

Chapter 37

OFFENSES AND MISCELLANEOUS PROVISIONS

Sec. 37-1. Disorderly conduct.

(a) *Disorderly persons defined.* Any person shall be deemed a disorderly person, who shall, or shall aid and abet another to:

- (1) Conduct himself in a noisy, boisterous, insulting or disorderly manner;
- (2) Be a vagrant or beggar;
- (3) Be a prostitute, or solicit for immoral purposes or commit an indecent immoral act;
- (4) Be a masher, window peeper or prowler;
- (5) Be found loitering in a place where prostitution is practiced, or allowed or be found loitering in any other place where illegal businesses or occupations are conducted;
- (6) Keep, let or permit the use of any place or vehicle for the purposes of prostitution or any other immoral purposes;
- (7) Take indecent liberties with the person of another;
- (8) Accost another for immoral purposes;
- (9) Assault, jostle, roughly crowd or annoy another or others;
- (10) Drive or ride a vehicle along any public way so as to molest or interfere with the person of another;
- (11) Refuse or neglect to support his family, or shall leave another person to become a public charge, when such person is of sufficient ability to support such family or person;
- (12) Be found with any stolen property;
- (13) Who shall by word or conduct commit such act or acts, as may cause civil commotion, or cause or be likely to cause injury to public or private property, or to life or person of another;
- (14) Use any firearm, or shooting device of a dangerous nature in any public place or way;
- (15) Shall be found loitering about the streets or other public place with no lawful means of support, or without being able to give satisfactory account of himself;
- (16) Any person who shall throw or cause to be thrown any missile, likely to cause bodily injury or property damage; or
- (17) Use any light or flare on an automobile or otherwise, in such a manner as to cause annoyance to others or be likely to endanger life or property.

(b) *Indecent exposure.* No person shall exhibit himself in any place of entertainment or in any public place, nude or indecently clad; no person shall indulge in any indecent, immoral or suggestive conduct in such places; no person shall designedly make any open or indecent exposure of his person, or of the person of another.

(c) *Indecent language.* No person shall use indecent, immoral, profane or blasphemous language in any public way or place, or in such a way as to subject the public to such language.

(d) *Obscene literature, devices and shows.*

- (1) No person shall print, publish, show, sell or offer for sale, exhibit or otherwise dispose of any printed matter, pictures or devices containing indecent or obscene language or pictures which by the context thereof or purpose thereof tends to corrupt public morals; nor shall any person have in his possession any such articles.
- (2) No person shall show, or cause to be shown, any show or pictures, whether a personal performance or by mechanical means, which is immoral, obscene or suggestive; or which tends to corrupt the public morals.

(e) *Fortune telling.* No person shall, for consideration, predict future events or pretend to enable another to recover lost or stolen property, give success in business, enterprise, speculation or games of chance or to make one person dispose of property in favor of another, by cards, tokens, trances, by inspection of the hands or the skull, by mind reading or by consulting the movements of the heavenly bodies or by other means.

(f) *Gambling and lotteries.*

- (1) No person or his agent or employee shall directly or indirectly take, receive or accept, money or valuable thing, with the agreement, understanding or allegation that money or any valuable thing will be paid or delivered to any such person where such payment or delivery is contingent upon the result of a race, contest, game or the happening of an event not known to the parties to be certain.
- (2) No person shall keep any device used for the pulses in subparagraph (1) mentioned.
- (3) No person shall use, own or let any place or property and shall knowingly suffer acts forbidden under subsection (1).
- (4) No person shall assist, solicit or advertise for, or occupy any place wherein acts forbidden under subsection (1) are conducted.
- (5) In addition to other penalties hereinafter provided, the police department may seize and destroy devices in subsection (2) mentioned.

(g) *Intoxication; drinking in public places.*

- (1) No person shall drink or possess any alcoholic liquor in a container that is open or uncapped, or upon which the seal is broken in any public way, place or park, except the picnic area of the Ackerman Memorial Field.

- (2) No person shall be drunk or intoxicated or under the influence of narcotics in any hotel, place of business, place of amusement or assemblage or in any public way or other public place.
- (3) No person shall knowingly sell, give or furnish liquor or beer to any drunk or intoxicated person, or disorderly person; or to one who has been placed upon the black list.
- (4) No person shall sell, give or furnish alcoholic liquor or beer to any person under the age of eighteen (18) years.

