



## Legislation Text

File #: 18-0189, Version: 1

An Ordinance to Amend Section 9:61, 9:62 and 9:68 of Chapter 108, Disorderly Conduct, of Title IX of the Code of the City of Ann Arbor (Ordinance No. ORD-18-03)

Attached are proposed ordinance revisions to Chapter 108, Disorderly Conduct, of the City Code. The revisions to Section 9:61 add a new definition, "Dating relationship," moves the definition of "harass" from Section 9:62 to Section 9:61 and reorders the definitions listed. The revision to Section 9:62 expands the class of City employees covered by the obstruction provision of the ordinance to any City employee in the course of his duties. The revisions to Section 9:68 are being made to align the actions required when a domestic violence incident is alleged with the requirements under current State law provisions.

The City Attorney regularly reviews City Code with the objective of presenting necessary revisions to existing ordinance in response to changes in applicable federal or state laws and regulations.

Adoption of the proposed amendments is recommended.

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Approved by: Howard S. Lazarus, City Administrator

ORDINANCE NO. ORD-18-03

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Effective: March 18, 2018

### DISORDERLY CONDUCT

AN ORDINANCE TO AMEND SECTION 9:61, 9:62 AND 9:68 OF CHAPTER 108, DISORDERLY CONDUCT, OF TITLE IX OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor Ordains:

Section 1: That Section 9:61 of Chapter 108 of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

#### 9:61. Definitions

- (1) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a causal relationship or an ordinary fraternization between two individuals in a business or social context.
- (2) "Harass" is defined as any repeated non-verbal conduct which is specifically intended to frighten,

embarrass or anger the person or persons who are the object of such conduct or which the person accused has reason to know is likely to produce such reactions, or as any repeated verbal communications which, by its very utterance, inflicts injury or tends to incite an immediate breach of peace.

(3) "Loiter": To stand or recline in 1 place or to move slowly about.

(4) "Masculine pronouns": Shall be construed to include both male and female persons.

(15) "Public place": Any street, alley, park, government-owned or government-controlled building, common hallway or public room or any dwelling of greater than 2 units, or any other place to which the public has lawful access.

~~(2) "Masculine pronouns": Shall be construed to include both male and female persons.~~

~~(3) "Loiter": To stand or recline in 1 place or to move slowly about.~~

Section 2: That Section 9:62 of Chapter 108 of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

### **9:62. - Acts prohibited.**

No person shall:

- (1) Commit an assault, or an assault and battery, upon any person.
- (2) Be intoxicated in a public place and either endanger directly the safety of another person or of property.
- (3) Be present in any public place with his or her ability to walk, talk or see significantly impaired by the use of any controlled substance, as defined by Public Act 368 of 1978, as amended, provided, however, that this subsection shall not be construed to apply to a person whose faculties have been impaired by medication prescribed by a physician and taken as directed.
- (4) Knowingly prowl about premises owned or leased by another in the nighttime without the express or implied consent of that person.
- (5) [Repealed.]
- (6) Knowingly go upon property owned or leased by another and peep through the window of a building on that property at any person without the express or implied consent of that person.
- (7) Engage in any fight in a public place.
- (8) Remain in any public place after its regular closing hours after being told to leave by one authorized to give such an order.
- (9) Conduct himself or herself in any public place, or join with 1 or more other persons in a public place, if he or she knows or should know that, singly or together with the others with whom he or she has joined, he or she is unreasonably obstructing the free and uninterrupted passage of the public along any street or sidewalk, provided that this paragraph is not to be interpreted to conflict with the regulations of the National Labor Relations Board regarding picketing in labor disputes. A violation of this subsection shall constitute a civil infraction,

which shall be punishable by a fine of not more than \$100.00 and costs.

- (10) Persist in disturbing the public peace and quiet by loud or aggressive conduct, having once been clearly informed by persons affected that he or she is, in fact, unreasonably causing such a disturbance, provided, however, that notice need not be given when such persons affected reasonably believe that to do so would constitute a risk to their personal safety.
- (11) Persist in disturbing the peace and orderly conduct of any meeting of a public body or any meeting open to the general public by any conduct or communication which, by its very existence, inflicts injury or tends to incite an immediate breach of the peace or which prevents the peaceful and orderly conduct of such meeting after having been clearly informed that he or she is, in fact, unreasonably causing such a disturbance.
- (12) Solicit or accost any other person in a public place for the purpose of inducing participation in an act of prostitution.
- (13) Transport any person, for consideration, to a place where the business of prostitution, gambling or the illegal sale of liquor is carried on, for the purpose of enabling such person to be a customer of any such business.
- (14) Knowingly harass any other person. ~~“Harass” is defined as many repeated non-verbal conduct which is specifically intended to frighten, embarrass or anger the person or persons who are the object of such conduct or which the person accused has reason to know is likely to produce such reactions, or as any repeated verbal communications which, by its very utterance, inflicts injury or tends to incite an immediate breach of peace.~~
- (15) Knowingly permit a person in any place owned or controlled by him to disturb the public peace by loud or boisterous conduct.
- (16) Knowingly obstruct ~~or resist~~ any member of the Police Force, ~~or~~ Fire Department, ~~or any City employee~~ in the discharge of ~~his or her the officer’s~~ lawful duties or fail to obey the lawful order of ~~or resist said a Police or Fire~~ officer, knowing the officer to be a member of the Police Force or Fire Department.
- (17) Urinate or defecate on any public street or sidewalk or on the floor of that part of any building open to the public or any other place in view of the public not specifically designated for that purpose.
- (18) Throw any object from any moving vehicle or toward any person or moving vehicle if he or she knows or should know that damage to person or property, or alarm, which may foreseeably produce damage to person or property, is likely to result.
- (19) Commit the offense of larceny by taking any property not his or her own and to which he or she has no claim or right with the intent permanently to deprive the owner of lawful possession or receive or possess any such property, knowing the same to be stolen.
- (20) Knowingly destroy, damage, deface or remove any public property or other property not his or her own.
- (21) Summon, without any good reason therefor, by telephone or otherwise, the Police or Fire Department, any public or private ambulance or any other service of any kind to go to any address where the service called for is not needed.
- (22) Knowingly take possession of and ride or take away any bicycle without the express or

implied permission of the owner.

- (23) Telephone, visit or otherwise communicate, including but not limited to with any person repeatedly or cause the same to be done for the primary purpose of harassing such other person or his or her family.
- (24) Engage in any indecent or obscene conduct in any public place.
- (25) Make any indecent exposure of his person in a public place. Breastfeeding shall not be considered indecent exposure under this section.
- (26) Make or maintain an operating connection to public utility or cable television facilities without the permission of the owner of such facilities.
- (27) When in proximity to a fire or other hazard, refuse or knowingly fail to obey a reasonable official request or order to move for the purpose of maintaining public safety.
- (28) Fail to accurately identify himself or herself when requested to do so by a police officer after the officer observes that person commit a civil infraction or when the officer has probable cause to believe the person has committed a misdemeanor outside the officer's presence.
- (29) While a spectator in a sport stadium, pass or assist in passing any person, with or without that person's consent, above spectators in the stadium.
- (30) Maintain a cigarette vending machine at any location which is open to the public.
- (31) Retail fraud. While in a store or in its immediate vicinity do any of the following:
  - (a) While a store is open to the public, alter, transfer, remove and replace, conceal or otherwise misrepresent the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale.
  - (b) While a store is open to the public, steal property of the store that is offered for sale.
  - (c) With the intent to defraud, obtain or attempt to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store.

Section 3. That Section 9:68 of Chapter 108 of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

**9:68. - Domestic violence.**

- (1) A Police Officer shall arrest a person when the officer has reasonable cause to believe that person has, within the previous 24 hours, assaulted a spouse, former spouse or other person residing or having resided in the same household, if the victim has visible signs of injury from the assault or if the assailant used or threaten to use a dangerous weapon (as defined in M.C.L. section 750.82). The obligation to arrest shall exist only if the assailant is present or can be readily apprehended. A threat with a weapon is covered by this section only if it is made at or about the time of the assault, if the weapon is present and if there is an apparent ability to use it. A Police Officer shall arrest a person when the officer has reasonable cause to believe that person has committed a crime punishable by 92 days or more whose alleged victim is a spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has or had a dating relationship, or an individual who resides or has resided in the same household. The obligation to arrest only applies if a Police Officer has reasonable

cause at a time when an arrest is possible.

- (2) A Police Officer shall arrest a person when the officer has reasonable cause to believe that a person has violated a f personal protection orders issued under section 2950 of the Revised Judicature aAct of 1961, M.C.L. 600.2950, or a violation of a valid foreign protection order
- (23) When an arrest is made pursuant to subsection (1), prior to the release of the ~~assailantsuspect~~ arrestee, the Police Department shall make a reasonable effort to notify the custodial facility of the alleged victim(s) contact information and shall notify a SAFE House Center volunteer. The Police Officer shall prepare a domestic violence report after responding to any alleged domestic violence incident. This report shall be presented to the prosecuting attorney within 48 hours after the domestic violence incident is reported to the law enforcement agency.
- (34) When an officer responds to a complaint concerning a assault domestic violence incident by a person having the relationship described in subsection (1), the officer shall provide the complainant a written statement indicating the officer's name, badge number, report number and follow-up telephone number.
- (45) When an officer acts in good faith and exercises due care in making an arrest pursuant to subsection (1), the ~~city~~ City shall indemnify, defend and hold the officer harmless as to any civil liability.
- (56) The penalties provided in Chapter 1 of this Code shall not be applicable to this section.
- ~~(6) This does not apply to assaults between parents or guardians and their children or wards who are under 18 years of age.~~

Section 4: This Ordinance shall take effect on the tenth day following legal publication.

### CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of March 5, 2018.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on March 8, 2018.

Jacqueline Beaudry, Ann Arbor City Clerk