



Special/Study Session Meeting
6:00 p.m., Monday, September 25, 2017
Conference Room
23600 Liberty Street
Farmington, MI 48335

STUDY SESSION AGENDA

- 1. Roll Call**
- 2. Approval of Agenda**
- 3. Public Comment**
- 4. Consideration of Adoption of Ordinance Amending Sections 3-2 and 3-8 in Article I of Chapter 3, Alcoholic Liquors, of the Farmington City Code. FIRST READING**
- 5. Other Business**
- 6. Council Comment**
- 7. Closed Session: Land Acquisition**
- 8. Adjournment**

Farmington City Council Agenda Item	Council Meeting Date: September 25, 2017	Item Number 4
Submitted by: David M. Murphy, City Manager		
<u>Agenda Topic</u> Consideration of adoption of Ordinance C-785-2017, amending Sections 3-2 and 3-8 in Article I of Chapter 3, Alcoholic Liquors, of the Farmington City Code. FIRST READING		
<u>Proposed Motion</u> APPROVE FIRST READING of Ordinance C-785-2017, amending Sections 3-2 and 3-8 in Article I of Chapter 3, Alcoholic Liquors, of the Farmington City Code		
<u>Background</u> This proposed ordinance amendment would bring the penalty/fine provisions of the City's ordinance governing minors in possession of alcohol into compliance with the recently-adopted changes to state law governing that subject, which the City's ordinances have traditionally followed. The most significant change in the state law was to make first offenses a civil infraction. Second and subsequent offenses remain misdemeanors, with the maximum term of imprisonment and fine for third and subsequent offenses (60 days/\$500) being higher than for second offenses (30 days/\$200). The second significant change was to the statute that allows a court to place first offenders pleading guilty on a probationary status, with a chance to earn a dismissal and end up with no criminal record. That process remains available for the first misdemeanor charge (a second offense since first offenses are civil infractions), but with a narrowing of the eligibility for that status. Under the old statute, only a prior conviction for minor in possession/consuming alcohol would disqualify a minor from eligibility for the probationary/dismissal program. Under the new statute, the types of prior convictions that would prevent probationary/dismissal status has been expanded to encompass other alcohol/controlled substance related violations you will find listed in Section 3-2(b)(5) of the proposed Ordinance Amendment. Most of the changes to the state law were originally scheduled to take effect on January 1, 2018, and were contained in Public Act No. 357 of 2016. However, the State Legislature recently adopted another law, Public Act No. 89 of 2017, that added provisions for court-ordered breath tests. That second law (PA 89) was given an effective date of October 10, 2017—that is, an effective date that was <i>before</i> that of the first law (PA 357). By passing PA 89 the legislature, inadvertently, expedited the provisions of PA 357 of 2016 to October 2017 instead of the previously effective date of January, 2018. In order to ensure City Code is aligned with the superseding state statute this ordinance change comes before City Council without first being considered at a study session. The intention is to bring the City Code into compliance with the new state law as soon as possible.		
<u>Materials Attached</u> Letter to Council dated September 22, 2017 Redlined and clean proposed ordinances		
Agenda Review		
Department Head	Finance/Treasurer	City Attorney
City Manager		



JOHNSON ROSATI SCHULTZ JOPPICH PC

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Gary L. Dove
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September 21, 2017

City Council
City of Farmington
23600 Liberty Street
Farmington, MI 48335

RE: Proposed Amendment to Minors in Possession/Consuming Alcohol Ordinance

Dear City Council Members:

Provided with this letter is an Ordinance Amendment that is presented for introduction/first reading at your meeting on September 25, 2017. A mark-up version showing proposed changes from the current Ordinance Code Sections 3-2 and 3-8 is also provided. This Ordinance Amendment is to conform the City Ordinance to changes in state law regarding minors that purchase, possess or consume alcohol, to maintain consistency with this area of uniform state-wide regulation.

While those changes under Public Act No. 357 of 2016, were given an effective date of January 1, 2018, we recently learned that Public Act No. 89 of 2017 (which added provisions for court ordered breath tests) essentially reenacted the 2016 changes but with an accelerated, October 10, 2017, effective date. That development and the goal to conform the Ordinance to the state law as soon as possible explains why this has been submitted for your first available meeting.

As for the changes in state law, the most significant was to make first offenses a civil infraction. Second and subsequent offenses remain misdemeanors, with the maximum term of imprisonment and fine for third and subsequent offenses (60 days/\$500) being higher than for second offenses (30 days/\$200).

The second significant change was to the statute that allows a court to place first offenders pleading guilty on a probationary status with a chance to earn a dismissal and end up with no criminal record. That process remains available for the first misdemeanor charge (a second offense since first offenses are civil infractions), but with a narrowing of the eligibility for that status. Under the old statute, only a prior conviction for minor in possession/consuming alcohol would disqualify a minor from eligibility for the probationary/dismissal program. Under the new statute, the types of prior convictions that would prevent probationary/dismissal status has been expanded to encompass other alcohol/controlled substance related violations you will find listed in Section 3-2(b)(5) of the proposed Ordinance Amendment.

September 21, 2017

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If the proposed Ordinance Amendment is acceptable and introduced at your meeting on the 25th, we would recommend that it be scheduled for possible enactment at your meeting on October 2, 2017.

Sincerely yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

Gary L. Dovre

Enclosures

cc: David Murphy, Manager
Sue Halberstadt, Clerk
Frank Demers, Director of Public Safety
Thomas R. Schultz, Esq.

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF FARMINGTON

ORDINANCE NO. C-785-2017

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 10 days after adoption by the City Council and after publication as provided by the Charter of the City of Farmington.

Ayes:
Nays:
Abstentions:
Absent:

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 ____ day of _____, 2017, the original of which is on file in my office.

SUSAN K. HALBERSTADT, City Clerk
City of Farmington

Adopted:
Published:
Effective:

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF FARMINGTON
ORDINANCE NO. C-____-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.

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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 ~~twenty one (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 ~~transport or attempt to transport alcoholic liquor~~, 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 3-2(a)~~ is responsible for a municipal civil infraction or guilty of a misdemeanor, ~~and shall be punished by up to ninety (90) days in jail and 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 a fined of not more than one hundred dollars (\$100.00) and may be ordered to perform community service, ~~and 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 abuse 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 and to attend alcohol or drug counseling, education and/or treatment programs. (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) ~~For~~If a second 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 ~~substance abuse~~ 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, and ~~to attend alcohol and/or drug counseling, education and/or treatment programs 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 imposed in subsection 3-2(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) ~~For~~If a third or subsequent 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 ~~substance abuse~~ 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, and ~~to attend alcohol and/or drug counseling, education and/or treatment programs 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 imposed in subsection 3-2(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. Immediately upon the entry of a conviction or disposition for a violation of this section, the court shall consider all prior convictions or probate court dispositions for violations of this section or of Public Act No. 58 of 1998 (MCL 436.1101 et seq.), as amended, or a local ordinance or a law of another state substantially corresponding to Section 58, and shall impose the following license sanctions in addition to the fines and sanctions set forth in section 3-2(b)(1), (2) and (3):~~
- ~~a. If the court finds that the person has one such prior conviction or probate court disposition the court shall order the secretary of state to suspend the operator's or~~

~~chauffeur's license of the person for not less than ninety (90) days or more than one hundred eighty (180) days. The court may order the secretary of state to issue to the person a restricted license after the first thirty (30) days of the period of suspension in the manner described in MCL 436.1703 and provided for in Section 319 of Public Act No. 300 of 1949, being MCL 257.319. In the case of a person who does not possess an operator's or chauffeur's license, the secretary of state shall deny the application for an operator's or chauffeur's license for the applicable suspension.~~

~~b. If the court finds that the person has two (2) or more such prior convictions or probate court dispositions, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for not less than one hundred eighty (180) days or more than more than one (1) year. The court may order the secretary of state to issue to the person a restricted license after the first sixty (60) days of the period of suspension in the manner described in MCL 436.1703 and provided for in Section 319 of Public Act No. 300 of 1949, being MCL 257.319. In the case of a person who does not possess an operator's or chauffeur's license, the secretary of state shall deny the application for an operator's or chauffeur's license for the applicable suspension.~~

~~c. If license sanctions are imposed, immediately upon the entry of court ordered sanctions pursuant this section 3-2(b)(4), the court shall order the person convicted for the violation to surrender to the court his or her operator's or chauffeur's license. The court shall immediately forward a notice of the court ordered license sanctions to the secretary of state. If the license is not forwarded to the secretary of state, an explanation of the reason why the license is absent shall be attached. If the finding is reviewed by the circuit court, the circuit court may, ex parte, order the secretary of state to rescind the suspension or restricted license issued pursuant to this section. Immediately following the imposition of the sanction, the court shall forward a notice to the secretary of state indicating the sanctions imposed.~~

(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.)