(h) *Crowds and riots; public address.*

- (1) No person shall make or assist in making any improper noise or disturbance, quarrel or riot by which the peace and order of the community are disturbed; nor shall any person or persons collect or stand in crowds, or remain loitering on the public ways, or other places so as to interfere with free and uninterrupted passage of other persons.
- (2) No person or persons shall address the public, either personally or by mechanical means, either by word, music or other means, upon any public way, or place, except in such places designated by city council, or by written permission from the mayor or the chief of police.
- (3) No person shall disrupt or aid in disrupting in any manner, any service of worship or any other assembled for lawful purposes.
- (4) No person shall shoot any air gun, spring gun, cross bow or firearm, or other dangerous weapon or instrument in the Village of Elkton.
- (5) No person shall explode or cause to explode, any fireworks, cannon or other instrument set forth in Section 243 of the Penal Code of the State of Michigan as amended by Act 92 Public Acts of 1941, unless the terms and conditions thereof have been first complied with; and no person shall sell, or expose for sale such fireworks or other instruments above mentioned.
- (6) No person shall ring any bell, blow any horn or operate any other noise-making device, or by mouth or voice make sounds and noises causing annoyance to others, or be likely to annoy or disturb others.

(i) *Transportation of unsealed containers of alcoholic liquor.* No person shall transport or possess any alcoholic liquor in a container which is open, uncapped or upon which the seal is broken within the passenger compartment of a vehicle on the public streets of the Village of Elkton. If the vehicle does not have a trunk or compartment separate from the passenger compartment, a container which is open, uncapped or upon which the seal is broken shall be encased or enclosed. This subsection shall not apply to any chartered passenger vehicle licensed by the Michigan Public Service Commission.

(j) *Penalties.* Any person, firm or corporation convicted of violating any provisions of this section or convicted of being a disorderly person under the provisions of the same shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed one hundred dollars (\$100.00) or by imprisonment in the county or municipal jail for a period of not to exceed ninety (90) days or both such fine and imprisonment in the discretion of the court.

(Ord. No. 64, §§ 1—11, 9-7-74; Ord. of 2-10-98; Ord. of 10-11-05)

Cross references—Officers and employees, Ch. 1, Art. III; anti-noise, Ch. 25, Art. II; streets, sidewalks and other public places, Ch. 45; possession of alcohol in passenger compartment, § 49-36; signs, App. A, § 1012.

Sec. 37-2. Loitering.

(a) *Proprietor defined.* "Proprietor" shall mean the proprietor of a business establishment of which a parking lot is a part or to which a parking lot is appurtenant.

(b) *Posted parking lot defined.* "Posted parking lot" shall mean a parking lot as above qualified posted with a notice of prohibition substantially concurring with the prohibition of this section.

(c) *Loitering in public places.* No person shall loiter on public streets or public places where such loitering results in congestion in front of public buildings so as to interfere with persons entering or leaving such buildings.

(d) *Loitering on private property.* No person shall park any vehicle or loiter during the nonbusiness hours of the proprietor on any posted parking place not publicly owned without the consent of the proprietor.

(e) *Penalties for violation.* A violation of this section shall be punishable by a fine not exceeding one hundred dollars (\$100.00) and costs of prosecution or by imprisonment in the county jail not to exceed ninety (90) days or by both such fine and imprisonment in the discretion of the court.

(Ord. No. 51, §§ 1—5, 2-9-71)

Cross reference—Streets, sidewalks and other public places, Ch. 45.

Sec. 37-3. Drawing on insufficient funds; punishment.

(a) A person shall not, with intent to defraud, make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, know at the time of the making, drawing, uttering, or delivering, that the maker or drawer does not have sufficient funds in or credit with the bank or other depository, for the payment of the check, draft, or order, in full, upon its presentation.

(b) A person shall not, with the intent to defraud, make, draw, utter, or deliver any check, draft, or order for the payment of money to apply on account or otherwise upon any bank or other depository, unless the person has sufficient funds for the payment of the check, draft, or order when presentation for payment is made to the drawee, except if the lack of funds is due

to garnishment, attachment, levy, or other lawful cause, and that fact was not known to the person who made, drew, uttered, or delivered the check, draft, or order at the time of the making, drawing, uttering, or delivering.

(c) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than ninety (90) days, or a fine of not more than five hundred dollars (\$500.00), or both.

(Ord. No. 107, 3-23-99)

Sec. 37-4. Curfew of minors.

(a) *Minors under twelve (12)*. No minor under the age of twelve (12) years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 9:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

(b) *Minors under sixteen (16)*. A minor under the age of sixteen (16) years shall not loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m., except where the minor is accompanied by a parent or guardian, or some adult over the age of twenty-one (21) years delegated by the parent or guardian to accompany the minor child or where the minor child is upon an errand or other legitimate business directed by his parent or guardian.

(c) *Minors under seventeen (17)*. A minor under the age of seventeen (17) years shall not loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 11:00 p.m. and 6:00 a.m., except where the minor is accompanied by a parent or guardian, or some adult over the age of twenty-one (21) years delegated by the parent or guardian to accompany the minor child or where the minor child is upon an errand or other legitimate business directed by his parent or guardian.

(d) *Parents, guardians, etc.* No parent, guardian, or other person having the legal care and custody of any minor under the age of seventeen (17) years shall allow or permit any such minor while in his legal custody to loiter, idle or congregate in or upon any public street, highway, alley or park as prohibited in subsections (a)—(c) of this section.

(e) *Juvenile arrest procedure*. Whenever any child under the age of seventeen (17) years is arrested with or without a warrant for violation of this section, such child shall be taken immediately before the juvenile division of the probate court for the County of Huron and the officer making the arrest shall immediately make and file or cause to be made and filed, a petition against such child as provided by Chapter 12A of Act No. 288 of the Public Acts of 1939, MCL 712A.1 to 712A.32 and the court shall proceed to hear and determine the matter in like manner as provided by said act, as amended.

(f) *Aiding or abetting violation; misdemeanor*. Any person of the age of seventeen (17) years or over assisting, abetting, allowing, permitting or encouraging any minor under the age of seventeen (17) years to violate the provisions of subsections 37-4(a)—(c) hereof is guilty of a misdemeanor.

(Ord. of 10-11-05)

Sec. 37-5. Devices to receive deliveries.

(a) *Prohibition of devices.* No person, firm or corporation shall place or install on any residential, commercial or village property any device at curbside capable of receiving or holding mail, newspapers or magazines.

(b) *Exception.*

- (1) The prohibitions set forth in this section shall not apply to those village residents served by rural mail delivery on December 7, 1998, the date of enactment of this section.
- (2) This section shall not apply to any village, state or federal entity.
- (3) Any curbside device capable of receiving or holding newspapers installed prior to the enactment of this section shall be allowed to remain.

(c) *Penalties for violation.* Any violation of, or failure to comply with the provisions of this section shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the Huron County jail for a term not to exceed ninety (90) days, or both, at the discretion of the court.

(Ord. No. 106, 11-10-98)

Sec. 37-6. Possession and use of certain controlled substances and/or marijuana and its derivatives.

(a) [*Substances.*] No person shall knowingly and/or intentionally possess and/or use the following controlled drugs and/or marijuana and/or its derivative unless the substance and/or marijuana and/or its derivatives was obtained directly from, or pursuant to, a valid prescription or order of a practitioner, as defined by Public Act 196 of 1971, MCL 335.301 et seq. In the course of his professional practice or unless said person is licensed to possess, dispense, prescribe or conduct research under the laws of the State of Michigan.

(1) Substances subject to this section:

- a. Lysergic acid diethylamide;
- b. Peyote;
- c. Mescaline;
- d. Dimethyltryptamine;
- e. Psilocyn;
- f. Psilocybin;
- g. Marijuana; (cannabis sativa) whether growing or not, the seeds thereof; the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or resin.

(2) "Marijuana" means all parts of the plant cannabis sativa L., growing or not, the seeds thereof; the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

(b) *Penalties.* Any person, firm or corporation convicted of violating any provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period of not to exceed ninety (90) days or both, such fine and imprisonment in the discretion of the court.

(c) *Licensing sanctions; license surrender; destruction; rehabilitative treatment, screening, costs; community service, restricted licenses; notifications; terms defined.*

- (1) As part of the sentence or court disposition the court shall consider all prior convictions currently entered upon the criminal history record and Michigan driving record of the person, except those convictions which, upon motion of the defendant, are determined by the court to be constitutionally invalid, and shall impose the following licensing sanctions in addition to any other penalty or sanction imposed for the violation:
 - a. If the court finds that the person does not have a prior conviction within seven (7) years of the violation, the court shall order the Secretary of State to suspend the operator's or chauffeur's license of the person for a period of six (6) months. If the court finds compelling circumstances under subsection (c)(8) sufficient to warrant the issuance of a restricted license, the court may order the Secretary of State to issue to the person a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first thirty (30) days of the period of suspension.
 - b. If the court finds that the person has one or more convictions within seven (7) years of the violation, the court shall order the Secretary of State to suspend the operator's or chauffeur's license of the person for a period of one year. If the court finds compelling circumstances under subsection (c)(8) sufficient to warrant the issuance of a restricted license, the court may order the Secretary of State to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first sixty (60) days of the period of suspension.
- (2) The person whose operator's or chauffeur's license is ordered suspended under this section shall immediately surrender to the court his or her operator's or chauffeur's license. The court shall immediately destroy the license and forward an abstract of conviction with court-ordered license sanctions to the Secretary of State. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the Secretary of State shall suspend the person's license and, if ordered by the court and if the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment is

appealed to circuit court, the court may, ex parte, order the Secretary of State to stay the suspension or license restriction issued pursuant to this section pending the outcome of the appeal.

