

Meeting Minutes

City Council Work Session

April 4, 2024 | 4:00 p.m.
Council Chambers Conference Room
88 E. Chicago St., Chandler, AZ



Call to Order

The meeting was called to order by Mayor Kevin Hartke at 4:13 p.m.

Roll Call

Council Attendance

Mayor Kevin Hartke
Vice Mayor OD Harris
Councilmember Angel Encinas
Councilmember Christine Ellis
Councilmember Mark Stewart
Councilmember Matt Orlando
Councilmember Jane Poston

Appointee Attendance

Josh Wright, City Manager
Kelly Schwab, City Attorney
Dana DeLong, City Clerk

Staff in Attendance

Tadd Wille, Assistant City Manager
Andy Bass, Deputy City Manager
Dawn Lang, Deputy City Manager/Chief Financial Officer
Tawn Kao, Assistant City Attorney
Melissa Deanda, Acting Police Chief
Chris Perez, Police Commander
Matt Burdick, Communications & Public Affairs Director
Alexis Apodaca, Mayor & Council Public Affairs Senior Manager

Discussion

1. Discussion of Proposed Amendments to Chapter 11 of the Chandler Municipal Code Relating to Providing a Location for An Unlawful Minor Party Gathering/Prohibited to Provide Additional Enforcement Tools for Unruly Gatherings and Regulation of Brass Knuckles

MAYOR HARTKE called for a staff presentation.

Joshua Wright, City Manager, introduced the discussion item. The brass knuckles piece was added as a related component for council to discuss and provide direction for appearing on a future council agenda.

KELLY SCHWAB, City Attorney, presented the following presentation.

- Social Host Ordinance Updates Regulation of Brass Knuckles City Council Work Session April 4, 2024
- Agenda
- Social Hosting Background – Current Ordinance
 - Approved by City Council: 2015
- Social Hosting Definition:
 - Unlawful Minor Party/Gathering
- Prohibits:
 - Hosting a party of minors where liquor is served
- Civil Violation:
 - Host is held responsible
 - Civil Fines
 - \$250 for first offense
 - \$1,000 for second offense
 - \$1,500 for third and subsequent offense

CHRIS PEREZ, Police Commander, continued the presentation.

- Review of Recent Incidents
 - 11-16.2. – Providing a location for a minor party/gathering. It is unlawful for the responsible person to provide a location for, or to permit, authorize, sponsor or allow, a minor party/gathering at a private property under the responsible person's ownership, possession or control.
 - Seven (7) citations issued using the ordinance in the past three years.
 - Four (4) issued to juveniles
 - Three (3) issued to adults
 - Two (2) of the parties had 50+ juveniles in attendance
 - None of the parties involved weapons
 - Additional citations for furnishing liquor to a minor, contributing to a criminal nuisance, disturbing the peace and disorderly conduct.

MAYOR HARTKE asked if we have a history of going beyond the first.

MS. SCHWAB said yes.

COMMANDER PEREZ said seven citations have been issued for violating the ordinance since 2021. Two parties had over 50 juveniles reported by the college, and citations were issued to at least two adults.

COUNCILMEMBER POSTON asked about the process for issuing citations to juveniles when they are present.

COMMANDER PEREZ said authorities look for a responsible adult at social gatherings. If no adult is present, police wait for someone to arrive or DCS if necessary. A relative may come and receive a citation for the juvenile, who will need to respond with their parent.

COUNCILMEMBER ELLIS asked about 200 or more people at a party.

COMMANDER PEREZ said 50 people.

COUNCILMEMBER ELLIS asked if there were any other drugs or paraphernalia present at these parties aside from alcohol.

COMMANDER PEREZ said if illegal activities are observed inside a home, officials will address them. They will also take action if juveniles are found in possession of illegal substances.

COUNCILMEMBER ELLIS asked whether sobriety tests are administered on-site or if individuals are taken to the police station for testing.

COMMANDER PEREZ said there are two options, a quick breathalyzer test (PBT) and the ability to arrest students found in possession of drugs. If there is suspicion of alcohol consumption, parents may be called for consent for a PBT.

VICE MAYOR HARRIS said the police can enter a home if called to a gathering and suspect illegal activity. They will contact the minor and request their parents' information if they find suspicious activity. The police will then inform the minor's guardian of the situation. The guardian will receive further instructions on necessary actions. Essentially, the police will communicate with the adult responsible for the minor.

COMMANDER PEREZ said correct. They are in our custody if they are juveniles, so we must take care of them. We will call a responsible adult and ask if you could please respond. When they respond, we verify that they are a responsible party, and we will turn the kid over to that person, the youth over to the individual.

VICE MAYOR HARRIS asked about the protocol for dealing with a large group of minors consuming substances. He sought information on how to approach the investigation from this perspective.

COMMANDER PEREZ said that if they suspect underage drinking, they will investigate and detain those involved. They have previously detained up to 50 kids if resources are available. The focus is on ensuring the child's safety and getting them back home safely.

COUNCILMEMBER POSTON asked if there was talk about providing a party location and whether there was a distinction between a child's unsupervised behavior versus a parent's encouragement. It was unclear if parents were being discussed.

COMMANDER PEREZ said that the investigation included finding out how the people ended up there. The party organizer or parents would confess to inviting people. For parties of over 50 people, an individual who bought alcohol would receive a citation.

MS. SCHWAB continued the presentation.

- Other Municipalities
- Scottsdale: Nuisance Parties and Unlawful Gatherings (12/8/2021)
 - Owner responsible for permitting a nuisance party or unlawful gathering
 - Civil penalties
 - \$250 - \$2,000
 - After notice, \$750 - \$2,500
 - Penalties may be reduced if owner installs noise mitigation software or cameras, attends best practices on rentals, and posts conduct rules
- Tempe: Nuisance Parties and Unlawful Gatherings (6/3/2013)
 - Holds owner, tenant, guests responsible for holding or attending a nuisance party or unlawful gathering
 - Civil Penalties (\$1,000 - \$2,500)
 - Posting of notice required
- Glendale: Nuisance Parties and Unlawful Gatherings (1/10/2023)
 - Very similar to Tempe
- Goodyear: Unruly Gathering (11/7/2022)
 - Holds owner, tenant, guests responsible for holding or attending a nuisance party or unlawful gathering
 - Civil Penalties (\$1,000 - \$2,500)
 - Posting of notice required

MAYOR HARTKE asked whether this would also apply to short-term rentals, where the tenant, rather than the owner, would be responsible.

MS. SCHWAB said yes, and we will discuss the social hosting ordinance and what it would address to those specific issues.

- Flagstaff Nuisance Parties (5/19/2015)

- Holds owner, tenant, guests responsible for holding or attending a nuisance party
- Civil penalties \$250 - \$1,000
- Tucson Unruly Gatherings (3/21/2017)
 - Posting of premises required each time an unruly gathering occurs
 - Holds owner, tenant, guests responsible for holding or attending a nuisance party
 - Civil Penalties
 - \$500 - \$750
 - Subsequent violations \$1,000 - \$1,500 plus police fees
- Prescott Valley Underage Drinking, Nuisance Parties (2/22/2018)
 - Holds owner, tenant, guests responsible for holding or attending a nuisance party
 - Civil Penalties
 - \$100 - \$1,500
 - Posting of property upon third and subsequent police responses
- Social Hosting Proposed Changes
 - Retitled to Unruly Gathering Ordinance.
 - Unlawful to permit unruly gatherings.
 - Gathering of persons on any private or public property, including property used to conduct business, which constitutes a threat to the public peace, health, safety or general welfare.
 - Examples:
 - Impeding traffic, obstruction of streets by crowds or vehicles, use or possession of illegal drugs, drinking alcohol in public areas, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and/or littering.

VICE MAYOR HARRIS said the restrictions do not apply to gatherings like funerals or mourning events. Regular social events like graduations are a different story.

MS. SCHWAB said that holding a party at home is not illegal, but if it becomes disruptive to the neighborhood, the police may respond. They may ask to tone it down if it is just a noisy celebration, but setting up a bar for children to drink violates the code.

MAYOR HARTKE said in his neighborhood, there are many neighbors. He can hear their music from several blocks away, but as long as they quiet by 10:00 o'clock, it's not a problem. Even if they're celebrating, it would not trigger any complaints.

MS. SCHWAB said it might trigger a call to the police if they disturb the peace. But again, I think it's fair to say if they respond and find you having a quinceanera, the kids are not drinking, and there's no crime activity.

COUNCILMEMBER ORLANDO asked if the police would break up a gathering of 30-40 kids at a restaurant if someone calls to complain.

