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Sent: Friday, December 6, 2024 02:31 PM
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Subject: Re: CCI 24-8 Civil Penalties Meeting Tuesday, November 26, 2024 at 1:00 PM

Dear Charter Commission Chair Varco,

Thank you for keeping the public hearing open for this item and please accept my further comments.

I offer the attached study of civil penalty enactments by 25 Minnesota cities for your consideration.

The City of Minnetonka was first to create civil penalties in 1993. Other municipalities followed with similar, sometimes verbatim, "me too" adoptions.

Particular attention should be given to Mankato ordinance [No. 0-15-1214-16](#), adopted by their City Council on 12/14/2015.

Mankato is a home rule city but this ordinance relies on Minn.Statute [§ 412.651 Subd. 6](#) instead of following procedures contained in [§ 410.12](#) for amending its home rule charter to create enabling authority.

Consequently, their City Manager alone recommended imposing these fines on residents while their 15 member Charter Commission, judicially appointed to frame and amend the charter, were bypassed.

Blane, Moorhead, Coon Rapids and Duluth all appear to have used the same questionable method.

While Statute [§ 410.33](#) Savings Clause might, by a strained interpretation allow this, it is not within the spirit of democratically formed home rule cities with appointed Charter Commissions.

By comparison, Rochester asked their voters to approve a charter amendment authorizing their Common Council to establish Civil Penalty procedures in [2008](#), which they did.

Minneapolis, Bloomington, St. Cloud, Minnetonka and St. Louis Park all sought charter amendment recommendations from their Charter Commissions.

Woodbury's Civil Fine [Handbook](#) states: "*At any time prior to payment of the penalty, the person requesting a hearing has the right to withdraw from participation in the administrative procedure.*"

This seems to comply with the OAG letter and comments dated 12/1/2003 (attached and also contained in Appendix 4 of OSA 2/13/2008 [Special Study - Administrative Citation Programs](#)).

However, Woodbury ordinance [Sect. 26-14](#) makes non-payment of a civil fine a *separate* misdemeanor in addition to criminally charging the *initial* violation.

Rochester, Brooklyn Park, Maple Grove, Coon Rapids, Maplewood and Richfield Civil Penalty ordinances all work the same way.

Minnetonka repealed those provisions in 2023 because they were found to be objectionable, as outlined by the City Attorney in her 9/18/2023 [report](#) to the City Council.

This report also contains a history and 5 year summary of citations and fines issued.

Over the 5 year period, 41 fines were issued by Minnetonka while \$10,250 in revenues were received between 2019 and 2023. The report does not give an indication as to the cost of the program.

Saint Paul forecasts 149 civil fine issuances with projected revenues of \$29,600 over a one year period. New staffing costs are estimated at \$458,592. ALJ costs are estimated at \$22,700 *per hearing* ([CCI 21-7 attachment 2](#)).

I hope this study will help to form any recommendation that may be forthcoming and I would appreciate the Chair if he can again recognize me for 5 minutes. .

Respectfully submitted,

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P.S. Chair Varco, Can you kindly provide these comments and attachments to Commissioners Ellis and Hahm as I do not have their email addresses.

P.S. Kristin Kozoil, Can you kindly arrange for the posting of these comments and attachments to Legistar and also see that the links to the various code references are active for Commissioner use.

If there are any problems with this please advise.