

Falcon Heights City Council Workshop

**City Hall
2077 W Larpenteur Ave.
6:30 p.m.**

AGENDA March 3, 2010

1. Administrative Fines discussion
2. Social Host Ordinance discussion

If you have a disability and need accommodation in order to attend this meeting, please notify City Hall 48 hours in advance between the hours of 8:00 a.m. and 4:30 p.m. at 651-792-7600. We will be happy to help.



The City That Soars!

REQUEST FOR COUNCIL ACTION

Meeting Date	March 3, 2010
Agenda Item	Workshop 1
Attachment	League of Minnesota Cities Checklist and Frequently Asked Questions
Submitted By	Justin Miller, City Administrator

Item	Administrative Fines Discussion
Description	<p>One of the city council's 2010 goals was to investigate the possibility of implementing administrative fines for allowable traffic offenses. In 2009, the state legislature clarified what cities could use administrative fines for, as well as specifying the allowable fine. Attached is a brief report prepared by the League of Minnesota Cities relating to the procedures and restrictions that are in place for these offenses. The key points include:</p> <ul style="list-style-type: none"> • The following offenses are the only areas where administrative fines are allowed: <ul style="list-style-type: none"> ○ Speeding under 10 miles per hour over the speed limit ○ Stop line (not stop sign) violations ○ Various safety violations, such as broken taillights, texting while driving, failure to use lights, etc. • An appeal process, utilizing a neutral third party, must be established • The city would need to supply St. Anthony Police Department with uniform administrative traffic tickets • The fine is set at \$60. \$20 would be sent to the State of Minnesota, while the remaining \$40 stays with the city. One half of the city's portion (\$20) must go towards public safety, but must "be used to supplement but not supplant any existing law enforcement funding." In comparison, a traffic citation for speeding at 10 miles over the speed limit is \$121, with the city receiving \$20, the county receiving \$20, and the state receiving the remainder. <p>Chief John Ohl will be present at the workshop to answer any questions the city council may have and to offer insight regarding the procedures necessary to implement this program.</p>
Budget Impact	It is difficult to estimate what kind of impact this would have on the general fund without clear guidance from the city council on how diligent we would want the police department to be in regards to issuing these tickets.
Attachment(s)	League of Minnesota Cities checklist and frequently asked questions regarding administrative fines.

Action(s) Requested	No action required, but guidance on whether the council is interested in pursuing this further is requested.
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Checklist for Implementing Administrative Traffic Citations

New law authorizes exclusive use of administrative traffic citations for minor traffic offenses. This means no statutory or home rule charter city may use a different process for issuing such administrative traffic citations. A city may, however, issue other kinds of administrative citations pursuant to local ordinance for non-traffic matters such as liquor licensing ordinance violations, nuisance and animal ordinance violations, and so on. The following are the steps a city must take to issue administrative traffic citations.

_____ **1. Pass a resolution** that

- Authorizes police use of administrative traffic citations for \$60 per violation.
- Obligates the city to provide a neutral third party to hear and rule on challenges.
- Bars peace officers from issuing administrative traffic citations in violation of this law.

_____ **2. Set up an appeal process** using a neutral third-party hearing officer for those who wish to contest their administrative traffic citation. (The legislative intent is that this hearing officer be someone other than city staff or the city council.)

_____ **3. Notify the commissioner** of Public Safety that the council passed a resolution allowing police officers to issue administrative traffic citations. Send the notice by mail (See Model Letter to the Commissioner of Public Safety on page 10) or by e-mail to tamara.bohmert@state.mn.us. Keep a copy!

_____ **4. Develop an information sheet** to give to anyone who gets an administrative traffic citation describing how the person may contest it. (See Model Flyer for Administrative Traffic Citation Recipients on page 9).

_____ **5. Buy the new prescribed DPS uniform traffic citation** through the state Cooperative Purchasing Venture (CPV) program. The state has contracted with Forms & Systems of MN, located in Minnetonka. A city that wishes to purchase ticket books through the state contract must register for a free CPV membership. To learn more about CPV membership and access the CPV contract, visit www.mmd.admin.state.mn.us/process/contract/CPVContractsList.asp. (Cities may also use the vendor of their choice to create the citations using the template on page 17 of this tool kit.)

_____ **6. Track the number of administrative traffic citations issued and the money collected.** (The state auditor must collect this information from cities each year.)

_____ **7. Divide the money collected so that:**

- Two-thirds of the fine (\$40) remains with the city that issued the administrative traffic citation.
- One-third of the fine (\$20) is paid to the state commissioner of Finance.

_____ **8. Submit the state's share of the money to MN Management and Budget, Treasury Division.** (See Administrative Traffic Citation Fine Remittance to the State, on page 12).

