

## **Chapter 30 - OFFENSES AND MISCELLANEOUS PROVISIONS**

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### **ARTICLE I - IN GENERAL**

#### ***Sec. 30-1 - Curfew and parental duties***

- (a) *Restrictions on juveniles.* It shall be unlawful for the following juveniles to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of entertainment and amusement, vacant lots, and other unsupervised places in the city:
- (1) Juveniles under 16 years of age between the hours of 10:00 p.m. and 5:00 a.m.
  - (2) Juveniles 16 or 17 years of age between the hours of 12:00 midnight and 5:00 a.m.
- (b) *Exceptions.* The provisions of [section 30-1\(a\)](#) shall not apply to a juvenile while the juvenile is:
- (1) Accompanied by the juvenile's parent or an authorized adult;

- (2) Involved in, or attempting to remedy, alleviate, or respond to an emergency;
  - (3) Engaged in a lawful employment activity, or is going to or returning home from the juvenile's place of employment;
  - (4) Attending an official school, religious, or other social or recreational activity supervised by adults and sponsored by the city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;
  - (5) Going to or returning home from, without any detour or stop, an official school, religious, or other recreationaxl activity supervised by adults and sponsored by the city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;
  - (6) On an errand as directed by the juvenile's parent or guardian, without any detour or stop;
  - (7) Engaged in interstate travel;
  - (8) On the public right-of-way boulevard or sidewalk abutting the juvenile's residence or abutting the neighboring property, structure, or residence;
  - (9) Exercising first amendment rights protected by the United States Constitution (or those similar rights protected by article I of the Constitution of the State of Minnesota), such as free exercise of religion, freedom of speech, and the right of assembly; or
  - (10) Homeless or uses a public or semi-public place as a usual place of abode.
- (c) *Duties of parents or guardians.* It shall be unlawful for the parent, guardian, or other adult person having charge of a juvenile under the age of 18 years to permit activities as prohibited by this section.
- (d) *Minors in amusement places.* No person, operating or in charge of any place of amusement, entertainment or refreshment shall permit any juvenile under the age of 18 years to remain in such place during the hours prohibited by this section unless accompanied by his or her parent, guardian or other adult person having the care and custody of the juvenile.

(Code 1993, § 8-3.02)

**State Law reference** – Curfew ordinances, Minn. Stats. § 145A.05 (see subds. 7a, 9).

***Sec. 30-2 - Consumption and display of intoxicating liquor and 3.2 percent malt liquor***

- (a) *Public consumption or use.* No person shall consume or use intoxicating liquor or 3.2 percent malt liquor in any parking area connected with or a part of the land area of the premises to which the general public has access and a right to resort for business, entertainment, parking, driving or walking including public sidewalks, streets, alleys and parking areas within the city. This prohibition shall include parking areas connected with schools or any other institution of training or education.

- (b) *Carrying receptacle from licensed premises.* No person shall carry any open receptacle including a glass, bottle or other device used for the consumption of intoxicating liquor or 3.2 percent malt liquor from any licensed premises.
- (c) *Specific approval.* Nothing in this section shall prohibit the temporary display or consumption of intoxicating liquor or 3.2 percent malt liquor from any licensed premises.

(Code 1993, § 8-3.03)

### ***Sec. 30-3 - Discharge of guns prohibited***

It shall be unlawful for any person to shoot or discharge any gun, air gun, pistol, revolver or other firearm or bow and arrow within the corporate limits of the city. The provisions of this section shall not apply to:

- (1) Persons while they are exercising the right of self-defense or defense of others.
- (2) Police officers or members of the armed forces of the United States or National Guard, while engaged in official duties as such.

(Code 1993, § 8-3.04)

### ***Sec. 30-4 - Regulating the conduct of lawful gambling***

- (a) *Purpose.* The purpose of this section is to regulate lawful gambling within the City of Falcon Heights, to prevent its commercialization, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes.
- (b) *Adoption of state law by reference.* The provisions of Minn. Stats. ch. 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this section as if set out in full. It is the intention of the council that all future amendments of Minn. Stats. ch. 349 are hereby adopted by reference or referenced as if they had been in existence at the time this section was adopted.
- (c) *Definitions.* In addition to the definitions contained in Minn. Stats. § 349.12, as it may be amended from time to time, the following terms are defined for purposes of this section:

*Licensed organization* means an organization licensed by the board.

*Local permit* means a permit issued by the city.

*Trade area* means the corporate limits of the city and each contiguous city.

- (d) *Applicability.* This section shall be construed to regulate all forms of lawful gambling within the city except bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed \$10.00, total prizes awarded at a single bingo occasion do not exceed \$200.00, no

more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.