COMMANDER PEREZ said using this tool would not be appropriate for business owners reporting disruptions. Instead, other city codes and Arizona Revised Statute laws, such as trespassing, would be more applicable.

COUNCILMEMBER ORLANDO said let's take a scenario where there are 34 kids in an establishment, and one of them feels harassed. They call the police. What happens next.

COMMANDER PEREZ said that the police would ask a disruptive group of teenagers to disperse. The approach would depend on the specific situation and the reporting party's wishes. If the gathering posed a risk to public safety, the police would take appropriate action. An education piece could be implemented to inform the public of the ordinance and the importance of safety.

COUNCILMEMBER ORLANDO expressed concerns about an establishment with consistent behavioral issues. They sought clarity on how the ordinance could disperse people and wanted officers to have enough authority to take action. Councilmember Orlando was curious about another ordinance that could help with kids gathering at a location like a mall.

COMMANDER PEREZ said trespassing or disorderly conduct, depending on the level of disobedience, would be more appropriate for incidents at the mall. This law is primarily for residential properties where someone is allowing inappropriate behavior like underage drinking rather than a business calling the police for unruly customers.

COUNCILMEMBER ORLANDO asked for more information on what other tools or ordinances we have that help us bridge that gap.

COUNCILMEMBER ELLIS asked about the correlation between public and residential areas and intended to bring them together.

COUNCILMEMBER ORLANDO said there was a recurring issue of unruly behavior in a public place.

MS. SCHWAB discussed teen violence issues and incidents that occurred at In-and-Out Burgers. They have laws and tools to address these issues and can work with the police department to ensure the safety of communities. The law targets private individuals who host parties for kids with alcohol or drugs. It holds them accountable while allowing the police to intervene, address other crimes, and disperse the gathering.

COUNCILMEMBER STEWART asked if the parties with 50 or more juveniles in attendance were eventually broken up. Four out of the seven citations were given to juveniles, and three were given to adults. According to state statutes and the current ordinance, civil fines or citations were given to the individuals who broke the law during those parties.

COMMANDER PEREZ said he was not familiar with the disposition and enforcement fees. The responsible parties should be contacted to ensure the kids get home safely.

COUNCILMEMBER STEWART said we have the tools in place to fix these issues.

COMMANDER PEREZ said yes.

COUNCILMEMBER STEWART asked about what we are layering in now that provides more tools, and ten years from now will these tools be useful, or can they be abused.

MS. SCHWAB explained how the additional tools would enhance the ones they already have in place.

MS. SCHWAB continued the presentation.

- Social Hosting Proposed Changes
 - Holds property owner responsible.
 - Unlawful for a responsible person to intentionally, knowingly, or recklessly permit an unruly gathering.
 - May be charged with a class one misdemeanor.
 - Civil and Criminal Penalties
 - Civil up to \$2,500.
 - Criminal up to 180 days jail, 3 years probation, \$2,500 fine.
 - Authorizes Chandler Police to abate
 - Citation or arrest of violators
 - Disperse gathering
 - Provides additional enforcement tools
 - Habitual offender – criminal after the first offense within 18 months

COUNCILMEMBER STEWART asked if that was in the criminal code.

MS. SCHWAB said correct.

VICE MAYOR HARRIS asked if the proposed language would include education tools and if the word "education" would be added in the context of an authorized challenge to abate.

MS. SCHWAB said the code is primarily used for enforcement, such as issuing citations or charging someone with a crime. Education is not typically included in the code. The police department has a plan for education and should address it.

COUNCILMEMBER STEWART asked whether criminal charges were an effective tool for dispersing parties in the past. They questioned the deterrent value of charges and who initiated this issue.

MS. SCHWAB said her prosecutor and the legal advisor.

COUNCILMEMBER STEWART asked if the prosecutor and the legal advisor recommended a criminal charge for a party.

MS.SCHWAB said it was an option, so they put it out there for the council to consider.

COUNCILMEMBER STEWART asked if the subcommittee decided that the criminal option was to be put on this for discussion.

MS. SCHWAB said they agreed to move forward with it.

COUNCILMEMBER ELLIS said the concern is about these parties where adults provide harmful substances to children. They believe that hosts who allow this to happen should be held accountable by the police. This is not just a civil matter; it is a criminal matter because children are being put at risk.

COUNCILMEMBER ENCINAS said that criminality has varying levels. If the police are called to a party, it may be considered civil at first. However, if the behavior becomes habitual, or if weapons or drugs are involved, it can escalate to a criminal level.