- (3) Except as otherwise provided in subsection (c)(5), before imposing sentence or entering a court disposition, other than court-ordered license sanctions under this section, the court may order the person to undergo screening and assessment by a person or agency as designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. The person shall pay for the cost of the screening and assessment services.
- (4) Except as otherwise provided in subsection (c)(5), as part of the sentence or court disposition, the court may order the person to do one or both of the following:
 - a. Perform service to the community for a period of not more than ninety (90) days. A person ordered to perform service to the community under this subsection shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.
 - b. Participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the costs of the rehabilitative services.
- (5) Subsections (c)(3) and (c)(4) do not apply to a person who is not eligible for probation under chapter XI of the Code of Criminal Procedure, Act No 175 of the Public Acts of 1927, MCL 771.1 to 771.14a.
- (6) A restricted license issued pursuant to an order under this section shall permit the person to whom it is issued to do one or more of the following:
 - a. Drive to and from the person's residence and work location.
 - b. Drive in the course of the person's employment or occupation.
 - c. Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.
 - d. Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both.
 - e. Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.
- (7) The court shall not order the Secretary of State under this section to issue a restricted license that would permit a person to operate a commercial motor vehicle that hauls hazardous materials.

- (8) The court shall not order the Secretary of State under this section to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that both of the following are true:
- a. The person needs vehicular transportation to and from his or her work location, place of alcohol or drug education treatment, court probation department, court-ordered community service program, or educational institution, or in the course of the person's employment or occupation.
 - b. The person is unable to take public transportation and does not have any family members or other individuals able to provide transportation to a destination or for a purpose described in subsection (c)(a).
- (9) The court order issued under this section and the restricted license shall indicate the permitted destinations of the person or the permitted purposes for which the person may operate a vehicle, the approved route or routes if specified by the court, and permitted times of travel.
- (10) The court shall do both of the following:
- a. Transmit a record of each order issued under this section to the Secretary of State.
 - b. Forward to the department of state police, on a form or forms prescribed by the state court administrator, a record that specifies the penalties imposed by the court for an offense described in subsection (c)(1), including a licensing sanction ordered under this section and a term of imprisonment imposed for the offense.
- (11) Except as otherwise provided by law, a record described in subsection (c)(10) is a public record, and the department of state police shall retain the information contained in that record for not less than seven (7) years.
- (12) As used in this section:

Commercial motor vehicle means that term as defined in section 7a of the Michigan Vehicle Code, Act No. 300 of the Public Acts of 1949, MCL 257.7a.

Conviction means a final conviction, a plea of guilty or nolo contendere if accepted by the court, a finding of guilt, a probate court disposition or a juvenile adjudication, for a criminal law violation, regardless of whether the penalty is rebated or suspended.

Hazardous material means that term as defined in section 19b of Act No. 300 of the Public Acts of 1949, MCL 257.19b.

Office of substance abuse services means the agency created by MCL 6201.

Prior conviction means either of the following:

- (i) A conviction for an attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a, a local ordinance that prohibits conduct prohibited under part 74 or section 17766a, or a law of another state that prohibits conduct prohibited under part 74 or section 17766a.

(ii) A conviction for an attempt to violate, a conspiracy to violate, or a violation of the controlled substances act, Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, 84 State. 1242.

Work location means as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

(d) *Probation, person having no previous conviction; discharge or dismissal without adjudication of guilt; violation of probation; records, nonpublic; effect of civil fine; required course of instruction or rehabilitation program; costs; failure to complete; screening and assessment; second violation, consequences.*

- (1) When an individual who has not previously been convicted of an offense under this section or under any statute of the United States or of any state or municipality relating to marijuana, pleads guilty to or is found guilty of use or possession of marijuana, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that shall include, but are not limited to, payment of a probation supervision fee as prescribed in section 3c of chapter XI of the Code of Criminal Procedure, Act No. 175 of the Public Acts of 1927, MCL 771.3c. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under MCL 333.7413. There may be only one discharge and dismissal under this section as to an individual. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to a court or police agency upon request for the purpose of showing that a defendant in a criminal action involving the possession or use of marijuana has already once utilized this section. For purposes of this section, a person subjected to a civil fine for a first violation of MCL 333.7341(4) shall not be considered to have previously been convicted of an offense under this section.
- (2) If an individual is convicted of a violation of this section, the court as part of the sentence, during the period of confinement or the period of probation, or both, may require the individual to attend a course of instruction or rehabilitation program approved by the department on the medical, psychological, and social effects of the misuse of drugs. The court may order the individual to pay a fee, as approved by the director, for the instruction or program. Failure to complete the instruction or program shall be considered a violation of the terms of probation.

(Ord. of 2-10-98)

Chapter 46

RESERVED

