ORDINANCE 2012-21

AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, RELATING TO UNDERAGE GATHERINGS; CREATING A NEW CHAPTER UNDER TITLE 9 OF THE EATONVILLE MUNICIPAL CODE; PROHIBITING UNDERAGE GATHERINGS AND AUTHORIZING ABATEMENT OF THE SAME; AUTHORIZING IMPOSITION OF MONETARY CIVIL PENALTIES;PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the National Academies Institute of Medicine's seminal report entitled Reducing Underage Drinking: a Collective Responsibility, released in 2003, documents the wide ranging and devastating consequences of adolescent and young adult consumption of alcoholic beverages, estimating the annual social cost of underage drinking to be at least $53 billion; and

WHEREAS, according to data from the 2005 Monitoring the Future (MTF) study, an annual survey of U.S. youth, three-fourths of 12th graders, more than two-thirds of 10th graders, and about two in every five 8th graders have consumed alcohol; and, when youth drink they tend to drink intensively, often consuming four to five drinks at one time; and

WHEREAS, MTF data show that 11 percent of 8th graders, 22 percent of 10th graders, and 29 percent of 12th graders had engaged in heavy episodic (or "binge") drinking within the past two weeks; and

WHEREAS, according to the National Research Council, "Executive Summary" *Reducing Underage Drinking: A Collective Responsibility*, Washington D.C. The National Academies Press, 2004 (the "Executive Summary"), "[a]lcohol use by young people is dangerous, not only because of the risks associated with acute impairment, but also because of the threat to their long-term development and well-being. Traffic crashes are perhaps the most visible of these dangers, with alcohol being implicated in nearly one-third of youth traffic fatalities"; and,

WHEREAS, in response to a congressional request in the HHS fiscal 2002 appropriations act, the Board on Children, Youth, and Families of the National Research Council and the Institute of Medicine formed the Committee on Developing a Strategy to Reduce and Prevent Underage Drinking; and

WHEREAS, the committee reached the fundamental conclusion that underage drinking cannot be successfully addressed by focusing on youth alone; that youth drink within the context of a society in which alcohol use is normative behavior and images about alcohol are pervasive; that youth usually obtain alcohol—either directly or indirectly—from adults; and that efforts to reduce underage drinking, therefore, need to focus on adults and must engage the society at large; and

WHEREAS, in 2006, the Congress passed, and the President signed, the Sober Truth on Preventing (STOP) Underage Drinking Act, Public Law 109-422, which Act, among other provisions, formally established the Interagency Coordinating Committee on the Prevention of

Underage Drinking (ICCPUD) and called for an annual Report to Congress to be submitted by the Secretary of the Department of Health and Human Services (HHS); and

WHEREAS, in the May 2011 annual report of the ICCPUD to Congress on the Prevention and Reduction of Underage Drinking, the ICCPUD found that, underage drinking and associated problems have profound negative consequences for underage drinkers, their families, their communities, and society as a whole; underage drinking contributes to a wide range of costly health and social problems, including motor vehicle crashes (the greatest single mortality risk for underage drinkers); suicide; interpersonal violence (e.g. homicides, assaults, rapes); unintentional injuries such as burns, falls, and drowning; brain impairment; alcohol dependence; risky sexual activity; academic problems; and alcohol and drug poisoning; and, that on average, alcohol is a factor in the deaths of approximately 4,700 youths in the United States per year; and

WHEREAS, the ICCPUD also found that, the social and physical settings for underage drinking affect patterns of alcohol consumption; that for young people, the usual number of drinks consumed is substantially higher when two or more other people are present than when drinking with one person or alone; that drinking in the presence of others is by far the most common setting for young drinkers; that, over 80 percent of youth who had consumed alcohol in the past month reported doing so when at least two others were present; and, concluded that, most young people are drinking in social contexts that appear to promote heavy consumption and where people other than the drinker maybe harmed by the drinker's behavior; and

WHEREAS, the ICCPUD also found that, although underage alcohol use has proven resistant to change, there have been recent increases in age at first use and reduction of binge drinking; that States are increasingly adopting policies and practices to alter individual and environmental factors that contribute to underage drinking and its consequences; and, that these State initiatives, combined with ongoing Federal initiatives, promise meaningful reductions in underage drinking and its consequences and a change in norms that support underage drinking in American communities; and

WHEREAS, social gatherings, in private residences or settings, of three or more underage persons engaged in, or in the presence of, underage drinking is more likely to contribute to underage drinking and the harms associated with underage drinking; and

WHEREAS, the occurrence of gatherings of three or more underage persons on private property where alcoholic beverages are served to, or consumed by, underage persons is harmful to the underage persons themselves, is a threat to public health, safety, quiet enjoyment of residential property and general welfare, and constitutes a public nuisance; and

WHEREAS, persons responsible for the occurrence of such gatherings on private property over which they have possession or control have a duty to ensure that alcoholic beverages are not served to, or consumed by, underage persons at these gatherings; and