- (e) *Lawful gambling permitted.* Lawful gambling is permitted within the city provided it is conducted in accordance with Minn. Stats. §§ 609.75—.763, inclusive, as they may be amended from time to time; Minn. Stats. §§ 349.11—.23, inclusive, as they may be amended from time to time; and this section.
- (f) *Council approval.* Lawful gambling shall not be conducted unless approved by the council, subject to the provisions of this section and state law.
- (g) *Application and local approval of premises permits.*
  - (1) Any organization seeking to obtain a premises permit from the board shall file with the city clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as will be filed with the board.
  - (2) Upon receipt of an application for issuance of a premises permit, the city clerk shall transmit the application to the chief of police for review and recommendation.
  - (3) The chief of police shall investigate the matter and make the review and recommendation to the city council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
  - (4) The applicant shall be notified in writing of the date on which the council will consider the recommendation.
  - (5) The council shall receive the police chief's report and consider the application within 45 days of the date the application was submitted to the city clerk.
  - (6) The council shall by resolution approve or disapprove the application within 60 days of receipt of the application.
  - (7) The council may deny an application for issuance or renewal of a premises permit for any of the following reasons:
    - a. Violation by the gambling organization of any state statute, state rule, or city section relating to gambling within the last three years.
    - b. Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule, or city section relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three years.
    - c. Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.
    - d. An organization would be permitted to conduct lawful gambling activities at more than one premises in the city.
    - e. More than one licensed organization would be permitted to conduct lawful

gambling activities at one premises.

- f. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise, the council may pass a resolution approving the application.

(h) *Local permits.*

- (1) No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by Minn. Stats. § 349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by [subsection 30-4\(d\)](#).
- (2) Applications for issuance or renewal of a local permit shall be on a form prescribed by the city. The application shall contain the following information:
  - a. Name and address of the organization requesting the permit.
  - b. Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
  - c. Dates of gambling occasion for which permit is requested.
  - d. Address of premises where event will occur.
  - e. Copy of rental or leasing arrangement, if any, connected with the event, including rent to be charged to the organization.
  - f. Estimated value of prizes to be awarded.
- (3) Upon receipt of an application for issuance or renewal of a local permit, the city clerk shall transmit the notification to the chief of police for review and recommendation.
- (4) The chief of police shall investigate the matter and make review and recommendation to the city council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
- (5) The applicant shall be notified in writing of the date on which the council will consider the recommendation.
- (6) The council shall receive the public safety department's report and consider the application within 45 days of the date the application was submitted to the city clerk.
- (7) The council may deny an application for issuance or renewal of a premises permit for any of the following reasons:
  - a. Violation by the gambling organization of any state statute, state rule, or city section relating to gambling within the last three years.
  - b. Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city section relating to the operation of the establishment, including, but not limited to, laws relating to the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last

three years.

- c. The organization has not been in existence in the city for at least three consecutive years prior to the date of application.
- d. The organization does not have at least 13 active and voting members.
- e. Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.
- f. Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.
- g. An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one premises in the city.
- h. More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one premises.
- i. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise the council may approve the application.

- (8) Local permits shall be valid for one year after the date of issuance unless suspended or revoked.
  - (i) *Revocation and suspension of local permit.*
    - (1) A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city section relating to gambling.
    - (2) A local permit shall not be revoked or suspended until written notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served or sent by certified or registered mail. If the person refuses to accept notice, notice of the violation shall be served by posting it on the premises. Notice shall state the provision reasonably believed to be violated and shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the council finds that a section violation exists, then the council may suspend or revoke the permit.
  - (j) *License and permit display.* All permits issued under state law or this section shall be prominently displayed during the permit year at the premises where gambling is conducted.
  - (k) *Notification of material changes to application.* An organization holding a state-issued premises permit or a local permit shall notify the city within ten days in writing whenever any material change is made in the information submitted on the application.
  - (l) *Local gambling tax.*

