

**STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF ALLEN PARK**

PROPOSED ORDINANCE #06-2017

AN ORDINANCE OF THE CITY OF ALLEN PARK CODE OF ORDINANCES; AMENDING CHAPTER 26, “OFFENSES”, ARTICLE VIII, “OFFENSES AFFECTING UNDERAGE PERSONS”, DIVISION 3 “ALCOHOLIC LIQUORS” BY THE REPEAL AND READOPTION OF SECTION 26-497 “POSSESSION BY PERSON UNDER 21 YEARS OF AGE” TO MAKE THE SECTION CONSISTENT WITH STATE LAW.

The City of Allen Park Ordains:

SECTION 1. Amendment to Code.

That Section 26-497, Possession by person under 21 years of age, under Chapter 26 “Offenses”, Article VIII “Offenses Affecting Underage Persons”, Division 3 “Alcoholic Liquors” be repealed and readopted to hereafter read as follows:

Chapter 26 “Offenses”
Article VIII “Offenses Affecting Underage Persons”
Division 3 “Alcoholic Liquors”

Section 26-497. – Possession by person under 21 years of age.

- (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, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided for below in this section.
- (b) A person 16 years of age or younger who violates this section is guilty of a civil infraction, and is subject to the penalties prescribed in Section 1-14. A person between the ages of 17 and less than 21 years of age who violates this section is responsible for a civil infraction or guilty of a misdemeanor as follows, and punishable by the following fines and sanctions, and is not subject to the penalties prescribed in Section 1-14:
 - (1) For the first violation, the minor is responsible for a civil infraction and shall be fined not more than \$100.00. 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, 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 subdivision.

(2) If a violation of this subsection occurs after 1 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, 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 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, 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 services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d).

(4) A misdemeanor violation of section (b) successfully deferred, discharged, and dismissed under subsection (c) is considered a prior judgment for the purposes of subsection (b) (3).

(c) Unchanged.

(d) Unchanged.

(e) 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 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 civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(f) Unchanged.

(g) Unchanged.

(h) Unchanged.

(i) Unchanged.

SECTION 2. Repeal. All ordinances or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. Saving Clause.

Nothing in this Ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquiring or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 4. Severability.

Should any word, sentence, phrase or any portion of this Ordinance be deemed invalid by any court of competent jurisdiction or by any state agency having authority to do so for any reason whatsoever, such holdings shall be construed and limited to such work, sentence, phrase, or any portion of the Ordinance deemed invalid and shall not be construed as affecting the validity of any of the remaining words, sentences, phrases or portions of this Ordinance.

SECTION 5. Publication.

The Clerk for the City of Allen Park shall cause this ordinance to be published in the manner required by law.

SECTION 6. Adoption.

This Ordinance is hereby declared to have been adopted by the City Council of the City of Allen Park, County of Wayne, State of Michigan, at a regular meeting, called and held on the ___ day of ___, 2017.

WILLIAM MATAKAS, Mayor
City of Allen Park

MICHAEL I. MIZZI, City Clerk
City of Allen Park