CITY OF MERCER ISLAND
ORDINANCE NO. 11C-14

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, ADOPTING MERCER ISLAND CITY CODE CHAPTER 9.21, UNDERAGE GATHERINGS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Mercer Island, pursuant to the police powers delegated to it by RCW 35A.11.020, has the authority to enact laws that promote the public health, safety and general welfare of its residents;

WHEREAS, underage persons consuming alcoholic beverages 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;

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 are not served to or consumed by underage persons at these gatherings;

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;

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 CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: **MICC Title 9 Criminal Code.** Title 9 of the Mercer Island City Code is hereby amended to adopt new Chapter 9.21 "Underage Gatherings," as follows:

Chapter 9.21
Underage Gatherings

Sections:

9.21.010 Definitions
9.21.020 Underage Gatherings Prohibited
9.21.030 Exemptions
9.21.040 Civil Penalty

9.21.010 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 contain 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, 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 ordinance unless they fall within the category of persons described under (2) or (3) herein.

D. "Underage Gathering" means a party or gathering of four 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 nineteen years of age.

9.21.020 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;

2. Public nuisance abatement procedures as set forth in Chapter 8.24 of the Mercer Island City Code; and

3. Any other remedy provided by law.

9.21.030 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 consuming the Alcoholic Beverages and while 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.

9.21.040 Civil Penalty

Upon identification of an Underage Gathering, law enforcement may issue a notice of civil infraction to any or all known Responsible Persons with a penalty of $250 for each cited Responsible Person.

Section 2: **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 3: **Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4: **Effective Date.** This Ordinance shall take effect and be in force on 30 days after its passage and publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the 5th day of December, 2011 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Jim Pearman, Mayor

ATTEST:

Allison Spietz, City Clerk

Approved as to Form:

Katie Knight, City Attorney

Date of Publication: 12/14/2011