

CHAPTER 656
DISORDERLY CONDUCT

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CROSS REFERENCES

Disorderly persons – see M.C.L.A. §750.167

Disorderly Conduct Generally – see M.C.L.A. §750.167 et seq.

656.01 DEFINITIONS.

- 1. **ANIMALS.** Unless otherwise stated, the word "animal" as used in this Ordinance shall include birds, fish, mammals and reptiles.
- 2. **LIVESTOCK** means horses, cattle, swine, sheep, goats and furbearing animals, of either gender, being raised in captivity.
- 3. **OWNER.** The term "owner" and "persons owning premises" shall mean both the owner and title of record of those occupying or in possession of any property or premise. The term "owner," when applied to the proprietorship of any animal, means every person having a right of property in the animal, an authorized agent of the animal, and every person who keeps or harbors the animal or has it in his or her care, custody or control, and every person who permits the animal to remain on or about the premise occupied by himself or herself.
- 4. **PEACE OFFICER** means any person employed or elected by the People of the City of Evart, or by the State of Michigan or the County of Osceola, whose duty it is to

preserve the peace or to make an arrest or to enforce the law, and includes game, fish or forest wardens, members of the State Police, Conservation Officers or firefighters.

5. PERSON. The term "person" shall include state and local officers and employees, individuals, corporations, co-partnerships and associations and other entities.

6. POULTRY means all domestic fowls, ornamental birds and game birds possessed or being reared under the authority of a breeder's license pursuant to Act 191 of the Public Acts of 1929" as amended (MCL 317.71 et seq; MSA 13.1271 et seq).

7. PUBLIC PLACE shall mean any street, alley, sidewalk, park, public building, any place of business open to or frequented by the public, and any other place which is visible or accessible to the public.

8. CITY shall mean City of Evart.

656.02 PROHIBITED ACTS

It shall be unlawful and punishable as provided herein for any person to be a disorderly person within the City of Evart. For purposes of this Ordinance, a disorderly person shall be defined as any person who shall do any act or engage in any practice hereinafter enumerated and any person who shall aid and abet another to do such act or engage in any such practice, to wit:

(1) A person who is intoxicated due to the consumption of alcohol or under the influence of any narcotic drug in a public place and who is either endangering directly the safety of another person, himself or herself, or property or is acting in a manner that causes a public disturbance.

- (2) A person who disturbs the public peace and quiet by engaging in a physical or verbal disturbance, physical or verbal fight, quarrel, or altercation, anywhere within the City.
- (3) A person who obstructs, resists, impedes, hinders or opposes a peace officer in the discharge of his or her official duties.
- (4) A person who furnishes a peace officer with false, forged, fictitious or misleading verbal or written information identifying the person as another person, if the person is detained for investigating a violation of a statute or City Ordinance, or temporarily detained for the purpose of issuance of a civil infraction citation.
- (5) A person who summons, as a joke or prank or otherwise, without a good reason, by telephone or otherwise, the police, fire department, or any public or private ambulance, to go to any address where the service called for is not needed.
- (6) A person who makes a false report, by telephone or otherwise, to any public official which may reasonably be expected to cause the evacuation or closing of a building or place open to the public, or who knowingly makes a false statement or report to a peace officer.
- (7) A person who is engaged in indecent or obscene conduct in a public place, including, but not limited to, the exhibition or exposure of his or her genitalia or buttocks.
- (8) A person who swims or bathes in the nude in a public place.
- (9) A person who urinates or defecates in a public place.
- (10) A person who spits or expectorates on, at, or toward, another person, or on a public sidewalk or building.
- (11) A person who peeps or peers into the windows of any inhabited place.

(12) A person who prowls about the private premises of another person, in the nighttime, without authority or permission of the owner of such premises.

(13) A person found begging in a public place, within the City.

(14) A person who knowingly attends, frequents, operates or loiters in or about a place where gambling, the illegal sale of intoxicating liquor, controlled substances or any other illegal business or occupation is permitted or conducted.

(15) A person who maintains a gaming room, gaming table or any policy or pool tickets used for gaming; knowingly allows a gaming table, or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him or her, except as permitted by law; conducts or attends any cock fight or dog fight; or places, receives or transmits any bet on the outcome of any race, contest or game of any kind whatsoever, except as permitted by law.

(16) A person who loiters, loaf, wanders, stands or remains idle in a public place so as to:

a) Obstruct a public street, highway, sidewalk, place or building by hindering, impeding or threatening to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians therein or thereon; or

b) Obstruct or interfere with the free and uninterrupted use of property or business lawfully conducted by anyone in, upon, facing or fronting any such public street, highway, sidewalk, place or building so as to prevent the free and uninterrupted ingress or egress thereto or therefrom; and who refuses or fails forthwith to obey an order by a peace officer to cease such conduct and to move and disperse.

(17) A person who willfully enters the lands or premises of another without lawful authority after having been forbidden to do so by the owner or occupant, agent or servant of the owner or occupant.

