

STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Senators Conroy, Schwarz, Arthurhultz, Cherry, Berryman, Stabenow, Honigman, Hart,
Kelly, Koivisto and Faxon

ENROLLED SENATE BILL No. 355

AN ACT to amend section 1a of chapter I, section 20 of chapter VII, section 9 of chapter VIII, sections 1 and 2 of chapter IX, sections 1, 4, 6, 10, 11, 12, 13, 15, and 16 of chapter X, sections 1, 2, and 3 of chapter XI, section 4 of chapter XII, section 8 of chapter XV, section 4 of chapter XVII, section 1 of chapter XVIII, and section 3 of chapter XXX of Act No. 215 of the Public Acts of 1895, entitled as amended "An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto, and to validate such prior amendments and certain prior actions taken and bonds issued by such cities," being sections 81.1a, 87.20, 88.9, 89.1, 89.2, 90.1, 90.4, 90.6, 90.10, 90.11, 90.12, 90.13, 90.15, 90.16, 91.1, 91.2, 91.3, 92.4, 95.8, 97.4, 98.1, and 110.3 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 1a of chapter I, section 20 of chapter VII, section 9 of chapter VIII, sections 1 and 2 of chapter IX, sections 1, 4, 6, 10, 11, 12, 13, 15, and 16 of chapter X, sections 1, 2, and 3 of chapter XI, section 4 of chapter XII, section 8 of chapter XV, section 4 of chapter XVII, section 1 of chapter XVIII, and section 3 of chapter XXX of Act No. 215 of the Public Acts of 1895, being sections 81.1a, 87.20, 88.9, 89.1, 89.2, 90.1, 90.4, 90.6, 90.10, 90.11, 90.12, 90.13, 90.15, 90.16, 91.1, 91.2, 91.3, 92.4, 95.8, 97.4, 98.1, and 110.3 of the Michigan Compiled Laws, are amended to read as follows:

CHAPTER I

Sec. 1a. As used in this act, "civil infraction", "civil infraction action", and "municipal civil infraction" mean those terms as defined in section 113 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.113 of the Michigan Compiled Laws.

CHAPTER VII

Sec. 20. The attorney, in addition to the other duties prescribed in this act, shall be the legal adviser of the council and of all officers of the city, shall act as the attorney and solicitor for the corporation in all legal proceedings in which the corporation is interested, and, except as otherwise provided by law, shall prosecute violations of the ordinances of the city.

CHAPTER VIII

Sec. 9. The council, by ordinance, may compel the attendance of council members and other officers of the city at its meetings, may enforce fines for nonattendance of a member or officer, and may prescribe sanctions for any misbehavior or contemptuous or disorderly conduct by a member or a person present at a session of the council. The ordinance shall not conflict, as written or applied, with section 3 of the open meetings act, Act No. 267 of the Public Acts of 1976, being section 15.263 of the Michigan Compiled Laws.

CHAPTER IX

Sec. 1. The style of each ordinance shall be, "The city of ordains." Each ordinance shall require for its passage the concurrence of a majority of all the aldermen elected or appointed, exclusive of the mayor or other officer or person legally exercising the duties of the office of mayor. The time when an ordinance takes effect shall be prescribed in the ordinance. If the ordinance imposes a sanction, the ordinance shall take effect not less than 20 days after the day of its passage.

Sec. 2. The council of a city may prescribe a sanction for the violation of an ordinance. If a violation of an ordinance is a civil infraction, the ordinance shall provide a civil fine for its violation. A violation of an ordinance is a municipal civil infraction only if the ordinance explicitly states that a violation is a municipal civil infraction. If a violation of an ordinance is not a civil infraction, the council may prescribe a fine or forfeiture not exceeding \$500.00, unless a greater fine or forfeiture is authorized in this act, or imprisonment not exceeding 180 days, or both, in the discretion of the court, together with the costs of prosecution for each violation of the ordinance; may provide that the offender, on failing to pay a fine or forfeiture, or the costs of prosecution, may be imprisoned for a term not exceeding 180 days unless payment is sooner made before the expiration of the term; and may direct the imprisonment to be in the county jail of the county within which the city is located or in a prison or other place of confinement in the state as provided by law. A sanction for the violation of an ordinance shall be prescribed in the ordinance.

