

Chapter 16

OFFENSES¹

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ARTICLE I. IN GENERAL

Sec. 16-1. Definitions.

Public Place. The term “public place” as used in this chapter shall mean any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

Loiter or Loitering. The term “loiter” or “loitering” as used in this chapter shall mean remaining idle, lingering, or walking about in any general location, place, or area open to the general public, including remaining in or upon an vehicle or such activities colloquially described as hanging around.

(Code 1957, § 9.40; Ord. No. 192, § 1, 3-12-08).

Cross reference—Definitions and rules of construction generally, §§1-2.

¹ Cross references—Nuisances, Ch.15; traffic and motor vehicles, Ch. 22.

Sec. 16-2. Begging.

No person shall wander about and beg in the streets, or from house to house, or sit, stand or take a position in any place and beg from passersby, either by words, gestures, or by exhibiting of a sign.

(Code 1957, § 9.41)

State law reference-Persons found begging in a public place defined as disorderly persons', MCL 750.167(1) (h), MSA 20.364(1)(h).

Sec. 16-3. Fortune-Telling.

No person shall engage in fortune-telling or pretend to tell fortunes for hire, gain or reward,

(Code 1957, § 9.41)

State law reference-Fortune-telling, MCL § 750.267 et seq., MSA § 20.478 et seq.

Sec. 16-4. Window Peeping.

No person shall be found looking into the windows or doors of any house, apartment or other residence in the City, in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy and without the occupant's express or implied consent.

(Code 1957, § 9.41)

State law reference-Person window peeping defined as disorderly person, MCL §750.167(1) (c), MSA §20.364(1) (c).

Sec. 16-5. Spitting in Public.

(a) No person shall spit on any sidewalk or on the floor or seat of any public carrier, or on any floor, wall, seat or equipment of any place of public assemblage.

(b) The first violation of Section 16-5(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-5(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-5(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-5(a) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Code 1957, § 9.41; Ord. No. 195, § 4, 10-23-08)

Cross reference - Streets, sidewalks and other public property, Ch. 21.

Sec. 16-6. Frequenting Places of Unlawful Business.

No person shall knowingly attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of alcoholic liquor, or any other illegal business or occupation is permitted or conducted.

(Code 1957, § 9.41)

State law reference - Persons loitering in places where unlawful businesses are conducted deemed disorderly persons, MCL §750.167(1) (j), MSA §20.364(1) (j).

Sec. 16-7. Soliciting Unlawful Acts.

No person shall solicit or accost any person for the purpose of inducing the commission of any illegal act.

(Code 1957, § 9.41)

State law reference-Soliciting for prostitution, MCL §750.448, MSA §28.703.

Sec. 16-8. Transporting Persons for Purpose of Committing Illegal Acts.

No person shall knowingly transport any person to a place where prostitution or gambling is practiced, encouraged, or allowed for the purpose of enabling such person to engage in gambling or in any illegal act.

(Code 1957, § 9.41)

State law reference—Transporting person for prostitution, MCL, §750.459, MSA §28.714.

Secs. 16-9. -- 16-25. Reserved.

**ARTICLE II. OFFENSES AGAINST
PUBLIC ADMINISTRATION²**

Sec. 16-26. Obstruction of Police Officer.

No person shall obstruct, resist, hinder or oppose any member of the police force, or any peace officer in the discharge of his duties as such.

(Code 1957, § 941)

State law references-False personation of officers, MCL §750.215, MSA §28.412; obstruction of police officers, MCL §750.479, MSA § 28.747.

Sec. 16-27. False Alarms or Reports.

No person shall intentionally, maliciously or willfully cause any false alarm of fire or request for emergency service, or cause any false alarm or report to be given to the police department or any police officer.

(Code 1957, § 9.90)

State law references-False fire alarms, MCL §750. 240, MSA §28.437; false report on crime, MCL §750.411a, MSA §28.643 (1).

Sec. 16-28. Unlawful Prevention of Crime Reporting³.

No person shall prevent or attempt to prevent through the unlawful use of physical force another person from reporting a crime committed or attempted by another person. This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this Section.

(Ord. No. 185, § 1, 6-1-03)

² *Cross reference*—Administration, Ch. 2.

³ *Editor's note* - Sections 16 - 28 and 16 - 29 were adopted as Ord. No. 185 on May 12, 2003, effective June 1, 2003.

Sec. 16-29. Unlawful Retaliation for Crime Reporting.

No person shall retaliate or attempt to retaliate against another person for having reported or attempted to report a crime committed or attempted by another person. As used in this section, “retaliate” means to either: (i) commit or attempt to commit a crime against any person, or (ii) threaten to kill or injure any person or threaten to cause property damage. This Section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this Section.

(Ord. No. 185, § 1, 6-1-03)

Secs. 16-30. -- 16-40. Reserved.

**ARTICLE III. OFFENSES AGAINST
THE PERSON**

Sec. 16-41. Assault and Assault and Battery.

No person shall commit an assault, or an assault and battery on any person.

(Code 1957, § 9.41)

State law reference - Assaults, MCL §750.51 et seq., MSA §25.276 et seq.

Sec. 16-42. Domestic Abuse.

No person shall commit an assault or an assault and battery on his or her spouse, or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household. As used in this Section, the term “dating relationship” means frequent, intimate association primarily characterized by the expectation of affectionate involvement and does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

(Ord. No. 183, § 1, 1-24-03)

Sec. 16-43. Violation.

A person who violates Section 16-41 or 16-42 of the Code of this City of Grosse Pointe Park is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

(Ord. No. 183, § 1, 1-24-03).

Sec. 16-44. Annoying Persons.

No person shall insult, accost, molest, or otherwise annoy, either by word of mouth, sign, or motion, any person in any public place.

(Code 1957, § 9.41; Ord. No. 183, § 1, 1-24-03)

Secs. 16-45. -- 16-55. Reserved.

**ARTICLE IV. OFFENSES AGAINST
PROPERTY**

DIVISION 1. GENERALLY

Sec. 16-56. Damage to Property.

(a) No person shall willfully destroy, damage, or in any manner deface any property not his own, or any public school building, or any public building, bridge, fire hydrant, alarm box, street light, street sign, parking meter, or shade tree belonging to the City or located in the public places of the City, or mark or post handbills on, or in any manner mar the walls of, any public building, or fence, tree, or pole within the City, or destroy, take, or meddle with any property belonging to the City, or remove the same from the building or place where it may be kept, placed, or stored, without proper authority; or disturb, tamper with, disconnect or damage any City water meter without proper authority.

(b) No person shall destroy, injure or in any manner deface any drinking fountain located in the City, or throw or deposit any substance therein, or in any manner pollute the water in the basin of any fountain or detach the cups or other parts of such drinking fountains.

(Code 1957, § 9.41)

State law reference—Malicious mischief, MCL §750.377 et seq., MSA §28. 609 et seq.

Secs. 16-57. -- 16-65. Reserved.

DIVISION 2. TRESPASS⁴

Sec. 16-66. Trespass Without Lawful Authority.

No person shall willfully enter upon the lands or premises of another without lawful authority, nor shall any person being upon the land or premises of another without lawful authority, neglect or refuse to depart therefrom upon being notified to depart by the owner or occupant, or the agent or servant of either.

(Ord. No. 109, § 2, 11-5-84)

Sec. 16-67. Trespass on Posted Public Property.

(a) No person shall enter upon any property which is posted by the city or by any other public authority having the authority to control the use, or occupancy of such property, in violation of the provisions of such posting which limit the use or occupancy of the property so posted.

⁴ State law reference—Trespass, MCL §750.546 et seq., MSA §28. 814 et seq.

(b) The first violation of Section 16-67(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-67(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-67(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-67(a) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Ord. No. 76, §1, 9-15-78; Ord No. 195, §5, 10-23-08)

Sec. 16-68. Trespass Upon Vineyards, Orchards or Gardens.

No person shall enter any vineyard, orchard or garden without the consent of the owner, and pick, take, carry away, destroy or injure, any of the fruits, vegetables or crops therein, or in any way injure or destroy any bush, tree, vine or plant.

(Code 1957; §9.80)

State law reference—Similar provisions, MCL §750.550, MA §28.818.

Sec. 16-69. Trespass on Posted Lake Property.

No person, who having no invitation, express or implied, from the owner or occupant, or agent or servant of the owner or occupant, shall willfully enter on any land abutting on Lake St. Clair which has been posted with signs prohibiting trespassing sufficient to apprise the ordinarily observant person of such prohibition, for the purpose of entering the lake or fishing therein.

(Code 1957, §9.82)

Sec. 16-70. Trespass in Buildings.

No person shall willfully break and enter or enter without breaking any dwelling house, garage, outbuilding, boat or other structure used or kept for public or private use or any private apartment therein, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, or the agent or servant of either.

(Ord. No. 109, §1, 11-5-84)

State law reference—Similar provisions, MCL §750.552, MSA §28. 820 (1).

Secs. 16-71. -- 16-75. Reserved.

DIVISION 3. LARCENY⁵

Sec. 16-76. Larceny Generally.

No person shall commit the offense of larceny, by stealing, of the property of another, any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill draft, order or certificate, or any book of accounts for or concerning

⁵ *State law reference*—Larceny, MCL §750.356 et seq., MSA §28.588 et seq.

money or goods due or to become due or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record.

(Ord. No. 50, §1, 4-1-72)

State law reference—similar provisions, MCL §750.356, MSA §28.588.

Sec. 16-77. Larceny by Conversion or Embezzlement.

No person to whom any money, goods or other property, which may be the subject of larceny, shall have been delivered shall embezzle or fraudulently convert to his own use, or shall secrete with the intent to embezzle, or fraudulently use such goods, money or other property, or any part thereof.

(Ord. No. 50, §1, 4-1-72)

State law reference—Similar provisions, MCL §750.362, MSA §28.594.

Sec. 16-78. Larceny of Rented Motor Vehicles, Trailers or Other Property.

No person to whom a motor vehicle, trailer or other tangible property is delivered on a rental or lease basis under any agreement in writing providing for its return to a particular place at a particular time shall refuse or willfully neglect to return such vehicle, trailer or other tangible property, after the expiration of the time stated in a notice in writing proved to have been duly mailed by registered or certified mail addressed to the last known address of the person who rented or leased the motor vehicle, trailer or other tangible property, with intent to defraud the lessor.

(Ord. No. 50, § 1, 4-1-72)

State law reference—Similar provisions, MCL §750.362a, MSA §28.594(1).

Sec. 16-79. Larceny by False Personation.

No person shall falsely personate or represent another, and in such assumed characters shall receive any money, or other property whatever, intended to be delivered to the party so personated, with intent to convert the same to his own use.

(Ord. No. 50, § 1, 4-1-72)

State law reference—Similar provisions, MCL §750.363, MSA §28.595.

Sec. 16-80. Larceny From Libraries.

No person shall procure, or take in any way, from any public library or the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to his own use, or with intent to defraud the owner thereof, or having procured or taken any such book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, shall thereafter convert the same to his own use or fraudulently deprive the owner thereof.

(Ord. No. 50, §1, 4-1-72)

State law reference—Similar provisions, MCL, §750.364, MSA §28.596.

Sec. 16-81. Larceny of Growing Cultivated Tree or Other Plant.

