

CHAPTER 19
OFFENSES AGAINST PUBLIC PEACE, SAFETY
AND MORALS ORDINANCE

19.01 DEFINITIONS:

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The work "shall" is always mandatory and not merely directory.

- (A) **CITY:** is the City of Lapeer.
- (B) **PERSON:** is any person, firm, partnership, association, corporation, company, club, or organization of any kind.
- (C) **MINOR:** is a person, male or female, under the age of twenty-one (21) years.
- (D) **ALCOHOLIC BEVERAGE:** shall include any spirituous, vinous, malt or fermented liquor, beer, wine, spirits, alcohol or liquids any compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing one-half (1/2) of one percent (1%) or more of alcohol by volume which are fit for beverage purposes.
- (E) **"NUDITY"** shall be defined as:
 - (1) The showing of the human male or female genitals or pubic area with less than a fully opaque covering; or
 - (2) The showing of the human male or female buttocks or anus with less than a fully opaque covering; or
 - (3) The showing of the female breast with less than a fully opaque covering of any part of the nipple; or
 - (4) The showing of covered male genitals in a discernible turgid state.
History: (Effective Date 03-02-94; -)
- (F) **"PUBLIC PLACE"** shall be defined as:
 - (1) All out-of-doors land and areas open to the general public including public streets and alleys; and

- (2) All buildings, rooms, theaters, athletic grounds, bars, dance halls and lounges open to the public whether or not entrance is gained by the payment of an admission charge.

History: (Effective Date 03-02-94; -)

19.02 OFFENSES AGAINST PUBLIC PEACE.

No person in the City shall:

- (A) Tumultuous Conduct. Disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.
- (B) Assault. Beat, strike wound, imprison, or inflict violence on another, or assault another with intent to commit murder, rape, mayhem, robbery or larceny. Nor shall any person assault another with a lethal weapon, instrument, or thing with intent to commit upon the person of another any bodily injury.
- (C) Fighting. Fight another person except in boxing exhibitions duly authorized and licensed under law.
- (D) Unlawful Occupancy. Occupy, lodge, or sleep in any vacant lot, vacant or unoccupied barn, garage, shed, shop, or other building or structure, or in any automobile, truck, railroad car, or other vehicle, without owning the same or without permission of the owner or person entitled to the possession of the same.
- (E) Fraudulent Schemes. Engage in any fraudulent scheme, device or trick to obtain money or other valuable thing from others; or any person who aids or assists such trick, device or scheme.
- (F) Disturbance of Religious Worship. Disquiet disturb any congregation or assembly for religious worship by making a noise or by rude or indecent behavior, or profane discourse within their place of worship, or so near the same as to disturb the order or solemnity of the meeting.
- (G) Conduct in Schools or School Grounds.
- (1) Create a disturbance in any private, public or parochial school or on the surrounding school grounds or on the fields or grounds lawfully used for school activities.
- (2) Fail to leave the school premises immediately when so directed by the principal or his designee.

- (3) Enter or remain in any public, private, or parochial school, or on surrounding school grounds after being requested to leave by the principal or his designee.

(H) Open Intoxicants.

- (1) Transport or possess any alcoholic liquor in a container which is open, uncapped, or upon which the seal is broken, within the passenger compartment of a vehicle on any public street, sidewalk, alley, parking lot, or property used for municipal purposes by the City of Lapeer. If the vehicle does not have a trunk or compartment separated from the passenger compartment, a container which is open, uncapped, or upon which the seal is broken shall be in encased or enclosed. This section shall not apply to any chartered passenger vehicle licensed by the Michigan Public Service Commission.

- (2) Consume, or possess any alcoholic liquor in a container which is open, uncapped, or upon which the seal is broken, on any public street, sidewalk, alley, parking lot, or property used for municipal purposes by the City of Lapeer, unless approval for such consumption or possession has been given by the Lapeer City Commission.

- (I) Fireworks. Cast, throw, light, or fire any squib, rocket, cracker, bomb, torpedo, grenade, or other combustible firecracker or fireworks of any kind within the corporate limits of the City of Lapeer.

- (J) Unlawful Occupancy. Remain in any private building, private open land, or private parking lot used by the public, after being requested to leave by the owner, tenant, or person lawfully in possession, or where the property is posted in a conspicuous manner.

