

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE adding Chapter 10.40 to the Thurston County Code relating to underage drinking, marijuana use and providing civil infractions.**

**WHEREAS**, Thurston County Board of Commissioners, pursuant to the police powers delegated to it by RCW 36.32.120(7), has the authority to enact laws that promote the public health, safety and general welfare of its residents; and

**WHEREAS**, underage persons consuming alcoholic beverages or marijuana at gatherings held at private residences, rented residential premises, or privately rented commercial premises is harmful to the underage persons themselves and a threat to the peace, health, safety, quiet enjoyment of neighboring residents and the general welfare of the public. Underage persons who have been consuming alcoholic beverages are at greater risk of automobile accidents, suicide, physical and sexual assault; and

**WHEREAS**, persons with the means to prevent the occurrence of these types of gatherings include those that control the private property and have failed to ensure that alcoholic beverages and marijuana are not served to or consumed by underage persons at these gatherings; and

**WHEREAS**, RCW 66.44.270 makes it a gross misdemeanor for any person to knowingly permit any person under the age of twenty-one to consume alcoholic beverages on any premises under his or her control; and

**WHEREAS**, problems associated with gatherings involving underage persons drinking alcohol can be difficult to prevent and deter. Law enforcement requires additional methods to deal with underage drinking and its attendant problems. If persons are held responsible by having to pay a fine for failing to prevent underage drinking at gatherings on property they own or otherwise control, they will be more likely to supervise gatherings and to stop underage drinking at gatherings on property they own or control.

Now therefore, the Thurston County Board of Commissioners do ordain as follows:

**Section 1.** There is hereby added a new Chapter 10.40 to the Thurston County Code to read as follows:

Chapter 10.40  
UNDERAGE GATHERINGS

**Sections:**

- 10.40.010 Definitions.**
- 10.40.020 Underage gatherings prohibited.**
- 10.40.030 Civil Infractions.**
- 10.40.040 Exemptions.**

**10.40.010 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. "Marijuana" shall mean all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.
- C. "Property" shall mean private property, rented residential premises, or private rented commercial spaces; including but not limited to a home, yard, garage, apartment, 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.
- D. "Responsible person" includes:
  - 1. The person(s) who owns, rents, leases, 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 covered by this chapter unless they fall within the category of persons described under subsections (D) (2) or (3) of this definition.

- E. "Underage gathering" means a party or gathering, knowingly permitted by a "responsible person" of four or more persons at a property at which alcoholic beverages or marijuana are being consumed or possessed by one or more underage persons or one or more underage persons are exhibiting effects of consuming alcoholic beverages or marijuana.
- F. "Underage person" shall mean any person under 21 years of age.

**10.40.020 Underage gathering is unlawful.**

- A. It is unlawful for a "responsible person" to knowingly permit an "underage gathering."
- B. A "responsible person" and "underage gathering" are designated as a civil infraction and constitutes a public nuisance and is an immediate threat to public health and safety, and is prohibited.
- C. As a designated civil infraction and a public nuisance, upon identification of an underage gathering law enforcement may summarily abate the underage gathering by all reasonable means, singularly or in combination, including, but not limited to:
  - 1. Issuance of a notice of civil infraction to any or all known "responsible person", as authorized by Chapter 7.80 RCW and pursuant to TCC 10.40.030; and
  - 2. Any other remedy provided by law.

### 10.04.030 Civil Infractions

**Purpose.** Any person who violates any portion of TCC 10.40.020 may be subject to a civil infraction pursuant to Chapter 7.80 RCW. Civil infractions shall be heard and determined according to Chapter 7.80 RCW, as amended, and any applicable court rules. Pursuant to 7.80.120 RCW each person found to have committed a civil infraction shall be assessed a monetary penalty based on the class of infraction as provided in TCC 10.40.030 E. The purpose of this section is remedial. Use of the civil infraction procedure will better protect the public from the harmful effects of violations, and will aid enforcement.

- A. **Procedures.** Hearing Procedure. Civil infractions shall be heard and determined according to Chapter 7.80 RCW, as amended, and any applicable court rules.
- B. **Identification of Violators.** An enforcement officer issuing a notice of civil infraction shall take all due diligence to correctly identify the alleged violator.
- C. **Administrative Responsibilities.** The County Manager is responsible for assuring county compliance with 7.80.150 RCW. The County Manager may publicize a list of persons found committed of violations in the newspaper or other means deemed appropriate.
- D. **Recording of Civil Infractions.**
  1. Notice of civil infraction may be recorded with the Thurston County auditor against the property on which the violation took place in the following instances:
    - a. The owner of the property affected by the civil infraction has been given prior notice with an opportunity to cure the violation.
    - b. The person receiving the notice of civil infraction does not respond as required by 7.80.080 RCW.
    - c. The person receiving the notice of civil infraction fails to appear at a hearing requested under 7.80.080(3) or (4) RCW.
    - d. The person assessed a monetary penalty for the civil infraction fails to pay such penalty within the time required by law and does not appeal the penalty. If the penalty is appealed, the enforcement officer may record the notice of civil determination only if a penalty remains unpaid after a final appellate determination has been entered.
  3. The auditor shall record any notice of civil infraction submitted for recording under this section.
  4. Superseding of a Recording. The recording of a notice of civil infraction with the auditor shall be superseded with a subsequent recording when:
    - a. The civil infraction proceeding has been dismissed or decided in favor of the person to whom the notice was issued; or
    - b. Any monetary penalty assessed for the infraction has been paid and the violation has been remedied to the satisfaction of the county.

E. **Civil infractions—Class of infraction.** Civil infractions for violations of TCC 10.40.020 are Class 2 infractions. Applicable fines are set by state law.

**10.40.040 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 and Cannabis 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 consuming the alcoholic beverages and while exhibiting the effects of consuming alcoholic beverages.
- C. This chapter does not apply to alcoholic beverages or marijuana given for medicinal purposes to an underage person in accordance with RCW 69.51A.220.
- 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 2:** This ordinance shall become effective 30 days from and after its passage and publication as provided by law.

Passed by the Thurston County Board of Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_ 2017.

ADOPTED: \_\_\_\_\_

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
Thurston County, Washington

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Chair

APPROVED TO AS FORM:

JON TUNHEIM  
PROSECUTING ATTORNEY

\_\_\_\_\_  
Vice-Chair

\_\_\_\_\_  
Elizabeth Petrich  
Chief Civil Deputy Prosecuting Attorney

\_\_\_\_\_  
Commissioner