No person shall wrongfully take and carry away from any place any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, or vegetable there growing, standing or being with intent to deprive the owner thereof, or shall without right and with wrongful intent, detach from the ground or injure any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, vegetable or produce.

(Ord. No. 50, §1, 4-1-72)

State law reference—Similar provisions, MCL §750.367, MSA §28.599.

Sec. 16-82. Larceny by Fraudulent Procurement of Food, etc.

(a) No person shall put up at any inn, restaurant or café as a guest and shall procure any food, beverage, entertainment or accommodation without paying therefore, except when credit is given therefore by express agreement, with intent to defraud such keeper thereof out of the pay for the same, or with intent to defraud such keeper out of the pay therefore, shall obtain credit at any inn, restaurant or cafe for such food, beverage, entertainment or accommodation, by means of any false show of effects brought thereto. No conviction shall be had under the provisions of this Section unless complaint is made within sixty (60) days of the time of the violation hereof.

(b) Obtaining such food, beverage, entertainment or accommodation by false pretense, or by false or fictitious show of property, or refusal or neglect to pay therefore on demand, or payment thereof with check, draft, or order upon a bank or other depository on which payment was refused, or absconding without paying or offering to pay therefore, shall be prima facie evidence of such intent to defraud mentioned in subsection (a).

(Ord. No. 50, § 1, 4-1-72)

State law reference—Similar provisions, MCL §§750.291-.292, MSA §§28.502-.503.

Sec. 16-83. Attempts.

No person shall attempt to commit an offense prohibited by this division by doing any act towards the commission of such an offense, whether or not he shall fail in the perpetration or shall be intercepted or prevented in the execution of the same.

(Ord. No. 50, § 1, 4-1-72)

Sec. 16-84. Receiving or Concealing Stolen Property.

(a) No person shall buy, receive, or aid in the concealment of any stolen, embezzled or converted money, goods or property knowing the same to have been stolen, embezzled or converted.

(b) Any person being a dealer in or collector of any merchandise or personal property, or the agent, employee or representative of such dealer or collector who fails to make reasonable inquiry that the person selling or delivering any stolen, embezzled, or converted property to him has a legal right to do so, shall be presumed to have bought or received such property knowing it

to have been stolen, embezzled, or converted. This presumption, may, however, be rebutted by proof.

(c) In any prosecution for the offense of buying, receiving or aiding in the concealment of stolen, embezzled or converted money or other property it shall. not be necessary to aver, nor on the trial thereof to prove that the person who stole, embezzled or converted such property has been convicted.

(Ord. No. 58, §1, 5-15-73)

State law reference—Similar provisions, MCL §§750.535-.536, MSA §§20.803-.004.

Sec. 16-85. Alteration or Use of Altered Telecommunications Service Equipment.

No person shall, with the intent to fraudulently avoid the lawful charge to any person, alter or participate in the alteration of telecommunications service equipment or knowingly use or participate in the use by another of altered telecommunications service equipment which is owned, controlled, or operated by any other person.

(Ord. No. 113, §1, 8-15-85)

Sec. 16-86. Definition of Telecommunications Service.

Telecommunications Service. As used in Section 16—85, “telecommunications service” means any service, transmission, emission or reception of signs, signals, writings, images, and sound or intelligence of any nature by wire, cable television system, closed circuit coaxial cable communications system.

(Ord. No. 113, § 1, 8-15-85)

Sec. 16-87. Checks Without Sufficient Funds.

(a) No person shall, with intent to defraud, make, 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 if:

- (1) The person knows, at the time of the making, drawing, uttering or delivering, that the person does not have sufficient funds in or credit with the bank or other depository for the payment in full of the check, draft or order upon its presentation; or
- (2) The person does not have sufficient funds for the payment of the check, draft or order when presentation for payment is made to the drawee, unless the lack of funds is solely due to a lawful cause, unknown to that person at the time of the making, drawing, uttering or delivering, such as garnishment, attachment or levy; or
- (3) The person does not have, at the time of the making, drawing, uttering or delivering of the check, draft or order, an account in or credit with the bank or other depository for the payment of the check, draft or order upon presentation.

(b) A showing that:

- (1) A person made, drew, uttered or delivered a check, draft or order;
- (2) Payment of the check, draft or order was refused by the drawee when presented in the usual course of business; and
- (3) The person did not pay the drawee the amount due, together with all costs and protest fees, within five (5) days after receiving notice of nonpayment of the check, draft or order from the drawee; is prima facie evidence of intent to defraud and of knowledge of insufficient funds or credit with the bank or other depository.

(c) The notice of dishonor of a check, draft or order on the ground of insufficiency of funds or credit is:

- (1) Admissible as proof of presentation, nonpayment and protest; and
- (2) Prima facie evidence of intent to defraud and of knowledge of insufficient funds or credit with the bank or other depository.

(d) "Credit" means an arrangement or understanding with the bank or depository for the payment in full of a check, draft or order upon its presentation for payment.

(Ord. No. 118, § 1, 12-1-85)

Editor's note - Ord. No. 118, effective Dec. 1, 1985, amended the Code by adding §16-85. Inasmuch as the Code already contained §§ 16-85 and 16-86, the provisions of Ord. No. 118 were redesignated as §16-87 at the editor's discretion.

Sec. 16-88. Malicious Use of Telecommunications Service.⁶

No person shall maliciously use any service provided by a telecommunications service provider with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person, or to disturb the peace and quiet of another person by any of the following:

(a) Threatening physical harm or damage to any person or property in the course of a conversation or message through the use of a telecommunications service or access device;

(b) Falsely and deliberately reporting by message through the use of a telecommunications service or access device that a person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or an accident;

(c) Deliberately refusing or failing to disengage a connection between a telecommunications access device and another telecommunications access device or between a telecommunications access device and other equipment provided for the transmission of messages through the use of a telecommunications service or access device;

⁶ **Editor's Note** - Section 16-88 was adopted as Ord. No. 186 on May 12, 2003, effective June 1, 2003

(d) Using vulgar, indecent, obscene, or offensive language or suggesting any lewd or lascivious act in the course of a conversation or message through the use of a telecommunications service or access device;

(e) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered;

(f) Deliberately engaging or causing to engage the use of a telecommunications service or access device of another person in a repetitive manner that causes interruption in telecommunications service or prevents the person from utilizing his or her telecommunications service or access device. As used in this Section, “telecommunications,” “telecommunications service,” and “telecommunications access device” mean those terms as defined in Section 750.219a of the Michigan Compiled Laws. An offense is committed under this Section if the communication either originates or terminates in this City.
(Ord. No. 186, §1, 6-1-03).

Secs. 16-89. -- 16-95. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC PEACE⁷

Sec. 16-96. Disturbing the Peace.

No person shall disturb the public peace and quiet by loud, boisterous or vulgar conduct or cause any disturbance in any tavern, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, grounds or park, or at any election or other public meeting where citizens are peaceably and lawfully assembled.

(Code 1957, §9.41)

State law reference - Similar provisions MCL §750.170, MSA §28.357.

Sec. 16-97. Responsibility for Disorderly Premises.

No person shall permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous or disorderly persons.

(Code 1957, §9.41)

Sec. 16-98. Loitering After Notice by Police Officer.

No person shall loiter in any public place or area open to the general public as prohibited by Section 16-114 of this Code or in any manner to obstruct the free and uninterrupted passage of the public in any such place after having been told or instructed to cease loitering or obstruction by a peace officer.

(Code 1957, §9.41; Ord. No. 192, §2, 3-12-08)

State law reference-certain loiterers deemed disorderly persons, MCL §750.167, MSA §28.364.

⁷ **Cross reference**—Streets, sidewalks and other public property, Ch.21.

Sec. 16-99. Prowling.

No person shall prowl about any alley or the private premises of any other person in the nighttime, without authority or the permission of the owner of such premises.
(Code 1957, § 9.41)

Sec. 16-100. Prohibited Language.

No person shall willfully use obscene language or make an obscene gesture in a public place with the purpose or likelihood of causing public danger, disorder or nuisance.
(Code 1957, §9.11)

State law references—Indecent language in presence of man or child, MCL §750. 337, MSA §28.569; cursing and swearing, MCL §750.103, MSA §28.299.

Sec. 16-101. Jostling.

No person shall jostle or roughly crowd persons unnecessarily in a public place.
(Code 1957, §9.41)

State law reference—Persons found jostling deemed disorderly persons, MCL §750.167 (l) (l), MSA §28.364(1)(1).

Sec. 16-102. Fighting.

No person shall engage in any disturbance, fight or quarrel in a public place.
(Code 1957, §9.41)

Sec. 16-103. Disorderly Intoxication.

No person shall be intoxicated in a public place and either endanger directly the safety of another person or of property or act in a manner that causes a public disturbance.
(Code 1957, §9.41)

Cross reference—Alcoholic liquor generally, Ch. 4.

State law reference—similar provisions, MCL, §750. 167(1)(e), MSA §20. 364(1)(e)

Sec. 16-104. Under Influence of Controlled Substance.

No person shall be under the influence of any controlled substance as defined in Section 16-171 in any public place.
(Code 1957, §9.41)

Sec. 16-105. Unlawful Assembly.

No person shall assemble or act in concert with four (4) or more persons for the purpose of engaging in conduct constituting the offense of riot, or be present at an assembly there at with intent to advance or assist such purpose.
(Code 1957, §9.41)

State law reference—Similar provisions, MCL §752.543, MSA §26.790(3).

Sec. 16-106. Riot.

It shall be unlawful and constitute the offense of riot for five (5) or more persons, acting in concert, to wrongfully engage in violent conduct and thereby intentionally or recklessly cause or create a serious risk of causing public terror or alarm.

(Code 1957, § 9.41)

State law reference—Similar provisions, MCL §752.541, MSA §26.790 (1).

Sec. 16-107. Incitement to Riot.

It shall be unlawful and constitute incitement to riot for a person or persons, intending to cause or to aid or abet the institution or maintenance of a riot, to do an act or engage in conduct that urges other persons to commit acts of unlawful force or violence, or the unlawful burning or destroying of property, or the unlawful interference with a police officer, fireman or city official in the lawful performance of his duty.

(Code 1957, §9.41)

State law reference—Similar provisions, MCL §752. 542, MSA §26.790(2).

Sec. 16-108. Urinating in Public.

(a) No person shall urinate or defecate in a public place.

(b) The first violation of Section 16-108(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-108(a) within thirty-six months shall be a civil infraction with a maximum penalty of a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-108(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-108(a) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Ord. No. 117, § 1, 12-1-85; Ord. No. 195, § 6, 10-13-08)

Sec. 16-109. Open House Parties.

(a) For the purpose of this Section, the following terms shall be defined as follows:

- (1) *Alcoholic Beverage.* The term “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 the provisions of Michigan Compiled Laws, Section 436.2, as amended from time to time.
- (2) *Minor.* The word “minor” means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to Michigan Compiled Laws, Section 436.33b, as amended from time to time.

- (3) *Residence.* The word “residence” means a home, apartment, condominium, or other dwelling unit and includes the curtilage of such dwelling unit.
- (4) *Open House Party.* The term “open house party” means a social gathering of persons at a residence, other than the owner or those with rights of possession or their immediate family members.
- (5) *Drug.* The word “drug” means a controlled substance as defined now or hereafter by the Public Acts of the State of Michigan. Currently, such controlled substances are defined in Sections 333.7201—7231 of the Michigan Compiled Laws.

(b) No person having control of a residence shall allow an open house party to take place at that residence if any alcoholic beverage is possessed or consumed by a minor or any drug is possessed or consumed by any individual at that residence:

- (1) Where the person knew or reasonably should have known that the alcoholic beverage was in the possession of or being consumed by a minor or the drug was in the possession of or being consumed by an individual at that residence; and
- (2) Where the person failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage by a minor or the possession or consumption of the drug by an individual at that residence.

(c) The provisions of this Section shall not apply to legally protected religious observances or protected educational activities.

(d) If any provision is in conflict with any statute or rule of law of the State of Michigan or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict or unenforceability and should be deemed severable from but shall not invalidate any other provisions of this Section.

(Ord. No. 128, §1, 5-23-86)

Editor’s note—Ord. No. 128, enacted May 23, 1996, added §16-108 to the Code. Inasmuch as a section numbered 16-108 had previously been added to the code, the section enacted by Ord. No.128 has been redesignated §16-109, at the discretion of the editor.

Sec. 16-110. Picketing Private Property.

No person shall engage in picketing of a private residence by any means or method whatsoever.

(Ord. No. 151, §1, 06-20-93)

Sec. 16-111. Curfew for Persons Under the Age of 15.

(a) No person under the age of 15 shall loiter, idle, congregate or otherwise be in or on any public street, highway, alley, park or other place open to the general public or generally accessible to the public between the hours of 10 o’clock p.m. and 6 o’clock a.m., unless such person is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany such person.

(b) No parent, legal guardian, or other person having the care and custody of a minor or any person acting in the parent's stead who has custody or control of a minor shall (a) allow or permit such minor to engage in conduct prohibited by Section 16-111 of this Code where such person knew or should have known that such minor was engaged or intended to engage in such conduct, or (b) fail to take reasonable steps to prevent such minor from engaging in conduct prohibited by Section 16-111 of this Code.

(c) The first violation of Section 16-111(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-111(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-111(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-111(a)-(b) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Ord. No. 166, §1, 1-24-97; Ord. No. 195, §7, 10-13-08)

Editor's note - Ord. No. 151, enacted June 20, 1993, added §16-110 to the Code. Inasmuch as a section numbered 16-110 had previously been added to the Code, the section designated by Ord. No. 166 as §16-110 has been redesignated § 16-111, at the discretion of the editor.

Sec. 16-112. Curfew for Persons Age 15-16.

(a) No person over the age of 14 and under the age of 17 shall loiter, idle, congregate or otherwise be in or on any public street, highway, alley, park or other place open to the general public or generally accessible to the public between the hours of 12 o'clock a.m. and 6 o'clock a.m., unless such person is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany such person.

(b) No parent, legal guardian, or other person having the care and custody of a minor or any person acting in the parent's stead who has custody or control of a minor shall (a) allow or permit such minor to engage in conduct prohibited by Section 16-111 and 16-112 of this Code where such person knew or should have known that such minor was engaged or intended to engage in such conduct, or (b) fail to take reasonable steps to prevent such minor from engaging in conduct prohibited by Section 16-112 of this Code.

(c) The first violation of Section 16-112(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-112(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-112(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-112(a)-(b) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Ord. No.166, §2, 1-24-97; Ord. No. 195, §8, 10-13-08)

Editor's note - In order to provide consecutive numbering, the section enacted by Ord. 166 as 16-111 has been redesignated as § 16-112, at the discretion of the editor.

Sec. 16-113. Aiding in Curfew Violation.

No person over the age of 16 shall assist, aid, abet, allow, permit or encourage any person under the age of 17 to violate the provisions of either Section 16-111 or Section 16-112 as may be applicable to the person under the age of 17.

(Ord. No. 166, §3, 1-24-97)

Editor's note—In order to provide consecutive numbering, the section enacted by Ord. No. 166 as §16-112 has been redesignated as §16-113, at the discretion of the editor.

Sec. 16-114. Prohibited Loitering

No person shall loiter in any public place, school, school ground, or area open to the general public when doing so shall (a) create or cause to be created any disturbance or unreasonable annoyance to the passage, access, comfort, or repose of any person lawfully about such place, (b) create or cause to be created any danger of a breach of peace, (c) obstruct, molest, or restrict in any manner the free passage of pedestrians or vehicles lawfully about such place, (d) obstruct, molest, interfere, or unreasonably intimidate or threaten any person lawfully in any public place or area in any manner including the use, possession, or display of clothing or other articles as flagging techniques, identifying signs, symbols, colors, turf claims or other activities reasonably perceived to relate to gang affiliation or creation of an atmosphere of fear or intimidation, and (e) create a breach of the peace by loitering in any school building or on school property. A person violating this Section shall be responsible for a civil infraction.

(Ord. No. 192, §3, 3-12-08)

Sec. 16-115. Parental Responsibility

No parent, legal guardian, or other person having the care and custody of a minor or any person acting in the parent's stead who has custody or control of a minor shall (a) allow or permit such minor to engage in conduct prohibited by Section 16-114 of this code where such person knew or should have known that such minor was engaged or intended to engage in such conduct, or (b) fail to take reasonable steps to prevent such minor from engaging in conduct prohibited by Section 16-114 of this Code.

(Ord. No. 192, §4, 3-12-08)

Secs. 16-116. -- 16-120. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC SAFETY⁸

DIVISION 1. GENERALLY

Sec. 16-121. Playing Ball in Streets or Otherwise Obstructing Traffic.

(a) No person shall play any game in any public street, highway, alley, or sidewalk or otherwise obstruct traffic on any street, sidewalk, highway, or alley by collecting in groups thereon, for any purpose.

(b) No parent, legal guardian, or other person having the care and custody of a minor or any person acting in the parent's stead who has custody or control of a minor shall (a) allow or permit such minor to engage in conduct prohibited by Section 16-121 of this code where such person knew or should have known that such minor was engaged or intended to engage in such conduct, or (b) fail to take reasonable steps to prevent such minor from engaging in conduct prohibited by Section 16-121 of this code.

(c) The first violation of Section 16-121(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-121(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-121(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-121(a)-(b) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Code 1957, §9.41; Ord. No. 195, §9, 10-13-08)

Sec. 16-122. Throwing of Snowballs and Other Objects.

(a) No person shall throw or propel any snowball, missile or object toward any moving automobile.

(b) No person shall wrongfully throw or propel any snowball, missile or object toward any person or automobile.

(c) The first violation of Section 16-122(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-122(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-122(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-122(a)-(b) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Code 1957, § 9.41; Ord. No. 195, § 10, 10-13-08)

⁸ **Cross reference**—Streets, sidewalks and other public property, Ch. 21.

Sec. 16-123. Abandoned Refrigerators.

No person shall have in his possession, either inside or outside of any building, structure or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other similar container of any kind which has an airtight snap latch or other locking device thereon, without first removing the snap latch or other locking device or the doors from such icebox, refrigerator or other similar container.

(Code 1957, §9.13)

State law reference—Similar provisions, MCL §750. 493d, MSA §25.7614)

Sec. 16-124. Swimming in Lake St. Clair.

(a) No person shall swim in Lake St. Clair from the foot of any public street or from the shore of any public place, except such public places as may be designated by the city for swimming and are then in charge of a lifeguard.

(b) No person shall swim in Lake St. Clair from the shore of any privately owned property or enter upon such private property for the purpose of swimming; provided, however, that an owner or lessee of property bordering on Lake St. Clair and his authorized guests may, in the exercise of riparian rights of such owner or lessee, swim in Lake St. Clair off the shore of such property. No person shall be deemed to be a guest within the meaning of this section unless he or she is in the company of such owner or lessee, or has in his or her possession at the time, a written authorization from such owner or lessee.

(c) The first violation of Section 16-124(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-124(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-124(a)-(b) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-124(a)-(b) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Code 1957, §§9.70, 9.71; Ord. No. 195, §11, 10-13-08)

Sec. 16-125. Fireworks.

(a) No person shall fire, discharge, display, sell or possess any fireworks except by the type and under the conditions permitted by MCLA §750.243a-d.

(b) The first violation of Section 16-125(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Section 16-125(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Section 16-125(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Section 16-125(a) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described

in this Section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

(Ord. No. 116, § 1, 12-1-85; Ord. No. 195, § 12, 10-13-08)

Sec. 16-126. Disguise or False Personation.

No person shall in any manner disguise himself or falsely assume or pretend to be another, with intent to obstruct the due execution of the law, or with intent to intimidate, hinder or interrupt any public safety officer or any other person in the legal performance of his duty, or in the exercise of his rights under the constitution and laws of this state or the Charter and ordinance of this City, whether such intent be effected or not.

(Ord. No. 146, §1, 6-1-92)

Secs. 16-127. -- 16-135. Reserved.

DIVISION 2. WEAPONS⁹

Sec. 16-136. Definition.

Pistol. The word “pistol,” for the purpose of this division, means any firearm, loaded or unloaded, thirty (30) inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance, conceals it as a firearm.

(Ord. No.52, §1, 4-1-72)

Cross reference—Definitions and rules of construction generally, §§ 1-2.
State law reference—Similar definition, MCL §750.222(a), MSA §25.419(a).

Sec. 16-137. Discharge of Weapons.

No person shall discharge any firearm, air rifle or air pistol, bow and arrow, or sling shot in the City.

(Code 1957, §9.41)

Sec. 16-138. Sale or Purchase of Knife Having Mechanical Opening Device.

No person shall sell or offer to sell, purchase or offer to purchase, or have in his possession, any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure on a handle or other mechanical contrivance, providing that the provisions of this Section shall not apply to any one-armed person carrying a knife on his person in connection with his living requirements.

(Ord. No. 52, §1, 4-1-72)

State law reference—Similar provisions, MCL §750.226a, MSA §28.423(1).

⁹ State law reference—Firearms and weapons, MCL §750. 222 et seq., MSA §8. 419 et seq.

Sec. 16-139. Carrying Concealed Weapons.

No person shall carry a dagger, dirk, stiletto or other dangerous weapon, except hunting knives adapted and carried as such, concealed on or about his person, or whether concealed or otherwise in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him.

(Ord. No. 52, § 1,4-1-72)

State law reference—Similar provisions, MCL §750.227, MSA §25.424.

Sec. 16-140. Weapons; Manufacture, Sale or Possession.

No person shall manufacture, sell, offer for sale, or possess a machine gun or firearm that shoots or is designed to shoot automatically more than one (1) shot without manual reloading, by a single function of the trigger; a muffler or silencer; a bomb or bombshell; a blackjack, slingshot, billy, metallic knuckles, sand club, sand bag, or bludgeon; or any type of device, weapon, cartridge, container, or contrivance designed to render a person either temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance, unless authorized by state or federal law.

(Ord. No. 146, §2, 6-1-92)

Editor's note—Section 16-139.1 was renumbered to Section 16-140, at the discretion of the editor.

Sec. 16-141. Muffler and Silencer Defined.