History: (Effective Date of Amendment 08-30-00; -)

- (K) Make, cause or continue any loud, unnecessary, unnatural, or unusual noise which annoys, disturbs, injures, or endangers the comfort, health, peace or safety of others at any time, day or night.

- (L) Use, operate, play or permit the use, operation, or playing, of any sound production or reproduction device, radio, musical instrument, drums, CD player, phonograph, television set, loud speakers, sound amplifiers, or any other machine or device for the producing or reproducing of sound, in such a manner as to disturb any person of normal sensitivity in any residential or public area. The operation of any such device, radio, instrument, phonograph, television set, machine, loud speakers, or similar device in such a manner as to be plainly audible (i.e. louder than normal conversational tone) at a distance of 50 feet or more from its point of origin shall be prima facie evidence of a violation of this section. This provision shall not apply to

any participant in parades, band concerts, lawful firework displays, memorial salutes, or any other event or activity which has been authorized by the City of Lapeer or is otherwise specifically authorized by law.

History: (Amended 05-05-97; -)

19.03 OFFENSES AGAINST PUBLIC SAFETY.

No person in the City shall:

- (A) Interference with Police Department.**
 - (1) Resisting Officer.** Resist any police officer, any member of the Police Department, or any person duly empowered with police authority, while in the discharge or apparent discharge of this duty, or in any way interfere with or hinder him in the discharge of his duty.
 - (2) Assisting in Escape.** Offer or endeavor to assist any person in the custody of a police officer, a member of the Police Department or a person duly empowered with police authority to escape or to attempt to escape from such custody.
 - (3) Failure to Stop upon Police Signal.** Attempt to flee or elude an officer in uniform after such officer has given a visual or audible signal by hand, voice, or other means, to stop.
- (B) Engage in any activity or game in any public mall, sidewalk, or public parking lot in the Central Business District as set forth in Article 7.03 (B) of the General Ordinances of the City of Lapeer, that involves the throwing, batting or kicking of objects.**
- (C) Harassing Communications**
 - (1) Use a telephone or other communication service or device to terrorize, frighten, threaten, harass, or annoy any 911 emergency dispatcher or any other emergency personnel.**
 - (2) Threaten physical harm or damage to any person or property in the course of a telephone conversation or through the use of any common carrier communications service or device with any 911 emergency dispatcher or any other emergency personnel.**
 - (3) Falsely and deliberately report by telephone or other communications service, system or device, that any person has been injured, has suddenly taken ill, has suffered death, has been a victim of a crime, or has been in an accident.**

- (4) Falsely and deliberately report a fire, that the safety of persons or property is immediately in danger, or the existence of an emergency when no such emergency exists.
- (5) Deliberately refuse or fail to disengage a connection between a telephone or other communication service or device provided for the transmission of messages by telephone, thereby interfering with any emergency communications service.
- (6) Use any vulgar, indecent, obscene or offensive language in the course of a telephone conversation or other communication with any 911 emergency dispatcher or other emergency personnel.
- (7) Suggest any lewd or lascivious act in the course of a telephone conversation or other communications with any 911 emergency dispatcher or other emergency personnel.
- (8) Penalty. Violation of this section shall be a misdemeanor which is punishable by imprisonment for not more than 90 days, or a maximum fine of \$500 or both.

19.04 OFFENSES INVOLVING MORALS.

No person in the City shall:

- (A) Window Peeping. Look, peer, or peep into or be found loitering around or within view of any window within a building occupied as the residence of another with the intent of watching or looking through said window to observe any person undressed or in the act of undressing or dressing.
- (B) Sexual Intercourse. Undertake or attempt to undertake sexual intercourse or undertake the motion of sexual intercourse on any public lawn, sidewalk, street, alley, park, yard, school grounds, cemetery or parking lot that is open to the public or in view of the public from public property.
- (C) Nudity. Appear in a state of nudity in any public place, including any building or establishment open to the public in the City of Lapeer.
History: (Effective Date 03-02-94; -)
- (D) Allow Nudity. On premises they own, operate, or control, knowingly permit or allow a person to appear in a state of nudity.
History: (Effective Date 03-02-94; -)
- (E) Exception. Subsection (C) of this shall not be applicable to young children."
History: (Effective Date 03-02-94; -)

19.05 OFFENSES INVOLVING PERSON UNDER 21 YEARS OF AGE.

- (A)** Alcoholic beverages shall not be sold or furnished to a person unless the person has attained 21 years of age. A person who knowingly sells or furnishes alcoholic beverage to a person who is less than 21 years of age, or who fails to make diligent inquiry as to whether the person is less than 21 years of age, is guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than five hundred dollars (\$500.00), or to imprisonment in the County Jail for a period of not more than ninety (90) days, or both.
- (B)** A person less than 21 years of age shall not knowingly transport or possess, in a motor vehicle, alcoholic beverages unless the person is employed by a license under Public Act 531 of 1978, the Liquor Control Commission, or an agent of the Liquor Control Commission and is transporting or having the alcoholic beverage in a motor vehicle under the person control during regular working hours and in the course of the person's employment. A person who violated this subsection is guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than five hundred dollars (\$500.00), or to imprisonment in the County Jail for a period of not more than ninety (90) days, or both.
- (C)** A person who furnishes fraudulent identification to a person less than 21 years of age, or a person less than 21 years of age who uses a fraudulent identification to purchase alcoholic beverages, is guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than five hundred dollars (\$500.00), or to imprisonment in the County Jail for a period of not more than ninety (90) days, or both.
- (D)** A person less than 21 years of age shall not 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 sub-section (B) above. A person less than 21 years of age who violates this sub-section is guilty of a misdemeanor punishable by the following civil fines and sanctions:
- (1)** For the first violation a fine of not more than \$200, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in Section 33(b) of the Michigan Liquor Control Act.
HISTORY: (Intro 09-06-11, Adopt 09-19-11, Publication 09-22-11; -)
- (2)** For a second violation a fine of not more than \$250, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in Section 6107 of the Public Health Code, Act No. 368 of the Public Acts of 1978, as

amended, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in Section 33(b) of the Michigan Liquor Control Act. The person is also subject to sanctions against his or her operator's or chauffeur license as described in Section 33(b) of the Michigan Liquor Control Act.

- (3) For a Third or subsequent violation a fine of not more than \$500, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in Section 6107 of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in Section 33(b) of the Michigan Liquor Control Act. The person is also subject to sanctions against his or her operator's or chauffeur's license as described in Section 33 (b) of the Michigan Liquor Control Act.
Effective April 15, 1998

19.06 AIDING AND ABETTING THE COMMISSION OF AN OFFENSE

Every person in the City of Lapeer concerned in the commission of an offense under this Ordinance, whether he directly commits the act constituting the offense, or procures, counsels, aids or abets in its commission, may hereafter be prosecuted and tried and upon conviction shall be punished as if he had directly committed such offense.

19.07 FURNISHING OF ALCOHOLIC BEVERAGES ON SUNDAYS

- (A) It shall be unlawful for any person, firm or corporation now licensed or who shall hereafter become licensed, to sell alcoholic beverages for consumption on the premises, on any Sunday before noon.
- (B) No permits or licenses shall hereafter be granted, approved or issued permitting any alcoholic beverages to be sold, furnished, or given away within the City of Lapeer, by any person, firm or corporation now or hereafter licensed to sell alcoholic beverages for consumption on the premises, on any Sunday before 12 noon

HISTORY: (Effective Date of Amendment 02-14-01; -)