CHAPTER X

Sec. 1. An action for a violation of an ordinance of a city incorporated under this act shall be commenced within 2 years after the commission of the violation. This section does not apply to a violation of an ordinance that constitutes a civil infraction.

Sec. 4. Except in the case of a civil infraction action or an action against a corporation, an action for the violation of an ordinance of the city may be commenced by warrant for the arrest of the offender.

Sec. 6. Upon judgment or conviction, the court shall impose a sanction not exceeding the limit prescribed in the ordinance violated, as the nature of the case may require, together with such costs of prosecution as the court shall order. In a civil infraction action, the district court may assess costs as provided in section 907 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.907 of the Michigan Compiled Laws, or section 8727 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.8727 of the Michigan Compiled Laws.

Sec. 10. (1) It is not necessary in a proceeding for the violation of an ordinance of the city to state or set forth the ordinance or a provision of the ordinance in a warrant, process, or pleading. It is a sufficient statement of the cause of action in the warrant, process, or pleading to set forth substantially, and with reasonable certainty as to time and place, the act or offense complained of and to allege it to be in violation of an ordinance of the city, referring to the ordinance by its title and the date of its passage or approval. This subsection does not apply to an ordinance violation that constitutes a civil infraction.

(2) A judge or magistrate having authority to hear or determine a proceeding for the violation of an ordinance of the city shall take judicial notice of the enactment or adoption, existence, and provisions of the ordinances of the city and the resolutions of the council and of the authority of the city or council to enact or adopt the ordinances and resolutions.

Sec. 11. (1) In a prosecution for a violation of an ordinance of the city, other than a violation constituting a civil infraction, either party may require a trial by jury. In a prosecution commenced by warrant, the jury shall be selected and summoned as in misdemeanor cases in the district court.

(2) In a civil action to recover a fine or forfeiture for a city ordinance violation, the jury shall be selected and summoned as in other civil actions in the district court.

(3) Except as otherwise provided by law, a jury under this section shall consist of 6 persons.

(4) An inhabitant of the city is not incompetent to serve as a juror in a cause in which the city is interested solely because of the interest in the outcome of the action that the person may have in common with the other inhabitants of the city.

Sec. 12. (1) In an action commenced by warrant as provided in this act, a party convicted of a violation of an ordinance of the city may appeal the judgment to the circuit court in the county in which the city is located, in the same manner as in misdemeanor cases appealed from the district court. This subsection does not apply to an ordinance violation constituting a civil infraction.

(2) In a suit to which the city is a party, brought to recover a fine or forfeiture for violation of an ordinance, either party may appeal from the judgment to the circuit court in the county in which the city is located, in the same manner as in civil actions appealed from the district court, except that the city is not required to give a bond or security.

(3) The circuit court to which the cause is appealed shall take judicial notice of the ordinances of the city and the resolutions of the council.

Sec. 13. Except in cases in which a fine is paid to a parking violations bureau or a municipal ordinance violations bureau pursuant to section 8395 or 8396 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.8395 and 600.8396 of the Michigan Compiled Laws, a fine imposed for a violation of an ordinance of the city shall be received by the clerk for the court in which judgment or conviction was had. If the fine is collected upon execution, the person receiving the fine shall immediately pay the money collected to that clerk. If the defendant is committed, the fine and costs imposed shall be paid to the sheriff or other keeper of the jail or prison, who shall, within 30 days after receiving payment, pay the money to that clerk for distribution pursuant to Act No. 236 of the Public Acts of 1961, being sections 600.101 to 600.9947 of the Michigan Compiled Laws.

Sec. 15. Fines paid into the city treasury for violations of ordinances of the city shall be disposed of as the council may direct. The expense of apprehending and sanctioning a person who violates an ordinance of the city, except the part of the expense paid by costs collected, shall be defrayed by the city.

Sec. 16. The district court in the judicial district in which a city incorporated under this act is located has jurisdiction to hear, try, and determine a case for a violation of an ordinance of the city. Unless the case is a civil infraction action, proceedings in the district court shall be the same as in a prosecution to recover a penalty or forfeiture or to punish a violation of a criminal law of this state. The laws of this state regulating prosecutions in misdemeanor cases and the recovery of penalties apply.