WHEREAS, persons in possession or control of property have a duty to prevent the occurrence of loud or unruly parties, including those where alcoholic beverages are served to, or consumed by underage persons, on private property; and

WHEREAS, law enforcement, fire or other emergency responders in general often need to respond multiple times to disperse underage drinking parties, resulting in a disproportionate expenditure of the public safety resources on these parties, delaying police responses to regular and emergency calls, and reducing police calls to the rest of a community; and

WHERREAS, as a primary strategy for deterring underage drinking parties on private property, the proposed ordinance imposes a civil monetary against social hosts (including tenants) and/or land owners or other persons in possession or control of property upon which underage gatherings occur; and

WHEREAS, the Town has the police power authority to adopt ordinances to protect the public health, safety and welfare; and

WHEREAS, based upon the foregoing, the Town Council finds that it is in the best interest of the public health, safety and welfare to enact a new Chapter of Title 9 of the Eatonville Municipal Code as set forth herein, prohibiting underage gatherings and authorizing abatement of the same and imposition of monetary penalties;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Eatonville as follows:

Section 1. A new chapter in Title 9 of the Eatonville Municipal Code, to be entitled "Underage Gatherings", is created and shall be codified as chapter 9.40 EMC.

Section 2. A new section is added to chapter 9.40 EMC, to be codified as EMC 9.40.010, and shall read as follows:

9.40.010 – Definitions.

For the purposes of this chapter, the following definitions shall apply:

A. "Alcoholic beverage" shall mean alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer that contains one-half of one percent or more of alcohol by volume; and is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

B. "Property" shall mean private property, rented residential premises, or private rented commercial spaces; including but not limited to a home, yard, garage, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.

C. "Responsible person" includes:

1. The person(s) who owns, rents, leases (lessee), or otherwise has right to control property at which an underage gathering takes place;

2. The person(s) in immediate control of property at which an underage gathering takes place; or

3. The person(s) who organizes, supervises, sponsors, conducts, allows, controls, or controls access to the underage gathering.

If the property is rented or leased, the landlord or lessor is not subject to the provisions of this chapter unless such person is a responsible person within the category of persons described under subsections (C)(2) or (3) of this definition.

D. "Underage gathering" means a party or gathering of three or more persons at a property at which alcoholic beverages are being consumed or possessed by one or more underage persons or one or more underage persons are exhibiting effects of consuming alcoholic beverages.

E. "Underage person" shall mean any person under twenty-one (21) years of age.

Section 3. A new section is added to chapter 9.40 EMC, to be codified as EMC 9.40.020, and shall read as follows:

9.40.020 – Underage gatherings prohibited.

A. An underage gathering constitutes a public nuisance, is an immediate threat to public health and safety, and is prohibited.

B. As a public nuisance, the underage gathering may be summarily abated by law enforcement by all reasonable means, singularly or in combination, including, but not limited to:

1. Issuance of a notice of civil infraction, as authorized by Chapter 7.80 RCW, and subject to a monetary penalty as set forth in this chapter;

2. Public nuisance abatement procedures as set forth in Chapter 8.08 EMC; and

3. Any other remedy provided by law.

Section 4. A new section is added to chapter 9.40 EMC, to be codified as EMC 9.40.030, and shall read as follows:

9.40.030 – Exemptions.

A. This chapter shall not apply to any location or place that is regulated by a permit or license issued by the Washington State Liquor Control Board.

B. This chapter shall not apply to underage gatherings where the only underage persons consuming alcoholic beverages are being closely supervised in person by their parent or guardian while such underage person is consuming the alcoholic beverages or exhibiting the effects of consuming alcoholic beverages.

C. This chapter does not apply to alcoholic beverages given for medicinal purposes to an underage person by a parent, guardian, physician, or dentist.

D. This chapter does not apply to alcoholic beverages given to an underage person when such alcoholic beverage is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

Section 5. A new section is added to chapter 9.40 EMC, to be codified as EMC 9.40.040, and shall read as follows:

9.40.040 Civil penalty.

Upon the occurrence of an underage gathering that constitutes a public nuisance, the responsible person or persons shall be deemed to have a committed a class 1 civil infraction and shall be subject to a fine of $250.00 plus statutory assessments. Upon identification of an underage gathering constituting a public nuisance, a notice of infraction may be issued to the responsible person or persons in accordance with chapter 7.80 RCW and EMC 1.12.020.

Section 6. A new section is added to chapter 9.40 EMC, to be codified as EMC 9.40.050, and shall read as follows:

9.40.050 Severability.

Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING: 12/10/2012
2ND READING: ___/___/2012 / 2ND READING WAIVED (EMC 2.04.009(C))

Passed by the Council of the Town of Eatonville at a regular meeting held this _____ day of _____, 2012.

_____
Ray Harper, Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney