

**CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2017-005**

**ALCOHOL POSSESSION, PURCHASE, AND CONSUMPTION BY MINORS
ORDINANCE AMENDMENT**

An Ordinance to amend the Waterford Charter Township Code regarding possession, purchase, and consumption of alcohol by minors to conform to changes in state law.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Section 11-384 in Article IX, Offenses Involving Minors, of Chapter 11, Offenses, of the Waterford Charter Township Code is hereby amended to read as follows:

Sec. 11-384. Alcohol possession, purchase, and consumption by minors; Civil Infraction - Misdemeanor.

- (a) A minor shall not 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 purposes of this section, a person under the age of 21 is deemed a "minor." A minor who violates this subsection is responsible for a civil infraction or guilty of a misdemeanor punishable by the fines and sanctions set forth in this section.
- (1) For the first violation of this subsection (a), MCL 436.1703(1), or other local ordinance substantially corresponding to that statute the minor is responsible for a civil infraction, shall be fined not more than one hundred dollars (\$100.00), and shall be subject to the court orders described in subsection (a)(4). A minor may be found responsible or admit responsibility only once under this subsection (a)(1), MCL 436.1703(1)(a), or other local ordinance substantially corresponding to that statute.
 - (2) If a violation of this 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 (a)(6), 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 \$200.00, or both, and the court orders described in subsection (a)(4). A minor who pleads guilty, or admits in a juvenile delinquency proceeding to a violation of this subsection (a)(2), may request deferral of proceedings and placement on probation under subsection (c).
 - (3) If a violation of this 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 (a)(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 has 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 \$500.00, or both, as applicable, and the court orders described in subsection (a)(4).

- (4) The court may order a minor that is responsible for or guilty of a violation under this subsection (a) to: (i) participate in substance use disorder services as defined in MCL 333.6230, and designated by the administrator of the office of substance abuse services, (ii) perform community service, and (iii) 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), all of which shall be at the minor's own expense.
 - (5) A minor that is subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsections (a)(2) or (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).
 - (6) For purposes of subsections (a)(2) and (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. This subsection (a) or MCL 436.1703(1).
 - 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 while 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.)
- (b) A person who furnishes fraudulent identification to a minor or, notwithstanding subsection (a), a minor 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.
- (c) If a minor pleads guilty, or admits in a juvenile delinquency proceeding to a violation of subsection (a)(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).

- (d) A peace 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 a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. A peace officer may initiate 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 civil infraction or criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.
- (e) This section does not prohibit a minor from possessing 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, by the Liquor Control Commission, or by an agent of that Commission, if the alcoholic liquor is not possessed for his or for personal consumption.
- (f) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary 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 requirement of the course.
- (g) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this section.
- (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 Township prosecutor's office as part of an employer-sponsored internal enforcement action or under the direction of the state police, Liquor Control Commission, or Police Chief as part of an enforcement action.
- (i) In a civil infraction proceeding or criminal prosecution for the violation of subsection (a) concerning a minor having any bodily alcohol 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 a part of a generally recognized religious service or ceremony.

Section 2 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 4 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on October 10, 2017.

CHARTER TOWNSHIP OF WATERFORD

Date

By: _____
Sue Camilleri, Township Clerk