(18) A person who willfully enters the land or premises of another and who neglects or

refuses to depart from the land or premises of another after being notified by the owner or occupant, agent or servant of the owner or occupant to depart therefrom.

(19) A person who knowingly sells, gives or furnishes alcoholic beverages, beer, liquor or spirits to any drunken, intoxicated or disorderly person, or to any person under the age of twenty-one (21) years of age or who fails to make diligent inquiry as to whether the person who has been sold, given or furnished alcoholic beverages is less than twenty-one (21) years of age. In an action for a violation of this Section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a person under twenty-one (21) years of age, a motor vehicle operator's license or official state personal identification card, or other bona fide documentary evidence of the age and identity of that person, appearing to be genuine and showing that the person was at least twenty-one (21) years of age, shall be a defense to an action under this Section.

(20) A person who possesses any open intoxicant or consumes any alcoholic beverages, beer, liquor or spirits while in or upon a public street, sidewalk or non-licensed public place.

(21) A person who is found jostling or roughly crowding people unnecessarily in a public place.

(22) A person who makes or continues any loud or unnecessary noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City, including, but not limited to:

- a) Sounding any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle for reason other than as a signal in response to an imminent danger and implemented as an immediate safety measure, for an unnecessary and unreasonable duration, or unreasonably loudly or harshly;
- b) Playing or amplifying any radio, phonograph, stereo, tape or disc, player or musical instrument or loudspeaker in such a manner or with such volume so as to annoy or disturb the quiet, comfort or repose of persons in any place of business, or any dwelling, hotel or other type of residence, or of any persons in the immediate vicinity;

- c) Yelling, shouting, hooting, whistling or singing on a public street or sidewalk at any time or place, including private property, so as to annoy or disturb the quiet, comfort or repose of any persons in any place of business, or any dwelling, hotel or other type of residence, or of any persons in the immediate vicinity;
- d) Keeping any animal or bird which causes frequent or loud continued noise that disturbs the comfort or repose of any persons in the vicinity;
- e) Blowing any whistle or siren, except as a warning of danger or upon request and authority of proper City authorities;
- f) Discharging the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle into the open air, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- g) Intentionally squealing the tires of any motor vehicle;
- h) Erecting, excavating, demolishing, altering or repairing any building, or excavating streets and highways, other than between the hours of seven 0' clock a.m. and ten 0'clock p.m. unless otherwise specifically authorized by the City;
- i) Creating loud and excessive noise in connection with the loading or unloading of any vehicle, or the opening and destruction of bales, boxes, crates and containers;
- j) Creating noise with any drum, loudspeaker or other instrument or device to attract attention to any performance, show, sale or display of merchandise.

(23) A person who disables or attempts to disable, in whole or in part, any motor vehicle owned or operated by another person, by any means, including, but not limited to, deflating tires attached to said motor vehicle, or placing a foreign substance in the motor vehicle's fuel tank.

(24) A person who wrongfully throws or propels any snowball, rock, missile or object from any moving vehicle.

(25) A person who wrongfully throws or propels any snowball, rock, missile or object toward any person or vehicle.

(26) A person who enters any enclosed or unenclosed vegetable garden, flower garden, orchard or farm located within the City without the consent of the owner or tenant, and who cuts down, injures, damages, destroys, eats, digs up or carries away any portion of the garden or orchard, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or other protective device or any other thing used for the development, cultivation, maintenance and use of the aforesaid gardens, orchards or farms.

(27) A person who maliciously telephones any other person for the purpose of harassing, molesting, threatening, intimidating or annoying such other person or his or her family, whether or not conversation ensues.

(28) Any person, 17 years of age or older, who shall accost, solicit or invite another in any public place, or in or from any building or vehicle, by word, gesture or any other means, to commit prostitution or to do any other lewd or immoral act.

(29) A person who invites, entices, coaxes, persuades or induces by threat, promise or false statement, any minor child under the age of seventeen (17) years to enter any motor vehicle or conveyance, or private property or place, except where the parent or guardian of that child has given that person express consent; this section shall not prohibit school personnel, peace officers or public health or social worker personnel from carrying out the normal duties of their employment.

(30) A person who carries a knife having a blade of three inches in length or more, whether in a sheath or not, in a public place.

(31) A person who carries any firearm, air rifle, bow and arrow, slingshot, crossbow or other dangerous weapon in any public place, subject to the following exceptions:

- a) When it is in a case and is not loaded;
- b) When a bow or crossbow is unstrung or encased, or when it is being carried under the direct supervision of authorized public recreational personnel; or
- c) Where and as otherwise permitted by State law.

(31) A person who intentionally and maliciously kills, injures or maims any animal, livestock or poultry owned by another person. However, any person may kill any dog or other animal which he or she sees in the act of or actually attacking or wounding any person, livestock, poultry or other animal, and there shall be no liability on such person in damages or otherwise for such killing. In no event shall the provisions of this subsection exonerate a person from compliance with the criminal laws of this State, including, by way of example, the safe discharge of firearms.

(32) A person who does any of the following:

(32)1) A person being under the age of twenty-one (21) who shall purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section.