CHAPTER XI

Sec. 1. (1) A city incorporated under the provisions of this act has, and the council may pass ordinances relating to, the following general powers:

(a) To restrain and prevent vice and immorality, gambling, noise and disturbance, and indecent or disorderly conduct or assemblages; to prevent and quell riots; to preserve peace and good order; and to protect the property of the city or of persons in the city.

(b) To prohibit vagrancy, truancy, begging, public drunkenness, disorderly conduct, or prostitution.

(c) To prevent injury or annoyance from anything dangerous, offensive, or unhealthy; to prohibit and remove anything tending to cause or promote disease; and to prevent and abate nuisances.

(d) To prohibit and suppress places of disorderly conduct, immorality, or vice.

(e) To regulate or license the use of places of entertainment.

(f) To prohibit and suppress gambling and to authorize the seizure and destruction of instruments and devices used for gambling.

(g) To prohibit and prevent the selling or giving of alcoholic liquor, as defined in section 2 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.2 of the Michigan Compiled Laws.

(h) To regulate, restrain, or prohibit sports, exhibitions, caravans, and shows for which money or other reward is demanded or received, except lectures on historic, literary, or scientific subjects.

(i) To prevent the violation of the Sabbath day, or the disturbance of a religious meeting, congregation, or society or other public meeting assembled for a lawful purpose; and to require businesses to be closed on the Sabbath day.

(j) To license, regulate, or prohibit auctioneers, auctions, and sales by public bids or offers by buyers or sellers in the manner of auctions; and to regulate the fees to be paid by and to auctioneers. However, a license shall not be required in case of sales required by law to be made at auction.

(k) To license, regulate, or prohibit hawking and peddling and to license pawnbroking.

(l) To license and regulate wharf boats and to regulate the use of boats in and about the harbor, if any, and within the jurisdiction of the city.

(m) To establish, authorize, license, and regulate ferries to and from the city or a place in the city; and to regulate and prescribe the charges and prices for the transportation of persons and property by ferry.

(n) To regulate and license taverns, houses of public entertainment, saloons, restaurants, and eating houses; and to regulate and prescribe the location of saloons. This subdivision does not authorize the licensing of the sale of alcoholic liquor, as defined in section 2 of Act No. 8 of the Public Acts of the Extra Session of 1933.

(o) To license and regulate vehicles used for the transportation of persons or property for hire in the city; and to regulate or fix their stands on the streets and public places and at wharves, boat landings, railroad station grounds, and other places.

(p) To regulate and license toll bridges within the city and to prescribe the rates and charges for passage over the bridges.

(q) To provide for and regulate the inspection of food.

(r) To regulate the inspection, weighing, and measuring of brick, lumber, firewood, coal, hay, and any article of merchandise.

(s) To provide for the inspection and sealing of weights and measures and to enforce the keeping and use of proper weights and measures by venders.

(t) To regulate the construction, repair, and use of vaults, cisterns, areas, hydrants, pumps, sewers, and gutters.

(u) To prohibit and prevent indecent exposure of the person; the show, sale, or exhibition for sale of indecent or obscene pictures, drawings, engravings, paintings, books, or pamphlets; and indecent or obscene exhibitions and shows.

(v) To regulate or prohibit bathing in the city's bodies of water.

(w) To provide for the clearing of driftwood and noxious matter from the city's bodies of water; and to prohibit and prevent the depositing in the city's bodies of water of matter tending to render the water impure, unwholesome, or offensive.

(x) To compel the owner or occupant of any grocery, tallow chandler shop, soap or candy factory, butcher shop or stall, slaughter house, stable, barn, privy, sewer, or other offensive, nauseous, or unwholesome place to cleanse, remove, or abate it when the council considers it necessary for the health, comfort, or convenience of the inhabitants of the city.

(y) To regulate the keeping, selling, and using of dynamite, gunpowder, firecrackers and fireworks, and other explosive or combustible materials; to regulate the exhibition of fireworks and the discharge of firearms; and to restrain the making of fires in the streets and other open spaces in the city.

(z) To direct and regulate the construction of cellars, slips, barns, private drains, sinks, and privies.

(aa) To prohibit, prevent, and suppress mock auctions and fraudulent games, devices, and practices. Persons managing, using, or practicing; attempting to manage, use, or practice; or aiding in the management or practice of a mock auction or fraudulent game, device, or practice may be subject to the provisions of an ordinance under this subdivision.

(bb) To prohibit, prevent, and suppress lotteries for the drawing or disposing of money or other property. Persons maintaining, directing, or managing such lotteries or aiding in the maintenance, directing, or managing of such lotteries may be subject to the provisions of an ordinance under this subdivision.

(cc) To license and regulate solicitors for passengers or for baggage to and from a hotel, tavern, public house, boat, or railroad and to provide the places where they may be admitted to solicit or receive patronage; and to license and regulate porters, runners, and drivers of vehicles used and employed for hire, to provide the places where they be admitted to solicit or receive patronage, and to fix and regulate the amounts and rates of their compensation.

(dd) To provide for the protection and care of paupers.

(ee) To provide for taking a census of the inhabitants of the city, whenever the council sees fit, and to direct and regulate the census.

(ff) To provide for the issuing of licenses to the owners and keepers of dogs and to require the owners and keepers of dogs to pay for and obtain such licenses; and to regulate and prevent the running at large of dogs, to require dogs to be muzzled, and to authorize the killing of dogs running at large or not licensed in violation of an ordinance of the city.

(gg) To prohibit the possession or use of toy pistols, slingshots, and other dangerous toys or implements within the city.

(hh) To require horses, mules, or other animals attached to vehicles or standing in the streets, lanes, or alleys in the city to be securely fastened, hitched, watched, or held and to regulate the placing and provide for the preservation of hitching posts.

(ii) To provide for and regulate the numbering of buildings upon the streets and alleys; to require the owners or occupants of buildings to affix numbers on the buildings; and to designate and change the names of public streets, alleys, and parks.

(jj) To provide for, establish, regulate, and preserve public fountains and reservoirs within the city, and troughs and basins for watering animals.

(kk) To prevent or provide for the construction and operation of street railways, to regulate street railways, and to determine and designate the route and grade of any street railway to be laid or constructed in the city.

(ll) To establish and maintain a public library, to provide a suitable building for that public library, and to aid in maintaining such other public libraries as may be established within the city by private beneficence as the council considers to be for the public good.

(mm) To license transient traders. In the case of transient traders who engage in the business of selling goods or merchandise after the commencement of the fiscal year, the license fee may be apportioned with relation to the part of the fiscal year that has expired. If such traders continue in the same business after the commencement of the next fiscal year, and their goods or merchandise are assessed for taxes for the next fiscal year, the traders shall not be required to take out a second license upon the commencement of the next fiscal year.

(2) The council may enact ordinances and make regulations, consistent with the laws and constitution of the state as they may consider necessary for the safety, order, and good government of the city and the general welfare of the inhabitants of the city, but exclusive rights, privileges, or permits shall not be granted by the council.

Sec. 2. (1) The council may prescribe the terms and conditions upon which a license shall be granted and may require payment of a reasonable sum for a license. The person receiving the license shall, before the license is issued, execute a bond to the corporation, if required by the council, in a sum prescribed by the council, with 1 or more sufficient sureties, conditioned for a faithful observance of the charter of the corporation and the ordinances of the council, and otherwise conditioned as the council may prescribe.

(2) A license is revocable by the council. If a license is revoked for noncompliance with the terms and conditions upon which it was granted, or on account of a violation of an ordinance or regulation passed or authorized by the council, the person holding the license shall, in addition to any other sanctions imposed, forfeit payments made for the license.

Sec. 3. Except as otherwise provided in section 1(1)(mm) of this chapter, a license shall not be granted for a term beyond the next first Monday in June or be transferable. The council may provide sanctions for a person who, without license, does something for which a license is required by an ordinance or regulation of the council.

CHAPTER XII

Sec. 4. Under the direction of the mayor and chief of police, and in conformity with the ordinances of the city and laws of this state, the police shall suppress riots, disturbances, and breaches of the peace; pursue and arrest a person fleeing from justice in any part of the state; apprehend a person in the act of violating a law of this state, or an ordinance of the city, involving a breach of the peace, and, unless the violation constitutes a civil infraction, take the offender before the proper court or magistrate, to be dealt with for the violation; make complaints to the proper officers and magistrates of any person known or believed by them to be responsible for a violation of an ordinance of the city or criminal law of this state; diligently and faithfully to enforce all laws, ordinances, and regulations for the preservation of good order and the public welfare as the council may ordain; and serve process directed or delivered to them for service. For such purposes, the chief of police and every police officer have the powers of constables and may arrest, upon view and without process, a person in the act of violating an ordinance of the city involving a breach of the peace, unless the violation constitutes a civil infraction, or of committing a violation of a criminal law of this state. The chief of police and a police officer may serve and execute process in a proceeding for a violation of an ordinance of the city, and also any other process that a constable may serve.

CHAPTER XV

Sec. 8. If a city owns a public cemetery, whether within or without the city, the council of a city may pass and enforce ordinances necessary to carry into effect the provisions of this chapter, to control or regulate the cemetery and the improvement of the cemetery, to protect the cemetery and the appurtenances of the cemetery from injury, and to impose sanctions for a violation of a lawful order or regulation made by the board of cemetery trustees.

CHAPTER XVII

Sec. 4. The council may provide by ordinance for the preservation of the purity of a body of water within the city, and within 1/2 mile from the corporate boundaries of the city; prohibit and impose sanctions for the depositing of filth, logs, floating matter, or any injurious thing in such a body of water; control and regulate the anchorage, moorage, and

management of watercraft and floats within the jurisdiction of the city; prescribe the mode and speed of entering and leaving the harbor, if any, and of coming to and departing from the docks, wharves, and landings, by watercraft and floats; regulate and prescribe, by ordinances or through a harbormaster or other officer, the location for a watercraft or float, and the changes of station in and use of the harbor required to promote order in the harbor and the safety and convenience of watercraft and floats; and enact and enforce ordinances and regulations that in the opinion of the council are most conducive to the orderly, safe, and convenient use and occupancy of the navigable waters, wharves, docks, piers, and landing places within the city.

CHAPTER XVIII

Sec. 1. The council of a city may regulate and license ferries from the city or a place in the city; require the payment of a reasonable sum for a ferry license; impose reasonable terms and restrictions in relation to the keeping and management of ferries, and the time, manner, and rates of carriage and transportation of persons and property by ferry; and provide for the revocation of a ferry license and for the imposition of sanctions for the violation of an ordinance prohibiting unlicensed ferries and regulating ferries established and licensed.

CHAPTER XXX

Sec. 3. The revenues raised by general tax upon all the property in the city or by loan to be repaid by a general tax shall be divided into so many of the following general funds as are necessary:

- (a) Contingent fund, for the contingent and other expenses of the city for the payment of which from some other fund no provision is made.
- (b) Fire department fund, for purchasing grounds, erecting engine houses on the grounds, purchasing engines and other fire apparatus, and other expenses necessary to maintain the fire department of the city.
- (c) General street fund, for opening, widening, extending, altering, vacating, grading, paving, curbing, graveling, improving, repairing, and clearing the streets, alleys, and public grounds of the city and for the construction, maintenance, and repair of sidewalks and crosswalks.
- (d) General sewer fund, for sewers, drains, ditches, and drainage and for the improvement of watercourses.
- (e) Bridge fund, for the construction and maintenance of bridges.
- (f) Water fund, for maintaining and extending a system of waterworks, constructing reservoirs and cisterns, and providing other supplies of water.
- (g) Public building fund, for providing for public buildings; for the purchase of land for public buildings; and for the erection, preservation, and repair of public buildings that the council is authorized to erect and maintain and that are not otherwise provided for in this act.
- (h) Police fund, for the maintenance of the police of the city and for the arrest of or issuance of citations to persons violating the ordinances of the city and the imposition of sanctions on those persons.
- (i) Cemetery fund.
- (j) Interest and sinking fund, for the payment of the principal of and interest on the public debt of the city.
- (k) Park fund, for the purchase of grounds for public parks and the maintenance and improvement of public parks.
- (l) Light fund, for the construction, purchase, and maintenance of lights.
- (m) Other funds that the council may constitute.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 348 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.