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~~Within thirty (30) days after the conviction of a person for any violation of section 3-2(a) involving the consumption or knowing transportation or possession of alcoholic liquor in a motor vehicle, which conviction has become final, complaint may be made by the arresting officer or the officer's superior before the court for which the warrant was issued, which complaint shall be under oath and shall contain a description of the motor vehicle in which alcoholic liquor was possessed, consumed or transported by the person less than twenty one (21) years of age in committing the offense and praying that the motor vehicle be impounded as provided in this section. Upon the filing of the complaint, the court shall issue an order to the owner of the motor vehicle to show cause why the motor vehicle shall not be impounded. The order to show cause shall have a date and time fixed in the order for a hearing, which date shall not be less than ten (10) days after the issuance of the order and shall be served by delivering a true copy to the owner not less than three (3) full days before the date of hearing or, if the owner cannot be located, by sending a true copy by certified mail to the last known address of the owner. If the owner is a nonresident of the state, service may be made upon the secretary of state as provided in Section 403 of the Michigan Vehicle Code, Public Act No. 300 of 1949, as amended, being MCL 257.403. If the court determines upon the hearing of the order to show cause, from confident and relevant evidence, that at the time of the commission of the offense the motor vehicle was being driven by the person less than twenty one (21) years of age with the expressed or implied consent or knowledge of the owner, and that the use of the motor vehicle is not needed by the owner in the direct pursuit of the owner's employment or the actual operation of the owner's business, the court shall order the impounding of the vehicle for a period to be determined by the court, of not less than fifteen (15) days nor more than thirty (30) days. The court's order authorizing impounding of the vehicle shall authorize a law enforcement officer to take possession without other process of the motor vehicle wherever located and to store the vehicle in a public or private garage at the expense and risk of the owner of the vehicle. Appeal shall lie from the order to the circuit court of the county and the provisions governing the taking of appeals from judgments for damages shall be applicable to the appeal. This section shall not prevent a bona fide lien holder from exercising rights from under a lien.~~

(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 ~~person less than twenty one (21) years of age~~ minor has consumed alcoholic liquor or has any bodily alcohol content may ~~require 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

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~~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. A legal presumption shall be made by the court that a person less than twenty-one (21) years of age minor has consumed or possessed alcoholic liquor if a preliminary chemical breath test or other acceptable blood alcohol test indicates the person's blood contained .02% or more by weight of alcohol. A person less than twenty-one (21) years of age who refuses to submit to a preliminary chemical breath test analysis as required in this subsection 3-2(c) is responsible for a civil infraction.~~

- (d) ~~A person who knowingly transfer title to a motor vehicle for the purpose of avoiding section 3-2(b)(5) is guilty of a misdemeanor. 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 ~~person less than twenty-one (21) years of age~~ 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 ~~by under~~ the Michigan Liquor Control ~~Act~~ 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 ~~twenty-one (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 ~~twenty-one (21)~~ years of age of sacramental wine in connection with religious services at a church, synagogue or temple is not prohibited by ~~this subsection (a)-3-2.~~
- (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.

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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 . It shall be unlawful for any person to furnish fraudulent identification to a person less than twenty-one (21) years of age, or for a person less than twenty-one (21) years of age to use fraudulent identification to purchase alcoholic liquor. A person convicted of a violation of this section shall be punished by a fine of not more five hundred dollars (\$500.00) and costs of prosecution or by imprisonment for not more than ninety (90) days or by both such fine, costs and imprisonment in the discretion of the court. Additionally, the court shall order the secretary of state to suspend, pursuant to Section 319(5) of Public Act No. 300 of 1949, as amended, being MCL 257.319, for a period of ninety (90) days, the operator or chauffeur license of a person who is convicted of furnishing or using fraudulent identification in violation of this subsection and the operator or chauffeur license of that person shall be surrendered to the court. The court shall immediately forward the surrendered license and an abstract of conviction to the secretary of state. A suspension ordered under this subsection shall be in addition to any other suspension of the person's operator's or chauffeur license.

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 10 days after adoption by the City Council and after publication as provided by the Charter of the City of Farmington.

Ayes:
Nayes:
Abstentions:
Absent:

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 ____ day of _____, 2017, the original of which is on file in my office.

SUSAN K. HALBERSTADT, City Clerk
City of Farmington

Adopted:
Published:
Effective: