

**STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF BLOOMFIELD**

ORDINANCE NO. 648

AN ORDINANCE TO AMEND CHAPTER 22 OFFENSES, ARTICLE VIII OFFENSES RELATED TO UNDERAGE PERSONS, DIVISION 4 – ALCOHOLIC LIQUOR, SEC. 22-370, PERSONS UNDER 21 YEARS OF AGE POSSESSING OR CONSUMING ALCOHOL, OR HAVING ANY BODILY ALCOHOL CONTENT

THE CHARTER TOWNSHIP OF BLOOMFIELD HEREBY ORDAINS:

Section 1

Sec. 22-370. - Persons under 21 years of age possessing or consuming alcohol, or having any bodily alcohol content.

- (a) A person under 21 years of age 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. A person under 21 years of age who violates this subsection is responsible for a municipal civil infraction or guilty of a misdemeanor punishable by the following fines and sanctions:
 - (1) For the first violation of subsection (a), the person under 21 years of age is responsible for a municipal civil infraction and shall be fined not more than \$100.00. The court may order a person under 21 years of age who commits a first violation to participate in substance use disorder services, to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (e) of this section. A person under 21 years of age may be found responsible or admit responsibility only once under this subparagraph, under a similar ordinance for another community, or under the corresponding state law provision found in MCL 436.1703, as amended;
 - (2) If a violation of subsection (a) occurs after one prior judgment, the person under 21 years of age is guilty of a misdemeanor. A misdemeanor under this subparagraph is punishable by imprisonment for not more than 30 days if the court finds that the person under 21 years of age 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 \$200.00, or both. Further, under this subparagraph, the court may order the person under 21 years of age having one prior judgment to participate in substance use disorder services, to perform community service and to

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undergo substance abuse screening and assessment at his or her own expense as described in subsection (e) of this section; and

- (3) If a violation of subsection (a) occurs after two or more prior judgments, the person under 21 years of age is guilty of a misdemeanor. A misdemeanor under this subsection is punishable by imprisonment for not more than 60 days, if the court finds that the person under 21 years of age 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 \$500.00, or both. Further, under this subsection, the court may order the person under 21 years of age having two or more prior judgments to participate in substance use disorder services, to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (e) of this section.
- (b) Former subsection (b) unchanged.
- (c) When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of subsection (a)(2), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding, with the consent of the accused may defer further proceedings and place the individual on probation. The terms and conditions of probation while on deferral status shall include, but are not limited to, the sanctions set forth in subsection (a)(3) and payment of costs. Upon violation of a term or condition of probation while on deferral status or upon a finding that the individual is utilizing this subsection in another court, or a deferral status under the ordinances of another municipality, under MCL 436.1703(3), or under the laws of another state, the court may enter an adjudication of guilt or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation while on a deferral status, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this subsection is without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. An individual may obtain only one discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the

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discharge and dismissal under this subsection. This record shall be furnished to any of the following:

- (c)(1)-(2) unchanged.
- (d) A misdemeanor violation of subsection (a) successfully deferred, discharged and dismissed under subsection (c), a misdemeanor violation under state law, MCL 436.1703, that is successfully deferred, discharged and dismissed under MCL 436.1703(3), or a misdemeanor violation under another municipality or state that is similar to a misdemeanor violation found under MCL 436.1703 that was deferred, discharged and dismissed by a municipal ordinance of another municipality or state, is considered a prior judgment for the purposes of subsection (a)(3).
- (e) The court may order an individual found responsible for or convicted of violating subsection (a) of this section to undergo substance abuse screening and assessment to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. The court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (a) to submit to random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a person under 18 years of age who is placed on probation for a violation of subsection (a) may request a random or regular preliminary chemical breath analysis as part of probation.
- (f) [insert language that was formerly subsection (e)] unchanged.
- (g) A peace officer who has reasonable cause to believe a person under 21 years of age has consumed alcoholic liquor or has any bodily alcohol content may request the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. If the person under 21 years of age 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. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a municipal civil infraction proceeding or a criminal prosecution to determine whether the person under 21 years of age has consumed or possessed alcoholic liquor or had any bodily alcohol content.
- (h) [insert language that was formerly subsection (g)] unchanged.
- (i) [insert language that was formerly subsection (h)] unchanged.

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- (j) The following individuals are not to be considered in violation of subsection (a):
 - (1) A person under 21 years of age 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 person under 21 years of age.
 - (2) A person under 21 years of age who accompanies an individual 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 person under 21 years of age.
 - (3) A person under 21 years of age 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.
- (k) If a person under 18 years of age who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (j), the health facility or agency shall notify the parent or parents, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.
- (l) [insert language that was formerly subsection (i)] unchanged.
- (m) [insert language that was formerly subsection (j)] unchanged.
- (n) [insert language that was formerly subsection (k)] unchanged.
- (o) [insert language that was formerly subsection (l)] unchanged.
 - (o)(1)-(2) [insert language that was formerly subsection (l)(1)-(2)] unchanged.
- (p) [insert language that was formerly subsection (m)] unchanged.
- (q) [insert language that was formerly subsection (n)] unchanged.

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- (r) As used in this section:
- (1) “Any bodily alcohol content” means either of the following:
 - a) an alcohol content of 0.02 grams or more per 100 milliliters of blood, 210 liters of breath, or per 67 milliliters of urine, or
 - b) 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.
 - (2) “Emergency medical services personnel” means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.
 - (3) “Health facility or agency” means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.
 - (4) “Prior judgment” means a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
 - a) This section, section 701, or 707 of the Michigan liquor control code of 1998, 1998 PA 58 – Minor in possession of alcohol, MCL 436.1703; selling/furnishing alcohol to a minor, MCL 436.1701; or violations for selling, serving or furnishing alcohol, MCL 436.1707.
 - b) Sections 624a, 624b, or 625 of the Michigan vehicle code, 1949 PA 300 – Open intoxicants in a motor vehicle, MCL 257.624a; possession of alcohol by a minor in a motor vehicle, MCL 257.624b; or operating while intoxicated or impaired, MCL 257.625.
 - c) Sections 80176, 81134, or 82127 of the natural resources and environmental protection act, 1994 PA 451 – OWI in watercraft, MCL 324.80176; OWI on ORV, MCL 324.81134; or OWI on a snowmobile, MCL 324.82127.

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- d) Section 167a or 237 of the Michigan penal code, 1939 PA 328 – Hunting while intoxicated, MCL 750.167a; or possession of a firearm while intoxicated, MCL 750.237.

Section 2

All ordinances or parts of ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

Section 3

Should any section, subparagraph, 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

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 5

The provisions of this Ordinance shall take effect on January 1, 2018.

This Ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Bloomfield at a meeting thereof duly called and held on the 27th day of November 2017, and ordered to be given publication in the manner prescribed by the Charter Township of Bloomfield.

CERTIFICATION

I hereby certify that the foregoing Ordinance was adopted by the Board of Trustees of the Charter Township of Bloomfield at a meeting held on November 27, 2017, and that the original of this Ordinance is on file in my office.

Janet Roncelli, MMC
Township Clerk

Introduced: November 13, 2017
Published: November 19, 2017
Adopted: November 27, 2017
Published: December 3, 2017