Muffler and Silencer. As used in this Section and Section 16-140, “muffler” or “silencer” means a device for muffling, silencing, or deadening the report of a firearm; a combination of parts, designed or redesigned, and intended for use in assembling or fabricating a muffler or silencer; or a part designed or redesigned, and intended only for use in assembling or fabricating a muffler or silencer.

(Ord. No. 146, §2, 6-1-92)

Editor's note—Section 16-139.2 was renumbered to section 16-141, at the discretion of the editor.

Sec. 16-142. Carrying or Owning a Pistol.

(a) No person shall carry a pistol concealed on or about his person, or, whether concealed or otherwise, in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him unless such carrying shall be authorized by the laws of the state.

(b) No person shall own or have in his possession, whether concealed or otherwise, any pistol required to be presented for safety inspection by the laws of the state unless a certificate of inspection shall have been issued for such pistol according to law.

(Ord. No. 52, § 1, 4-1-72)

State law reference—Pistol safety inspection, MCL §26.429, MSA §28.97; possession of loaded pistol, MCL §750.227a, MSA §26.424(1).

Editor's note—Section 16-140 was renumbered to Section 16-142, at the discretion of the editor.

Sec. 16-143. Burden of Proof, Negation of Exemption, Exception or Authorization.

(a) In any prosecution for violation of this division, it is not necessary for the people to negate any exemption, exception or authorization in this division in any complaint or other pleading or in any trial, hearing or other proceeding under this division. The burden of proof of any exemption, exception or authorization is upon the person claiming it.

(b) In the absence of proof that a person is exempted, excepted or authorized under the provisions of this division to do any act otherwise prohibited, he is presumed not to be so exempted, excepted or authorized. The burden of proof is upon him to rebut the presumption.

(Ord. No. 52, § 1, 4-1-72)

Editor's note—Section 15-141 was renumbered to Section 16-143, at the discretion of the editor.

Sec. 16-144. Violations, Penalty.

(a) Any person who violates this division with respect to the activities prohibited in Section 16-13 8 may be punished by imprisonment for not more than ninety (90) days or by a fine of not more than three hundred dollars (\$300.00) or both in the discretion of the court.

(b) Any person who violates the provisions of this division other than Section 16-138 shall be punished as provided in Section 1-8.

(Ord. No. 52, §1, 4-1-72)

Editor's note—Section 16-142 was renumbered to Section 16-144, at the discretion of the editor.

Secs. 16-145. -- 16-155. Reserved.

**ARTICLE VII. OFFENSES AGAINST
PUBLIC MORALS**

DIVISION 1. GENERALLY

Sec. 16-156. Keeping or Maintaining a Gaming Room.

No person shall keep or maintain a gaming room, gaming tables, or any policy or pool tickets, used for gaming; or knowingly suffer a gaming room, gaming tables, or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him.

(Code 1957, § 9.41)

State law reference—Similar provisions, MCL §750.302, MSA §28.534.

Sec. 16-157. Prostitution.

No person shall engage in any act of prostitution.

(Code 1957, § 9.41)

State law reference—Prostitution, MCL §750.448 et seq., MSA §28.703 et seq.

Sec. 16-158. Indecent Exposure.

No person shall knowingly make any open or indecent exposure of his or her person in any public place.

(Code 1957, § 9.41)

State law reference—Similar provisions, MCL §750. 335a, MSA §28.567(1).

Sec. 16-159. Abuse of Certain Substances.

No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale the fumes of any substance containing a toxic chemical or organic solvent or both, having the property of releasing toxic vapors, including but not limited to, glue, acetone, toluene, carbon tetrachloride, hydrocarbons, and hydrocarbon derivatives, or intentionally drink, eat or otherwise introduce any such substance into his respiratory or circulatory system.

(Ord. No- 146, §3, 6-1-92)

Sec. 16-160. Aiding and Abetting Abuse of Certain Substances.

No person shall assist, aid, abet or encourage any person to violate the provisions of Section 16-159 of this Code.

(Ord. No. 146, §3, 6-1-92)

Secs. 16-161. -- 16-164. Reserved.

Sec. 16-165. Public Nudity.

No person shall display his or her self in a condition of public nudity.

(Ord. No. 165, § 1, 1-24-97)

Sec. 16-166. Display of Public Nudity.

No person shall cause, promote, invite, employ, permit, or encourage the display of public nudity.

(Ord. No. 165, § 2, 1-24-97)

Secs. 16-167. -- 16-170. Reserved.

DIVISION 2. CONTROLLED SUBSTANCES¹⁰

Sec. 16-171. Definitions.

The following words and phrases, when used in this division, shall have the meanings respectively ascribed to them:

Act. The term “Act” means Article 7 of the Public Health Code, being Act 368 of the Public Acts of 1978 [MCL §333.7101 et seq., MSA §14.15(7101) et seq.] and any amendments thereto.

Controlled Substance. The term “controlled substance” means any drug, substance or immediate precursor as so defined in the Act.

Counterfeit Substance. The term “counterfeit substance” means any controlled substance defined as a “counterfeit substance” in the Act.

Deliver. The word “deliver” means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

Manufacture. The word “manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

Marijuana. The word “marijuana” means all parts of the plant *cannabis sativa L.*, 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 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, sale, 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.

Narcotics Paraphernalia. The term “narcotics paraphernalia” means a hypodermic syringe or needle, or any other instrument or implement adapted for the use of narcotic drugs by subcutaneous injection or intracutaneous injection or any other manner or method of introduction.

(Ord. No. 49, § 1, 4-1-72)

Cross reference—Definitions —and rules of construction generally, §1-2.

¹⁰ **State law reference**—Controlled substances, MCL §333.7101 et seq.; MSA §14.15(7101) et seq.

