

**STATE OF MICHIGAN**

**COUNTY OF OAKLAND**

**CITY OF FARMINGTON**

**ORDINANCE NO. C-786-2017**

**AN ORDINANCE TO AMEND SECTIONS 3-2 AND 3-8 OF THE FARMINGTON CITY CODE TO CONFORM TO CHANGES IN STATE LAW REGARDING UNLAWFUL PURCHASE, CONSUMPTION, POSSESSION, AND FRAUDULENT IDENTIFICATION TO ACQUIRE ALCOHOL BY MINORS.**

**THE CITY OF FARMINGTON ORDAINS:**

**PART I.** That Sections 3-2 and 3-8 in Article I of Chapter 3, Alcoholic Liquors, of the Farmington City Code are amended to read as follows:

**ARTICLE I. – In General**

**Sec. 3-2. - Purchase, possession, consumption or transport of alcoholic liquor by person less than twenty-one (21) years of age; attempt; penalty.**

- (a) It shall be unlawful for any person less than 21 years of age to purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. For purpose of this section, a person under the age of 21 is deemed a "minor." A minor who violates this subsection is responsible for a municipal infraction or guilty of a misdemeanor punishable by the fines and sanctions as set forth in subsection (b).
- (b) A person who violates subsection (a) is responsible for a municipal civil infraction or guilty of a misdemeanor, punishable by and subject to the following fines and sanctions:
  - (1) For the first violation of subsection (a), MCL 436.1703(1), or other local ordinance substantially corresponding to that statute, the minor is responsible for a municipal civil infraction, shall be fined not more than one hundred dollars (\$100.00) and may be ordered to perform community service, to undergo screening and assessment to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs as provided in MCL 436.1703(5), and to participate in substance use disorder services as defined in MCL 333.6230, and designated by the administrator of substance abuse screening and assessment as provided in MCL 436.1703(5), at his or her own expense. (1) A minor may be found responsible or admit responsibility only once under subsection (a), MCL 436.1703(1)(a), or other local ordinance substantially corresponding to that statute.

- (2) If a violation of subsection (a), MCL 436.1703(1), or other local ordinance substantially corresponding to that statute, occurs after one (1) prior judgment for an alcohol or controlled substance violation identified in subsection (b)(5), the minor is guilty of a misdemeanor, which is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than two hundred dollars (\$200.00), or both, and may be ordered to perform community service, to undergo screening and assessment to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs as provided in MCL 436.1703(5), and to participate in substance use disorder services as defined in MCL 333.6230, and designated by the administrator of substance abuse screening and assessment as provided in MCL 436.1703(5), at his or her own expense. The person is also subject to sanctions against his or her operator's or chauffeur's license as provided in subsection (b)(4). A minor who pleads guilty, or admits in a juvenile delinquency proceeding to a violation of subsection (a) under this subsection, may request deferral of proceedings and placement on probation under subsection (b)(6).
- (3) If a violation subsection (a), MCL 436.1703(1), or other local ordinance substantially corresponding to that statute, occurs after two (2) or more prior judgments for an alcohol or controlled substance violation identified in subsection (b)(5), the minor is guilty of a misdemeanor, which is punishable by imprisonment for not more than 60 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than five hundred dollars (\$500.00), or both, as applicable, and may be ordered to perform community service, to undergo screening and assessment to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs as provided in MCL 436.1703(5), and to participate in substance use disorder services as defined in MCL 333.6230, and designated by the administrator of substance abuse screening and assessment as provided in MCL 436.1703(5), at his or her own expense. The person is also subject to sanctions against his or her operator's or chauffeur's license as provided in subsection (b)(4).
- (4) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (a) under subsections (b)(2) or (b)(3) as provided in MCL 257.319.
- (5) For purposes of subsections (b)(2) and (b)(3), "prior judgment" means a conviction, juvenile adjudication, or finding or admission of responsibility for a violation of the statutes listed in this subsection, or any federal or state law or local ordinance that substantially corresponds to any of those listed statutes:
  - a. Subsection (a), MCL 436.1703(1), or former MCL 436.33b.
  - b. A misdemeanor violation that is dismissed under subsection (c), MCL 436.1703(3), or other local ordinance substantially corresponding to that statute.
  - c. MCL 436.1701 (Sale/furnish alcohol to minors.)
  - d. MCL 436.1707 (Sale/service/furnish alcohol to intoxicated persons.)
  - e. MCL 257.624a (Transport/possess open alcohol in motor vehicle.)