- (1) A local gambling tax of three percent per year is imposed on the gross receipts of a licensed organization from all lawful gambling less prizes actually paid out by the licensed organization.
  - (2) The tax shall be paid by the licensed organization on a monthly basis and shall be reported on a copy of the monthly gambling activity summary and tax return filed with the Minnesota Department of Revenue. The report shall be an exact duplicate of the report filed with the department, without deletions or additions, and must contain the signatures of organization officials as required on the report form.
  - (3) The tax return and payment of the tax due must be postmarked, or, if hand delivered, received in the office of the city clerk, on or before the last business day of the month following the month for which the report is made.
  - (4) An incomplete tax return will not be considered timely filed unless corrected and returned by the due date for filing.
  - (5) Interest shall be charged at a rate of eight percent on all overdue taxes owed by the organization under this section.
- (m) *Contribution of net profits to fund administered by city.*
- (1) Each organization licensed to conduct lawful gambling within the city pursuant to Minn. Stats. § 349.16, as it may be amended from time to time, shall contribute ten percent of its net profits derived from lawful gambling in the city to a fund administered and regulated by the city without cost to the fund. The city shall disburse the funds for charitable contributions as defined by Minn. Stats. § 349.12, subd. 7a, as it may be amended from time to time.
  - (2) Payment under this section shall be made on the last day of each month.
  - (3) The city's use of such funds shall be determined at the time of adoption of the city's annual budget or when the budget is amended.
- (n) *Designated trade area.*
- (1) Each organization licensed to conduct gambling within the city shall expend 75 percent of its lawful purpose expenditures on lawful purposes conducted within the city's trade area.
  - (2) This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city's jurisdiction.
- (o) *Records and reporting.*
- (1) Organizations conducting lawful gambling shall file with the city clerk one copy of all records and reports required to be filed with the board, pursuant to Minn. Stats. ch. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the board.
  - (2) Organizations licensed by the board shall file a report with the city proving compliance with the trade area spending requirements imposed by this section. Such report shall be made on a form prescribed by the city and shall be submitted

annually.

(Ord. No. 13-03, § 1, 6-12-2013)

**Editor's note** – Ord. No. 13-03, § 1, adopted June 12, 2013, amended § 30-4 in its entirety to read as set out herein. Former § 30-4 pertained to regulation of nonprofit organization gambling and derived from the Code of 1993, § 5-3.07.

***Sec. 30-5 - Sales on public property***

No person shall sell any goods or services on public property unless specifically authorized by the city administrator.

***Secs. 30-6 – 30-39 - Reserved***

**ARTICLE II - SOCIAL HOSTS**

***Sec. 30-40 - Purpose and findings***

The 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 city council finds:

- (1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

(Ord. No. 10-03, § 1, 4-24-2010)

***Sec. 30-41 - Definitions***

Unless otherwise expressly stated, whenever used in this article, the following terms shall have the following meanings:

*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.

*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.

*Event or gathering* means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

*Host or allow* means to aid, conduct, entertain, organize, supervise, control, or permit a gathering or event.

*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.

*Person* means any individual, partnership, co-partnership, corporation, or any association of one or more individuals. A person does not include any city, county, or state agency.

*Residence, premises or public or private property* 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, 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.

*Underage person* is any individual under 21 years of age. (Ord. No. 10-03, § 1, 4-24-2010)

### ***Sec. 30-42 - Prohibited acts***

- (a) It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows 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 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 [subsection 30-42\(a\)](#) 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.

(Ord. No. 10-03, § 1, 4-24-2010)

***Sec. 30-43 - Exceptions***

- (a) This article does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- (b) This article does not apply to legally protected religious observances.
- (c) This article 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 article does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment, or where the underage person is performing an alcohol compliance check at the direction of a law enforcement agency.

(Ord. No. 10-03, § 1, 4-24-2010)

**ARTICLE III - ADMINISTRATIVE CITATIONS**

***Sec. 30-44 - Purpose***

Falcon Heights authorized by resolution the use of administrative citations for specific traffic offenses, as permitted by the Legislature in Minn. Stat. § 169.999. The city is required by that statute to establish and maintain procedures through which motorists receiving administrative citations may obtain an independent hearing or judicial review of a citation. The city council finds that establishing a voluntary administrative citation procedure ensures the availability of an independent hearing and retains full opportunity to obtain judicial review of a citation.

(Ord. No. 18-02, § 1, 4-11-2018)

***Sec. 30-45 - Definitions***

As used in this section, the following terms shall have the respective meanings ascribed to them:

*Citation* means an administrative citation issued to a motorist for a designated traffic offense occurring within the city.

*Designated traffic offense* means those traffic offenses eligible for administrative citation as designated by Minn. Stat. § 169.999, subd. 1(b)(1), (2) and (3), as it may be amended from time to time.

*Flyer* means A document which informs a person receiving an administrative citation of:

- (1) The recipient's right to challenge the citation or opt for a standard criminal citation;
- (2) The city's process for handling challenges to administrative traffic citations;

- (3) The process for paying a traffic citation; and
- (4) The effect of an administrative traffic citation on a recipient's driving record.

*Issuing officer* means the licensed peace officer employed by or under contract with the city who issues any particular administrative citation.

*Manager* means the Falcon Heights city manager or manager's designee.

*Recipient* means the person who receives an administrative citation under this chapter.

(Ord. No. 18-02, § 1, 4-11-2018)

### ***Sec. 30-46 - Authorization***

Licensed peace officers employed or under contract with the city may issue administrative citations for designated traffic offenses occurring within the city. The fine for committing a designated traffic offense shall be the amount stated in Minn. Stat. § 169.999, subd. 5, as it may be amended from time to time.

- (1) *Form of citation.* An issuing officer must use the uniform administrative traffic citation form approved by the commissioner of public safety. The officer shall also serve upon the recipient the current version of the city's response form. The response form shall reference the response options stated at Minn. Stat. § 904.030(C); and shall provide directions for returning the response form.
- (2) *Delivery to city.* The issuing officer shall deliver a copy of the administrative traffic citation to the city manager within a reasonable time of the date of issuance.
- (3) *Response to citation.* A recipient shall respond to the citation within 14 days of receipt. The recipient may:
  - a. Admit the violation stated in the citation and agree to pay the fine;
  - b. Deny the violation stated in the citation and request a hearing; or
  - c. Request that the administrative citation be converted to a standard traffic citation and filed for processing by the Violations Bureau of the Ramsey County District Court.
- (4) *Standard citation issued if no response.* If the city manager receives no written response to a citation within the 14-day response period, the city manager shall request that the peace officer who issued the citation convert the allegations into a standard traffic citation, file that regular citation at the district court and mail a copy to the recipient.

(Ord. No. 18-02, § 1, 4-11-2018)

### ***Sec. 30-47 - Hearing officers***

The city shall maintain a list of hearing officers available to conduct hearings on the merits of an administrative citation, if requested by a recipient. Hearing officers shall have executed a contract to provide hearing officer services with the Ramsey County Sheriff's

Department. The hearing officer shall have executed a contract to provide hearing officer services with the Ramsey County Sheriff's Department or with one of the cities that receive law enforcement services from the Ramsey County Sheriff's Department.

- (1) *Request for hearing.* If the recipient responds by requesting a hearing, the city manager shall assign the case to a hearing officer on the list. The manager shall notify the hearing officer, the recipient and the issuing officer of the assignment in writing. The hearing officer shall schedule a hearing within a reasonable date of receiving the notice. Any delays in holding the hearing shall be reported to the city manager by the hearing officer.
- (2) *Citation materials.* At assignment, the city manager shall transmit a copy of the citation to the hearing officer. Within five days of assignment, the issuing officer or the officer's department shall transmit copies of all materials relating to the citation to the hearing officer, including but not limited to additional written reports; certificates of calibration, logs, and other documentation required to support the evidentiary use of speed detection equipment under Minn. Stat. § 169.14; relevant certificates of training for the citing officer; and any pictures showing the alleged offense. The hearing officer shall transmit a copy of any materials received to the recipient at the earliest opportunity but at least three days in advance of the hearing.
- (3) *Hearing.* At the hearing, the hearing officer shall receive the testimony of any witnesses, witness statements, and comments presented by the person cited. The hearing officer will consider these items alongside the materials submitted by the issuing officer, and may weigh the evidence and make credibility determinations to the best of the hearing officer's ability. The hearing officer is not required to apply the rules of evidence in making determinations about the evidence presented. The issuing officer is not required to attend the hearing.
- (4) *Decision, findings.* After considering all of the evidence submitted, the hearing officer shall determine, by a preponderance of the evidence, whether the person cited did or did not violate the statute or statutes identified in the citation. The hearing officer shall make written findings supporting the determination and transmit them to the cited person and the city manager within five days of closing the hearing.
- (5) *Payment following finding of violation.* If the hearing officer finds a violation, the fine for the designated traffic offense is due within 30 days of the date the findings are sent to the recipient. The hearing officer may not alter or reduce the fine for any offense or combine multiple offenses into a single fine. Payment of fines due shall be made to the city manager.
- (6) *Standard citation issued if no payment.* If payment is not made within 30 days, the manager shall request that the issuing officer or the officer's department issue a standard traffic citation for the offenses in the administrative citation, mail a copy of the citation to the individual and file the citation, along with the hearing officer's written findings, with the Ramsey County District Court.

(Ord. No. 18-02, § 1, 4-11-2018)

***Sec. 30-48 - Designated administrative traffic citation program manager***

Pursuant to Resolution No. 18-11, the city council has designated the Ramsey County Sheriff's Department and its licensed peace officers to administer the city's administrative traffic citation program and to perform the duties of the city and the city manager as specified therein.

(Ord. No. 18-02, § 1, 4-11-2018)

***Sec. 30-49 - Severability***

Should any section, subdivision, clause or other provision of this article be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the article as a whole, or of any part thereof, other than the part held to be invalid.

(Ord. No. 18-02, § 1, 4-11-2018)