_____ **9. Use one-half of the city's share (\$20) for law enforcement purposes.**

_____ **10. Police officers may issue an administrative traffic citation to a vehicle operator who:**

- Violates speed limits by less than 10 miles per hour.
- Fails to obey a stop line.
- Operates a vehicle with a cracked windshield or other specific equipment violation.

Note: Those with commercial driver's licenses are not eligible for administrative traffic citations nor are drivers of commercial vehicles.

New Law on Administrative Citations for Traffic Offenses: Frequently Asked Questions

1) For what types of traffic violations may the city issue administrative citations under the new law?

Cities may issue administrative citations for violations of Minn. Stat. § 169.14 where the speed of the vehicle is under 10 miles per hour in excess of the lawful speed limit. The actual speed of the vehicle must be listed on the citation, and peace officers may not reduce the recorded speed for the purposes of issuing an administrative citation.

It is important to note that Minn. Stat. § 169.14 generally prohibits speeding above the posted limit, but also prohibits: operating a vehicle at a “speed greater than is reasonable and prudent under the conditions” or without due care; failing to reduce speed when approaching or passing an authorized emergency vehicle stopped with emergency lights flashing; failing to reduce speed when approaching and crossing an intersection or railway grade crossing; failing to reduce speed when special hazards exist (such as pedestrians, other traffic, weather or highway conditions); driving slower than a posted minimum speed; and selling, offering for sale, using, or possessing any radar jammer in Minnesota. It is important to note that issuance of an administrative citation for reasons other than simple speeding under Minn. Stat. § 169.14 remains subject to the 10-mile-per-hour limit. Specifically, if the citation for failing to reduce speed in adverse weather conditions involves speeding that is greater than 10 miles per hour over the limit, the officer should not issue an administrative citation.

Cities may also issue administrative citations for stop line violations under Minn. Stat. § 169.30 and for violations of Minn. Stat. §§ 169.46 to 169.68 and Minn. Stat. §§ 169.69 to 165.75. These sections relate mainly to violations of the law on required vehicle equipment, including but not limited to: hitching a toboggan, hand sled, bicycle, or other similar device onto any motor vehicle while being used on a street; driving vehicles in an unsafe condition as to endanger any person; wearing headphones or earphones that are used in both ears while driving; texting while driving; failing to use lights while driving at night or bad weather; having broken tail/brake lights; failing to use a red flag on a projecting load; failing to use a slow moving vehicle sign; having loud mufflers and exhaust systems not in good working order; having cracked or obstructed windshields; and using unsafe or unauthorized metal studded tires.

Due to state and federal law, persons who have a commercial driver’s license or who are driving a commercial vehicle at the time of the citation may not be issued an administrative citation. These individuals must be issued a regular state criminal citation for the traffic offense.

2) Are peace officers required to issues administrative citations under the new law?

Cities are not required to issue administrative citations under the new law. The process is entirely optional. Cities that believe that administrative citations make sense for them may adopt a resolution to issue such citations. In addition, where administrative citations have been adopted, the city cannot require, by ordinance or otherwise, that peace officers issue administrative citations.. Under the new law, peace officers always have the discretion to issue an administrative citation, give a warning, or issue a state criminal ticket. In addition, cities may not set quotas that require or suggest that an officer issue a certain number of administrative citations.

