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Community-Based Impaired-Driving Programs: Local Ordinances and Other Strategies Addressing Impaired Driving

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Community-Based Impaired-Driving Programs

Local Ordinances and Other Strategies Addressing Impaired Driving

A. Introduction

The National Highway Traffic Safety Administration (NHTSA) recognizes that impaired driving is a complicated issue that cannot be addressed with one solution. “Alcohol-impaired-driving¹ fatalities are affected by several external factors, including geography, urbanization, road structure and conditions, and economic activity, as well as by a State’s laws and programs” (NHTSA, 2011, p. 1-2). Strategies that address impaired driving focus on educating people on dangers of driving impaired, keeping people from becoming too impaired to drive, preventing them from driving after drinking, stopping them while driving impaired, and keeping DUI offenders from repeating the behavior.

While many impaired-driving programs are implemented at the State level, NHTSA recognizes that the lack of resources and political challenges may make implementation of needed and effective legislation and programs difficult. In addition, States may find that some programs are effective in some communities but not others. This publication is intended to be a resource to help communities identify appropriate, effective, and promising strategies and legislation that can be implemented on a local level. It is not intended as a how-to-guide, but rather describes and provides examples of each strategy. Leaders and program managers within communities may find this useful in helping to jump start or reenergize their efforts to reduce impaired driving.

This publication is divided into three primary sections: (1) understanding a community’s impaired-driving problem, (2) strategies that reduce impaired driving, and (3) references and appendix.

As used in this publication, the term “community-based programs” refers to those programs that can be implemented on a local level without the need for State support or approval and that may or may not require supporting State legislation. While this publication describes a number of community-based strategies, it primarily focuses on the use of local ordinances to address impaired driving and underage drinking. Typically, local jurisdictions have the authority to apply stricter local ordinances but may not supersede State legislation.

No scientific methodology was used to determine the inclusion of these strategies, programs, or policies in this publication. Selection was based on history, experience, effectiveness, or promise. In addition, strategies recommended or suggested by reputable sources, such as the Surgeon General; the National Advisory Council on Alcohol Abuse and Alcoholism’s Task Force; National Research Council-Institute of Medicine; U.S. Department of Education’s Higher Education Center; the American Public Health

¹ NHTSA defines alcohol-impaired driving as having a blood alcohol concentration of .08 grams per deciliter or higher.

Association; and the American Medical Association are included. Consideration was also given to those that may have the potential to be implemented or be adopted by local jurisdictions, municipalities, or communities.

B. Understanding Your Community's Impaired-driving Problem

Often, a community's effort to address a problem is inspired by an unfortunate tragedy. In a hurry to address the issue, communities may be driven to advocate for the creation of State legislation or policy changes, only to learn that the process is difficult and lengthy, and that its impact is not readily seen or may not address the specific community problem.

NHTSA recommends that communities take a deeper look at their impaired-driving problem by answering who, what, where, when, how, and, if possible, why. NHTSA's publication, *The Art of Appropriate Evaluation: A Guide for Highway Safety Program Managers* (NHTSA, 2008) highlights how to identify traffic safety problems and consider solutions with the most potential for success. Once a community's impaired-driving problem is understood, there are a variety of strategies to consider. *The Art of Appropriate Evaluation* acquaints the reader with the reasons for evaluation and the basics of how to conduct one.

C. Community-Based Strategies to Reduce Impaired Driving

C.1. Communications and Outreach

Focusing the needed attention to a community's identified traffic safety problem is challenging and may be costly. Communities across the country have used social norming campaigns and media advocacy efforts as strategies to support local efforts to reduce impaired driving.

C.1.1. Social Norming Campaigns

Social norming campaigns are designed to change behavior by publicizing or promoting the true behaviors of a group. They are based on the premise that people behave according to their perception of the behaviors of the majority, the "norm." Unfortunately, perceptions of the norm can be inaccurate and the occurrence of behaviors overestimated. Social norming campaigns are developed by collecting information on the target audience's actual behavior and attitudes and using media campaigns to educate the audience of the findings to correct their perceptions (Linkenbach, 2006). By creating an accurate perception, people may change their behavior to reflect the true norm.

A study conducted at the University of North Carolina, Chapel Hill, found a 22-percent decline in the proportion of students with BACs above .08 g/dL after implementation of a social norming campaign (Foss, Marchetti, & Holladay, 2001). Researchers measured change by obtaining voluntary breath tests of

students leaving and returning to campus prior to and after a social norming campaign was implemented.

C.1.2. Media Advocacy Efforts

In the context of public health, media advocacy is the strategic use of free or earned media to advance public health policies. It relies on news coverage to shape the public debate on health issues and pressure policymakers to support or oppose a specific policy. It can be a useful strategy to educate local policymakers on the benefits of instituting a policy or implementing a program strategy. The American Public Health Association's (APHA) Media Advocacy Manual and the Centre for Health Promotion of the University of Toronto' Media Advocacy Workbook explains how to use media to address public health issues (APHA, Health Communications Unit, 2000).

C.2. Prevention of Impaired Driving

Prevention strategies aim to reduce risky alcohol consumption and prevent people who are alcohol impaired from driving. Alcohol screening and brief intervention (ASBI), alternative transportation, designated drivers, and responsible beverage service are common strategies used to prevent impaired driving.

C.2.1. Alcohol Screening and Brief Intervention

Typically administered by a health care provider, alcohol screening consists of an interview to determine a person's level and frequency of drinking. If a person is found to be potentially at risk for alcohol use problems, the health care provider conducts a brief intervention--- a short counseling session designed to assist the person in confronting the negative consequences of his or her alcohol consumption.

Impaired driving is often a symptom of the problem of alcohol misuse. About 14 million American adults suffer from alcohol abuse or alcoholism, and more than 100,000 people die from alcohol-related diseases and injuries every year (Grant, Hartford, Dawson, Chou, Dufour, & Pickering, 1994; Stinson, Nephew, Dufour, & Grant, 1996, as cited in NIAAA, 2003, p.1). Research has demonstrated that screening and brief intervention for alcohol problems can be effective. For non-alcohol-dependent patients, brief intervention has been found to be effective in moderating alcohol consumption (Whitlock, Polen, Green, et al., 2004). For alcohol-dependent patients, brief intervention is effective in motivating patients to enter treatment.

The American College of Surgeons' Committee on Trauma requires Level I and Level II trauma centers have mechanisms to identify patients with alcohol drinking problems. Level I must also be able to provide an intervention for the identified problem drinkers. Professional associations and government agencies such as the Committee on Trauma and the Centers for Disease Control and Prevention have developed publications on how to implement ASBI in trauma

centers. Two such guides include *Alcohol Screening and Brief Intervention for Trauma Patients* (American College of Surgeons, n.d.) and *Screening and Brief Interventions for Unhealthy Alcohol Use: A Step-by-Step Implementation Guide for Trauma Centers* (Higgins-Biddle, Hungerford, & Cates-Wessel, 2009).

In recent years, communities across the Nation have begun to use ASBI in a variety of other settings including college campuses and in the workplace. Documents addressing screening and brief intervention are available on NHTSA's Web site.

- Screening and Brief Intervention Toolkit for College and University Campuses; (Report No. DOT HS 810 751), at www.stopimpaireddriving.org/3672Toolkit/index.htm
- NHMA Screening and Brief Intervention Toolkit For the Hispanic Patient; (Report No. DOT HS 810 953) at <http://ntl.bts.gov/lib/30000/30200/30235/810953.pdf>
- Developing Best Practices of Emergency Care for the Alcohol-Impaired Patient: Recommendations from the National Conference (Report No. DOT HS 809 281) at www.nhtsa.gov/people/injury/alcohol/EmergCare/; and
- Addressing Alcohol-Impaired Driving: Training Physicians to Detect and Counsel Their Patients Who Drink Heavily (Report No. DOT HS 809 076) at www.nhtsa.gov/people/injury/research/pub/impaired_driving/index.html

C.2.2. Alternative Transportation

In the context of impaired driving, alternative transportation, typically called ride service programs, is using transportation other than one's own vehicle while under the influence of alcohol. From the use of personal vehicles, limousines, buses, taxis trolleys, scooters, or tow service, the goal of these programs is to prevent injuries by providing drivers an alternative to driving impaired (Decina, Foss, Tucker, Goodwin, & Sohn, 2009, p.3). Characteristics of these programs vary by mode of transportation, organization type, and operation. One example is a service that takes impaired people and their vehicles home. Studies have shown that these programs have the potential to reduce impaired driving. Decina et al. (2009) concluded that programs that have shown promise are easily accessible, readily available, and can be easily integrated into people's activities. NHTSA published the report *Alternative Transportation Programs: A Countermeasure for Reducing Impaired Driving* (Report No. DOT HS 811 188). This publication describes and provides brief summaries of a variety of ride service programs.

C.2.3. Designated Driver

A designated driver is a person who agrees not to drink alcohol and to safely drive others home after they have been drinking. Sound designated driver programs include advanced planning, coordination with a variety of local community organizations and representatives, and clear and targeted messages and guidelines to get people home safely. While a practice encouraged by NHTSA, a systematic review of research studies on designated driver programs showed an increased use of designated drivers but insufficient evidence on its impact on reducing drinking and driving (Ditter, Elder, Shults, et al., 2005; and NHTSA, 2011, p. 1-45).

C.2.4. Responsible Beverage Service

Responsible beverage service (RBS) programs are intended to prevent sales to minors² and over-service to intoxicated patrons, in turn preventing alcohol-impaired driving. RBS programs include development of standards, practices, and procedures for the sale and service of alcohol as well as training on compliance with laws, identification verification, and techniques to monitor sales and service. RBS programs vary widely and, therefore, evaluations have not been consistent (Grube, 2007, p. 22). A systematic review of five server training evaluations found that server training along with management support reduced patrons' intoxication levels (Shults et al., 2001, as cited in NHTSA, 2011, p. 1-43).

C.3. Deterrence

C.3.1. Local Ordinances

Local ordinances are laws established and enforced by municipalities. This section describes local ordinances that may not be covered under State statutes. States typically have laws governing the use, distribution, sale, and taxation of alcoholic beverages. NHTSA conducted a search using the Internet, research study references, and subject matter experts to gather a list of the types of ordinances that may be used to address impaired driving and underage drinking. These ordinances are typically categorized as addressing social access to alcohol, promoting responsible selling and service, or improving the social environment. It is not an all-inclusive list, but it includes frequently adopted ordinances that have some research validity or show promise. Explanations of some of these types of ordinances follow and some examples are provided in the appendix.

NHTSA does not endorse or purport that the included ordinances are models; rather these serve to provide the reader descriptions of ordinances. Communities should consider whether an ordinance can be implemented and enforced, and whether it reflects the needs of their community.

² For this publication, minor is defined as being under the age of 21.

Social Access to Alcohol

Alcohol Restrictions in Public Locations

Communities can prohibit or restrict the use of alcohol on public property such as parks, beaches, and parking lots. These types of ordinances can deter alcohol-fueled disturbances, fighting, vandalism, youth access to alcohol, and overconsumption of alcohol. A study of 97 cities across the United States found those that banned alcohol consumption in public places and had more restrictions at sporting events experienced fewer alcohol-related³ traffic fatalities (Cohen, Mason & Scribner, 2002).

Alcohol Retail Density Limits

Controlling the density of alcohol outlets helps reduce overconcentration of alcohol sales and limits availability of alcohol. Limiting the number of alcohol licenses in an established geographic area allows for more balanced services to a community. There are a greater number of alcohol-related injury crashes in cities with higher alcohol outlet densities (Scribner, Mackinnon, & Dwyer, 1994). Research indicates that a 1-percent increase in outlet density translates to a .54-percent increase in alcohol-related crashes. A city of 50,000 residents with 100 alcohol outlets would experience an additional 2.7 crashes for each new outlet opened.

Conditional Use Permit – Hours of Operation

Conditional use permits are granted by municipalities for businesses within zoning districts that are subject to additional requirements. A conditional use permit is a formal consent by a local governing body to operate a business by meeting specific requirements such as a minimum distance from schools or restriction on hours of operation. Conditional use permits allow flexibility to determine if a proposed land use on a specific site will be compatible with the environment and the community's general or master plan. Municipalities have included restrictions on hours of operation and minimum distances from specific facilities frequented by youth such as schools, churches, and play areas. Some communities have restrictions on refrigerated or single-service sales of alcoholic beverages and sales by specific types of retailers such as gas stations. In 2009, Arlington Heights, Illinois, established a ban on refrigeration of single-serve alcoholic beverage containers of 40 ounces or less at alcohol off-premise retail outlets (Parker, McCaffree, & Stiles, 2011).

Several studies on the hours for selling alcoholic beverages showed an impact on sales and traffic crashes (Grube, 2007, p.17). A study in New Mexico found a 29-percent increase in alcohol-related crashes and a 42-percent increase in alcohol-related crash fatalities on Sundays after sales of packaged alcohol were allowed on that day (McMillan & Lapham, 2006, as cited in Grube, 2007).

³ NHTSA defines alcohol-related as any measurable amount of alcohol. Many of the studies cited in this publication did not indicate BAC levels when referring to alcohol-related traffic crashes or fatalities.

Dram Shop

Dram shop laws make a business that sells alcoholic drinks or a host who serves liquor to a person who is obviously intoxicated strictly liable to anyone injured by the drunken patron or guest. Some States without such laws, like South Dakota, have statutes that protect licensees from being sued for injury or death resulting from the sales or service of alcohol; individual communities in such States nevertheless have enacted dram shop ordinances. A systematic review of eleven studies found that dram shop liability laws reduced motor vehicle crash fatalities (Rammohan et al., 2011). Researchers found a range of 3.7 percent to 11.3 percent, or median of 6.4 percent, reduction in alcohol-related motor vehicle fatalities associated with jurisdictions with dram shop laws.

Exterior Parking Lot Lighting

Exterior parking lot lighting requirements mandate that alcohol retailers with parking lots keep them well lit during operating hours. Good exterior lighting may deter youth from asking adults to purchase alcohol for them and allows employees and police to better identify adults who are purchasing alcohol for underage individuals. A well-lit parking lot may also deter people from participating in risky behaviors outside of on- and off-premise alcohol-retail outlets. Typically, exterior parking lot lighting requirements are typically not stand-alone ordinances, but rather are included in other types of ordinances such as an exterior lighting plan as part of a business zoning ordinance or conditional use permit. Natural surveillance, a crime prevention strategy that uses environmental design, suggests the use of design to deter criminal behavior by, for example, maximizing visibility in parking lots with proper lighting (Bureau of Justice Assistance, 2011).

Keg Registration

Keg registration requires that retailers mark, track, and monitor all beer kegs and who purchases them. Typically, the adult purchaser must sign that they will be responsible for the service of alcohol and will not provide or allow others to provide alcohol to minors. This enables police officers to identify the adult purchaser when underage individuals are caught drinking beer from kegs. A study of 97 U.S. communities found that requiring keg registration lowered traffic fatality rates (Cohen, Mason, & Scribner, 2002).

Party Assembly Ordinances

A party assembly ordinance, also called noise, loud party, or open house assembly ordinances, may be used to control sound levels and alcohol service at large private or public gatherings of people. Communities across the country have recognized the potential use of these ordinances to prevent unruly behavior and deterrence of parties that may draw underage drinkers (Meztger, 2011; City of Phoenix, 2010). When responding to reported high levels of noise officers can check for alcohol service to underage drinkers.

Open-Containers Ordinances

An open-container ordinance prohibits people from publicly consuming or possessing an open container of alcohol. This ordinance allows communities to discourage people from drinking alcoholic beverages while driving. It also helps communities to address issues such as public drunkenness that can be a public nuisance, disturbance, or lead to other criminal activity. According to a 2002 study, alcohol-involved fatal crashes were proportionately higher in States without open-container laws (Stuster et al., 2002).

Social Host

Some communities have enacted ordinances that allow fines to be imposed on parents or other adults when underage drinking parties are held on their property. This may encourage adults to monitor youth to prevent underage drinking parties from occurring. According to MADD, more than 150 cities and counties and 24 States have adopted social host ordinances and laws. Some research indicates that social host liability laws are associated with reductions in drinking and driving and alcohol-related traffic fatalities (Grube, 2007c).

Special Event Licenses

Many communities require permits for special events. Those event venues that plan on selling and serving alcohol may be required to obtain temporary permits which limit where, what, how much, and how long alcohol sales and service may take place during an event. Communities may also require security and training for alcohol sales and service as part of the special event license. These types of controls are consistent with research that shows controls on availability of alcohol reduce alcohol consumption and related problems (Prevention Research Center, 2004).

Youth may have easy access to alcohol at community events, obtaining it either through friends or purchasing it themselves. Some communities have required designated drinking areas at special events that prohibit entrance to underage patrons and require training for all servers.

Promoting Responsible Selling and Serving

Alcoholic Drink Promotions

Ordinances regulating alcohol promotions may help communities to address the potential for overconsumption of alcoholic beverages. These ordinances usually control for the type of promotion, quantity of alcohol, and how long the promotion may take place. Ordinances may also determine how and where the sales of alcoholic beverages may be promoted. Alcoholic drink promotions have been found to be associated with higher rates of heavy episodic drinking (Wechsler et al., 2000). Heavy episodic drinking has been found to be a contributor to high risk behaviors. Those who drink heavily on a given occasion are more likely to experience negative outcomes (e.g., injury, driving after drinking, alcohol dependence) compared with those who do not drink heavily on

that occasion (e.g., Knight et al., 2003; Midanik et al., 1996; Wechsler, Davenport, Dowdall, Moeykens, & Castillo, 1994; Wechsler, Dowdall, Maenner, Gledhill-Hoyt, & Lee, 1998; Wechsler & Nelson, 2001).

Banning Home Alcohol Deliveries

The transaction of home deliveries occurs outside of a controlled environment. Controlled environments serve to deter sales to minors or intoxicated patrons. In controlled environments such as convenience stores, there may be video surveillance, cash registers programmed to restrict specific product sales without age verification, or customers who may witness the sales exchange. With home deliveries it is difficult to control for proper age verification or determine whether customers are obviously intoxicated. Surveys conducted as part of the Communities Mobilizing for Change on Alcohol project in Minnesota and Wisconsin of 12th graders, 18- to 20-year-olds and of commercial alcohol outlets found: 10 percent of the surveyed 12th graders and 7.3 percent of the 18- to 20-year-olds reported having purchased delivered alcoholic beverages within the past year.

Responsible Beverage Server (RBS) Training

RBS training provides licensed alcohol-retailers the skills and knowledge to avoid selling to minors and obviously intoxicated patrons. Training can stress the importance of checking identification and teaching servers and sellers how to identify fake identification. See section C.2.4 for further information on RBS.

Alcohol Server Certification or Licensing

Some States and municipalities require persons to be licensed and certified to sell or serve alcohol. This is to ensure that sellers and servers understand the laws and liabilities of sales and service of alcohol.

Posting Warning Signs at Establishments Where Alcohol Is Served

In all States it is illegal to furnish alcohol to minors. Warning signs educate and remind adults of the legal consequences for providing alcohol to minors. A study conducted of Oregon alcohol retailers found alcohol purchases were less likely at stores with a posted underage alcohol sale warning sign (Paschall et al., 2007).

THE SOCIAL ENVIRONMENT

Billboards and Signage

Communities may restrict and limit the placement of billboards and signage. The Board on Children, Youth, and Families of the National Research Council and the Institute of Medicine's Committee on Developing a Strategy to Reduce and Prevent Underage Drinking recommend precaution in the placement and promotion of alcohol advertisements by alcohol companies and advertisers (National Research Council & Institute of Medicine, 2004). While there have been strong arguments against banning or restricting alcohol and tobacco billboard advertisements based on First Amendment rights, municipalities have

been allowed to ban billboards when shown to be a public nuisance effecting the health and safety of the community. A lower court's decision that allowed the Baltimore, Maryland, to ban alcohol and tobacco billboards where they can be viewed by minors was upheld by the Supreme Court (Smith, 2011).

Public Intoxication

With public intoxication laws, communities can address people under the influence of alcohol or drugs who may pose a danger to themselves or others. Publicly intoxicated persons are vulnerable to robbery, assault, other criminal activity, or have the potential to drive while impaired. Public intoxication laws give law enforcement the opportunity to intervene before an impaired person drives or an impaired pedestrian walks into oncoming traffic.

Vehicle Impoundment

While not specific to alcohol use, vehicle impoundment ordinances have been used to prevent DWI offenders from repeating their crimes. Individuals caught violating impaired-driving laws typically lose their driver's license. Vehicle impoundment ordinances allow for law enforcement to impound vehicles of drivers who have suspended or revoked driving licenses. Some ordinances allow for the impoundment whether or not the impaired driver is the registered owner. Very few studies show evidence of reductions in crashes or impaired driving associated with vehicle impoundment because either the law was underused or other policies were put into place that made it difficult to assess its effectiveness (Voas & DeYoung, 2001). However, evaluations of programs in Portland, Oregon, and Franklin County, Ohio, showed that both forfeiture and immobilization were effective in reducing driving while suspended/DUI recidivism (DeYoung, 1997).

C.3.2. Enforcement Programs

High Visibility Enforcement

High-visibility enforcement (HVE) is a well-coordinated and targeted strategy of actively conducting and publicizing law enforcement activities to detect and arrest impaired drivers. Periodic high-intensity and sustained high-visibility enforcement efforts, supported by a coordinated media campaign, are proven effective countermeasures for reducing impaired-driving fatalities. Checkpoint Tennessee, a year-long high-visibility enforcement effort conducted in the mid-1990s, resulted in a 20-percent reduction in alcohol-related crashes (Lacey, Jones, & Smith, 1999). Similar enforcement and media approaches applied to seat belt use have resulted in raising seat belt use rates by a range from 2.7 to as high as 26 percentage points. (Hedlund, Gilbert, Ledingham, & Preusser, 2008, p.5; and NHTSA, 2011, p. 2-19).

The enforcement component of the HVE strategy includes a variety of enforcement activities such as saturation patrols and sobriety checkpoints. A saturation patrol is an enforcement strategy of concentrating a large number of

law enforcement officers when and where impaired-driving crashes are prevalent. A sobriety checkpoint is a coordinated enforcement activity where law enforcement randomly stops persons driving on a specified roadway to check whether they are alcohol impaired. The purpose of these strategies is to deter people from driving impaired by raising the perception of the risk for detection and arrest. Communities are encouraged to support law enforcement agencies to conduct saturation patrols and sobriety checkpoints where allowable.

To help communities and law enforcement agencies implement HVE efforts, NHTSA has published the *Saturation Patrols & Sobriety Checkpoints Guide: A How-to Guide for Planning and Publicizing Impaired Driving Enforcement Efforts* (NHTSA, 2002), and *Creating Impaired Driving General Deterrence: Eight Case Studies of Sustained, High-Visibility, Impaired-Driving Enforcement* (Stuster, 2006).

Alcohol Retail Compliance Operations

Alcohol retail compliance operations or checks are typically known as sting operations. Coordinated by law enforcement agencies, these undercover operations consist of underage persons attempting to buy alcoholic beverages from an alcohol beverage retailer. If the underage person successfully purchases the alcohol, the retailer is cited which may result in a fine or loss of license to sell alcohol. These operations are intended to deter sales to minors. A study conducted in Concord, New Hampshire, shows that compliance checks may be effective in reducing sales to minors (Moore, 2007). Prior to enhanced enforcement in Concord 28.2 percent of alcohol retail licensees sold alcoholic beverages to minors compared to 10.2 percent during the compliance checks. The percentage of alcohol retailers selling to minors outside Concord was reported at 30.5 percent where compliance checks were not conducted.

Shoulder Tap Operations

These operations are intended to deter adults from purchasing alcohol for minors and alcohol retail licensees from allowing the activity to take place. Law enforcement agencies will employ or recruit underage persons to ask adults near a licensed alcohol retail store to buy alcoholic beverages for them. If an adult buys alcohol for a minor, he or she may be arrested and prosecuted. In some cases, a retail licensee may be held liable for knowingly selling alcohol to an adult who furnishes it to minors.

C.3.3. Prosecution, Adjudication, and Supervision

DWI Courts

A DWI court is a specialized court dedicated to changing the behavior of the higher risk offenders arrested for DWI. The goal of a DWI court is to protect the public by using the highly successful model of accountability, supervision, and long-term treatment. Several studies have found DWI courts successful in reducing recidivism rates among drivers arrested for impaired driving. A

Michigan study of three DWI courts found DWI court offenders were up to 19 times less likely to be re-arrested for another DWI than a DWI offender in a traditional court (Carey, Fuller, & Kissick, 2008). A NHTSA study on the evaluation of three Georgia DWI Courts found participants had 65-percent lower recidivism rates than eligible nonparticipating offenders from the same counties (Fell, Tippetts, & Lanston, 2011).

Court Monitoring

Court monitors are responsible for attending, observing and recording the disposition of DWI court cases as they move through the criminal justice system. Court monitors send a strong message to judges and prosecutors that the public has an active interest in DWI issues. NHTSA research indicates that court monitoring has several positive effects on DWI adjudication, including a 10 percent higher conviction rate and a 70 percent lower dismissal rate for cases where a driver's blood alcohol concentration was at .10 or higher. According to the NHTSA study, in monitored cases where the driver refused to take a BAC test, the offender was 25 percent more likely to be convicted and case dismissal rates were 90 percent lower than in cases not monitored (Shinar, 1990).

Alcohol Ignition Interlocks

Alcohol ignition interlocks, also referred to as breath alcohol ignition interlock devices (BAIID), are devices placed on an individual's vehicle to prevent it from starting if that person has a measureable amount of alcohol in their system (usually .02 or .025 BAC). Alcohol ignition interlocks have been shown to reduce recidivism as long as the device is installed (Marques & Voas, 2010). Probation departments, courts and state licensing agencies across the country are using ignition interlock as a monitoring tool for DWI offenders. NHTSA published the *Ignition Interlocks: What You Need to Know: a Toolkit for Policymakers, Highway Safety Professionals, and Advocates* (NHTSA, 2009) and *Key Features for Ignition Interlock Programs* (NHTSA, 2010) to support widespread use and implementation of alcohol ignition interlocks.

DWI Intensive Supervision Programs

DWI intensive supervision programs are behavior modification strategies used to closely monitor DWI offenders. Designed for at-risk offenders, these programs may include electronic monitoring, increased drug/alcohol testing and unannounced home or work visits. While these programs may vary in type, the most common features include screening and assessment for extensiveness of alcohol/drug use problems, close monitoring, and jail for noncompliance. Studies have shown intensive supervision programs reduce recidivism among DWI offenders. An evaluation of intensive supervision programs in communities within Minnesota, New York, and Oregon indicated significant reductions in recidivism among participants of the program within a 5-year period (Wiliszowski, Fell, McKnight, & Tippetts, 2011, p. 55).

A promising supervision strategy started in South Dakota is the 24/7 Sobriety Program. Participants must physically report and submit to testing for alcohol or drug use twice a day. Failure to test or demonstrate abstinence may result in immediate revocation of bond, parole, or probation and in most cases, immediate incarceration. First-time impaired-driving offenders with a .17 BAC or greater and repeat offenders needing work permits are required to participate. An evaluation of the program showed only 7.4 percent of the program participants reoffended within a 3-year period compared to 13.7 percent of non-participants (Loudenburg, Drube, & Leonardson, 2010).

C.4. Treatment

C.4.1. Screening, Brief Intervention, and Referral to Treatment (SBIRT)

Alcohol Screening and Brief Intervention is explained in section C.2.1. As a result of screening, a health care provider or other professional may find that an individual may show signs of a serious alcohol use problem. Such a finding would warrant a more in-depth assessment and possible referral to treatment. Research and information on implementing SBIRT is available on the Substance Abuse and Mental Health Services Administration and the Centers for Disease Control and Prevention Web sites at www.samhsa.gov/prevention/sbirt and www.cdc.gov/injuryresponse/alcohol-screening.

D. Conclusion

Many laws such as minimum legal drinking age laws, .08 BAC laws, open container laws, and seat belt laws have come into place through federal sanctions and incentives. It may take years for States to enact and effectively enforce new traffic safety laws. It is hoped that this publication will provide ideas to communities on strategies and legislation that can be implemented on a local level. It describes a number of effective and promising strategies, programs, and policies for communities to consider in assisting to reduce the incidence of impaired driving. While not all inclusive, many of these have been successfully implemented or adopted in various communities throughout the nation.

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Ordinance Type/Title	Locality	Section & Description
Alcohol Restrictions in Public Locations	Wichita, KS	<p>Sec. 4.04.040(a)(c)-(g): Consumption in public places prohibited</p> <p>(a)</p> <ol style="list-style-type: none"> (1) Except as otherwise provided herein, it is unlawful for any person within the corporate limits of the city to drink or consume alcoholic liquor upon the public streets, alleys, roads or highways, or inside vehicles while upon the public streets, alleys, roads or highways. (2) Alcoholic liquor may be sold and/or consumed at a special event as part of a temporary entertainment district held on public streets, alleys, roads, sidewalks, or high ways, provided that such streets, alleys, roads, sidewalks or highways have been closed to motor vehicle traffic by the City Council and when a temporary permit has been issued pursuant to K.S.A. 41-2645 and amendments thereto, for such event and the consumption of such alcoholic liquor at such event has been approved by the City Council pursuant to <u>Section 3.11.065</u>. (3) No alcoholic liquor may be consumed inside or on motor vehicles while on public streets, alleys, roads or highways at such special event or within a temporary entertainment district. (4) No person shall remove any alcoholic liquor from inside the boundaries of a special event or temporary entertainment district as designated by the City Council pursuant to <u>Section 3.11.065</u>. The boundaries of such event or temporary entertainment district shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such event. (5) No person shall possess or consume alcoholic liquor inside the premises, licensed as a special event or temporary entertainment district, that was not sold or provided by the licensee holding the temporary permit for such special event or an adjacent drinking establishment which has extended its licensed premises into and made a part of the licensed premises for such special vent pursuant to K.S.A. A. 41-2645(e)(2) and amendments thereto. (6) It shall be unlawful for any person to distribute, sell or allow the consumption of any alcoholic liquor on the streets or sidewalks within any special event or temporary entertainment district without obtaining the

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		<p>approval of the City Council and any and all necessary State and local permits for the sale or consumption of such alcoholic liquor.</p> <p>(7) Each licensee selling alcoholic liquor for consumption on the premises of a special event or temporary entertainment district for which a temporary permit has been issued shall be liable for violations or all laws governing the sale and consumption of alcoholic liquor.</p> <p>(b) <i>This section addresses consumption on private property. Therefore, it is not included in this chart.</i></p> <p>(c) No person shall drink or consume alcoholic liquor on public property except:</p> <p>(1) On real property leased by a city to others under the provisions of K.S.A. 2-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposed incidental thereto.</p> <p>(2) In any State-owned or operated building or structure and on the surrounding premises which is furnished to and occupied by any State officer or employee as residence.</p> <p>(3) On premises licensed as a club or drinking establishment and located on property owned or operated by the Wichita Airport Authority.</p> <p>(d) On property which has been specifically exempted by ordinance the title of which is vested in Wichita.</p> <p>(e) Any property located within the corporate limits of Wichita that is under the control of the Kansas State Board of Regents and the Kansas State Board of Regents has exempted said property from the provisions of K.S.A. 41-719(c) and amendments thereto and said property is not used for classroom instruction.</p> <p>(f) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.</p> <p>(g) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.</p>
Alcohol Retail Density Limits	Madison, WI	<p>Sec. 38.05(9)(o)1-3 Alcohol Beverage License Density Plan.</p> <p>1. <u>Purpose.</u> The Central Commercial District currently contains at least twenty-seven percent (27%) of all alcohol beverage licenses issued by Madison (City) and at least 34 percent of all 'Class B' Combination alcohol beverage licenses issued by the city. Between 1997 and 2006, this area experienced an increase of 125 percent in the total number of alcohol beverage</p>

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		<p>licenses and an increase of 128 percent in the number of “Class B” combination alcohol beverage licenses. Not coincidentally, this area experiences a high volume of alcohol-related problems, as detailed in the Madison Police Department's 2005 report, "Alcohol-Related Violence in Downtown Madison." As part of the ongoing comprehensive efforts to decrease the incidence of alcohol- related problems in the downtown area, the city seeks to maintain or gradually reduce the number and capacity of certain types of alcohol beverage licenses in the identified Alcohol License Density Plan area. This maintenance and/or reduction will be achieved through the licensing powers of the Alcohol License Review Committee (ALRC) and the Common Council. Additionally, the city seeks to decrease the strain on public resources caused by a high density of alcohol-related businesses while simultaneously providing opportunities in the downtown area for businesses that are either not associated with the sale of alcohol or that sell alcohol incidental to their principal business.</p> <p>2. <u>Density Plan Area.</u> Any property located within the Central Commercial District of Madison. The Central Commercial District is defined as the area enclosed by the following boundaries: Lake Mendota shoreline between N. Park Street and Blair Street, Blair Street from Lake Mendota shoreline south/southeast to Lake Monona Shoreline, Lake Monona shoreline south/southwest from Blair Street to Monona Bay shoreline, Monona Bay shoreline from Lake Monona shoreline south/southwest to Proudfit Street, Proudfit Street from Monona Bay shoreline north/northwest to Regent Street, Regent Street west to Park Street, Park Street north to Lake Mendota shoreline. The Common Council, upon recommendation of the ALRC, may add additional areas within Madison to this Plan at any time based upon the criteria and analysis used in the Madison Police Department's 2005 report, "Alcohol-Related Violence in Downtown Madison.”</p> <p>3. <u>Procedure.</u></p> <p>a. When an application related to an alcohol beverage licensed premise within the Density Plan Area is submitted to the city clerk, the city clerk will mark the application “DPA” prior to placing the application on the next available ALRC agenda. This subsection applies to all applications related to an alcohol beverage licensed premise within the Density Plan Area (new license applications, changes to a licensed premise, transfer of a license, etc.) with the exception of renewal applications.</p> <p>b. The Alcohol License Review Committee will review all applications and make recommendations to the Common Council based on the criteria and guidelines contained within this subsection specifically and within Ch. 38, M.G.O. generally.</p>
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	DeKalb, IL	<p>38.25 NUMBER OF LICENSES</p> <p>a) Licenses for the following classification shall be issued on a population basis as determined by the most recent Federal census of the city.</p> <p>Municipal Code - City of DeKalb Chapter 38, “Intoxicating Liquors” Chapter 38 - 42</p> <p>Class A: Sixteen total A licenses for the first 45,000 people or fraction thereof, and one license for each 5,000 additional people or fraction thereof. (72-66, 92-17, 04-43)</p> <p>Class B: Thirteen total B licenses for the first 40,000 people or fraction thereof, and one license for each 5,000 additional people or fraction thereof. (77-87, 81-35, 92-17)</p> <p>Class H: One for each 10,000 people or fraction thereof. (80-45)</p> <p>Class I: One for each 10,000 people or fraction thereof. (80-92)</p> <p>Class J: One for each 10,000 people or fraction thereof. (92-43, 93-81)</p> <p>Class K: Three for each 40,000 people or fraction thereof. (99-36, 00-104)</p>
Conditional Use Permit – Hours of Operation		None provided.
Dram Shop		None provided.
Exterior Parking Lot Lighting	San Francisco, CA	<p>(c) Security Plan</p> <p>(1) The chief of police shall review the applicant's security plan to ensure that the plan meets the minimum requirements set in Subsection (c)(2) below and any additional requirements set by the chief of police in rules promulgated under Section 1215.4(a), and is reasonably calculated to protect individuals and vehicles in the parking garage or parking lot and within 25 feet of any pedestrian or vehicular entrance or exit to the parking garage or parking lot. The chief's evaluation of the security plan shall consider all relevant factors including, but not limited to, the parking garage's or parking lot's location, size, hours of operation, proximity to an entertainment establishment, and history of incidents resulting in police department response in the two years before the date of the application. The chief of police may approve a security plan, or may specify alternate or additional security measures required for approval of the security plan. The chief of police shall disapprove any security plan that the chief determines does not adequately address the safety of individuals and vehicles in the parking garage or parking lot and within 25 feet of any pedestrian or vehicular entrance or exit to the parking garage or parking lot, notwithstanding the compliance of the proposed security plan with the minimum requirements of Subsection (c)(2)</p>

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		<p>below. The chief of police shall not issue a commercial parking permit for any parking garage or parking lot unless the chief approves the security plan for that parking garage or parking lot. The chief of police may waive or alter the minimum requirements listed Subsection (c)(2) below if the chief determines that the parking garage or parking lot has no history of criminal, nuisance, or public safety incidents in the previous two years. If, after the chief grants a waiver or alteration of the minimum requirements listed in subsection (c)(2) below, a criminal, nuisance or public safety incident occurs, the chief may revoke that waiver or alteration of the minimum requirements.</p> <p>(2) The security plan shall meet the following minimum requirements:</p> <p>(A) If any pedestrian or vehicular entrance or exit to the parking garage or parking lot is within 1,000 feet of any entrance or exit to an Entertainment Establishment, provide for an attendant, security guard or other individual retained by the permittee to remain on site for any operating hours between 7 p.m. and 3 a.m. An attendant, security guard, or other individual is not required on site if all vehicular entrances and exits to the parking garage or parking lot are closed and secured so that vehicles may not enter or exit the garage or lot. The phrase "1,000 feet" in this Subsection (c)(2)(A) shall mean 1,000 feet in all directions, including across a street, from any pedestrian or vehicular entrance or exit to the parking garage or parking lot;</p> <p>(B) Provide for measures to ensure that when the parking garage or parking lot is not open for business, the vehicular entrances and exits are closed and secured so that vehicles may not enter or exit the garage or lot; and</p> <p>(C) <u>Identify the number, type, and location of all light sources located on the premises including lighting located within pedestrian stairwells and entrances and provide for at least the minimum lighting specified in Fire Code Section 5003.4.</u></p> <p>(3) <u>The security plan may include additional measures to protect the safety of individuals and vehicles in the parking garage or parking lot and within 25 feet of any pedestrian or vehicular entrance or exit to the parking garage or parking lot, including, but not limited to, additional personnel, additional lighting, security cameras, emergency call boxes or phones, mirrors, barriers, and other physical improvements, or plans to close and secure one or more pedestrian or vehicular entrances or exits to the parking garage or parking lot for certain hours of operation.</u></p>
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		<p>(4) If the parking garage or parking lot leases spaces to either a certified car-share organization as defined by Planning Code Section 166(b)(2) or to patrons who rent spaces on a long-term basis, the security plan must describe how those patrons will retain access during hours when the parking garage or parking lot is not open for business.</p> <p>(5) The authority of the chief of police to review and approve security plans for parking garages and parking lots does not restrict in any way the authority of the Entertainment Commission to place security requirements on any business with a Place of Entertainment or Extended Hours Premises permit.</p>
Keg Registration	Jones County, IA	<p>CHAPTER 11 JONES COUNTY KEG REGISTRATION ORDINANCE TITLE V – PUBLIC ORDER, SAFETY & HEALTH SECTION 1. TITLE This ordinance shall be known and may be cited and referred to as the Jones County Keg Registration Ordinance. SECTION 2. PURPOSE The identification of purchasers/providers of keg alcoholic beverage for consumption by underage people is a major law enforcement concern in Jones County, Iowa. When keg alcohol is found where underage people are present it is necessary to readily identify those responsible. The investigation of crimes involving the furnishing of alcohol to minors and related crimes involving keg alcoholic beverages is inhibited by the inability to identify who purchased the keg alcohol. Registration/identification information must be available on all keg alcohol beverage in Jones County, Iowa. Individual identification number, purchaser and retail seller identity information will better enable law enforcement to identify providers of keg alcoholic beverages to underage people. Therefore, it is in the public interest to place reasonable keg registration/identification rules as hereinafter set forth. This ordinance provides for the registration and documentation of retail sales of keg alcoholic beverages. SECTION 3. REGISTRATION AND RETURN PROCEDURE All retail sales/purchases of alcoholic beverage by keg container of two gallon volume or more in Jones County, Iowa, for off-site (at a location which does not hold a liquor license) consumption must comply with the following registration, documentation and labeling requirements and</p>

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		<p>restrictions imposed by this ordinance:</p> <p>A. Purchasers shall provide a current government issued photo identification with the purchaser’s name, address, and individual identification number to the seller who shall then record and document that information in a log. The log shall also contain the individual keg identification assigned to the keg by the seller, and include the date of sale and indicate that the photo identification that was produced was matched to the purchaser. The log shall also contain some identifier of each person, owner/employee who sold to each purchaser. This information shall be kept by the seller for a minimum period of six months from the date of sale.</p> <p>B. Sellers shall assign, record and attach to each retail keg sold for off-site consumption an individual keg identification label/sticker, at or before the time of sale to the purchaser, and the label/sticker shall also include a prominent warning thereon that it is illegal to alter, damage or remove the label/sticker from the keg.</p> <p>C. Sellers of keg alcohol shall obtain the individual keg identification label/stickers from the Jones County Auditor’s Office which shall record to whom the consecutively numbered label/stickers are distributed and shall restrict the distribution of the label/stickers to licensed alcoholic beverage retailers. The Auditor shall keep the record of distribution for one year.</p> <p>D. Sellers shall collect a deposit in an amount set by the retailer for each keg. Purchasers shall return kegs to the retail seller where it was purchased with the individual keg identification label/sticker attached, intact and legible on or before 60 days from the date of sale or the deposit shall be forfeited.</p> <p>E. Sellers shall record the date on which the keg is returned, who returned the keg and indicate whether the keg identification label/sticker is present or absent by notation on the log.</p> <p>F. Sellers shall remove the individual keg identification label/stickers from the kegs when they are returned and shall maintain them with the corresponding keg registration records.</p> <p>G. Sellers shall produce keg registration logs/records to law enforcement upon request.</p> <p>H. This ordinance does not apply to keg sales to liquor license permittees.</p> <p>SECTION 4. KEG POSSESSION REQUIREMENTS AND RESTRICTIONS No person shall possess a keg container of alcoholic beverage of two gallons or more which was purchased in Jones County, Iowa, for consumption, after the effective date of this ordinance, without an intact and legible individual keg identification label/sticker attached (except for retail sellers of keg alcohol and liquor license permittees).</p> <p>SECTION 5. KEG STICKER / LABEL PROHIBITIONS No person shall alter, damage, destroy or remove the individual keg label/sticker which is</p>
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		<p>described and required by this ordinance or other county ordinance/law after it has been attached to the keg (except retail sellers of keg alcohol).</p> <p>SECTION 6. VIOLATION / PENALTY A seller or purchaser or other person who violates any of the above requirements and/or restrictions imposed by this ordinance shall be subject to a fine not to exceed \$500 or a term of imprisonment not to exceed 30 days.</p> <p>SECTION 7. SEVERABILITY CLAUSE This ordinance and any amendment hereto and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance or amendment hereto shall not be affected thereby.</p> <p>SECTION 8. RELATIONSHIP TO OTHER LAWS Nothing contained herein shall serve to abrogate, limit, repeal, or otherwise modify any other county ordinance or regulation, except as expressly set forth herein. If any provision of this ordinance conflicts with the provisions of any other Federal, State, or county ordinance, regulation, or statutes, the most restrictive standard shall apply.</p> <p>SECTION 9. EFFECTIVE DATE This ordinance shall be in effect July 1, 2006, after its final passage, approval and publication as provided by law. Passed and approved May 16, 2006 Published May 26, 31 and June 1, 2006 Effective July 1, 2006</p>
Party Assembly Ordinances	Columbia, MO	<p>Sec. 16-301-5 Nuisance Parties</p> <p>Sec. 16-301. Definitions.</p> <p>The following definitions apply to this division:</p> <p>“Nuisance party” is a social gathering of 10 or more people on residential property that results in any of the following occurring at the site of the gathering, on neighboring property or on an adjacent public street:</p> <p>(1) Unlawful sale, furnishing, possession or consumption of alcoholic beverages;</p>

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		<p>(2) Violation of any of the provisions of Article III of this chapter (noise);</p> <p>(3) Fighting;</p> <p>(4) Property damage;</p> <p>(5) Littering;</p> <p>(6) Outdoor urination or defecation in a place open to public view;</p> <p>(7) The standing or parking of vehicles in a manner that obstructs the free flow of traffic;</p> <p>(8) Conduct that threatens injury to people or damage to property;</p> <p>(9) Unlawful use or possession of marijuana or any drug or controlled substance;</p> <p>(10) Trespassing; or</p> <p>(11) Indecent exposure.</p> <p>“Permit” means to give permission to; or to allow by silent consent, by not prohibiting, or by failing to exercise control.</p> <p>Sec. 16-302. Nuisance parties prohibited.</p> <p>It shall be unlawful for any person having the right to possession of any residential premises, whether individually or jointly with others, to cause or permit a social gathering on the premises to become a nuisance party.</p> <p>Sec. 16-303. Police order to disperse.</p> <p>Columbia police officers are authorized to order those attending a nuisance party to disperse. It</p>
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		<p>shall be unlawful for any person not domiciled at the site of the nuisance party to fail or refuse to leave the premises immediately after being told to leave by a Columbia police officer.</p> <p>Sec. 16-304. Nuisance parties -- residential rental properties; certificate of compliance sanctions.</p> <p>(a) Intent of section. This section shall set forth administrative procedures and standards for revoking a residential landlord’s certificate of compliance under the Rental Unit Conservation Law (Sec. 22-181, et seq. of this code) when multiple nuisance parties have occurred on residential rental property. The city seeks the cooperation of residential landlords in eliminating nuisance parties held by their tenants. The sanction of revoking a certificate of compliance is intended as a last resort after other attempts to eliminate the problem have failed. This section also establishes the offense of failure to prevent a nuisance party.</p> <p>(b) Initial nuisance party. Within 10 days after the initial nuisance party that serves as a basis for a certificate of compliance sanction, the police department shall send the property owner and tenants of the unit hosting the gathering, by certified mail, a notice of nuisance party ordinance violation. The notice shall set forth the date, place and nature of the violation and urge the property owner and tenants to take action to prevent future nuisance parties on the property. If notice cannot be given to a party by certified mail, notice shall be given by first class mail and by posting a copy of the notice in a conspicuous place on the dwelling.</p> <p>(c) Subsequent nuisance party; compliance meeting. If a subsequent nuisance party occurs at the same unit within a 12-month period, the police department shall send the property owner and tenants, by certified mail, another notice of nuisance party violation within 10 days of the party. If notice cannot be given to a party by certified mail, notice shall be given by first class mail and by posting a copy of the notice in a conspicuous place on the dwelling. The notice shall set forth the date, place and nature of the violation and shall schedule a nuisance party ordinance compliance meeting. The compliance meeting shall be attended by a police department representative, by the property owner or the owner’s agent and by the tenants responsible for the nuisance party. The purpose of the compliance meeting is to reach agreement on corrective action necessary to avoid future nuisance parties on the property. Possible corrective actions include, but are not limited to:</p> <p>(1) An agreement by tenants to impose limits on social gatherings such as restrictions on the</p>
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		<p>number of guests, time, music, consumption of alcoholic beverages, etc.</p> <p>(2) An agreement by the property owner not to renew the lease or to initiate an eviction action if further nuisance parties are held on the property.</p> <p>If agreement is reached, a police department representative shall reduce the corrective action to writing and shall provide a copy to the property owner and tenants.</p> <p>(d) Owner’s failure to prevent a third nuisance party. It shall be unlawful for the owner of any residential rental property to fail to prevent a nuisance party within 12 months of a nuisance party that triggered a compliance meeting under subsection (c). An owner of residential rental property shall not be prosecuted for a violation of this subsection unless:</p> <p>(1) At least one person was charged with a violation of Sec. 16-302 or Sec. 16-303 or an offense that caused a social gathering to become a nuisance party in connection with a nuisance party at the residential unit which triggered a notice under Sec. 16-304 (b); and</p> <p>(2) At least one person was charged with a violation of Sec. 16-302 or Sec. 16-303 or an offense that caused a social gathering to become a nuisance party in connection with a nuisance party at the residential unit which triggered a compliance meeting under Sec. 16-304 (c).</p> <p>(e) Revocation of certificate of compliance. A certificate of compliance may be revoked if the notices of nuisance party ordinance violations under subsections (b) and (c) have been sent and</p> <p>(1) The property owner refused or failed to attend a compliance meeting;</p> <p>(2) The property owner refused or failed to comply with any corrective action agreed to at the compliance meeting;</p> <p>(3) Another nuisance party occurred at the same unit within 12 months of the nuisance party that triggered the compliance meeting and the owner of the property failed to appear in response to a summons issued for a violation of subsection (d); or</p>
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		<p>(4) Two nuisance parties, each resulting in at least one person being charged with a violation of Sec. 16-302 or Sec. 16-303 or an offense that caused the social gathering to become a nuisance party, occurred at the same unit within 18 months of the nuisance party that triggered the compliance meeting.</p> <p>When the police have sufficient evidence to support the revocation of a certificate of compliance, the police chief shall submit the matter to the city manager.</p> <p>(f) Initiation of revocation proceedings. If the city manager determines that a revocation of the certificate of compliance for a building or unit may be justified, the city manager may institute a contested case for that purpose in accordance with Chapter 536, RSMo. The property owner and affected tenants shall be necessary parties to the case. The city manager or the manager’s designee shall serve as hearing officer at the hearing held on the proposed revocation of the certificate of compliance.</p> <p>(g) Findings required for revocation; other considerations. The hearing officer may revoke the certificate of compliance for the unit in violation of this division if the officer finds that:</p> <p>(1) The initial and subsequent nuisance parties occurred at the unit;</p> <p>(2) The proper notices of nuisance party ordinance violations were sent; and</p> <p>(3) a. The property owner failed or refused to attend a compliance meeting;</p> <p>b. The property owner failed or refused to comply with any corrective action agreed to at the compliance meeting; or</p> <p>c. Another nuisance party occurred at the same unit within 12 months of the nuisance party that triggered the compliance meeting and the owner of the property failed to appear in response to a summons issued for a violation of subsection (d); or</p>
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		<p>d. Two nuisance parties, each resulting in at least one person being charged with a violation of Sec. 16-302 or Sec. 16-303 or an offense that caused the social gathering to become a nuisance party, occurred at the same unit within 18 months of the nuisance party that triggered the compliance meeting.</p> <p>In determining whether the certificate of compliance should be revoked, the hearing officer shall consider:</p> <ul style="list-style-type: none"> (1) The level of cooperation of the parties in attempting to avoid nuisance parties; (2) The level of disturbance associated with the nuisance parties; (3) The impact of the nuisance parties on neighbors and other victims; (4) The degree to which the landlord and tenants have taken reasonable steps to avoid future nuisance parties; and (5) The history of nuisance party ordinance violations on owner’s property. <p>(h) Affirmative defense. It shall be an affirmative defense to a charge of violating subsection (d) and to a certificate of compliance revocation proceeding that the property owner has evicted or is diligently attempting to evict all tenants and occupants of the property who were responsible for the nuisance parties.</p> <p>(i) Time sanctions in effect. The order revoking a certificate of compliance shall state the period of time that must elapse between the effective date of the revocation and the time when a new certificate may be issued for the property. This period shall not exceed one year.</p> <p>(j) Appeal. The property owner or any affected tenant may appeal an adverse decision of the hearing officer to the Circuit Court of Boone County in accordance with Chapter 536, RSMo.</p> <p>(k) Effect of property conveyance. If title to property subject to an order revoking the certificate of compliance is conveyed in an arms-length transaction, as determined by the city</p>
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		<p>manager or the manager’s designee, the new owner may apply for a certificate of compliance after the new owner has met with a representative of the police department and agreed to take corrective action satisfactory to the chief of police to avoid future nuisance parties.</p> <p>In determining whether the conveyance was an arms-length transaction, the city manager or the manager’s designee shall consider:</p> <ol style="list-style-type: none"> (1) Whether the property was conveyed for less than fair market value; (2) Whether the property was conveyed to an entity controlled by a person conveying the property; and (3) Whether the property was conveyed to a relative of a person conveying the property. <p>Sec. 16-305. Penalty.</p> <p>Any person who violates Sec. 16-302, Sec. 16-303, or Sec. 16-304 (d) shall, upon conviction, be punished for a first offense by a fine of not less than \$500 nor more than \$2,000 or by imprisonment not exceeding three months or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, a person shall be punished by a fine of not less than \$1,000, nor more than \$4,000 or by imprisonment not exceeding three months or by both such fine and imprisonment.</p> <p>In determining whether the conveyance was an arms-length transaction, the city manager or the manager’s designee shall consider:</p> <ol style="list-style-type: none"> (1) Whether the property was conveyed for less than fair market value; (2) Whether the property was conveyed to an entity controlled by a person conveying the property; and (3) Whether the property was conveyed to a relative of a person conveying the property.
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		<p>Sec. 16-305. Penalty.</p> <p>Any person who violates Sec. 16-302, Sec. 16-303, or Sec. 16-304 (d) shall, upon conviction, be punished for a first offense by a fine of not less than five hundred \$500 nor more than two \$2,000 or by imprisonment not exceeding three months or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, a person shall be punished by a fine of not less than one \$1,000, nor more than four \$4,000 or by imprisonment not exceeding three months or by both such fine and imprisonment.</p>
Open Container	Pittsfield, NH	<p>Open Container Ordinance</p> <p>In accordance with the provisions of New Hampshire Revised Statutes Annotated, Chapter 31, Section 29, authorizing Pittsfield to enact bylaws, the following ordinance is adopted by the Annual Town Meeting.</p> <p><i>Section 1. Purpose.</i> The Annual Town Meeting of Pittsfield ordains that it is in the public interest and hereby establishes that it is public policy to regulate the use of alcoholic beverages on town property, or in motor vehicles.</p> <p><i>Section 2. Use of Alcohol on Public Property Prohibited.</i> It shall be unlawful for any person to possess an open container of any alcoholic beverage, or to consume any alcoholic beverages while on any public highway, sidewalk, common, or upon any town owned property within the limits of Pittsfield, unless authorized in writing by the Board of Selectmen by a lawfully issued permit.</p> <p><i>Section 3. Use of Alcohol in Vehicles Prohibited.</i> It shall be unlawful for any person to possess an open container of any alcoholic beverage, or to consume any alcoholic beverage while in any vehicle upon a public highway, sidewalk, common, or upon any town owned property within the limits of Pittsfield.</p> <p><i>Section 4. Definitions.</i> The following words shall have the following meanings as used in this ordinance.</p> <p>VEHICLE: Shall mean and include, antique motor vehicle or motorcycle; automobile transporter; automobile transporter stringer steered; automobile utility trailer; bus; combination vehicle; commercial motor vehicle; emergency vehicle; full trailer; heavy truck; highway building equipment; light truck; mixed use school bus; moped; motor truck; motor vehicle; motorcycle; motor driven cycle; off highway recreational vehicle; OHRV; private passenger vehicle; recreation vehicle; school bus; semi-trailer; sidecar; single unit vehicle; ski area vehicles; snow traveling vehicle; special motor equipment; street rod; tractor; tractor trailer; trailer; truck; truck-tractor; vehicle; any water vehicle; all as defined in RSA 259.</p>

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		<p>WAY: Way shall mean a way as defined in RSA 259:125, I & II.</p> <p><i>Section 5. Validity.</i> If any section, or part of a section, or paragraph of this ordinance is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force of effect of any other section or sections, or part of a section or paragraph of this ordinance.</p> <p><i>Section 6. Penalty.</i> Any person found to be in violation of this ordinance, shall be guilty of a violation and upon conviction, shall be fined not more than \$250 for each offense, such sums shall insure to such uses as the town may direct.</p> <p><i>Section 7. Effective.</i> This ordinance shall take effect upon its passage.</p> <p>PASSAGE: This ordinance was adopted by a vote of the March 18th, 2000, Annual Town Meeting, under Article 24 of the warrant.</p>
Social Host	Salinas, CA	<p>CHAPTER 21. - OFFENSES—</p> <p>MISCELLANEOUS. >> Article II. - Social Host Accountability. >></p> <p>Article II. - Social Host Accountability.</p> <p>Sec. 21-200. - Purpose.</p> <p>Sec. 21-210. - Definitions.</p> <p>Sec. 21-220. - Hosting, permitting, allowing a gathering where minors consuming alcoholic beverages are prohibited.</p> <p>Sec. 21-230. - No mandatory duty of care.</p> <p>Sec. 21-240. - Recovery of response costs.</p> <p>Sec. 21-250. - Violation; penalty.</p> <p>Sec. 21-260. - Preemption.</p> <p>Sec. 21-200. - Purpose.</p> <p>The purposes of this article are:</p> <p>To protect the public health, safety, and general welfare.</p> <p>To promote the reduction of underage drinking by imposing a civil fine on people responsible for loud or unruly gatherings where alcohol is consumed by, served to or in the possession of minors.</p> <p>To facilitate the enforcement of laws prohibiting the service to, consumption of, or possession of alcoholic beverages by minors.</p> <p>To offset the municipal costs associated with providing fire, police, and other emergency services to loud or unruly gatherings by imposing a civil fee upon social hosts and/or landowners who conduct or allow such loud or unruly gatherings to occur on their premises, at their residences, or at rented facilities where alcoholic beverages are served to, consumed by, or in the possession of minors.</p>

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	<p><i>(Ord. No. 2513 (NCS), § 4, 2-1-2011)</i> Sec. 21-210. - Definitions. For purposes of this article, the following words and phrases have the meanings set forth in this section. "Alcohol" shall have the same meaning as in Business and Professions Code section 23003, as the same may be amended from time to time, and any successor section thereto. "Alcoholic beverage" shall have the same meaning as in Business and Professions Code section 23004, as the same may be amended from time to time, and any successor section thereto. "Gathering" means a group of people who have assembled or who are assembling for a social occasion or social activity. "Minor" means any person less than 21 years old. "Premises" means any residence or other private property, individual unit or place, including any commercial or business premises. "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops. <i>(Ord. No. 2513 (NCS), § 4, 2-1-2011)</i> Sec. 21-220. - Hosting, permitting, allowing a gathering where minors consuming alcoholic beverages are prohibited. Except as may be permitted by State law, it is unlawful for any person to permit, allow, or host a gathering at his or her place of residence or other private property, public place, or any other premises under his or her control where alcoholic beverages are in the possession of or being consumed by or have been consumed by one or more minors, if such person either knows or reasonably should know that a minor is in possession of or is consuming or has been in the possession of or has consumed an alcoholic beverage. A person who permits, allows or hosts a gathering shall be deemed to have actual or constructive knowledge that minors have consumed alcoholic beverages if the person has not taken all reasonable steps to prevent the consumption of alcoholic beverages by minors as set forth in subsection (f) this section. Any person who permits, allows or host a gathering shall be rebuttably presumed to have actual or constructive knowledge that minors have consumed alcoholic beverages if such person is present at the premises of the gathering at the time any minor consumes an alcoholic beverage. This section shall not apply to conduct involving the use of alcoholic beverages that occurs</p>
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		<p>exclusively between a minor and his or her parent or legal guardian.</p> <p>This section shall not apply to any location or place regulated by the California Department of Beverage Control.</p> <p>It is the duty of any person who permits, allows or hosts a gathering at his or her place of residence or other private property, public place or any other premises under his or her control, where minors are present, to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering.</p> <p>Reasonable steps are controlling access to alcoholic beverages at the gathering, controlling the quantity of alcoholic beverages at the gathering, verifying the age of people attending the gathering by inspecting drivers licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages at the gathering, monitoring the activities of people at the gathering, and monitoring the conduct of minors at the gathering.</p> <p>A person who hosts a gathering shall not be in violation of this article if he or she seeks assistance from the Salinas Police Department or other law enforcement agency to remove any person who refuses to abide by the host's performance of the duties imposed by the Salinas City Code, or terminate the gathering because the host has been unable to prevent minors from consuming alcoholic beverages despite having taken all reasonable steps to do so, as long as such request is made before any other person makes a complaint about the gathering.</p> <p>Whenever a person having a right of possession of a private residence or other private property is present at that private residence or other private property at the time that a minor possesses or consumes any alcoholic beverage at a gathering at or on said property, it shall be prima facie evidence that such person had the knowledge, or reasonably should have had the knowledge, that the minor possessed or consumed an alcoholic beverage at the gathering.</p> <p><i>(Ord. No. 2513 (NCS), § 4, 2-1-2011)</i></p> <p>Sec. 21-230. - No mandatory duty of care.</p> <p>This article is not intended to impose, and shall not be construed or given effect in a manner that imposes upon the city, or any officer, employee, agent, or representative of the city, a mandatory duty of care toward people or property within and without the city limits, so as to provide a basis of civil liability for damages, except as may otherwise be imposed by law.</p> <p><i>(Ord. No. 2513 (NCS), § 4, 2-1-2011)</i></p> <p>Sec. 21-240. - Recovery of response costs.</p> <p>In addition to any fines or penalties which may otherwise be levied by the city pursuant to this article, the city shall be entitled to recover from any person found to be in violation of any</p>
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		<p>provision of this article, the city's full response costs.</p> <p>For purposes of this article, the term "response costs" shall mean those reasonable and necessary costs directly incurred by the city for a response to a gathering prohibited under this article and shall include the cost of providing police, fire, and/or other emergency response services at the scene of such gathering to include, but not limited to, salaries and benefits of law enforcement and/or emergency personnel for the full amount of time spent responding to, remaining at, or otherwise dealing with such gatherings, and the administrative costs attributable to such responses; The cost of any medical treatment to or for any law enforcement personnel injured while responding to, remaining at, or leaving the scene of such gatherings; and the cost of repairing any city equipment or property damaged and the cost of the use of any such equipment used in responding to, remaining at, or leaving the scene of such gatherings.</p> <p>The city's response costs shall be deemed a debt owed to the city which may be recovered by the city in a civil action. In addition to any response costs which the city may recover, in the event the city brings a civil action to enforce the provisions of this section and to recover its response costs, the city may be entitled to recover its attorney fees and costs incurred in the action if the city prevails.</p> <p><i>(Ord. No. 2513 (NCS), § 4, 2-1-2011)</i></p> <p>Sec. 21-250. - Violation; penalty.</p> <p>Violation of this article is a misdemeanor punishable by up to six months in the county jail and/or up to a \$1,000 fine.</p> <p>Alternatively, and in the discretion of the city attorney, a violation of this article may be prosecuted administratively. Any enforcement officer of the city, at his or her discretion, may issue an administrative citation for a violation of this article. There is a no requirement of a first warning in order for the enforcement officer to issue the citation.</p> <p>A first violation of this article shall result in a citation with a \$500 penalty. A second violation of this article within a twelve-month period shall result in a citation with a \$1,000 penalty.</p> <p>A third or a subsequent violation of this article within a twelve-month period shall result in a citation with a \$1,500 penalty.</p> <p>The city shall give notice of a violation of this section by issuing an administrative citation to any and all people identified by the enforcement officer within 30 days of the violation.</p> <p>The administrative citation shall be subject to the appeal process set forth in Division 1 of Article II of Chapter 1 of the City Code.</p> <p>The administrative penalty prescribed in this section is in addition to any administrative cost</p>
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		<p>recovery fee for public safety responses set forth in the Salinas City Code. In the event that the person who is in violation of this section is a minor, then the minor and the parents or guardians of that minor will be jointly and severally liable for the administrative penalty.</p> <p>The amount of a civil fine shall be deemed a debt owed to the city by the people found to be in violation of this article. Any person owing such fine and/or fees shall be liable in an action brought in the name of the city for recovery of such fine and/or fees. These recovery costs may include reasonable attorneys' fees and costs incurred in the action if the city prevails.</p> <p><i>(Ord. No. 2513 (NCS), § 4, 2-1-2011)</i></p> <p>Sec. 21-260. - Preemption.</p> <p>This article shall not be interpreted in any manner that conflicts with the laws or the constitutions of the United States or of the State of California.</p> <p><i>(Ord. No. 2513 (NCS), § 4, 2-1-2011)</i></p>
Special Event License	Aspen, CO	<p>SECTION 12: ALCOHOL PERMIT & LICENSE</p> <p>A SPECIAL EVENT LIQUOR LICENSE FROM THE STATE OF COLORADO will be required if you plan to sell, distribute or consume alcoholic beverages at your event. An application for a special event liquor license shall be submitted to the jurisdiction where the event venue is located - Aspen clerk, Snowmass Village clerk or Pitkin County clerk. Only incorporated non-profit organizations are eligible for special event liquor permits.</p> <p>The special event permit you receive will likely prohibit the consumption of alcohol in the event venue outside of a controlled area or beer garden. Liquor liability coverage with a \$1,000,000 limit must be included on your certificate of insurance.</p> <p>Colorado www.revenue.state.co.us/liquor_dir/pdfs/8439.pdf Pitkin County www.revenue.state.co.us/liquor_dir/pdfs/8439.pdf</p> <p>You must submit your special event liquor license application to the applicable city, town or county clerk at least 30 days prior to your event. Applications submitted to the town or county will require a public hearing before the applicable review body, which will be scheduled by the clerk. After the public hearing (if applicable), the clerk will send the application to the State, which must receive the application at least 10) days prior to the event.</p> <p>SECTION 10: ALCOHOL MITIGATION PLAN</p>

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		<p>RESPONSIBLE SALE AND/OR DISTRIBUTION OF ALCOHOL is critical to a safe and successful event. Please describe your alcohol mitigation plan. (A Colorado Liquor License Special Event permit is required to dispense alcohol to the public)</p> <p>Is your event going to involve the sale and/or distribution of alcoholic beverages? (Yes/No) If Yes, please provide a plan including, but not limited to the following recommendations: Hours of operation (include dates and times) Alcohol service should be ceased at a predetermined time prior to the end of the event. A designated, secured area for the dispensation and consumption of alcoholic beverages is required. Show the area on your Site Plan, Section 2. Provide non-transferable ID bracelets for people 21 and over. Use of TIPS trained servers. (Drink maximum, ID check and no self-serving.) Will security staff and volunteers be trained on friendly intervention? Staff and volunteers should be prohibited from alcohol and drug use while on duty. Have you designated a "family friendly" seating area? If so, indicate it on your Site Plan, Section 2. Will you provide alternative beverages to alcohol? Will food be available at all times? Is there a designated smoking area? If so, show it on your Site Plan, Section 2. Will you provide alternative transportation for intoxicated attendees? Have you promoted public transportation in the planning of your event? Will you provide a designated medical detox facility on-site? How will you discourage drinking and driving?</p> <p>SECTION 4: SECURITY PLAN A SAFE AND SECURE ENVIRONMENT needs to be provided for your event. If you are dispensing alcohol this plan is required. Please describe your security plan.</p> <p>Have you hired a professional security company (bonded/insured) to plan and manage security for your event? (Yes/No)</p> <p>If Yes, please provide the following information: Security Organization Contact Person</p>
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		<p>Mailing Address Telephone/Cell/Fax/E-mail List number of personnel, dates and times they will be in place and describe their duties and/or functions. Show security stations on the event site plan, Section 2. Include security communications in the communications plan, Section 3.</p> <p>Will public law enforcement services be requested? (Yes/No)</p> <p>If Yes, please explain for what purpose (i.e.: security, traffic control, parking control?). List dates and times when officers are needed.</p> <p>Public law enforcement services may be charged out at a rate to be determined in your agreement with the appropriate chief of police or Sheriff. The chief of police and/or Sheriff reserve the right to place officers and staff events as deemed necessary in the best interest of public safety. An application for an agreement with the police department and/or sheriff's department will also need to be completed in addition to this plan.</p> <p>Provide a security contact who will be available to public safety officials at all times during your event. Name of Contact Mailing Address Telephone/Cell/E-mail/Fax</p>
Alcohol Drink Promotions	DeKalb, IL	<p>38.30 HAPPY HOUR PROHIBITED</p> <p>a) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at that establishment.</p> <p>b) No retail licensee or employee or agent of such licensee shall:</p> <ol style="list-style-type: none"> 1. Serve two or more drinks of alcoholic liquor at one time to one person, except selling or delivering wine by the bottle or carafe.

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		<ol style="list-style-type: none"> 2. Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public. 3. Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in paragraph 7 of subsection c. 4. Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day. 5. Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises. 6. Except for tastings or samplings permitted under this Chapter, to sell, or offer to sell for consumption on the premises, beer or wine containing between .05 percent and 19 percent alcohol by volume for a price, before the addition of any applicable local, State and Federal taxes, of less than 8 cents per ounce, or portion thereof. (06-76, 07-67) 7. Except for tastings or samplings permitted under this chapter, to sell or offer to sell for consumption on the premises, spirits, containing over 19 percent alcohol by volume for a price, before the addition of any applicable local, State, and Federal taxes, of less than \$1 per ounce, or portion thereof. (06-76, 07-67) 8. Advertise or promote in any way whether on or off the licensed premises, any of the practices prohibited under paragraphs 1 through 7. 9. Use the phrase "Happy Hour" in any advertisement for the licensed premises. c) Nothing in subsection b) shall be construed to prohibit a licensee from: <ol style="list-style-type: none"> 1. Offering free food or entertainment at any time. 2. Including up to two drinks of alcoholic liquor or one bottle or carafe of wine or champagne as part of a meal package. 3. Including drinks of alcoholic liquor as part of a hotel package. 4. Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show. 5. Providing room service to people renting rooms at a hotel. 6. Selling pitchers (or the equivalent including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to two or more people at
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		one time; or 7. Increasing prices of drinks of alcoholic liquor in lieu of, in whole or in part, a cover charge to offset the cost of special entertainment, not regularly scheduled. (95-48)
Home Alcohol Deliveries	Madison, WI	<p>38.07 GENERAL RESTRICTIONS.</p> <p>(3) Restrictions on Delivery of Beer, Wine and Intoxicating Liquor.</p> <p>(a) No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.</p> <p>(b) For delivery of beer, wine, and intoxicating liquor, payment or payment arrangements shall be made in person at the licensed establishment prior to delivery. (Am. by ORD-10-00073, 8-12-10)</p> <p>(c) The person paying for the keg/beer/wine coolers/intoxicating liquor must be at least 21 years of age and shall provide the licensed establishment with two forms of identification. The types of identification and identifying factors (driver’s license number, physical descriptors, address, etc.) shall be recorded by the licensed establishment. The identifying information shall be retained by the retailer for at least two years from the date of sale and must be made available at the request of law enforcement or the Alcohol License Review Committee, pursuant to an active investigation by the Madison Police Department, City Attorney, or ALRC regarding alleged Chapter 38 MGO/ Wis. Stat. ch. 125 violation(s). (Am. by ORD-10-00073, 8-12-10)</p> <p>(d) When purchasing kegs of beer, the person paying for the kegs must sign a receipt indicating how many kegs are being purchased and where they will be delivered.</p> <p>(e) Delivery of any alcoholic beverage shall not be made unless the person who provided the identification is at the point of delivery and signs for receipt of the alcohol. The licensed establishment shall retain the signed delivery receipt for at least two years from the date of sale and make it available at the request of law enforcement or the Alcohol License Review Committee, pursuant to an active investigation by the Madison Police Department, City Attorney, or ALRC regarding alleged Chapter 38 MGO/ Wis. Stat. ch. 125 violation(s).</p> <p>(f) Any person who violates this subsection is subject to a forfeiture of not more than \$1,000.</p> <p>(g) Transactions under this subsection shall comply with Sec. 38.07(16), MGO. (Cr. By ORD-10-00073, 8-12-10)</p> <p>(Sec. 38.07(3) Am. by Ord. 12,942, 12-24-01)</p>
RBS Training	Solana Beach, CA	<p>ORDINANCE NO. 371</p> <p>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ADDING SECTION, 4.09 ALCOHOLIC</p>

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		<p>BEVERAGES – RESPONSIBLE BEVERAGE SALES AND SERVICE TO THE SOLANA BEACH MUNICIPAL CODE REQUIRING RESPONSIBLE SALES AND SERVICE TRAINING</p> <p>WHEREAS, Solana Beach is a hospitality destination for families, visitors, and community members alike, and</p> <p>WHEREAS, Solana Beach includes 51 alcohol outlets licensed by the California Department of Alcohol Beverage Control, 8 of which are licensed for the off-site sale of alcohol and 43 of which are licensed for the on-site sale of alcohol, and</p> <p>WHEREAS, stores, bars, and restaurants which sell or serve alcohol to minors or to the overly intoxicated pose a threat to the public health and safety concern of Solana Beach, and</p> <p>WHEREAS, the threat to public health and safety includes the injuries and deaths caused by vehicle crashes, sexual assaults, domestic violence and other crimes which occur as a result of service of alcohol to minors or service to the overly intoxicated, and</p> <p>WHEREAS, 81 percent of teens in San Diego County agree that alcohol is easy to obtain, and 33 percent routinely obtain alcohol from retail outlets, and</p> <p>WHEREAS, Responsible Beverage Service (RBS) training is a successful method for alcohol licensees to educate its managers and servers on the effects of over-service and service to minors, and on techniques to avoid over-service and service to minors, and</p> <p>WHEREAS, RBS training provides alcohol licensees with a clear understanding of California Department of Alcohol Beverage Control (ABC) and other State regulations, and is highly recommended by the ABC, and</p> <p>WHEREAS, a recent study of the Responsible Hospitality Coalition of San Diego State University indicated that 83 percent of servers and managers trained in RBS practices were "likely" or "very likely" to change the way they serve alcohol and manage its service, and 99 percent indicated that they would recommend the training to others, and</p>
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		<p>WHEREAS, training in RBS and the accompanying certification gives credibility and distinction to alcohol sales and service as a profession, and</p> <p>WHEREAS, better trained staff will assist the alcohol licensee in protecting their valuable alcohol license, and in reducing their business liability, and</p> <p>WHEREAS, alcohol licensees who have RBS trained staff demonstrate to patrons and other community members and agencies that public safety is their highest concern,</p> <p>NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SOLANA BEACH DOES ORDAIN AS FOLLOWS:</p> <p><u>Section 1.</u> Chapter 4 of the Solana Beach Municipal Code is hereby amended by adding chapter 4.09 Alcoholic Beverages -- Responsible Beverage Sales and Service as follows:</p> <p style="text-align: center;">Chapter 4.09</p> <p style="text-align: center;">Alcoholic Beverages--Responsible Beverage Sales and Service</p> <p>4.08.010. Definitions.</p> <p>As used in this chapter, the following words and phrases have the meanings set forth in this section:</p> <p>A. "Alcoholic beverage" shall have the same meaning as in California Business and Professions Code section 23004 or any successor section.</p> <p>B. "Alcohol outlet" means any physical location or structure from which any alcoholic beverage may be sold, delivered, or served at retail pursuant to a license granted by the California Department of Alcoholic Beverage Control.</p> <p>C. "Business certificate" means a certificate authorizing a business to operate within Solana Beach.</p>
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		<p>D. "Licensee" means any person or entity that has a license for the retail sale, delivery, or service of alcoholic beverages from the California Department of Alcoholic Beverage Control.</p> <p>E. "Manager" means the person, regardless of job title or description, who has discretionary powers to organize, direct, carry on, control or direct the operation of an alcohol outlet.</p> <p>F. "Server" means any person who, as part of his or her employment, sells, serves or delivers any alcoholic beverage.</p> <p>G. "Patron" means a customer who purchases alcohol through a sale, service or delivery.</p> <p>H "Responsible Beverage Service Training" or "RBS Training" means a training program approved by the California Department of Alcoholic Beverage Control's Advisory Board to train alcohol licensees, their managers and servers in responsible alcoholic beverage sales and service methods and practices.</p> <p>4.09.020 Responsible Beverage Service Training Required--Proof.</p> <p>A. Beginning July 1, 2008, no alcohol outlet may serve, sell, or arrange delivery to a patron of alcoholic beverages unless a manager who has completed a Responsible Beverage Service Training course is on the premises.</p> <p>B. Beginning July 1, 2008, no licensee, manager or server shall sell, serve or deliver to a patron any alcoholic beverage unless he or she has completed RBSS Training. However, licensees who begin operations under an alcohol license after July 1, 2008, shall have 30 days from the date of beginning operations or hire in which to complete RBSS Training.</p> <p>C. Certification received from a RBSS Training program will be considered valid for a period of three years from the date of certification.</p> <p>D. Notwithstanding anything to the contrary, a licensee, manager or server who has completed a Responsible Beverage Service Training as described in this chapter within the 12-</p>
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		<p>month period immediately preceding the effective date of this chapter shall not be required to take such training again within 12 months from the effective date of this chapter.</p> <p>E. Licensees shall be responsible for ensuring that all managers and servers they employ comply with this section.</p> <p>F. Licensees shall maintain on the premises a file of proof of completion of the RBS Training by the licensee, managers and servers that shall be available for inspection by any peace officer or other enforcement officer during regular business hours. The proof of completion shall include the (1) effective date of hire, (2) course completion date and, if applicable, the course renewal date, (3) the name of the certified RBS Training completed, and (4) identifying information of the licensee, managers and servers, including the name, address, phone number and California driver’s license number, if applicable.</p> <p>G. The city shall provide to all applicants for a business certificate that are alcohol licensees, as defined in this chapter, a summary of the requirements of this chapter together with its penalties for violation prior to issuing a business certificate or renewal.</p> <p>4.09.30 Violation--Penalty.</p> <p>A. Violation of any provision of this chapter or failure to comply with any requirement of this chapter is a misdemeanor, but may be charged, at the discretion of the prosecutor, as an infraction.</p> <p>B. In addition to the penalties in subdivision A of this section, violation of this chapter may be grounds for revocation of an existing business certificate issued by Solana Beach and/or denial of issuance of a future business certificate.</p> <p>EFFECTIVE DATE: This ordinance shall be effective 30 days after its adoption. Within 15 days after its adoption, the city clerk of Solana Beach shall cause this ordinance to be published pursuant to the provisions of Government Code §36933.</p> <p>INTRODUCED AND FIRST READ at a regular meeting of the City Council of Solana</p>
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		<p>Beach, California, on the 28th day of November, 2007; and</p> <p>THEREAFTER ADOPTED at a regular meeting of the City Council of Solana Beach, California, on the 12th day of December, 2007 , by the following vote:</p> <p>AYES: Councilmembers – All NOES: Councilmembers – ABSTAIN: Councilmembers – ABSENT: Councilmembers –</p>
	<p>Georgetown, KY</p>	<p>ORDINANCE NO. 01-016 AN ORDINANCE RELATED TO MANDATORY RESPONSIBLE BEVERAGE SERVER TRAINING WHEREAS: Surveys of businesses selling alcohol have found that youth can easily purchase alcohol without showing any age identification. Alcohol sales to individuals who are or about to become intoxicated pose a significant risk of serious injury or death to "the motoring public and financial liability to the business serving the alcohol. Alcohol servers and sellers who receive responsible beverage service training should be less likely to sell alcohol to people underage or who have consumed too much alcohol by virtue of their training in the identification of false age documentation and recognition of characteristics of intoxication; and WHEREAS: Responsible beverage service training would inform alcohol servers and sellers of the consequences of the illegal sale of alcohol to people under age or who have consumed too much alcohol This training would be more effective through the participation of owners or managers of businesses selling alcohol in courses on the development of effective policies, which reduce youth access to alcohol and support employees in refusing the sale or service of alcohol to people under age or who have had too much alcohol. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL FOR THE CITY OF GEORGETOWN, KENTUCKY: Section One: Mandatory Responsible Beverage Service Training. All people employed in the selling and serving of alcoholic beverages shall participate in a city-approved responsible beverage service training program. For a responsible beverage service training program to be approved by the city, it must effectively train its participants in the identification of false age documentation and recognition of characteristics of intoxication. The city will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals</p>

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		<p>expressed in this ordinance.</p> <p>Section Two: Licensees, a. All people employed by a person or entity licensed under City Ordinance 00-034 for the sale of alcoholic beverages whose job duties include the sale or service of alcoholic beverages or the management of premises on which alcoholic beverages are served, shall complete responsible beverage service training from a program approved by the city.</p> <p>b. All people licensed under City Ordinance 00-034 for the sale of alcoholic beverages shall complete responsible beverage service training from a program approved by the city.</p> <p>c. All entities licensed under City Ordinance 00-034 for the sale of alcoholic beverages shall designate a person who, on behalf of the entity, shall complete responsible beverage service training from a program approved by the city. The person designated must have the authority to implement or amend the licensee's on-premise practices for selling and serving alcohol</p> <p>d. All people required to complete training under paragraphs a., b. and c, above, shall complete that training within 45 days of the date on which the person first becomes subject to the training requirement. All people completing the training required by this section shall be recertified in responsible beverage service training from a program approved by the city not less than once every three years thereafter.</p> <p>e. All people or entities licensed under City Ordinance 00-034 for the sale of alcoholic beverages shall require all their employees who are engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a City-approved responsible beverage service training class according to the provisions of this ordinance.</p> <p>Section Three: Required Information and Signage to Assist the Trained Servers and Sellers, a. Driver's License Guide and Compilation of Laws. The licensee shall maintain the following information on the premises, in a location accessible at all times to all employees of the licensed establishment:</p> <ol style="list-style-type: none"> 1. A current driver's license guide, which shall include license specifications for both adults and minors for each State (including Canadian provinces), and shall list such information from at least five years prior to the present date; and 2. A current compilation of the laws relating to the sale and possession of alcoholic beverages in Kentucky. This compilation must also include City Ordinance 00-034. <p>b. Signage. The licensee shall maintain on the premises, in all customer areas, current signage related to underage consumption of alcoholic beverages and to driving under the influence of alcohol. One sign must be located behind the counter/bar and one sign must be present in each additional room or section within the restaurant area in which the writing on the sign behind the</p>
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		<p>counter/bar is not clearly legible. The sign(s) must have dimensions of at least one foot by one foot with letters at least 1/2-inch in height. All signs must be comfortably readable from a distance of 15 feet. Any signs required by this ordinance for which there are comparable ABC requirements shall be maintained in conformity with KY ABC regulations.</p> <p>c. Personnel Certification Records. Each licensee shall maintain a file on its business premises for each person connected with its business for whom training is required under this ordinance. That file shall contain the name, job description, date of employment and proof of certification pursuant to this ordinance of each employee, officer, and agent subject to the training requirement provided in this ordinance. During business hours, this file shall be available to the person or people designated by the Mayor's Office with responsibility for enforcement of this ordinance and City Ordinance 00-034, related to the licensing of premises for the sale of alcoholic beverages.</p> <p>Section Four: Seller/Server Training Agency, a. Licensees and servers shall participate in a training program with an approved responsible beverage service training agency, selected and approved by the city.</p> <p>b. Compensation. The approved training agencies shall not be compensated or otherwise reimbursed by the city. The training agencies shall recover costs and profit through fees collected from the people receiving the training.</p> <p>c. Training. The approved training agencies shall certify the qualifications of all required participants as required by this ordinance. All new employees, officers or agents shall complete the training within 60 days following their hiring or other event which subjects that person to the training requirement. New employees, officers or agents failing to complete the training within the prescribed time shall not work on the premises after the expiration of that period until they have successfully completed such training.</p> <p>d. Standards for Certification. The training agency must reasonably instruct upon and certify the participants' competence in at least the following:</p> <ol style="list-style-type: none"> 1. Pertinent laws and ordinances related to the sale of alcohol; 2. Verification of age, forms of identification and usual methods of false or misleading age identification; 3. The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by people vulnerable to its effects; 4. Recognition of the signs of intoxication; 5. Strategies for intervention and prevention of underage and intoxicated people from consuming
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		<p>alcohol;</p> <p>6. The licensee's policies and guidelines, including the employee's role in observing those policies; and</p> <p>7. Potential liability of people serving alcohol;</p> <p>e. Qualifications for Training Agencies. The training agency shall have a minimum of two years actual experience in responsible beverage service and alcohol awareness training. Each instructor shall be certified to teach his or her subject matter.</p> <p>f. Personnel and Physical Resources. The training agencies shall have sufficient personnel and physical resources to provide responsible beverage service training course to newly hired employees, officers and agents as required by this ordinance.</p> <p>Section Five: PENALTIES. Consistent with the provisions of City Ordinance 00-034, the mayor, or his or her designee, is charged with primary responsibility for enforcement of this ordinance.</p> <p>Penalties for violation of this ordinance shall be assessed against the person or entity holding a license for the sale of alcoholic beverage under City Ordinance 00-034. The individual employee shall not be civilly or criminally liable for violations of this ordinance. The penalties assessed against the licensee for violations of this ordinance are as follows:</p> <p>a. For the first violation, a fine not exceeding \$50.</p> <p>b. For subsequent violations, within a two-year period, a fine not exceeding \$500 and suspension of the licensee's city liquor license for not less than 3)days nor more than 30 days. The licensee may redeem the days of that suspension for the payment of \$500 each.</p> <p>b. Each day of each violation shall constitute a separate violation.</p> <p>Section Six: Effective Date. This ordinance shall take effect upon passage and publication.</p>
<p>Alcohol Server Certification or Licensing</p>	<p>Grand Forks, ND</p>	<p>21-0235. - Mandatory alcohol server training.</p> <p>(1) No person shall work in any premises licensed under this chapter for the sale of alcoholic beverages, whether on- or off-sale, as a manager, bartender, waiter, waitress, or in any other capacity where such person may sell, serve or deliver alcoholic beverages in or from premises licensed under this chapter or whose job description entails the checking of identification for the purchase of alcoholic beverages or admittance into the licensed premises unless such person shall either:</p> <p>(a) Possess a certificate of training issued by the Grand Forks Police Department or,</p>

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		<p>(b) Successfully complete server training presented by the Grand Forks Police Department or a trainer approved by the Grand Forks Police Department and obtain a certificate of training within 60 days after the first day of active employment.</p> <p>(2) All certificates of training issued under this chapter shall be valid for three years from the date of issuance. The certificate of training may be renewed by its holder prior to its expiration as provided herein.</p> <p>(3) People having completed an alcohol serving training program sponsored or approved by the Grand Forks Police Department after December 31, 2003, and prior to December 31, 2008, shall be exempt from certification requirements hereunder provided, however, that such people shall renew such training and certification no later than December 31, 2009, and every three years thereafter.</p> <p>(4) All people licensed under this chapter for the sale of alcoholic beverages, whether on- or off-sale, shall require all employees engaged in the sale, service, delivery, or management of the sale or service of alcoholic beverages, or the checking of identification for the purchase of alcoholic beverages or admittance into the licensed premise to possess or timely obtain certification required hereunder.</p> <p>(5) Each licensee under this article shall maintain on file at its licensed premises a listing of each person employed by the licensee, identifying all employees required to obtain training under this article, date of hire for such employees, date of training for such employees, name of trainer for such employees and those employees that have successfully completed the training and certification required hereunder.</p> <p>(6) Application for server testing shall be submitted to the Grand Forks Police Department upon forms provided by the Grand Forks Police Department and such application shall be verified under oath and shall contain such information as determined by the Grand Forks Police Department to be reasonably required for the purposes of determining competency and eligibility.</p> <p>(7) All training programs and instructors must be approved by the Grand Forks Police Department.</p> <p>(8) All training programs shall minimally include the following topics:</p>
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		<p>(a) Reducing accessibility of alcohol to minors.</p> <p>(b) Over-consumption/over-serving of alcohol.</p> <p>(c) Server liability.</p> <p>(9) The Grand Forks Police Department shall establish and approve a test for those people completing an approved training program and for those seeking to renew a certificate of training.</p> <p>(10) The Grand Forks Police Department may authorize and approve a person or entity for the administration of any test or training program required hereunder.</p> <p>(11) Any person having completed the approved training must attain a minimum score of 75 percent on a test administered by, under the direction of, or approved by the Grand Forks Police Department in order to successfully complete the training and obtain or renew a certificate.</p> <p>(12) Each person successfully completing the training and test will be issued a certificate by the Grand Forks Police Department establishing the date of successful completion of training.</p> <p>(13) Each certificate shall expire three years from the date of issuance.</p> <p>(Ord. No. 4230, § I, 5-5-08)</p>
<p>Posting Warning Signs At Establishments Where Alcohol Is Served</p>	<p>San Diego, CA</p>	<p>Article 2: Health Regulated Businesses and Activities Division 10: Alcoholic Beverage Warning Signs <i>(Alcoholic Beverage Warning Signs” added 10-12-1987 by O-16952 N.S.)</i> §42.1001 Purpose The surgeon general of the United States has advised women who are pregnant, or considering pregnancy, not to drink alcoholic beverages. Recent research indicates that alcohol consumption during pregnancy, especially in the early months, can harm the fetus and result in birth defects including mental retardation, facial abnormalities and other defects involving heart and bone structure. In order to serve the public health, safety and welfare, the purpose of this chapter is to educate the public by requiring warning signs to be placed at all locations where alcoholic</p>

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		<p>beverages are sold to the public. <i>(Purpose” added 10–12–1987 by O–16952 N.S.)</i> §42.1002 Duty to Post Signs or Notices Any person or entity who owns, operates, manages, leases or rents premises offering wine, beer, or other alcoholic beverages for sale or dispensing for consideration to the public shall cause a sign or notice to be permanently posted or displayed on the premises as provided in this chapter. The sign or notice shall read as follows: PREGNANCY AND ALCOHOL DO NOT MIX — DRINKING ALCOHOLIC BEVERAGES, INCLUDING WINE AND BEER, DURING PREGNANCY CAN CAUSE BIRTH DEFECTS. Except as specified in Section 42.1005, or in rules and regulations adopted by the Health Department, a sign or notice as required herein shall not be smaller than 8 1/2 inches wide by 5 1/2 inches long, nor shall any lettering thereon be less than 3/8 inch in height. <i>(Duty to Post Signs or Notices” added 10–12–1987 by O–16952 N.S.)</i> §42.1003 Placement A sign or notice required by Section 42.1002 shall be placed as follows: (a) Where the sale or dispensing of wine, beer, or other alcoholic beverages to the public is primarily intended for consumption off the premises, at least one sign shall be so placed as to assure that it is conspicuously displayed so as to be readable at all points of purchase. <i>Ch. Art. Div.</i> 4 2 10 2 San Diego Municipal Code Chapter 4: Health and Sanitation (6-2000) (b) Where the sale of wine, beer, or other alcoholic beverages to the public is primarily intended for consumption on the premises, at least one sign shall be placed to assure that it is conspicuously displayed so as to be readable in each public restroom. <i>(Placement” added 10–12–1987 by O–16952 N.S.)</i> §42.1004 Language In the event a substantial number of the public patronizing a premises offering for sale or dispensing wine, beer, or other alcoholic beverages uses a language other than English as a primary language, an additional sign or notice as is required by Section 42.1002 above shall be worded in the primary language or languages involved. <i>(Language” added 10–12–1987 by O–16952 N.S.)</i> §42.1005 Health Department Authority</p>
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		<p>(a) The Health Director shall be responsible for the enforcement of compliance with this chapter. The Health Department shall have the authority to adopt reasonable rules and regulations for the implementation of this division, including rules and regulations for alternative signs and placement of required signs.</p> <p>(b) The Health Department shall make warning signs available to vendors of alcoholic beverages. People or entities may, however, at their own expense, prepare and post signs meeting the requirements of this chapter. In no event shall the prescribed language of the warning sign be altered.</p> <p><i>(Health Department Authority" added 10-12-1987 by O-16952 N.S.)</i></p>
Billboards & Signage	Albuquerque, NM	<p>§ 14-16-3-5 GENERAL SIGN REGULATIONS.</p> <p>(J) Signs Advertising Alcoholic Beverages.</p> <p>(1) Signs, free-standing and building-mounted, that advertise alcoholic beverages, including the use of words and images, and are visible from a street, sidewalk, park or a facility that serves minors shall not be located within 300 feet of a facility that serves minors.</p> <p>(2) The following signs that advertise alcoholic beverages shall be permitted:</p> <ul style="list-style-type: none"> (a) Signs located inside a building, even when visible from the outside; (b) Signs on vehicles; (c) Signs that serve to identify businesses that sell alcohol by depicting the name, logo or slogan of the business; (d) Signs that do not refer to a specific brand of alcoholic beverage; (e) Signs visible from and that face an interstate highway; and (f) Signs discouraging the use of alcoholic beverages. <p>(3) For the purposes of this subsection "facilities that serve minors" is defined to mean a pre-elementary, elementary or secondary school, day care center, church or other place of worship,</p>

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		including incidental recreational and educational facilities attended by minors and city owned parks or city owned major public open spaces frequented by minors.
Public Intoxication		<p>7.02(S) CERTAIN CONDUCT ASSOCIATED WITH PUBLIC INTOXICATION PROHIBITED.</p> <p>(1) Declaration of Policy. It is the policy of La Crosse to comply with Chapter 51, Wis. Stats., as well as provide for the safety, welfare, and health of the public while prohibiting certain harmful conduct of intoxicated people. Nothing within this ordinance is meant to contradict those elements proscribed under Chapter 51, Wis. Stats.</p> <p>(2) Definitions.</p> <p>(a) Public Place: includes a building or place owned or controlled by the city, a school, a place of public worship, any public street, including public sidewalk, alley, walk, or other publicly owned lands. Public place excludes the premises of a licensed alcohol establishment.</p> <p>(b) Public nuisance: conduct by an individual which includes engaging in obnoxious behavior, being disoriented, falling, vomiting, public urinating, acting lewdly, loudly and/or combatively or being a danger to oneself or others.</p> <p>(c) Intoxicated person: a person who is presently impaired, mentally or emotionally, as a result of the presence of alcohol in the person's body. Also included is any person presently impaired, mentally or emotionally, as a result of a drug or controlled substance, as that term is defined by the Wisconsin Statutes, in the body or a combination of alcohol and such other drugs or controlled substances. Evidence of an intoxicated person shall include a combination of the following indicators:</p> <ul style="list-style-type: none"> (1) odor of intoxicants on the breath, (2) bloodshot eyes, (3) dilated pupils, (4) stumbling or staggering, (5) slurred speech (6) failure of Standard Field Sobriety Test. <p>(3) Intoxicated Person in Public Place Prohibited. No person in a public place shall conduct himself/herself so as to be:</p> <ul style="list-style-type: none"> (a) a danger to themselves or others and/or (b) a public nuisance and

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		<p>(c) intoxicated or incapacitated by alcohol or drug or controlled substance as defined above.</p> <p>(4) No person shall be cited under this section without first having been offered and failed the Standard Field Sobriety Test; however, a person incapable and/or having refused the Standard Field Sobriety Test may still be cited under the criteria set forth in (2). No individual actively seeking medical treatment for an alcohol or other drug-related overdose will be subject to discipline for the sole violation of using or possessing alcohol. This policy shall extend to another individual seeking help for an intoxicated individual.</p> <p>(5) Penalties.</p> <p>(a) People found in violation of this ordinance for the first time shall be provided a written warning with conditions in lieu of a citation. The warning shall be conditioned on such person attending and successfully completing an evidence based alcohol education program sponsored by the police department. The failure to timely complete the alcohol education program shall result in the issuance of a citation and the prosecution of the same in the municipal court by the city. Successful and timely completion of the alcohol education program shall result in no further enforcement of the violation giving rise to the warning.</p> <p>(b) The penalty for the first conviction of this ordinance shall be a forfeiture of not less than \$150 plus penalty, costs and assessments, including the cost of transporting the individual to an approved treatment facility as provided for in Section 51.45(11), Wis. Stats. if the individual voluntarily agrees to be transported or is incapacitated so as to require transport. The second and any subsequent offense within a 12-month period shall be not less than \$400 plus penalty, costs and assessments, along with the cost of transporting the individual to an approved treatment facility as provided for in Section 51.45(11), Wis. Stats.</p> <p>SECTION II: This ordinance shall take effect and be in force on April 1, 2008, and shall sunset on March 31, 2010.</p> <p>(Ord 4381 - 3/8/07, O 4425 – 3/13/08.)</p> <p>SECTION III: Annual reports shall be provided by the Police Department in regard to this ordinance to La Crosse, Tri-Campus Group, Tavern League and the Alcohol Oversight Committee.</p>
Vehicle Impoundment	Anchorage, AK	<p>9.28.026 - Impoundment and forfeiture of vehicle.</p> <p><i>Discretionary impound.</i></p> <p>A motor vehicle operated, driven or in the actual physical control of an individual arrested for or charged with an alleged violation of section 9.28.019, pertaining to driving while license suspended/revoked/cancelled, section 9.28.020, pertaining to driving while under the influence,</p>

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		<p>section 9.28.022, pertaining to refusal to submit to chemical tests, or section 8.65.030, pertaining to soliciting, may be impounded and may be forfeited to the municipality in accordance with this section.</p> <p>A motor vehicle operated, driven or in the actual physical control of an individual arrested for or charged with an alleged violation of section 9.28.030, pertaining to operating a motor vehicle without the required security in effect or proof of such security at the time of operation, may be impounded through a seizure of the vehicle incident to the citation or arrest, at the discretion of the officer or otherwise in accordance with this section.</p> <p>It shall be presumed a vehicle operated by or driven by or in the actual physical control of an individual arrested for or charged with an alleged violation of section 9.28.030, section 9.28.019, section 9.28.020, section 9.28.022, or section 8.65.030, has been so operated by the registered owners thereof or has been operated by another person with the knowledge and consent of the registered owners. A vehicle so operated is declared to be a public nuisance for which the registered owners hold legal responsibility, subject only to the defenses as set forth by law. The purposes of this section and the impoundment and forfeiture provisions of sections 9.28.019, 9.28.020, 9.28.022, 9.28.030, and 8.65.030 include protecting the public, removing public nuisances, deterring driving under the influence, and protecting the public from uninsured motorists, but do not include the generation of revenue for the municipality.</p> <p><i>General provisions.</i></p> <p>In the case of an alleged violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030, and in addition to the penalties set forth in those sections, the vehicle used in the alleged violation shall be impounded for 30 days if the person driving, operating, or in the actual physical control of the vehicle has not been previously convicted and shall be forfeited to the municipality if the person driving, operating, or in the actual physical control of the vehicle has been previously convicted. Impoundment may be accomplished through a seizure of the vehicle incident to an arrest or pursuant to a court order entered in the course of civil or criminal enforcement proceedings. Impoundment through a seizure of the vehicle incident to an arrest is at the discretion of the arresting officer. A case seeking civil impoundment or forfeiture is heard and decided by the Alaska State Court.</p> <p>Upon the request of the municipality or a claimant, a civil proceeding seeking impoundment or forfeiture shall be held in abeyance until conclusion of any pending criminal charges arising out of the incident giving rise to the forfeiture or impoundment action under section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030.</p>
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		<p>Upon motion by the municipality, if it appears there is reasonable cause for the seizure of a vehicle or for the filing of a complaint for impound or forfeiture, the court shall find: Reasonable cause exists, or any such action was taken under a reasonable good faith belief it was proper; The claimant is not entitled to costs or damages; and The municipality is not liable to suit or judgment for the seizure, suit or prosecution. A claimant who fails to establish the claimant's interest is exempt from forfeiture pursuant to subsection C.6. shall pay reasonable costs and expenses of the municipality for the investigation and prosecution of the civil action, including reasonable attorney fees. The civil impoundment or forfeiture of a seized vehicle under this section shall be through a civil action filed in Alaska State Court. The municipality may not bring an action for impoundment or forfeiture unless the action is brought within six months from the final disposition of the underlying criminal action against the driver operator of the seized vehicle. A claimant of an ownership or security interest in the motor vehicle may avoid impound or avoid forfeiture of the claimant's interest in the civil action if the claimant establishes, by a preponderance of the evidence: The claimant had a recorded interest in the motor vehicle at the time of the alleged violation or, if the interest was recorded after the alleged violation, the interest was acquired in good faith and not for purposes of avoiding impound or forfeiture; A person other than the claimant was in possession of the vehicle and was responsible for or caused the act resulting in the impound or forfeiture; The claimant did not know and could not reasonably have known the person would operate the vehicle in violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030 or 8.65.030; and In cases where the municipality filed a civil action to forfeit a seized vehicle, the claimant took reasonable steps to prevent, as the phrase is defined in subsection F. below, the person charged with violation section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 from violating section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 A claimant who is a regulated lienholder meets its burden of proof under this subsection by filing with the court a copy of the vehicle's certificate of title or other security instrument reflecting the lien, together with an affidavit stating the amount of the lien and stating the claimant is a regulated lienholder and was not in possession of the vehicle at the time of the act resulting in the seizure of the vehicle. The presumptions provided in this subsection shall not apply to regulated lienholders. For purposes of this section, when a person other than the claimant was in possession of the vehicle</p>
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		<p>and was driving with a suspended, revoked, or cancelled license or in violation of a limited license or without a valid driver's license, it is presumed the claimant did have reasonable cause to believe the vehicle would be used in violation of section 9.28.019.</p> <p>Also for purposes of this section, when the claimant and driver are not the same person and the claimant and driver have a familial relationship, such as husband and wife, father and daughter, mother and stepson, etc., or the claimant and driver live at the same address, it shall be presumed the claimant is responsible and the vehicle was operated by the driver, in violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030, with the knowledge and consent of the claimant.</p> <p>If a claimant was in the vehicle at the same time the vehicle was being operated by the driver in violation of section 9.28.020 or 9.28.022, it shall be presumed the claimant knew and consented to operation of the vehicle in violation of section 9.28.020 or 9.28.022</p> <p>A claimant is not required by this subsection to take steps the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the impound or forfeiture) to physical danger.</p> <p>For purposes of this section, corporations and other entities are deemed to have knowledge of the acts, omissions, and driving record of directors, officers, and other managers, regardless of whether the directors, officers, or other managers are acting within the scope of employment.</p> <p>Within two days of seizure, parties with an interest in the vehicle, including lienholders, as shown on the vehicle ownership records of the State of Alaska, the Division of Motor Vehicles, or an agency with similar responsibilities in another State, shall be served with notice of seizure by certified mail sent to the address of record as shown in the vehicle ownership records of the State of Alaska, or an agency with similar responsibility in another State, or residence address as indicated in the police report.</p> <p>For purposes of computing the two-day period, the day the vehicle was seized is not included. For purposes of computing the two-day period, Saturdays, Sundays, and municipal holidays, are not included. This period may be reasonably extended for those instances when vehicle ownership records are not accessible from the State of Alaska, the Division of Motor Vehicles, or an agency with similar responsibilities in another State.</p> <p>The notice of seizure shall notify parties of the right to a post-seizure probable cause hearing if such hearing is requested, in writing, within ten days after the date the notice of the seizure is mailed, as evidenced by the postmark.</p> <p>If notice is not provided, as required by this subsection, the municipality shall waive the</p>
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		<p>administrative fee.</p> <p>If a registered owner was personally served at the time of impoundment with a notice containing all the information required by this section, no further notice is required to be sent to that registered owner.</p> <p>A notice of seizure that notifies a registered owner who was arrested for, or charged with, an alleged violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 of the right to contest seizure under Alaska Criminal Rule 37 (c) meets the requirement of subsection 7.b.</p> <p>The municipality may enter into an agreement with the registered owner or lienholder of the vehicle to resolve a civil impound or forfeiture action arising under section 9.28.019, 9.28.020, 9.28.022, 9.28.030 or 8.65.030 and permit release of the vehicle. Any such agreement shall include:</p> <p>Acceptance by the owner or lienholder of responsibility for meeting the requirements of subsection C.9.;</p> <p>Agreement the owner or lienholder shall take reasonable steps to prevent the individual arrested for or charged with driving under the influence or with refusal to submit to chemical tests from operating the vehicle until properly licensed; and</p> <p>Acknowledgment by the owner or lienholder that failure to fulfill the obligations under the agreement may result in forfeiture of the vehicle at the option of the municipality. This requirement shall not apply to a regulated lienholder required by other law or by the terms of the agreement creating the lien to permit the individual to recover the vehicle upon payment of the lien or cure of any default.</p> <p>No vehicle shall be released unless the applicant:</p> <p>Provides proof of insurance in a form acceptable to the municipality;</p> <p>Provides proof of ownership or, if a lienholder, a legal right to repossess the vehicle; and</p> <p>Pays or provides proof of payment of any costs imposed, including the impound fees, storage fees and any court costs imposed. The impound fee shall be the actual cost of impound plus an administrative charge of \$410 to offset the municipality's processing costs for seizures of vehicles based on an alleged violation of section 9.28.019, 9.28.020, 9.28.022 or 8.65.030</p> <p>The administrative charge may be waived in exceptional cases or if it is in the best interests of the municipality. The administrative charge shall not be imposed if notice is not provided as required under subsection C.7. or the administrative hearing officer finds no probable cause under subsection C.13.</p> <p>An administrative charge of \$200 shall be imposed for seizures of vehicles based on an alleged</p>
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		<p>violation of section 9.28.030</p> <p>The administrative charge may be waived in exceptional cases or if it is in the best interests of the municipality. The administrative charge shall not be imposed if notice is not provided as required under subsection C.7. or the administrative hearing officer finds no probable cause under subsection C.13.</p> <p>Notwithstanding the finding of the administrative hearing officer, if the court makes a specific finding or pursuant to a stipulation between the parties, the seizure of the vehicle was legally unjustified, the vehicle shall be released at no cost if the person seeking to reclaim the vehicle reclaims the vehicle within five days after the issuance of the court's decision making such a finding.</p> <p>A vehicle ordered released at no charge under this subsection is subject to the provisions of AS 28.10.502 if the vehicle is not reclaimed within 5 days after the issuance of the court's decision. The provisions of chapter 9.50 do not apply to vehicles seized under the authority of section 9.28.026</p> <p>An acquittal or a conviction of a lesser offense in a criminal proceeding for a violation of chapter 9.28 provides a defense in a civil proceeding seeking impoundment or forfeiture of the vehicle, if that civil proceeding is based on the same conduct that forms the basis for the criminal charge.</p> <p>Temporary release of vehicle pursuant to vehicle return bond.</p> <p>A registered owner or lienholder may obtain temporary release of a vehicle seized by the municipality pursuant to this subsection.</p> <p>The purpose of setting a vehicle return bond on the vehicle is to secure the presence of the vehicle and to provide security to be forfeited along with the proceeds of a sale, transfer, or encumbrance if the vehicle is sold, transferred, or encumbered after the vehicle has been released pending the final disposition in the criminal action against the driver of the seized vehicle or the final disposition in the civil action against claimants of the seized vehicle. If the vehicle's release has been obtained through the posting of a vehicle return bond and the vehicle is not returned according to the terms of release, or pursuant to the court's order, the municipality may, in addition to retaining the forfeited bond funds, seize the vehicle to implement the impoundment or forfeiture ordered by the court. A person who secures the release of a vehicle pursuant to a vehicle return bond must return the vehicle if required by the terms of the vehicle return bond or upon order of the court. If a vehicle has not been impounded for a longer period than the vehicle would be impounded if the person were convicted, the court shall not delete the requirement of the vehicle return bond or exonerate a posted vehicle return bond until the vehicle for which bond has been posted is returned</p>
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		<p>pursuant to court order. A vehicle return bond shall be posted with the municipality and in cash only.</p> <p>A vehicle return bond shall be set at a minimum of:</p> <p>\$250, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has not been previously convicted;</p> <p>\$500, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has been previously convicted and the vehicle is 20 years old or older;</p> <p>\$1,000, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has been previously convicted and the vehicle is 15 years old or older but less than 20 years old;</p> <p>\$1,500, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has been previously convicted and the vehicle is 10 years old or older but less than 15 years old;</p> <p>\$2,000, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has been previously convicted and the vehicle is 5 years old or older but less than 10 years old; and \$2,500, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has been previously convicted and the vehicle is less than 5 years old.</p> <p>A vehicle return bond may be set above the minimum if the vehicle appears to have unusually high value for its age. A vehicle may not be released pursuant to a vehicle return bond unless release is in compliance with subsection C.9.</p> <p>If the person who secured the release of the vehicle does not cause the vehicle to be returned to impoundment for the purpose of impoundment or forfeiture in accordance with the terms of release, the bond is forfeited to the municipality. The municipality may also seek a court order forfeiting the bond and forfeiting the proceeds of any sale, transfer, or encumbrance to the municipality if the vehicle has been sold, transferred, or encumbered while subject to a vehicle return bond.</p> <p>Upon motion to the court, the court shall order forfeiture of the bond and any proceeds. For purposes of this subsection, it shall be presumed the amount of proceeds of any sale, transfer, or encumbrance is the assessed or appraised value of the seized vehicle as defined in subsection F. below.</p> <p>Personal property in a vehicle subject to a vehicle return bond under this subsection and not released pursuant to that vehicle return bond can be recovered from a vehicle only by the owner of</p>
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		<p>the vehicle and only upon payment of a fee charged for monitoring the recovery of such personal property. Such fee shall be set by contract between the towing and storage contractor and the municipality if it is not established by ordinance. Such fee shall be recoverable by the owner of the vehicle if a court makes a specific finding that seizure of the vehicle was legally unjustified or pursuant to a stipulation between the parties.</p> <p>The court shall order the forfeiture of a vehicle return bond if a person charged under section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 obtains temporary release of a seized vehicle and does not appear before the court as ordered.</p> <p>For purposes of this section, time shall be calculated as set forth in Alaska Rule of Civil Procedure 6, unless otherwise stated.</p> <p>When a timely request for a post-seizure probable cause hearing is made, a hearing shall be held before an administrative hearing officer. The hearing shall be held within three days after the request is received, excluding weekends and municipal holidays. The hearing may be postponed upon agreement of the parties.</p> <p>The purpose of the hearing is to determine whether there was probable cause to seize the vehicle. The administrative hearing officer shall not make a final adjudication of impoundment or forfeiture of the vehicle. Findings by the administrative hearing officer shall not collaterally estop the issue of probable cause or any other factual or legal issue from being decided by the court.</p> <p>The post-seizure probable cause hearing shall be by telephone unless otherwise requested by the administrative hearing officer or upon a showing of prejudice to either party.</p> <p>If the law enforcement officer provides a signed police report or affidavit with the name and badge number or other identifying mark of the law enforcement officer to the administrative hearing officer, the law enforcement officer need not be present at the hearing unless requested by the person requesting the hearing or the administrative hearing officer.</p> <p>For purposes of this subsection, the requirement of a signed police report may be satisfied by a police report bearing an officer's electronic signature.</p> <p>In the case where the presence of the law enforcement officer is requested, the hearing may be postponed an additional seven days in order to allow the law enforcement officer to be present.</p> <p>If the law enforcement officer is unavailable because of vacation, sickness, or other similar reason, the hearing may be postponed a reasonable time period in order to accommodate the law enforcement officer's unavailability.</p> <p>If the person requesting a hearing fails to appear, the person shall waive the right to a hearing.</p> <p>If the administrative hearing officer finds there was no probable cause to seize the vehicle:</p>