19.08 MINOR CURFEW

- (A) It shall be unlawful for any minor under the age of thirteen (13) years to loiter, idle, wander, stroll, frequent or otherwise be or remain in or upon any of the public sidewalks, streets, alleys, parks or public buildings or places of amusement or entertainment or other public grounds or places in the City of Lapeer between the hours of 10:00 p.m. and 6:00 a.m. immediately following, unless such minor is accompanied by a parent, guardian, custodian, or some adult eighteen (18) years of age delegated by the parent or guardian to accompany such minor, or unless such minor is returning home from school or church function or entertainment, or unless the employment of such minor makes it necessary to be upon the streets, alleys or other public places during the prohibited hours herein above mentioned.
- (B) It shall be unlawful for any minor between the ages of thirteen (13) and fifteen (15) years of age to loiter, idle, wander, stroll, frequent or otherwise be or remain in or upon any of the public sidewalks, streets, alleys, parks or public buildings or places of amusement or entertainment or other public grounds or places in the City of Lapeer between the hours of 10:30 p.m. and 6:00 a.m. immediately following, unless such minor is accompanied by a parent, guardian, custodian, or some adult eighteen (18) years of age delegated by the parent or guardian to accompany such minor, or unless such minor is returning home from school or church function or entertainment, or unless the employment of such minor makes it necessary to be upon the streets, alleys or other public places during the prohibited hours herein above mentioned.
HISTORY: (Effective Date of Amendment 02-04-71; -)
- (C) It shall be unlawful for any minor the age of sixteen (16) years to loiter, idle, wander, stroll, frequent or otherwise be or remain in or upon any of the public sidewalks, streets, alleys, parks or public buildings or places of amusement or entertainment or other public grounds or places in the City of Lapeer between the hours of 12:00 p.m. and 6:00 a.m. immediately following, unless such minor is accompanied by a parent, guardian, custodian, or some adult eighteen (18) years of age delegated by the parent or guardian to accompany such minor, or unless such minor is returning home from school or church function or entertainment, or unless the employment of such minor makes it necessary to be upon the streets, alleys or other public places during the prohibited hours hereinabove mentioned.
- (D) Any person assisting, aiding, abetting or encouraging any minor under the age of seventeen (17) years found violating the provisions of this Ordinance shall be guilty of a violation of this Ordinance.
- (E) Police Officers may in their discretion take into custody any minor under the age of seventeen (17) years found violating the provisions of this Ordinance and return him or her to his or her place of abode, or may make a complaint

against such minor under the Juvenile law of this State, provided that, if after investigation by the officer taking into custody such minor, it is found that such minor is incorrigible or willfully absents himself or herself from home and that the parents, guardian or legal custodian are unable to control such minor, then a complaint shall be made against such minor under the Juvenile law of this State.

- (F) It shall be unlawful for any parent or guardian of a child or ward to fail to pick up the child or ward from the Lapeer City Police Department within two hours of receiving any notice that said child or ward is being held at the Lapeer City Police Department. Any person violating this section shall be responsible for a civil infraction with the same fine and costs as for state law, traffic civil infractions.
- (G) It shall be unlawful for any parent or guardian of a child or ward under the age of seventeen (17) years to knowingly allow such child or ward to be out in violation of the curfew established by this ordinance. Violation of this section shall be a misdemeanor punishable as described in Section 1.08(A) of the general ordinances of the City of Lapeer.

19.09 FIREARMS, BOWS AND SLINGS

- (A) It shall not be lawful for any person to shoot with a slingshot or bow and arrow within the corporate limits unless such location has been approved by the Chief of Police.
- (B) It shall not be lawful for any person to use or shoot an air gun or air rifle, or to permit the same to be done within the City of Lapeer, except on such person's own premises when the slug of bullet is not projected outside of such person's premises.
 - 1. It shall be the duty of the Chief of Police and all police officers of the City to seize all such air guns or air rifles found in use in violation of this Section. Upon a judicial determination by the court having jurisdiction of such offense, and of the person committing the same, that such air Gun or air rifle was used contrary to the provisions of this Ordinance, such air gun or air rifle shall be destroyed or disposed of by the Chief of Police in such manner as such court may direct.
- (C) Except in the lawful defense of his person, family or property, no person shall fire or discharge within the City any firearm, or any toy firearm in which any explosive substance can be used.

- (D) No person shall sell, loan or furnish to any minors any firearm, or any toy firearm in which any explosive substance can be used, or any dynamite, dynamite fuse or caps, gunpowder, or any other explosive substance.

19.10 KEEPING OF BEES WITHIN THE CITY LIMITS

- (A) It shall be unlawful for any person, firm or corporation to keep bees within the limits of the City of Lapeer without a written or printed permit or license signed by the City Manager and Chief of Police.
- (B) Any person, firm or corporation desiring to keep bees within said City shall make application to said City Manager describing the place and location where it is proposed to keep said bees. Upon receipt of said application the said City Manager and Chief of Police shall immediately inspect the said premises where it is proposed to keep said bees, and shall grant or deny permission to keep said bees on said premises as in their judgment the welfare of the City and its inhabitants demand. Said action on the part of said City Manager and Chief of Police shall be final, and from which there shall be no appeal.
- (C) Any permit granted as provided for in this Section may be revoked by said City Manager and Chief of Police upon thirty (30) days notice given in writing to the holder of said permit.

