

# Administrative Penalties for Liquor Law Violators

## Why use administrative penalties?

- Local ordinances regulating the sale and consumption of alcohol are often not enforced because of the costs and inconvenience.

## **SUMMARY: ADMINISTRATIVE PENALTIES ORDINANCE**

The proposed ordinances are intended to provide the City with an informal, cost-effective and practical alternative to traditional enforcement for violations of certain alcohol ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with a designated administrative offense.

These ordinances may be used to apply penalties for many other types of offenses, such as tobacco sales, possession or use of fireworks, etc.

These are based on Roseville, MN Ordinances 1132 and 1134.

## **Proposed Ordinance**

### **ADMINISTRATIVE PENALTIES GENERAL PROVISION**

#### **Section 1. Administrative Offense Defined.**

1. An administrative offense is a violation of a provision of this Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Section 7 below.
2. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures in which event the city may bring criminal charges in accordance with law. Likewise, the city, in its discretion, may choose not to initiate an administrative offense procedure and may bring criminal charges in the first instance.

#### **Section 2. Notice.**

Any officer of the City Police Department or any other person employed by the City, authorized in writing by the City Manager, and having authority to enforce this Code, shall, upon determining that there has been a violation, notify the violator. This notice shall set forth the nature, date and time of violation, and amount of the scheduled penalty.

#### **Section 3. Payment.**

Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for

hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

#### **Section 4. Hearing.**

Any person contesting an administrative offense pursuant to this Chapter may, within seven (7) days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

#### **Section 5. Failure to Pay.**

1. In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the City for the same violation.
2. In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City will seek to collect the costs of the administrative offense procedures as part of the subsequent criminal sentence in the event the party is charged and is convicted guilty of the criminal violation.

#### **Section 6. Disposition of Penalties.**

All penalties collected pursuant to this Chapter shall be paid to the City treasurer and may be deposited in the City's general fund.

#### **Section 7. Offenses and Penalties.**

Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolutions shall be maintained in the office of the City Manager [Mayor].

#### **Section 8. Subsequent Offenses.**

In the event a party is charged with a subsequent administrative offense within a twelve (12) month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be increased by twenty-five percent (25%) above the previous administrative penalty.

This ordinance shall take effect within \_\_\_\_\_days.

**Proposed Ordinance**

**ADMINISTRATIVE PENALTIES FOR LIQUOR LAW VIOLATORS**

**Section 1. Penalties for Noncompliance.**

In addition to any criminal penalties which may be imposed by a court of law, the City Council may suspend a license for up to sixty (60) days, may revoke a license and/or may impose a civil fine on a licensee not to exceed two thousand dollars (\$2,000) for each violation on a finding that the license holder or its employee has failed to comply with a statute, rule, or ordinance relating to alcoholic beverages, non-intoxicating malt liquor or wine.

**Section 2. Minimum Penalties.**

In no event shall a penalty be less than:

1. for a first violation, the mandatory minimum penalty shall be the administrative penalty imposed pursuant to [insert citation to General Provision of Administrative Penalties ordinance provided just prior to this section of the document].
2. for a second violation in twelve (12) months the mandatory minimum penalty shall be the appropriate administrative penalty in (a) above, plus suspension of the liquor license for two (2) days.
3. for a third violation in twelve (12) months the mandatory minimum penalty shall be the appropriate administrative penalty in (a) above plus suspension of the liquor license for five (5) days.

**Section 3. Revocation or Suspension.**

Revocation or suspension of a license by the Council shall be preceded by a public hearing in accordance with Minnesota Statute 340A.415. The City Council shall conduct the hearing. The hearing notice shall be given at least ten (10) days prior to the hearing, include notice of the time and place of the hearing, and shall state the nature of the charges against the licensee.

This ordinance shall take effect \_\_\_\_\_.

**Sample List of Administrative Penalties**

(To be kept in City Manager's office)

<b>Alcohol Offense:</b>	<b>Administrative Penalty:</b>
Purchase, possession by underage person	\$50.00
Lending I.D. to underage person to purchase	\$100.00
Liquor license violations	\$150.00
Violation of keg registration ordinance	\$250.00
All other violations	\$100.00