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		<p>The vehicle shall be released without municipal administrative fees; and The registered owner or lienholder may make a claim to the municipality for towing and storage. The burden of proof for an action brought pursuant to this section is preponderance of the evidence. For purposes of this section, the parties may agree to extend, reduce or otherwise alter the time limits set by this section.</p> <p>The owner of a vehicle or the designated agent of the owner of a vehicle that is the subject of an impoundment or forfeiture action may relinquish to the municipality any ownership interest possessed by the owner as part of an agreement to resolve the action.</p> <p>Nothing in this section shall be construed to place upon a regulated lienholder a duty to inquire into the driving record of any loan applicant or any member of the loan applicant's family or household, and failure to do so shall not be usable as evidence against the regulated lienholder in any forfeiture proceeding or other civil action.</p> <p>Upon motion of the municipality, the court shall void the transfer of title or any interest in a seized vehicle occurring subsequent to the seizure of the vehicle pursuant to this section.</p> <p>If the vehicle is temporarily released pursuant to a vehicle return bond and the transferee is able to establish by a preponderance of the evidence the transferee did not know the municipality seized the vehicle, the court shall order the transferor to forfeit the proceeds from the sale, transfer, or encumbrance to the municipality.</p> <p>For purposes of this subsection, it shall be presumed the amount of proceeds of any sale, transfer, or encumbrance is the assessed value of the seized vehicle.</p> <p><i>Impoundment.</i></p> <p>A motor vehicle operated, driven, or in the actual physical control of an individual arrested for, or charged with, an alleged violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 may be ordered impounded either upon conviction of the defendant of a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030, or upon the decision of a court in a separate civil proceeding. To obtain an order for impoundment in a contested proceeding, the municipality must establish by a preponderance of the evidence that the vehicle was operated, driven, or in the actual physical control of an individual who was acting in violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030</p> <p>A vehicle may be seized for impound under the circumstances set forth in subsection E.3.</p> <p>A vehicle seized incident to an arrest may be held by the municipality for up to two days before the owner or lienholder may obtain release of the seized vehicle.</p> <p>For purposes of computing the two-day period, the day the vehicle was seized is not included. For</p>
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		<p>purposes of computing the two-day period, Saturdays, Sundays and municipal holidays are not included.</p> <p>A vehicle ordered impounded under this section shall be held for a period of 30 days. An impoundment order may be made either upon conviction of the defendant of a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 or upon decision of a court in a separate civil proceeding.</p> <p>Vehicles ordered impounded under this section not claimed at the end of the 30-day, court-ordered period of impoundment may be disposed of pursuant to the provisions of AS 28.10.502.</p> <p>If the contents of the vehicle have not been recovered before such disposal, the contents may be disposed of with the vehicle.</p> <p>Personal property in a vehicle subject to a vehicle return bond under subsection C.11. above, and not released pursuant to that vehicle return bond may be recovered from a vehicle only by the owner of the vehicle and only upon payment of a fee charged for monitoring the recovery of such personal property.</p> <p>The fee for monitoring the recovery of personal property shall be set by contract between the towing and storage contractor and the municipality if it is not established by ordinance.</p> <p>The fee for monitoring the recovery of personal property shall be recoverable by the owner of the vehicle if a court makes a specific finding the seizure of the vehicle was legally unjustified or pursuant to a stipulation between the parties.</p> <p>Civil release of the vehicle does not affect or change the criminal proceedings incurred as a result of the violation.</p> <p><i>Forfeiture.</i></p> <p>To obtain an order for forfeiture under this section in a contested proceeding, the municipality must establish by a preponderance of the evidence that:</p> <p>The vehicle was operated, driven or in the actual physical control of an individual who was acting in violation of section 9.28.019, 9.28.020 or 9.28.022, 9.28.030, or 8.65.030; and</p> <p>The individual has been previously convicted.</p> <p>A motor vehicle operated, driven or in the actual physical control of an individual arrested or charged with an alleged violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 may be forfeited to the municipality either upon conviction of the defendant of a violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 or upon decision of a court in a separate civil proceeding.</p> <p>A motor vehicle may be seized and towed to a secure location by a peace officer or a peace</p>
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	<p>officer's designee upon an order issued by a court having jurisdiction over the motor vehicle upon a showing of probable cause that the motor vehicle may be forfeited or impounded under this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030. Seizure without a court order may be made if:</p> <p>The impoundment is incident to an arrest;</p> <p>The motor vehicle has been ordered impounded or forfeited and that order has not yet been executed; or</p> <p>There is probable cause to believe the motor vehicle was operated, driven or in the actual physical control of an individual in violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030</p> <p>A vehicle seized incident to an arrest may be held by the municipality for up to two days before the owner or lienholder can obtain release of the seized vehicle.</p> <p>For purposes of computing the two-day period, the day the vehicle was seized is not included. For purposes of computing the two-day period, Saturdays, Sundays, and municipal holidays are not included.</p> <p>A motor vehicle seized for the purpose of forfeiture or impoundment shall be held in the custody of the police department or a private corporation authorized by the chief of police to retain custody of the motor vehicle, subject only to the orders and decrees of the court having jurisdiction over any forfeiture or impoundment proceedings. If a motor vehicle is seized under this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030, the chief of police, or authorized designee, may:</p> <p>Remove the motor vehicle and any contents of the motor vehicle to a place designated by the court;</p> <p>or</p> <p>Take custody of the motor vehicle and any contents of the motor vehicle and remove it to an appropriate location for disposition. No private corporation may make or perform a contract to tow, store, or retain custody of motor vehicles seized or impounded under this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 if any of the owners of that private corporation have been convicted of a felony or any crime involving larceny, theft, or receiving and concealing stolen property within ten years before the date of execution of the contract or during the term of the contract. No private corporation may make or perform a contract to tow, store, or retain custody of motor vehicles seized or impounded under this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 if any of the employees of that private corporation have been convicted of a felony or any crime involving larceny, theft, or receiving and concealing stolen property within five years before the date of execution of the contract or during the term of the contract.</p>
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	<p>Following a forfeiture order under this section, section 9.28.019, 9.28.020, or 9.28.022, 9.28.030, or 8.65.030, the chief of police, or authorized designee, shall make an inventory of the contents of any motor vehicle seized. Personal property in a vehicle subject to a vehicle return bond under subsection C.11. and not released pursuant to that vehicle return bond may be recovered from a vehicle only by the owner of the vehicle and only upon payment of a fee charged for monitoring the recovery of such personal property.</p> <p>Such fee shall be set by contract between the towing and storage contractor and the municipality if it is not established by ordinance. Such fee shall be recoverable by the owner of the vehicle if a court makes a specific finding the seizure of the vehicle was legally unjustified or pursuant to a stipulation between the parties.</p> <p>A claimant may petition the court for sale of a motor vehicle before final disposition of court proceedings. The court shall grant a petition for sale upon a finding the sale is in the best interest of the municipality. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.</p> <p>Property forfeited under this section, section 9.28.019, 9.28.022, 9.28.030, or 8.65.030 shall be disposed of by the chief of police, or authorized designee, in accordance with this subsection.</p> <p>Property forfeited under this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 includes both the vehicle that is the subject of the forfeiture action and the contents of the vehicle, if those contents have not been recovered before the date of the disposal. The chief of police, or authorized designee, may:</p> <p>Sell the property at an auction conducted by an auctioneer not employed by the impound contractor and use the proceeds for payment of all proper expenses of seizure, custody, the costs of the auction, court costs, and municipal attorney fees, provided if such sale is arranged for by the impound contractor, the municipality shall receive at least 30 percent of the proceeds of any sale of forfeited vehicles following deduction for the costs charged by the auctioneer for the auction of those vehicles regardless of whether the costs of impound and storage exceed the value of the forfeited vehicles sold; Take custody of the property and use it in the enforcement of the municipal and State criminal codes; or destroy the property.</p> <p>Property forfeited and sold at auction pursuant to this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, and 8.65.030 shall be sold by an auctioneer approved before the auction by the chief of police, or authorized designee.</p> <p>Before the auction, the chief of police, or authorized designee, must approve in advance the auctioneer's costs or the method for determining the auctioneer's costs.</p>
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		<p>The impound contractor shall provide to the chief of police, or authorized designee, a copy of the auctioneer's report of the auction notarized by the auctioneer.</p> <p>The municipal auditor shall certify the proper disposal of property forfeited under this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, and 8.65.030</p> <p>The chief of police may adopt rules and regulations to implement this section.</p> <p>Upon a showing a claimant is entitled to remittance in accordance with this section, the court shall order that:</p> <p>If the claimant is entitled to the motor vehicle, it shall be delivered to the claimant immediately subject to subsection 9.28.026.C.9.; or If the claimant is entitled to remittance of some value less than the total value of the motor vehicle, the claimant is entitled at the claimant's choice to receive either the value of the claimant's interest after the sale of the vehicle at an auction following deduction of the costs of the auction or, upon request and payment of the difference in value by the claimant, the motor vehicle itself.</p> <p>When a vehicle is subject to forfeiture under this section, and when the vehicle is sold and the lienholder interest exceeds the sale price, the owner may be held responsible for the difference and the municipality's costs.</p> <p>The storage and impound costs as well as any court costs imposed for vehicles seized under this section shall be borne by the person redeeming such vehicle as owner or in behalf of the owner or as having an interest in the vehicle. The amount of such costs shall be determined as provided in subsection C.9.</p> <p>In a contested forfeiture proceeding concerning a vehicle titled in the names of more than one owner on the certificate of title, the court shall apply this subsection. If one owner does not avoid forfeiture, the court may order the forfeiture of the entire interest of all the owners in a vehicle titled in the names of more than one owner in the disjunctive. Title in the disjunctive is significant by the use of the word "or" between the names of the owners listed on the certificate of title.</p> <p>If such owner does not avoid forfeiture, the court shall order the forfeiture of the interest of any owner in a vehicle titled in the names of more than one owner in the conjunctive. Title in the conjunctive is signified by use of the word "and" between the names of the owners listed on the certificate of title. Owners of a vehicle titled in the names of more than one owner in the conjunctive are presumed to own the vehicle in equal shares.</p> <p>In circumstances described in this subsection, the court shall order the vehicle be sold at public auction and further order the proceeds from the sale of the vehicle be held by the treasury division of the municipality's finance department.</p>
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	<p>After deduction of the reasonable costs of the auction, an amount of the proceeds of the auction for the sale of that vehicle which is equal to the interests of the owners whose interests have not been forfeited shall be returned to those owners, if those owners apply to the treasury division of the municipality's finance department within 60 days of the auction.</p> <p>If the owners whose interests have not been forfeited do not apply within that period, those funds become the property of the municipality subject to the rights of any other claimant to those funds. Property subject to the interest of a lienholder whose interest has not been forfeited may not be disposed of as provided in this section without the consent of the lienholder. A regulated lienholder's interest in a vehicle shall not be subject to forfeiture in any case where:</p> <p>The individual who allegedly used the vehicle in violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 is not the person whose dealings with the lienholder gave rise to the lien; or</p> <p>The vehicle the individual was driving, operating, or was in actual physical control of at the time of the alleged violation was not the vehicle involved in the event giving rise to the conviction.</p> <p><i>Definitions.</i> The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:</p> <p><i>Administrative hearing officer</i> means a person designated to conduct post-seizure probable cause hearings.</p> <p><i>Assessed or appraised value of a motor vehicle</i> means the value set out in the National Automobile Dealers Association Book (NADA) for the same or similar make and model and accessorized motor vehicle. In the event there is no NADA value for a motor vehicle, the value shall be set at a minimum of \$500.</p> <p><i>Driver</i> has the same meaning as set forth in section 9.04.010.</p> <p><i>Legally unjustified</i> means there was:</p> <p>No reasonable suspicion for the stop of the vehicle leading to an arrest for soliciting, driving without a valid license, driving under the influence, operating a motor vehicle that is public nuisance under section 9.28.035, or operating without the required security based on the individual allegedly operating, driving, or being in actual physical control of the vehicle; or</p> <p>No probable cause for the arrest of an individual for soliciting, driving without a valid license, driving under the influence, operating a motor vehicle that is public nuisance under section 9.28.035, or operating without the required security based on the individual allegedly operating, driving, or being in actual physical control of the vehicle.</p> <p><i>Person</i> has the same meaning as set forth in section 9.04.010.</p>
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	<p><i>Previously convicted</i> means:</p> <p>If charged with violating section 9.28.019, having been convicted in this or another jurisdiction of operating a motor vehicle while their license is canceled, suspended or revoked, or in violation of a limitation, under section 9.28.019 or another law or ordinance with substantially similar elements within ten years preceding the date of the present offense.</p> <p>If charged with violating either section 9.28.020 or 9.28.022, having been convicted in this or another jurisdiction of operating a motor vehicle, aircraft, or watercraft while under the influence under section 9.28.020 or another law or ordinance with substantially similar elements, or of refusal to submit to a chemical test under section 9.28.022 or 28.35.032 or another law or ordinance with substantially similar elements.</p> <p>If charged with violating section 9.28.030 A. or B., having been convicted in this or another jurisdiction of operating a motor vehicle without the required security in effect or proof of such security at the time of operation under section 9.28.030 or another law or ordinance with substantially similar elements within ten years preceding the date of the present offense.</p> <p>If charged with violation section 8.65.030C. or another law or ordinance with substantially similar elements within ten years preceding the date of the present offense.</p> <p>Convictions for violation of section 9.28.020 and 9.28.022 arising out of a single transaction and a single arrest are considered one previous conviction.</p> <p><i>Reasonable steps to prevent</i> means the claimant has the burden of showing, by a preponderance of the evidence, that:</p> <ul style="list-style-type: none"> The claimant secured the keys to the vehicle or the vehicle itself in a way that should have prevented the person charged with violating this chapter from obtaining access to the vehicle; or Informed the police, before seizure of the vehicle, the vehicle was being operated in violation of this chapter; or Permitted the person charged with violating this chapter to operate the vehicle only after examining what appeared to be a valid driver's license; or Expressly prohibited operators of the vehicle, who are not registered owners of the vehicle, from permitting other third-parties to operate the vehicle. <p><i>Registered owner</i> means the owner of the vehicle at the time of offense, as shown in the vehicle ownership records of the State of Alaska, the Division of Motor Vehicles or another agency with similar responsibilities in another State, but may include subsequent good faith purchasers.</p> <p><i>Regulated lienholder</i> means an entity whose lien on the vehicle is a result of lending activities subject to regulation by the National Credit Union Administration, the comptroller of the currency</p>
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		<p>or other Federal banking regulators, the Federal Trade Commission, or the State department of commerce and economic development.</p> <p><i>Vehicle</i> shall have the same meaning as set forth in section 9.04.010. (AO No. 82-205; AO No. 83-168, 10-17-83; AO No. 93-87(S-2), 1-1-94; AO No. 94-71(S), § 1, 4-26-94; AO No. 95-84(S-1), § 18, 4-27-95; AO No. 95-163(S), §§ 10—19, 8-8-95; AO No. 97-87, § 3, 6-3-97; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-72, § 1, 7-1-02; AO No. 2001-139, § 2, 7-1-02; AO No. 2001-150, § 6, 8-28-01; AO No. 2003-73, §§ 12—14, 4-22-03; AO No. 2003-106, §§ 7, 8, 7-1-03; AO No. 2003-152S, § 2, 1-1-04; AO No. 2003-155, § 2, 6-1-04; AO No. 2004-61, § 1, 3-2-04; AO No. 2006-89(S), § 1, 6-6-06; AO No. 2006-115, § 1, 9-12-06; AO No. 2007-60, § 2, 11-1-07; AO No. 2007-161, § 3, 12-11-07; AO No. 2008-126, § 1, 1-6-09; AO No. 2010-76, § 4, 10-26-10; AO No. 2010-81(S-1), § 8, 12-7-10, eff. 1-1-11; AO No. 2012-16, § 3, 2-14-12, retro eff. 12-22-11)</p> <p>Editor's note— AO No. 97-87 occasioned by 1996 Proposition 3 Initiative enacting Chapter XXI. Section 7 of AO No. 2012-16 states section 3 of this ordinance is effective retroactively to the effective date of AO 2011-113(S), December 22, 2011. These sections clarify the intention of that ordinance to have the penalties for a violation of AMC 9.28.030 B. be consistent with State law: a \$500 fine correctable with presenting proof of insurance which results in dismissal.</p> <p>Cross reference— <i>Administrative adjudication procedures, ch. 3.60.</i></p> <p>State law reference— <i>Authority, AS 28.35.030.</i></p>
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