- 3) **Does this new law preclude city administrative citations for non-traffic offenses?**
 The new law does not preclude the use of administrative citations for non-traffic offenses. Cities may still issue administrative citations pursuant to local ordinance for non-traffic matters such as liquor licensing ordinance violations, nuisance and animal ordinance violations, etc. However, the new law specifically lists out the traffic offenses under Minn. Stat., ch. 169 for which an administrative citation may be issued (see No. 1 above), and specifically prohibits the issuance of administrative citations for other violations of Minn. Stat., ch. 169.
- 4) **Can we just keep using our current administrative citations system for traffic offenses?**
 It is highly likely that cities that are currently issuing administrative citations for Minn. Stat., ch. 169 traffic offenses will need to cease or drastically revamp their existing citation program. The new law specifically lists out the traffic offenses under Minn. Stat., ch. 169 for which an administrative citation may be issued (see No. 1 above), and specifically prohibits the issuance of administrative citations for other violations of Minn. Stat., ch. 169. The new law also requires a city to use a new prescribed uniform citation form designed by the Commissioner of Public Safety. Finally, the statute requires a set administrative fine of \$60, mandates how the fine must be divided between the city and state, and requires the city to spend at least one-half of its fine revenues on law enforcement purposes.
- 5) **How can I order the uniform administrative traffic ticket?**
 The state has selected Forms & Systems of MN, located in Minnetonka, to print the uniform administrative traffic citations, which cities can purchase through the state Cooperative Purchasing Venture (CPV) program. The CPV contract number is **P-941(5)**, and the title is **Printing: Administrative Traffic Citations**. (Cities may also use the vendor of their choice to create the citations using the template on page 17 of this tool kit.) A city that wishes to purchase ticket books through the state contract must register for a free CPV membership. To learn more about CPV membership and access the CPV contract, visit www.mmd.admin.state.mn.us/process/contract/CPVContractsList.asp.
- 6) **What is a stop line violation?**
 The new law states that cities may issue administrative citations to vehicle operators who “fail to obey a stop line.” A stop line violation is not a failure to stop completely as directed by a stop sign or traffic control signal. A regular criminal citation must still be issued for this type of traffic violation. According to the Minnesota Manual on Uniform Traffic Control Devices, a stop line is a solid white line extending across approach lanes that indicates where vehicles are required to stop in compliance with a stop sign, traffic control signal, or some other traffic control device. An administrative citation for a stop line violation may be issued to a vehicle operator who fails to heed the direction for *where* to stop, presumably by driving over the line.
- 7) **Does the new law apply to charter cities?**
 The new law applies to all Minnesota cities, including charter cities.
- 8) **Does the new law apply to violations of city traffic ordinances that are not offenses under Minn. Stat., ch. 169? For example, cruising, excessive acceleration, or jake braking?**
 Cities have ample authority to adopt regulations to “regulate the use” of city streets in a manner that is consistent with Minn. Stat., ch. 169. Some cities have adopted traffic ordinances on subjects not regulated by Minn. Stat., ch. 169 and may be currently imposing administrative fines for violations. For example, cities may have ordinances prohibiting cruising, jake braking, or excessive acceleration. Under the new law, cities may continue to issue city administrative citations for these types of local ordinance violations consistent with city ordinance. However, cities may not use the new uniform

administrative citation designed by the Commissioner of Public Safety for these types of citations. Cities must develop or continue to use their own citation form for these violations.

9) Does the new law apply to local parking ordinance violations?

The new law specifically lists out the traffic offenses under Minn. Stat., ch. 169 for which an administrative citation may be issued (see No. 1 above), and specifically prohibits the issuance of administrative citations for other violations of Minn. Stat., ch. 169. Parking violations are not specifically listed as an offense for which the new uniform administrative citation can be issued. However, cities may still issue local administrative citations for parking violations because Minn. Stat. § 169.04 specifically states *“the provisions of this chapter [Minn Stat., ch. 169—including Minn. Stat., § 169.999] shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction . . .and within the reasonable exercise of the police power from . . . regulating the standing or parking of vehicles.”*

10) Are there limits on how we use the funds from administrative fines?

The new law requires that a city impose a fine of \$60 per citation. When a city peace officer issues the administrative citation, the fine must be shared with the state in the following manner: two-thirds of the fine (\$40) remains with the city that issued the administrative citation and one-third of the fine (\$20) must be paid to the state Commissioner of Finance for deposit into the state’s general fund. Furthermore, one-half of the city’s share of the fine (\$20) must be used for law enforcement purposes. The new law specifically requires that the funds “be used to supplement but not supplant any existing law enforcement funding.”

11) Are there any special requirements related to accounting for funds?

The new law requires cities to track both the number of citations issued and to separately account for any fine revenues in all city financial reports, summaries, and audits.

12) What is a neutral third-party hearing officer?

The new law requires that the city inform the recipient of an administrative citation of his or her right to challenge the citation, provide a “civil process” for challenges, and provide a “neutral third party to hear and rule on challenges” to a citation. The law does not provide a definition for a “neutral third party” or provide extensive guidance for cities. However, a common understanding of “neutral” would require that the hearing officer be impartial to both the interests of the city and the recipient of the citation. In addition, a common understanding of “third party” would require that the hearing officer not be one of the principal participants in the controversy (the city or the citation recipient). As a result, the hearing officer should most likely not be the city council as a whole, an individual council member, or a higher-level city officer such as the city administrator or clerk. The neutral third party should be someone hired by the city to specifically handle challenges to citations.

12) What can the city do if someone refuses to pay the fine?

If a citation recipient does not pay the fine, the city may choose to dismiss the administrative citation and issue a state criminal traffic citation instead. In the alternative, the city may use traditional debt collection methods. There is, however, no authority in the new law for cities to specially assess the fine against real property for payment as taxes.

13) Where can I get more information on administrative citations?