(32)2) Any person who furnishes fraudulent identification to a minor, or notwithstanding subsection (1) a minor who uses fraudulent identification to purchase alcoholic liquor.

(32)3) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction aid may be ordered to pay a civil fine of not more than One Hundred and no/100 Dollars (\$100.00).

(32)4) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection I) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement

agency. The notice required by this subsection shall be made not later than forty-eight (48) hours after the law enforcement agency determines that the person who allegedly violated subsection 1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL; 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection 1), his or her parent or legal guardian shall be notified immediately as provided in this subsection.

(32)5) This section does not prohibit a minor from possession of alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(32)6) This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(32)7) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

(32)8) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(32)9) Subsection 1) does not apply to a minor who participates in either or both of the following:

(a) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency

as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(32)10) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection 1).

(33) Possession and Use of Marijuana. A person who possesses or uses marijuana, or paraphernalia, unless such possession or use is pursuant to a valid prescription or order of a licensed physician, while acting in the course of said physician's professional practice.

(34) Malicious Destruction of Property. A person who willfully and maliciously destroys or injures the personal property of another person, which amount of injury, or destruction is less than Two Hundred and no/100 Dollars (\$200.00).

(35) Larceny. A person who commits larceny by stealing the property of another having a value of less than Two Hundred and no/100 Dollars (\$200.00).

(36) Larceny, Rented Property. A person to whom a motor vehicle, trailer or other tangible property is delivered on a rental or leased basis under a written agreement providing for its return to a particular place at a particular time who, with intent to defraud the lessor, refuses or willfully neglects to return the vehicle, trailer or other tangible property after expiration of the time stated in a written notice mailed by registered or certified mail addressed to that person's last known address, which property has a value of less than Two Hundred and no/100 Dollars (\$200.00).

(37) Buying, Receiving or Concealing Stolen Property. A person who shall buy, receive, possess, conceal or aid in the concealment, possession or buying or receiving of such stolen property, knowing same to be stolen, embezzled, or converted, which property has a value of less than Two Hundred and no/100 Dollars (\$200.00).

(38) Sale or Furnishing, of Tobacco Products to Minors. A person who shall sell, give or furnish any cigarette, cigar, chewing tobacco, tobacco snuff, or tobacco in any other form to a person under the age of eighteen (18) years.

(39) Possession and Use of Tobacco Products By Minors. A person, being under the age of eighteen (18) years, who shall purchase, attempt to purchase, possess or attempt to possess tobacco products.

(40) Open House Party; Possession and Consumption of Alcohol and Controlled Substances By Minors; Liability of Persons in Control of Premises: It shall be unlawful for any person having control of any residence or premises within the City to allow, permit or acquiesce in the use of such property for purposes of conducting an open house party If any alcoholic beverage or non-prescription drug or controlled substance is possessed, consumed or used at the residence or premises by any minor, where the person knew or reasonably should have known that any alcoholic beverage, drug or other controlled substance was in the possession of or being used by a minor at the residence or premises and where the person failed to take reasonable steps to prevent the possession, consumption or use of the alcoholic beverage or controlled substance at the residence or premises.

656.03 PENALTIES AND REMEDIES FOR VIOLATION.

Persons violating this Ordinance, who shall be deemed guilty of a misdemeanor, shall be punishable by imprisonment for up to ninety three (93) days and a fine of up to Five Hundred and no/100 Dollars (\$500.00), or both such fine and imprisonment. Persons deemed responsible for a civil infraction, except as otherwise specifically provided above, shall be subject to a civil fine of One Hundred and no/100 Dollars (\$100.00), for the first offense and Two Hundred and no/100 Dollars (\$200.00) for each subsequent offense, within a 3 year period.

Violation of the following subsections shall be guilty of a misdemeanor:

1, 3, 4, 5, 6, 7, 12, 14, 19, 23, 28, 29, 33, 34, 35, 36, 37, 40

Violation of the following subsections shall be responsible for a civil infraction:

2, 8, 9, 10, 11, 13, 15, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 30, 31, 32, 38 & 39

656.04 CIVIL REMEDIES.

In addition to or in lieu of criminal penalties as set forth above, any violation of this Ordinance shall be deemed a nuisance per Se, permitting the City, its officers and agents, or any private citizen, to take such action in any court of competent jurisdiction to cause the abatement of such nuisance, including injunctive relief as may be appropriate.

656.05 SAVINGS PROVISION.

All proceedings pending and all rights and liabilities existing, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in effect when they are commenced. This Ordinance shall not be construed to affect any prosecution pending or initiated before the effective date of this Ordinance, or initiated after the effective date of this Ordinance for an offense committed before that effective date.

656.06 SEVERABILITY.

If any section, paragraph, clause, phrase or part of this Ordinance is held invalid by any court of competent jurisdiction, or by any agency, department, or commission empowered by statute for such purpose, such decision shall not affect the validity of the remaining provisions of this Ordinance and the application of those provisions to any person or circumstances shall not be affected thereby.