Sec. 16-172. Manufacture, Creation, Delivery, Possession, use.

No person shall manufacture, create, deliver, possess or use any controlled substance except as may be authorized by the Act.

(Ord. No. 49, §1, 4-1-72)

State law reference—Similar provisions, MCL §333.7401(1), MSA §14.15(7401) (1).

Sec. 16-173. Counterfeit Substance.

No person shall manufacture, create, deliver, possess or use any counterfeit substance.

(Ord. No. 49, §1, 4-1-72)

State law reference—similar provisions, MCL §333.7402, MSA §14.15 (7402).

Sec. 16-174. Paraphernalia.

No person shall deliver, possess or use any narcotics paraphernalia unless the same is authorized by the certificate of a licensed medical doctor or osteopathic physician issued within the period of one year, or such person is a licensed medical technician, technologist, nurse, hospital, clinical laboratory, medical doctor, osteopathic physician, dentist, chiroprapist, veterinarian or pharmacist acting in the normal legal course of his respective business or profession, or is suffering from diabetes, asthma, or any other medical condition requiring self injection, or is a common carrier or warehouse man or their employee engaged in the lawful transportation or storage of narcotics paraphernalia, or is a public officer or employee while engaged in the performance of official duties, or is an employee or agent of a person lawfully entitled to possession of narcotics paraphernalia and is in possession incidental to such capacity.

(Ord. No. 49, § 1, 4-1-72)

Sec. 16-175. Unlawful Use Following Lawful Possession.

No person shall obtain lawful possession of any controlled substance or narcotics paraphernalia and use the same or permit or authorize their use for any purpose other than that specifically authorized in the prescription, order, or other authorization by means of which such lawful possession was obtained.

(Ord. No. 49, §1, 4-1-72)

Sec. 16-176. Obtaining by Unlawful Means.

No person shall acquire or obtain or attempt to acquire or obtain otherwise lawful possession of a controlled substance or narcotics paraphernalia by misrepresentation, fraud, forgery, deception or subterfuge.

(Ord. No. 49, §1, 4-1-72)

Sec. 16-177. Burden of Proof, Negation of Exemption, Exception or Authorization.

(a) In any prosecution for violation of this division, it is not necessary for the people to negate any exemption, exception or authorization in this division in any complaint or other

pleading or in any trial, hearing or other proceeding under this division. The burden of proof of any exemption, exception or authorization is upon the person claiming it.

(b) In the absence of proof that a person is exempted, excepted or authorized under the provisions of this division to do any act otherwise prohibited, he is presumed not to be so exempted, excepted or authorized. The burden of proof is upon him to rebut the presumption. (Ord. No. 49, §1, 4-1-72)

Sec. 16-178. Penalty for Violations.

(a) Any person who violates this division with respect to the use of marijuana may be punished by imprisonment for not more than ninety (90) days or by a fine of not more than one hundred dollars (\$100.00) or both in the discretion of the court.

(b) Any person who violates the provisions of this division other than by means of the use of marijuana may be punished by imprisonment for not more than ninety (90) days or by a fine of not more than five hundred dollars (\$500.00) or both in the discretion of the court.

(c) In connection with any violation of the provisions of this division, the court before which such matter is heard may proceed, upon the conditions prescribed in Section 7411 of the Act, in the manner provided in such Section. (Ord. No. 49, §1, 4-1-72)

Sec. 16-179. Reserved.

DIVISION 3. YOUTH TOBACCO ACT¹¹

Sec. 16-180. Prohibitions on Sale.

No person shall sell, give, or furnish any cigarette, cigar, chewing tobacco, tobacco snuff, or tobacco in any other form to a person under 18 years of age. (Ord. No. 182, §1, 3-18-02)

Sec. 16-181. Posting.

No person who sells tobacco products at retail shall do so without having posted the signage required by the Youth Tobacco Act (MCL §722.641, *et seq.*) in the manner required by such Act. (Ord. No. 182, §1, 3-18-02)

Sec. 16-182. Prohibitions on Use.

No person under 18 years of age shall 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

¹¹ State law reference-Youth Tobacco Act, MCL §722.64 et seq.

form, on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement.

(Ord. No. 182, §1, 3-18-02)

Sec. 16-183. No Separate Sales.

No person who sells tobacco products at retail shall sell a cigarette separately from its package except as expressly permitted by subsection (2) of Section 2a of the Youth Tobacco Act.

Sec. 16-184. Definitions.

The definitions contained in Section 4 of the Youth Tobacco Act shall apply to terms used in Sections 16-180 through 16-183 of this Code. The term prosecuting attorney as used in Section 1 of the Youth Tobacco Act shall include the City Attorney in any prosecution or action under this Code.

(Ord. No. 182, §1, 3-18-02)

Sec. 16-185. Penalty for Violations.

A violation of any of Section 16-180, Section 16-181, or Section 16-183 shall be punishable by a fine to not exceed \$500.00 or imprisonment for a period to not exceed 90 days or both, or such greater or lesser amounts or periods as prescribed by the Youth Tobacco Act which substantially correspond to such sections of this Code. A violation of Section 16-182 is a municipal civil infraction punishable by a civil fine of not more than \$50.00 for each infraction. In addition, the affirmative defenses, presumptions, and procedural requirements contained in the Youth Tobacco Act with respect to provisions which substantially correspond to such sections of this Code shall apply to any prosecution in connection with violation of such provisions. Upon a finding of guilty in connection with a violation of Section 16-182 of this Code, a Court may proceed as provided in Section 2 of the Youth Tobacco Act and impose the orders therein contemplated in addition to any other penalty, civil fine, or order imposed by such Court.

(Ord. No. 182, §1, 3-18-02)