

**CITY COMMISSION  
CITY OF MOUNT PLEASANT**

**ORDINANCE NO. 1032**

**AN ORDINANCE TO AMEND TITLE XIII, CHAPTER 132, SECTION(S)  
132.03, 132.04 AND 132.06 OF THE MOUNT PLEASANT CITY CODE  
REGARDING THE PURCHASE, CONSUMPTION, AND POSSESSION  
OF ALCOHOLIC BEVERAGES BY MINORS, FURNISHING OR USING  
FRAUDULENT IDENTIFICATION, AND LICENSE SANCTIONS, AND TO  
REPEAL TITLE XIII, CHAPTER 132 SECTION 132.07 OF THE MOUNT  
PLEASANT CITY CODE REGARDING PRELIMINARY BREATH TESTS.**

The City of Mount Pleasant Ordains:

Section 1. Amendment. Title XIII, Chapter 132, Section 132.03 of the Mount Pleasant City Code is amended to read as follows:

**§ 132.03. PURCHASE, CONSUMPTION, AND POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS PROHIBITED.**

(A) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in subsection (B).

(B) This section does not prohibit a person less than 21 years of age from engaging in any of the following:

(1) Possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed to sell or transport alcoholic liquor, if the alcoholic liquor is not possessed for his or her personal consumption.

(2) 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 act if the purpose of the consumption is solely educational and is a requirement of the course.

(3) 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.

(4) Possessing alcoholic liquor in an undercover operation under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer sponsored internal enforcement action.

(5) An undercover operation in which the minor purchases or receives alcoholic liquor 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 alcoholic liquor 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.

(C) The penalty for a violation of this section shall be as follows:

(1) For the first violation, a person shall be guilty of a civil infraction, punishable by a fine of not more than \$100. The court may also order community service, participation 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, and substance abuse screening and assessment at his or her own expense as described in subsection (C)(4) below. A person may be found responsible or admit responsibility only once under this subsection.

(2) If a violation of subsection (A) occurs after 1 prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subsection 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, to undergo substance abuse screening and assessment at his or her own expense as described in subsection (C)(4) below, and sanctions against his or her operator's or chauffeur's license as provided in section § 132.06.

(3) If a violation of subsection (A) occurs after 2 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 subsection 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, to undergo substance abuse screening and assessment at his or her own expense as described in subsection (C)(4) below, and sanctions against his or her operator's or chauffeur's license as provided in section § 132.06.

(4) A court may order an individual found responsible for, or convicted of, violating this section to undergo screening and assessment by a person or agency as designated by the department-designated community mental health entity as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of this section to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA

293, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(5) An individual who pleads guilty to a misdemeanor violation of subsection (C)(2), or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (C)(2), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense, and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions in subsection (C)(3), payment of the costs including minimum state cost as provided for in section 18m of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, 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. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this subsection shall be 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 1 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 and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(i) To a court, prosecutor, or police agency on request for the purpose of determining if an individual has already utilized this subsection.

(ii) To the department of corrections, a prosecutor, or a law enforcement agency, on the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

(a) At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.

(b) The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(6) A misdemeanor violation of subsection (C) successfully deferred, discharged, and dismissed under subsection (C)(5) is considered a prior judgment for the purposes of subsection (C)(3).

(D) The following individuals are not considered to be in violation of subsection (A):

(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:

(a) Has consumed alcoholic liquor.

(b) 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.

(E) If a minor who is less than 18 years of age and 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 (D), 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.

(F) In a 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.

(G) As used in this section:

(1) "Alcoholic liquor" means any spirituous, vinous, malt, or fermented liquor, powder, beer, wine, spirits, alcoholic liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing one-half of one per cent ( $\frac{1}{2}$  of 1%) or more of alcohol by volume, which are fit for use for food purposes or beverage purposes as defined and classified by the liquor control commission according to alcoholic content as belonging to one of the varieties defined in MCL Chapter 436.

(2) "Any bodily alcohol content" means either of the following:

(a) 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.

(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.

(3) "Emergency medical services personnel" means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(4) "Health facility or agency" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(5) "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 or MCL 436.1701, 436.1703, or 436.1707.

(b) Section 624a, 624b, or 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.624b, and 257.625.

(c) Section 80176, 81134, or 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, and 324.82127.

(d) Section 167a or 237 of the Michigan penal code, 1939 PA 328, MCL 750.167a and 750.237.

(6) "Sacramental wine" means wine containing not more than 24% percent of alcohol by volume which is used for sacramental purposes.

Section 2. Amendment. Title XIII, Chapter 132, Section 132.04 of the Mount Pleasant City Code is amended to read as follows:

**§ 132.04. FURNISHING OR USING FRAUDULENT IDENTIFICATION.**

(A) A person who furnishes fraudulent identification to a person less than 21 years of age is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100 or both.

(B) A person who uses fraudulent identification to purchase alcoholic liquor, or to enter a business where alcoholic liquor is sold, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both.

(C) A person convicted of a violation of this section shall also be subject to sanctions against his or her operator's or chauffeur's license as provided in section §132.06.

Section 3. Amendment. Title XIII, Chapter 132, Section 132.06 of the Mount Pleasant City Code is amended to read as follows:

**§ 132.06. LICENSE SANCTIONS.**

Upon the entry of a conviction or a probate court disposition for a second or subsequent violation of § 132.03, or any state or local law substantially

corresponding to § 132.03, or a violation of § 132.04, the court shall order that the secretary of state suspend or deny the operator's or chauffeur's license of such individual convicted of a second or subsequent violation of § 132.03, or state or local law substantially corresponding to § 132.03, or violation of § 132.04, as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

Section 4. Repeal. Title XIII, Chapter 132, Section 132.07 of the Mount Pleasant City Code regarding preliminary breath tests is hereby repealed in its entirety.

Section 5. Publication and Effective Date. The City Clerk shall cause to be published a notice of adoption of this ordinance within 10 days of the date of its adoption. This ordinance shall take effect 30 days after its adoption.

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Allison Lents, Mayor

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Jeremy Howard, City Clerk

Introduced: October 23, 2017  
Adopted: January 8, 2018  
Published: January 15, 2018  
Effective: February 7, 2018