

NOTICE OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CITY OF MORENCI CODE OF ORDINANCES (Posted 1/11/2018)

The Morenci City Council will hold a public hearing on January 22, 2018, at the City of Morenci Offices, 118 Orchard Street, Morenci, MI 49256, at 7:30 p.m., local time, to consider an amendment (proposed Ordinance 18-336) to Chapter 16 of the Morenci Code of Ordinances as it pertains to a charge of "Minor in Possession" to be consistent with the laws within the State of Michigan.

Copies of the amendment are available for inspection at the office of the City Administrator / Clerk, 118 Orchard Street, Morenci, MI 49256, during normal City business hours, 8:00 a.m. to 6:00 p.m., Monday through Thursday, excluding City holidays. A copy of the proposed ordinance is also available at www.CityofMorenci.org. Written comments concerning the proposed amendment may be submitted to the City Administrator / Clerk by first class mail or in person up to the meeting time.

Amendment to Section 14-317 of the City Code

An ordinance to amend Section 14-317 of the City Code of the City of Morenci to establish regulate the possession or consumption of alcoholic liquor by underage persons in the City of Morenci and to establish penalties for violations.

CITY OF MORENCI, LENAWEЕ COUNTY, MICHIGAN, HEREBY ORDAINS:

Section 1. Amendment.

Section 14-317 of the City of Morenci municipal code is amended in its entirety to read as follows:

Sec. 14-317 - Possession or consumption of alcoholic liquor by underage persons; false identification.

modified

- (a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- (1) Alcoholic beverage means an alcoholic liquor as defined in section 105 of Public Act No. 58 of 1988 (MCL 436.1105).
 - (2) Commission means the state liquor control commission.
 - (3) Minor means a person who is less than 21 years of age.
 - (4) Any bodily alcohol content means either an alcohol content of 0.02 grams or more per milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine; or any presence of alcohol within a person's body resulting from consumption of alcoholic liquor, other than consumption as part of a generally recognized religious service or ceremony.
 - (5) Emergency medical services personnel means that term as defined in section 20904 of the Public Health Code, 1978 P.A. 368, MCL 333.20904.
 - (6) Health facility or agency means that term as defined in section 20106 of the Public Health Code, 1978 P.A. 368, MCL 333.20106.

- (b) **Purchase, consumption and possession restricted.** A minor shall not purchase or attempt to purchase an alcoholic beverage, consume or attempt to consume an alcoholic beverage, or possess or attempt to possess an alcoholic beverage, except as provided in this section. A minor who violates this subsection is responsible for a civil infraction or guilty of a misdemeanor as follows:
- (1) For the first violation, the minor is responsible for a civil infraction and shall be fined not more than \$100.00. The court may order a minor under this subdivision to participate in substance abuse disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d). A minor may be found responsible or admit responsibility only once under this section.
 - (2) If a violation of subsection (b) occurs after one prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision 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. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d).
 - (3) If a violation of this subsection occurs after two or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision 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 \$500.00, or both, as applicable. A court may order a minor under this subdivision to participate in substance use

disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d).

- (c) **Fraudulent identification.** A person who furnishes fraudulent identification to a minor or, notwithstanding subsection (b) of this section, a minor who uses fraudulent identification to purchase an alcoholic beverage, is guilty of a misdemeanor.
- (d) **Screening and assessment.** The court may order the person convicted of violating subsection (b) of this section to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the Public Health Code (MCL 333.6103) in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.
- (e) **Preliminary chemical breath analysis.** A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.
- (f) **Notification of parent, custodian and guardian.** A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.) allegedly consumed, possessed, purchased or attempted to consume, possess or purchase an alcoholic beverage in violation of subsection (b) of this section, shall notify the parent, custodian or guardian of the minor as to the nature of the violation if the name of a parent, guardian or custodian is reasonably 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 (b) of this section is less than 18 years of age and not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.). The notice may be made by any means reasonably 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 (b) of this section, his parents or legal guardian shall be notified immediately as provided in this subsection.

- (g) **Possession during regular working hours.** This section does not prohibit a minor from possessing an alcoholic beverage during regular working hours and in the course of his employment if employed by a person licensed by Public Act No. 58 of 1998 (MCL 436.1101 et seq.), by the commission or by an agent of the commission, if the alcoholic beverage is not possessed for his personal consumption.
- (h) **Consumption for educational purposes.** The consumption of an alcoholic beverage by a minor 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 requirement of the course.
- (i) **Consumption of sacramental wine.** 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.
- (j) **Undercover operations.** Subsection (b) of this section does not apply to a minor who participates in either or both of the following:
 - (1) An undercover operation in which the minor purchases or receives an alcoholic beverage under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.
 - (2) An undercover operation in which the minor purchases or receives an alcoholic beverage under the direction of the state police, the commission or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of an alcoholic beverage by the minor was not under the direction of the state police, the commission or the local police agency and was not part of the undercover operation.
- (k) **Voluntary treatment.** The following individuals are not considered to be in violation of subsection (b):
 - (1) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of

the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.

- (2) A minor who accompanies an individual who meets both of the following criteria:
 - (i) Has consumed alcoholic liquor.
 - (ii) Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.
 - (3) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.
- (l) **Affirmative defense.** In a prosecution for a violation of this section, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

Section 2. Repeal of Conflicting Provisions.

All other City ordinances, City Council resolutions, and parts thereof that conflict with provisions of this Ordinance are hereby repealed and shall be of no further force or effect.

Section 3. Severability.

All sections, terms, provisions or clauses of this Ordinance shall be deemed independent and severable. Should a court of competent jurisdiction hold any section, term, provision or clause void or invalid, all remaining sections, terms, provisions and clauses not held void or invalid shall continue in full force and effect.

Section 4. Publication and Effective Date.

Publication of this ordinance shall be made by causing a true copy thereof to be inserted once in the State Line Observer, a newspaper circulating within the City of Morenci. This ordinance shall take effect ten (10) days after the ordinance is published.

YEAS:

NAYS:

ABSENT:

Ordinance declared adopted on _____, 2018.

Jeffrey D. Bell, Mayor
City of Morenci

CERTIFICATION OF ADOPTION AND PUBLICATION

I, Michael S. Sessions, the City Clerk, certify that the foregoing ordinance was properly enacted by the City Council of the City of Morenci, Lenawee County, Michigan on _____, 2018 and that it was published in the State Line Observer on _____, 2018.

Michael S. Sessions, City Clerk
City of Morenci