

**CITY OF ALBION
ORDINANCE #2013-02**

**AN ORDINANCE TO AMEND CITY ORDINANCE 58-226 (MINORS IN
POSSESSION OF ALCOHOL).**

Purpose and Finding:

To amend City Ordinance 58-226 to make it constitutionally compliant and to mirror existing Michigan statutes. The current Albion ordinance governing minors in possession of alcohol deviates from the state statute in eliminating the possibility of jail sentences for repeat offenders. MCL 436.1703 provides a maximum 30 day incarceration for a second offense upon a finding of a violation of probation terms and a 60 day incarceration for a third offense upon a finding of a violation of probation terms. The Albion ordinance should be modified to include those penalties to ensure uniformity in enforcement of the law, to prevent and deter repeat violations of controlled substance laws, and to allow the Court to deter violations of terms of probation through the use of incarceration. Additionally, the State of Michigan recently enacted Public Act 125 of 2012 which added provisions that exempted minors from prosecution of the offense of Minor in Possession of Alcohol in certain circumstances, namely when legitimately seeking medical treatment or when aiding another in seeking medical treatment. Those changes have been integrated. Furthermore, Section (e) had been previously deleted due to the Michigan Court of Appeals ruling in *People v Chowdhury*, 285 Mich App 509, 775NW2d 845 (2009), which declared part of that section unconstitutional. The constitutional sections are being reintroduced and reintegrated as it relates to the use of Preliminary Breath Analysis. The Albion City Ordinance governing Minors in Possession of Alcohol must be amended to reflect the aforementioned changes in statutory law to remain constitutionally compliant and should be modified to mirror the current state penalties.

THE CITY OF ALBION ORDAINS:

Sec. 58-226. Purchase, consumption, or possession of alcoholic liquor by minor; attempt; violation; fines; sanctions; furnishing fraudulent identification to minor; prior violation; screening and assessment; chemical breath analysis; notice to parent, custodian, or guardian; exceptions; definitions.

(a) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section. A minor who violates this section is guilty of a misdemeanor punishable by the following fines and sanctions:

(1) For the first violation a fine of not more than \$100.00, and may

be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (c).

(2) For a violation of this section following a prior conviction or juvenile adjudication for a violation of this section by imprisonment of not more than 30 days but only 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 abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator 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 (c).

(3) For a violation of this section following two or more prior convictions or juvenile adjudications for a violation of this section by imprisonment of not more than 60 days but only 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. A court may order a minor under this subdivision to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator 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 (c).

(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 \$100.00, or both.

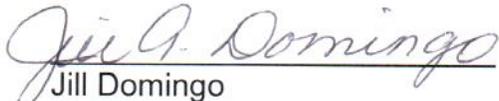
(c) The court may order the person convicted of violating subsection (a) to undergo screening and assessment by a person or agency as

This Ordinance shall take effect after publication in the Albion Recorder and on March 18, 2013.

First Reading:

February 4, 2013

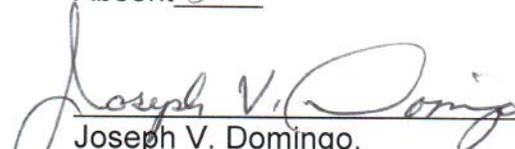
Ayes 7
Nays 0
Absent 0


Jill Domingo
City Clerk

Second Reading & Adoption:

February 18, 2013

Ayes 5
Nays 0
Absent 2


Joseph V. Domingo,
Mayor