- f. MCL 257.624b (Transport/possess open alcohol in motor vehicle by minor.)
  - g. MCL 257.625 (Operating motor vehicle with intoxicated/impaired.)
  - h. MCL 324.80176 (Operating boat while under influence.)
  - i. MCL 324.81134 (Operating off-road vehicle while under influence.)
  - j. MCL 324.82127 (Operating snowmobile while under influence.)
  - k. MCL 750.167a (Hunting with firearm/weapon while intoxicated.)
  - l. MCL 750.237 (Carry/possess/use/discharge firearm while under influence.)
- (6) If a minor pleads guilty, or admits in a juvenile delinquency proceeding to a violation of subsection (a) that is a misdemeanor under subsection (b)(2), the court may defer further proceedings and place the minor on probation under MCL 436.1703(3), which provides for dismissal of the proceedings upon the terms and conditions of probation being fulfilled. An individual may only obtain one (1) dismissal under MCL 436.1703(3).
- (7) A minor that is subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (a) under subsections (b)(2) or (b)(3), may be ordered by court to submit to random or regular preliminary chemical breath analysis, which may be requested by the minor's parent, guardian, or custodian as provided in MCL 436.1703(5).
- (c) A police officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request the person to submit to a preliminary chemical breath analysis. If the minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a police officer may seek to obtain a court order. A police officer may initiate municipal civil infraction or misdemeanor charges for a violation of subsection (a) based in whole or in part upon the results of a preliminary chemical breath test analysis. The results of a preliminary chemical breath test analysis or other acceptable blood alcohol test are admissible in a municipal civil infraction or criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.
- (d) A law enforcement agency, upon determining that a person is less than 18 years of age who is not emancipated under MCL 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (a) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent is readily ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (a) is less than 18 years of age and not emancipated under MCL 722.1 to 722.6. The notice may be made by any means reasonable calculated to give prompt actual notice, including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (a), his or her parents or legal guardian shall be notified immediately as provided in this subsection.
- (e) This section does not prohibit a minor from possessing or transporting alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed under the Michigan Liquor Control Code of 1998, Public Act 58 of 1998, as amended, being MCL 436.1101 et seq., by the Liquor Control Commission, or by an agent of the liquor control commission, if the alcoholic liquor is not possessed or transported for his or her personal consumption.

- (f) The consumption of alcoholic liquor by a person of less than 21 years of age who is enrolled in a course offered by an accredited post-secondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a necessary ingredient of the course.
- (g) The consumption by a person less than 21 years of age of sacramental wine in connection with religious services at a church, synagogue or temple is not prohibited by subsection (a).
- (h) Subsection (a) does not apply to a minor who participates in an undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the City prosecutor's office as part of an employer-sponsored internal enforcement action, or in an undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, Liquor Control Commission, or local police agency as part of an enforcement action.
- (i) In a municipal civil infraction proceeding or criminal prosecution for the violation of subsection (a) concerning a minor having any bodily alcoholic content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.
- (j) As used in this section, "any bodily alcohol content" means either of the following:
  - (1) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
  - (2) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as part of a generally recognized religious service or ceremony.

**Sec. 3-8. - False information or evidence as to age.**

A person who furnishes fraudulent identification to a person less than 21 years of age or, notwithstanding section 3-2(a), a person less than 21 years of age who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than one hundred dollars (\$100.00), or both, and the secretary of state shall suspend the operator's or chauffeur's license of an that person upon conviction as provided in MCL 257.319 .

**Part II      Severability**

Should any section, subsection, paragraph, sentence, clause, or word of this ordinance be held invalid for any reason, such decisions shall not affect the validity of the remaining portions of the ordinance.

**Part III      Savings**

This amendatory ordinance shall not affect violations of the zoning ordinance or any other ordinance existing prior to the effective date of this ordinance and such violation shall be governed and shall continue to be separately punishable to the full extent of the law under the provisions of such ordinance at the time the violation was committed.

**Part IV                      Effective Date: Publication.**

This amendatory ordinance shall be effective (1) 10 days after enactment and publication as provided by the Farmington City Charter, or (2) on any amended effective date of Public Act No. 89 of 2017, whichever is later.

Ayes: Galvin, LaRussa, Schneemann, Taylor, Bowman  
Nays: none  
Abstentions: none  
Absent: none

STATE OF MICHIGAN    )  
  )ss.  
COUNTY OF OAKLAND    )

I, the undersigned, the qualified and acting City Clerk of the City of Farmington, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the Ordinance adopted by the City Council of the City of Farmington at a meeting held on the 18<sup>th</sup> day of December, 2017, the original of which is on file in my office.

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SUSAN K. HALBERSTADT, City Clerk  
City of Farmington

Adopted: December 18, 2017  
Published: December 24, 2017  
Effective: January 1, 2018