19.11 REPEALED. This Section Deleted

19.12 BARBED WIRE FENCES

No person shall build, erect or construct a barbed wire fence upon or along any street, alley or sidewalk, or upon that portion of any premises adjacent to any street, alley or sidewalk.

19.13 DISCARDED REFRIGERATORS

No person shall store, maintain, discard, or dispose of any unused refrigerator, or ice box, or any other container or appliance capable of containing a child and having self-locking doors on the exterior, without first complying with one or more of the following safety precautions:

- (A) The removal of all exterior locks.
- (B) The removal of all doors or covers permitting entrance to the appliance.
- (C) Padlocking all exterior doors or covers.

- (D) Storing the appliance in such manner as to make entry inaccessible by causing the doors or covers to be firmly pressed against a wall or a floor.

19.14 OPEN WELLS, CISTERNS

The owner of any property within the city, where open wells, cisterns, cesspools or any other similar openings exist, shall cause the same to be properly enclosed and secured so as to prevent the entrapment of persons within such openings.

19.15 POLICE RIGHT TO DRAFT BY-STANDER

Any member of the police force may require the assistance of any by-stander or resident of the City to assist him in making any arrest authorized by the laws of this State or the Charter or ordinances of the City. No person shall abuse, resist, oppose or in any manner obstruct or refuse to assist any policeman in the exercise of his duty or in making any arrest.

19.16 FALSELY IMPERSONATING POLICE

No person shall falsely impersonate any member of the police or falsely represent himself to be a member thereof or wear the uniform, star or badge or carry the club or handcuffs designated for such police force with intent to falsely impersonate any member of the police force.

19.17 DISORDERLY PERSONS

- (A) It is unlawful for any person who shall invite or solicit any person of the opposite sex with whom they are not acquainted to ride in any automobile or other vehicle while on any public street, lane, alley or other public places in the City of Lapeer, or for any person to solicit any person of the opposite sex to commit any immoral act.
- (B) It is unlawful for any person to make, aid or assist in making any riot, disturbance or improper diversion, or to aid or assist in collecting a crowd for any unlawful purpose.
- (C) It is unlawful for any person to commit a breach of the peace.

19.18 THREATS

No person shall menace or threaten injury to the person or property of another, or put any person in fear.

19.19 PUBLIC INTOXICATION

No person in a public place shall be intoxicated and also endanger directly the safety of another person or the safety of property, or act in a manner that causes a public disturbance.

19.20 DISORDERLY HOUSE

No person shall permit or suffer any house, building or other place owned or occupied by him to be a resort for noisy, boisterous or disorderly persons, nor permit or suffer to remain therein any noisy, boisterous, or disorderly persons.

19.21 GAMING

- (A)** No person shall for hire, gain or reward keep any gaming tools, implements or materials for the purpose of being used for any illegal gaming by any person or knowingly suffer any such gaming tools, implements or materials to be kept maintained or played on any premises occupied or controlled by him in the city.
- (B)** No person shall hire, gain or reward, allow, suffer or permit any person under the age of seventeen (17) years of age to play at billiards, card, dice or any other game of skill or chance in any room or place whatever owned, kept or maintained by such person.
- (C)** No person shall play billiards, cards, dice or at any gaming table or at any game, for the purpose of gaming or betting upon the result of any such game or games.

19.22 HOUSES OF PROSTITUTION

- (A)** No person shall keep a house of ill-fame, or house of assignation, resorted to for the purpose of prostitution or lewdness, and no person shall let any dwelling house, rooms, or other premises knowing that the lessee intends to use it as a place of resort for the purpose of prostitution or as a house of assignation.
- (B)** No person shall be or remain in any house of ill-fame or house of assignation for the purpose of prostitution, lewdness or debauchery.

19.23 RADIO AND TELEVISION INTERFERENCE

- (A)** Between the hours of 6:30 p.m. and 12:30 a.m. no person shall knowingly operate within the City any machine, device, apparatus, or instrument, the operation of which causes reasonable preventable electrical interference, with radio or television reception within the City. X-ray machines or

apparatus used therefor are properly equipped to avoid all unnecessary or reasonable preventable interference's with radio or television reception and are not negligently operated.