The League of Minnesota Cities (LMC) has developed the Administrative Fines Tool Kit, which is available upon request or can be accessed at www.lmc.org. Please contact Anne Finn at (651) 281-1263 or afinn@lmc.org, or the LMC Research Department at (651) 281-1200 or (800) 925-1122 for more information.



The City That Soars!

REQUEST FOR COUNCIL ACTION

Meeting Date	March 3, 2010
Agenda Item	Workshop 2
Attachment	Chaska Social Host Ordinance
Submitted By	Michelle Tesser, Deputy City Clerk

Item	Social Host Discussion
Description	<p>Recently, Council requested that staff research adopting a Social Host Ordinance. Staff received over 20 social host ordinances from surrounding cities including: Chaska, Mankato, Roseville and Winona. According to a recent news article, there are over 40 cities and counties that have adopted a Social Host Ordinance.</p> <p>Under current state law, it is illegal for an adult to buy or furnish alcohol to a minor but it is not illegal for adults to allow minors to drink in their homes. The ultimate goal of adopting a social host ordinance is to deter underage possession and consumption of alcohol in the City of Falcon Heights even if done within the confines of a private residence. The social host ordinance holds person(s) criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol.</p> <p><u>Prohibited Acts</u> If the city adopts said ordinance the prohibited acts may include:</p> <p>(a) It is unlawful for any person(s) to;</p> <ul style="list-style-type: none"> (1) host or allow an event or gathering; (2) at any residence, premises, or on any other private or public property; (3) where alcohol or alcoholic beverages are present; (4) when the person knows or reasonably should know that an underage person will or does <ul style="list-style-type: none"> (i) consume any alcohol or alcoholic beverage; or (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and (5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s). <p>(b) A person is criminally responsible for violating Subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.</p> <p>(c) A person who hosts an event or gathering does not have to be present at the</p>

	<p>event or gathering to be criminally responsible.</p> <p><u>Exceptions to the rule</u> If the city adopts said ordinance exceptions to the ordinance may include:</p> <ul style="list-style-type: none"> • Ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent’s household. • Ordinance does not apply to religious observances. • Facilities already holding liquor licenses (restaurants, liquor stores, convenience stores, etc.) <p><u>Penalties</u> If adopted the penalty would most likely be a misdemeanor.</p> <p>Chief John Ohl will be present at the workshop to discuss the adoption of this ordinance and will also be able to answer any questions council may have on underage possession and consumption of alcohol in Falcon Heights.</p>
Budget Impact	It will be difficult to determine if there will be possible revenues from this ordinance. It is likely that our legal fees may increase in order to prosecute these violators.
Attachment(s)	Chaska Social Host Ordinance
Action(s) Requested	No action required, but guidance on whether the council is interested in pursuing this further is requested.

ORDINANCE NO.

SOCIAL HOST ORDINANCE

This ordinance prohibits, and establishes penalties for, any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age.

Be it enacted by the Chaska City Council, as follows:

Subd. 1. **Purpose and Findings.** The Chaska City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Chaska City Council finds that:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- (c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- (d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- (e) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- (f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Subd. 2. **Authority.** This ordinance is enacted pursuant to Minn. Stat. §145A.05 subdivision 1.

Subd. 3. **Definitions.** For purposes of this ordinance, the following terms have the following meanings:

- (a) Alcohol. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (b) Alcoholic beverage. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (c) Event or gathering. "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (d) Host. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
- (e) Parent. "Parent" means any person having legal custody of a juvenile:
 - (1) As natural, adoptive parent, or step-parent;
 - (2) As a legal guardian; or
 - (3) As a person to whom legal custody has been given by order of the court.
- (f) Person. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- (g) Residence or Premises. "Residence" or "premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- (h) Underage Person. "Underage person" is any individual under twenty-one (21) years of age.

Subd. 4. **Prohibited Acts.**

- (a) It is unlawful for any person(s) to;
 - (1) host or allow an event or gathering;
 - (2) at any residence, premises, or on any other private or public property;
 - (3) where alcohol or alcoholic beverages are present;
 - (4) when the person knows or reasonably should know that an underage person will or does
 - (i) consume any alcohol or alcoholic beverage; or
 - (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and
 - (5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(b) A person is criminally responsible for violating Subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Subd. 5. **Exceptions.**

(a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(b) This ordinance does not apply to legally protected religious observances.

(c) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd.1(a)(1).

(d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Subd. 6. **Enforcement.** This ordinance can be enforced by any police officer or sheriff's deputy in the county.

Subd 7. **Severability.** If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Subd. 8. **Penalty.** Violation of Subdivision 4 is a misdemeanor.

Subd. 9. **Effective Date.** This ordinance shall take effect thirty (30) days following its final passage and adoption.