.
2. Prior to any backfill, the Contractor shall contact the Right of Way Inspector

for inspection of the utility service, if present, and documentation of its location.

F. Contractor shall contact the Right of Way Inspector prior to placing any permanent surface (PCC or HMA) to allow for inspection of compacted subgrade, subbase and forms.

G. **Areas Not Hard Surfaced** Contractor shall place topsoil and seed all disturbed areas not to receive a hard surface within the right of way.

H. Contractor shall restore all disturbed area to existing condition or better.

SECTION 24: **AMENDMENT** “3-2-12 Excavation Material” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-12 ~~Excavation Material~~Barricades, Fencing, and Lighting

~~The person making the excavation shall haul away all excess excavated material. The City may require material to be imported for backfill of any excavation whenever it is evident that backfill is of such nature that it is unsuitable for use. Backfill may be deemed unsuitable by the City if, among other reasons, it is frozen or contains excess moisture or excess debris. Failure of a person making an excavation to backfill the excavation as directed by the City shall be a violation of this Chapter.~~Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

SECTION 25: **AMENDMENT** “3-2-13 Protect Adjoining Property” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-13 ~~Protect Adjoining Property~~ Steel Tracks: Cleated Equipment

~~Any person making an excavation shall at all times and at his own expense preserve and protect from damage or injury all adjoining property of any nature by providing proper foundations, sheeting, bracing, shoring, and drainage, as well as such other protective measures as may be required. The person making the excavation shall be responsible for all damages to public or private property resulting from or occasioned by the excavation.~~ Under no circumstances shall steel tracked or steel cleated equipment or machinery be permitted on any street, alley, sidewalk, or way unless authorized in writing by the City.

SECTION 26: AMENDMENT “3-2-14 Restoration Of Public Property” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-14 ~~Restoration Of Public Property~~ Excavation Material

~~Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.~~ The person making the excavation shall haul away all excess excavated material.

SECTION 27: AMENDMENT “3-2-15 Inspection” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-15 Inspection

~~All work shall be subject to inspection by the City~~ All work shall be subject to City inspection.:

SECTION 28: AMENDMENT “3-2-16 Backfill” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-16 ~~Backfill~~ Pavement Failure after Repair

~~Upon completion of the work performed under the excavation permit, the applicant shall cause the excavation to be back-filled within twenty-four (24) hours. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.~~ If the repaired street surface cracks or subsides more than 1 inch across the excavation within 4 years of the surface replacements, the applicant shall remove the pavement, compact or replace the backfill as required and replace the pavement at no cost to the City.

SECTION 29: **AMENDMENT** “3-2-17 Supervision Of Connections And Repairs To Sewers” of the Muscatine Municipal Code is hereby *amended* as follows:

AMENDMENT

3-2-17 ~~Supervision Of Connections And Repairs To Sewers~~ Penalty

- A. ~~All excavations entailing connections, extensions, replacement, or repairs to public sewers in any public place, as well as the connections, extensions, replacement, or repairs themselves, shall be made according to the standards as established by the Director of Public Works, or his or her designee.~~ Any person violating any provision of this Chapter, or failing or neglecting to comply with any requirement, shall be deemed guilty of a separate misdemeanor or civil penalty for each and every day during any part of which such violation or noncompliance occurs.
- B. ~~All excavations for installation of new sewers shall be made only in conformity with a set of plans which shall have been approved by the Director of Public Works.~~ Any person who violates any provision of this Chapter may further be refused any permits until he shall have complied with the provisions of this Chapter.
- C. ~~Plans are to be submitted to the Director of Public Works by the person, or his agent, who shall desire to have the new sewer constructed, whenever such sewer shall then or thereafter be located in, under, within, or upon any public place.~~ Any incidence of violation of this Chapter shall be cause for the City to immediately revoke or suspend an excavation permit without prejudice to other action on the violation.
- D. ~~No person shall hereafter install, lay, bury, place, or replace in or upon any ditch, trench, drainage ditch, driveway, field entrance, or public place any pipe, sewer, drain, water main, culvert, or conduit unless it shall be approved. All sewer pipe materials;~~

~~ittings, and connections, including sewer service laterals and connections on public property shall be according to standards established by the Director of Public Works or otherwise approved by the Director of Public Works.~~

SECTION 30: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

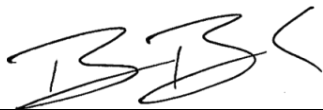
SECTION 31: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 32: EFFECTIVE DATE This ordinance shall be in effect from and after the passage and approval and publication of this ordinance, as provided by law

PASSED AND ADOPTED BY THE CITY OF MUSCATINE CITY COUNCIL
SEPTEMBER 14, 2023.

Presiding Officer

Attest



Dr. Brad Bark, Mayor, City of
Muscatine



Carol Webb, City Clerk, City of
Muscatine