19.24 EXCAVATION ORDINANCE

(A) EXCAVATION ADJACENT TO PUBLIC THOROUGHFARE

No person, firm or corporation that is the owner, lessee, or occupant of real estate in the City of Lapeer shall permit any excavation, basement or cellar to remain unfilled on said real estate which is adjacent to any public sidewalk, alley, street, thoroughfare, parking lot, or other area used by the public unless there is immediately erected a barricade not less than ten (10) feet in height of solid material such as wood, concrete or masonry, and unless adequate lateral support to the adjacent public property is properly provided.

(B) NUISANCE PER SE

The existence of any such excavation as set forth in Section (A), supra, for more than twenty-four (24) hours without providing the necessary barricade and lateral support is hereby declared to be a nuisance per se.

19.25 HUNTING

(A) No person in the City of Lapeer shall:

- (1) Hunt, trap or pursue wildlife at any time within the City of Lapeer.**

19.26 DISRUPTION OF ADMINISTRATION OF GOVERNMENT

(A) Purpose

The purpose of this Ordinance is to protect and preserve the orderly administration of Government by defining those areas of administration and prescribing penalties for the disruption thereof. It is not the purpose or intent of this Ordinance to deny a person or his right of free speech, assembly, petition, due process of law or his right of free speech, assembly, petition, due process of law or equal protection of the law to or before the person government. This Ordinance is intended to discourage anarchy and to encourage the peaceful and orderly redress of wrongs and grievances.

(B) Definitions:

GOVERNMENT:

This term, as used in this Ordinance is the Government of the City of Lapeer, County of Lapeer, Michigan; Lapeer Public Schools, State of Michigan; and United States of America; or any of their respective Boards, Commissions, Departments, or instrumentality's functioning within the City of Lapeer

ADMINISTRATION OF GOVERNMENT:

The term is the management and carrying out of the routine functions of Government, such as (and not by way of limitations) the providing of police and fire protection; the collection of taxes; the education of children; and the providing of water, sewer, postal, hospital, medical, or judicial services within the City of Lapeer.

EXECUTIVE OF GOVERNMENT:

This term is the person charged with the primary responsibility for executing a particular function of Government within the City of Lapeer.

LEGISLATURE OF GOVERNMENT:

This term is that body of persons charged by law with the primary responsibility for enacting or adopting rules, regulations, or ordinances that are operative in the City of Lapeer.

(C) Acts Prohibited

No person, group of persons, firm or corporation shall disrupt or hinder the orderly administration of Government.

(D) Exceptions

Nothing in this Ordinance shall preclude any persons, groups of persons, firm, or corporation from petitioning or appearing in person before either the Executive or Legislature of Government in their regular course of their business. Recognizing that the stability of Government and the respect and confidence of the citizenry in their government is dependent upon the prompt hearing and thorough redress of the wrongs and grievances of the citizenry, the Executive and Legislature of the City of Lapeer are hereby required to promptly hear and consider the peacefully presented wrongs and grievances of all proper persons.

(E) Effective Date

This Ordinance shall become effective on September 12, 1969

19.27 LOITERING

- (A)** It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to:

 - (1)** Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tend to hinder or impede the free an uninterrupted passage of vehicles, traffic or pedestrians.
 - (2)** Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon and thereto.
- (B)** When any person causes or commits any of the conditions enumerated in subsection (A) herein, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this Section.
- (C)** Any person who violates any of the provisions of this Section shall be subject to a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding ninety (90) days or both. Any such violation shall constitute a separate offense on each successive day continued.
- (D)** This Ordinance shall become effective on December 29, 1971.

