

Chapter 608

Alcoholic Beverages and Tobacco Products

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CROSS REFERENCES

Limitations on local laws penalizing intoxication, drunkenness, or incapacitation - see M.C.L.A. Sec. 333.6523

Intoxicating liquors generally - see M.C.L.A. Secs. 436.1 et seq.

Sales on Sundays and municipal election days - see M.C.L.A. Sec. 436.19e

Youth Tobacco Act - see MSA 25.281, et seq

DUI - see TRAF. 410.03(UTC 5.15 et seq.)

Liquor licenses - see B.R. & T. Ch. 834

Intoxicated taxicab passengers - see B.R. & T. 866.07

Alcoholic beverages in parks - see S.U. & P.S. 1064.09

Alcoholic beverages in cemeteries - see S.U. & P.S. 1066.03

Food Service Establishment – see Michigan Public Health Code, 1978 PA 368

608.01 OPEN HOUSE PARTIES.

(a) Definitions. As used in this section:

- (1) "Alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by weight. The percentage of alcohol by weight shall be determined in accordance with M.C.L.A. 436.2, as amended.
- (2) "Control" means immediate dominion, including a possessory right, but does not include the interest of a landlord, land contract seller or motel or hotel operator or owner, or a similar interest.
- (3) "Minor" means a person not legally permitted, by reason of age, to possess alcoholic beverages pursuant to M.C.L.A. 436.33b, as amended.
- (4) "Open house party" means a social gathering of persons at a residence or premises, other than the owner thereof, persons with rights of possession thereto or their immediate family members.
- (5) "Residence" or "premises" means a motel room, hotel room, home, apartment, condominium or other dwelling unit, including the cartilage of the dwelling unit, or a hall, meeting room or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions and whether owned, leased, rented or used with or without compensation.

(b) Possession or Consumption of Alcohol by Minors. A person having control of any residence or premises shall not allow an open house party to take place at such residence or premises if any alcoholic beverage is possessed or consumed at such residence or premises by a minor, where the person knew that an alcoholic beverage was in the

possession of or being consumed by a minor at such residence or premises, and where the person failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage by such minor at such residence or premises.

- (c) Exceptions. This section shall not apply to legally protected religious observances or to legally protected educational activities.

(Ord. 228. Passed 6-1-87.)

608.02 SALES TO MINORS.

- (a) Licensees. No licensee of the Michigan Liquor Control Commission, and no agent, servant or employee of any such licensee, shall give, furnish or sell any alcoholic beverage to any minor, except upon authority of and pursuant to a prescription of a duly licensed physician.
- (b) Nonlicensees. No person, other than a licensee of the Michigan Liquor Control Commission or any agent, servant or employee of any licensee of the Commission, shall willfully give, furnish or sell any alcoholic beverage to any minor, except upon authority of and pursuant to a prescription of a duly licensed physician.
- (c) Purchase or Consumption by Minors. No minor shall purchase or consume any alcoholic beverage in the City, except upon the authority of and pursuant to a prescription of a duly licensed physician.

(1976 Code Sec. 26.10; Ord. 143. Passed 10-4-82.)

608.03 POSSESSING OR USING TOBACCO PRODUCTS BY MINORS.

- (a) Definitions. As used in this section:
- (1) "Chewing tobacco" means loose tobacco or a flat, compressed cake of tobacco that is inserted into the mouth to be chewed or sucked.
 - (2) "Tobacco snuff" means shredded, powdered or pulverized tobacco that may be inhaled through the nostrils, chewed or placed against the gums.
- (b) Possession and Use by Minors in Public Prohibited. A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck, or inhale chewing tobacco or tobacco snuff; or possess or use tobacco in any other form on a public highway, street, alley, park or other lands used for public purposes or in a public place of business or amusement. A person who violates this section is responsible for a civil infraction.
- (c) Participation in Health and Risk Reduction Program; Community Service. The court may require a person who violates this section to participate in a health promotion and risk reduction assessment program, if available. A person who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the costs of participating in the program. In addition, a person who violates this section is subject to the following:
- (1) For the first violation, the court may order the person to do one of the following:
 - A. Perform not more than 16 hours of community service in a hospice, nursing home or long-term care facility.
 - B. Participate in a health promotion and risk reduction program, as described in this subsection.
 - (2) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, nursing home, or long-term care facility.
 - (3) For a third or subsequent violation, in addition to participation in a health

promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community service in a hospice, nursing home, or long-term care facility.

- (d) **Non-interference with Rights of Parent or Guardian.** This section does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises.

(Ord. No. 448. Passed 6-2-97).