19.28 USE OR POSSESSION OF DRUG PARAPHERNALIA

- (A)** It is unlawful for any person to use, or to possess, drug paraphernalia within the City of Lapeer. This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with state and/or federal law. This section shall not be construed to prohibit any possession, manufacture or use of any drug paraphernalia, by legitimate health care providers, pharmacists, or any other individual, or entity, that can establish that their possession and/or use of such drug paraphernalia is otherwise consistent with the lawful manufacture, possession, or sale of controlled substances.
- (B)** Drug paraphernalia means all equipment, products and materials of any kind which

are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing a controlled substance, or injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes but is not limited to the following:

- (1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
- (3) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.
- (4) Testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.
- (5) Scales and balances used or intended for use in weighing or measuring controlled substances.
- (6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled substances.
- (7) Separation gins and sifters used or intended for use in removing twigs and weeds from, or in otherwise cleaning or refining, marihuana.
- (8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances.
- (9) Capsules, balloons, envelopes and other containers used or intended for use, in packaging small quantities of controlled substances.
- (10) Containers and other objects used or intended for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles and other objects used or intended for use in injecting controlled substances into the human body.
- (12) Objects used or intended for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

- (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - (b) Clips, tips or other such objects, commonly known as roach clips, used to secure to a cigarette type controlled substance, one end of which is placed to the lips of the human body, facilitating maximum distance of combustion for maximum consumption of controlled substance.
 - (c) Water pipes, carburetion tubes and devices, smoking and carburetion masks, cocaine vials, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, chillums, bongs, and ice pipes or chillers.
- (13) A device that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade or similar object and a mirror or flat piece of glass.
- (14) A device, commonly known as a bullet, that is specifically designed to deliver a measured amount of controlled substance to the user.
- (15) A device, commonly known as a snorter, that is specifically designed to carry a measured amount of a controlled substance to the user's nose.
- (16) A device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.
- (17) A spoon, with or without a chain attached, that has a small diameter bowl and is specifically designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body.
- (C) A controlled substance is any drug, substance, or immediate precursor defined by the Michigan Public Health Code as a controlled substance, or defined as a controlled substance by the laws of the United States, including Section 102, paragraph (6) of the Controlled Substances Act, 21 USC 802(6).
- (D) In determining whether an object is "Drug paraphernalia", in addition to all other relevant factors, the following factors shall be considered:
- (1) Statements by an owner or by anyone in control of the object concerning its use.

- (2) The proximity of the object to controlled substances, and or to other objects reasonably considered to be drug paraphernalia.
 - (3) The existence of any residue of controlled substances on the object.
 - (4) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object.
 - (5) Instructions, oral or written, provided with the object concerning its use.
 - (6) Descriptive materials accompanying the object which explain or depict its potential for illegal use.
 - (7) National and/or local advertising concerning its suitability for illegal use.
 - (8) The existence and scope of legitimate uses for the object in the community.
 - (9) Expert testimony concerning its use.
- (E) The provisions of this ordinance are severable, and the invalidity of any phrase or part of this ordinance shall not affect the validity of the remainder of this ordinance.
- (F) Penalty.
- (1) Any person, firm or corporation violating any provision of this section shall be sentenced to not more than ninety days in jail and/or a fine of not more than five hundred dollars for each offense.
 - (2) Any drug paraphernalia used, or possessed, in violation of this section may be seized and forfeited to the City.

19.29 POSSESSION AND/OR USE OF MARIHUANA

- (A) "Marihuana" means all parts of the plant *Cannabis sativa* L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound manufacture, salt derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.
- (B) It is unlawful for any person to knowingly and/or intentionally possess marihuana or, a marihuana analogue, unless the marihuana or marihuana analogue was obtained directly from, or pursuant to, a valid prescription or order of a licensed medical practitioner while acting in the course of the practitioner's professional practice.

- (C) It is unlawful for any person to use marihuana, or a marihuana analogue, unless the marihuana was obtained directly from, or pursuant to, a valid prescription or order of a licensed medical practitioner while acting in the course of a practitioner's professional practice.

- (D) It is not necessary for the City of Lapeer, in conjunction with any prosecution under this ordinance, to negate any exemption or exception contained in this ordinance, at any trial, hearing or other proceeding. There shall exist a rebuttable presumption that any person charged hereunder is not the holder of a medical license. There shall exist a rebuttable presumption that the marihuana, or marihuana analogue, was not obtained as a result of a valid order or prescription from a licensed medical practitioner.

Any person, firm, or corporation violating any provision of this section shall be sentenced to not more than 90 days in jail and/or a fine of not more than \$500 for each offense.

HISTORY: (Effective Date 05-30-01; -)

EFFECTIVE DATE: MAY 30, 2001