608.04 SMOKE FREE AREAS

- (a) **Purpose.** The purpose of this Ordinance is to protect the public health and welfare by regulating smoking in work sites, public places and certain other areas.
- (b) **Findings.** The United States Surgeon General has determined that: (1) secondhand smoke exposure causes disease and premature death in people who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome, acute respiratory problems, ear infections and asthma attacks; (3) exposure of adults to secondhand smoke has adverse effects on the cardiovascular system and causes heart disease and lung cancer; and (4) there is no risk-free level of exposure to secondhand smoke. These findings are adopted. It is also found that tobacco smoke is a major contributor to indoor air pollution. People who are at special risk from secondhand smoke include infants, children, teens, pregnant women, elderly people, nonsmokers with long-term exposure to secondhand smoke, individuals with cardiovascular disease, and individuals with impaired respiratory function. Establishing smoke-free work places is the most effective way to ensure that exposure to secondhand smoke does not occur in the workplace.
- (c) **Definitions.**
- (1) "Business" means any partnership, joint venture, corporation or other for-profit or not-for-profit entity, including but not limited to any retail establishment, where goods are sold or services are delivered.
 - (2) "Business Vehicle" means a car, bus, van or other motorized unit which is owned or leased by an employer for the use of employees.
 - (3) "Employee" means any person who is employed by any employer, whether for wages, profit, or on a volunteer basis.
 - (4) "Employer" means any person or business, including any governmental entity that has one or more employees besides the owner of the Business.
 - (5) "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all of the space inside.
 - (6) The term "Food Service Establishment" has the same meaning as it does in the Michigan Public Health Code, 1978 PA 368, as amended, and includes bars. When a portion of a facility is licensed as a Food Service Establishment, then only that portion of the facility shall be considered a Food Service Establishment under this ordinance.
 - (7) "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to any business, retail store, health facility, manufacturing facility, convention hall, meeting hall, sports arena, theater, gymnasium, health spa, swimming pool, roller rink, ice rink, bowling alley, Laundromat, professional office, school, or public building.
 - (8) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar,

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cigarette, pipe, weed, plant or related substance or product.

- (9) "Tobacco Specialty Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
 - (10) "Worksite" means any Enclosed Area under the control of an Employer which Employees frequent during the course of their employment, including but not limited to: work areas, common areas, lounges, restrooms, lobbies, conference rooms, class rooms, cafeterias and hallways. A private residence is not a "Worksite" unless it is used as a child care, adult day care or health care facility.
- (d) Prohibitions. Smoking is prohibited in all enclosed areas of all of the following places and sites:
- (1) Worksites;
 - (2) Public Places;
 - (3) Buses, taxicabs, and other means of public transit and including bus shelters;
 - (4) Business vehicles that are occupied by more than one person;
 - (5) Semi-private rooms of health facilities;
 - (6) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
 - (7) Public Places where bingo games are held;
 - (8) Public Places in hotels and motels, plus at least eighty percent (80%) of the rooms rented to guests at each hotel and motel;
 - (9) Any facility, site or vehicle where the owner, operator, or manager of such facility, site or vehicle has prohibited smoking and has posted that prohibition prominently in writing or has given actual notice of the prohibition to the person who is smoking or who is intending to smoke.
- (e) Responsibility. Both the person who is smoking and the employer, owner, operator, or manager of the area in which smoking is prohibited is responsible for violations of this Ordinance.
- (f) Outside Smoking. Smoking is prohibited within 15 feet of entrances, open windows and ventilation systems of all places where smoking is otherwise prohibited by this Ordinance. This prohibition shall not apply to persons who pass by such an entrance, open window, or ventilation system while traveling on a public street or sidewalk.
- (g) Exemptions. The following areas are exempt from the requirements of this Ordinance:
- (1) Food Service Establishments;
 - (2) Private residences and private vehicles, except when used or in connection with the child care, health care facility or adult day care facility;
 - (3) Tobacco Specialty Stores.
- (h) Non-Retaliation. It shall be unlawful for any person or Employer to discharge, refuse to hire, or in any manner retaliate against any Employee or applicant for employment because that person seeks enforcement of this Ordinance.
- (i) Other Laws. This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted or prohibited by other applicable laws or public health regulations.
- (j) Penalty. A person found to violate this Ordinance shall be guilty of a municipal civil infraction subject to the sanctions as provided in this Code of Ordinances.

(Ord. 744. Passed 5-7-07)

608.05 POSSESSION OR CONSUMPTION OF OPEN ALCOHOL ON CITY-OWNED PROPERTY.

The City Manager may, by Executive Order, ban the possession or consumption of open alcohol on city-owned property. Any such Executive Orders issued prior to enactment of this ordinance shall constitute a ban under this ordinance. A ban of the possession or consumption of open alcohol shall be posted on signs at such points within or at the perimeter where the ban is in effect. A person who violates this Section shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or imprisoned by not more than thirty days, or both, for each offense.
(Ord. 755. Passed 6-18-07.)

608.06 RESTRICTING SMOKING IN DESIGNATED CITY PARKS.

- (a) Definitions. As used in this section: "Smoking or smoke" means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.
- (b) Smoking prohibited in designated areas in public parks. A person shall not smoke in park buildings or shelters, designated swimming areas, designated beach areas, or portions thereof, that are mechanically groomed, within 15 feet of a playground area, or waterfront parks that are owned or operated by the City and which are so posted.
- (c) Violations and penalties. A person who violates or fails to comply with this section shall be subject to any one or more of the following:
 - (1) Being asked to stop smoking;
 - (2) Being asked to leave the premises;
 - (3) Responsible for a municipal civil infraction and subject to the civil fines set forth in section 202.99 of this code.

(Ord. 848. Passed 10-19-09.)

608.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)