COUNCILMEMBER STEWART asked whether the criminal charge would go to an adult or a juvenile and emphasized the importance of understanding the details of the situation.

MS. SCHWAB said if an adult hosts a party with drugs or other serious crimes, they can be charged with a class one misdemeanor. Minors charged with minor offenses like drinking or drugs will not be punished under this ordinance.

COUNCILMEMBER POSTON asked if the situation could escalate if it happens a second time.

MS. SCHWAB said there are three options when it comes to hosting a party with alcohol. First, the owner can be cited civilly if no crime is committed. Second, if there are drugs, weapons, or fighting, the owner can be charged with a class one misdemeanor without going through the civil process. Finally, if the owner is cited civilly and the police respond to the same activity within a year, the owner could be considered a habitual offender, leading to criminal charges. These rules are in place to protect children from harm.

COUNCILMEMBER POSTON asked if a year is the timeframe that is being proposed.

MS. SCHWAB said 18 months.

MAYOR HARTKE said that if drugs and weapons are found in a house, it's already a criminal activity. A social gathering where such activities take place adds another layer of criminality. This will discourage people from organizing such gatherings.

COMMANDER PEREZ said yes, it is an enhancement.

COUNCILMEMBER ORLANDO asked for statistics on the number of calls received for disturbance of the peace and disruptive behavior. The early education could prevent extreme cases from happening.

VICE MAYOR HARRIS said the new regulation aims to hold property owners accountable for any misconduct on their property. Property owners must take responsibility for their homes and ensure their children behave properly. The regulation warns property owners that they can be held accountable for unruly gatherings on their property. Law enforcement officers will educate and disperse gatherings safely, but if the property owner is habitual in allowing such events, they will be held criminally responsible. The goal is to encourage property owners to do the right thing and take control of their property.

COUNCILMEMBER ENCINAS asked If this ordinance was in place three years ago, would any of these seven citations have reached that criminal level, or do you guys not have enough detail behind those incidents.

COMMANDER PEREZ said he did not know if he could speak to that. Whether it be that threshold, there are a lot of varying issues within each call.

COUNCILMEMBER STEWART said the only change is an increase in the penalty for violating this law.

POLICE CHIEF DEANDRA said a juvenile who hosts a party and provides alcohol will not be exempt from legal responsibility if additional criminal activity or felony offenses are taking place. For example, if a 17-year-old hosts a party while their parents are out of town, and we discover an additional criminal activity or felony offenses, the juvenile will be held accountable.

MS. SCHWAB thanked the chief for clarifying that juveniles who host a party and meet the criteria outlined in the ordinance can be cited. However, the police will only respond to a call reporting a rowdy party.

COUNCILMEMBER STEWART said that criminal charges apply only to adults, not children. Children can make mistakes because they are not fully developed. If charged with a misdemeanor, it may remain on their record. Parents who knowingly engage in unsafe activities put their children at risk, which is unacceptable. Education is essential, especially for children, to avoid these incidents. However, can minors face criminal charges.

MS.SCHWAB said if the juvenile is the one responsible for the property, they live there, and they're the one hosting, and they're supplying the alcohol, and other crimes are being committed. They could be charged with class one misdemeanor.

COUNCILMEMBER STEWART asked if an underage individual is found to have alcohol at their party, they may be charged with a criminal offense even if it was not their alcohol or their intention. It is up to the officer to decide if the individual should face criminal charges.

MS. SCHWAB said it is up to the officer's discretion to charge someone based on the situation. If desired, the council can specify only responsible parties over 18 will be charged. Juveniles cited with a class one misdemeanor go through a different court system and may be treated differently.

CHIEF DEANDRA said that of those seven cases, four were issued to juveniles, and three were issued to juveniles, meaning juveniles were hosting the parties. Parents probably were not present, and that was why they issued the citation. So, there is applicable circumstances that have happened to us.

COUNCILMEMBER ENCINAS said that the gravity of the scenario would determine the appropriate action, which would be at the individual's discretion.

MS.SCHWAB said if a juvenile hosts a party and serves alcohol to friends, resulting in the police being called, they will be cited civilly. However, if cocaine is brought in, the responsible person, even if a juvenile, may be charged with a class one misdemeanor.

MAYOR HARTKE expressed concern about minors getting involved in illegal activities and emphasized the need to protect them. He wanted safeguards to prevent minors from accelerating too fast into dangerous activities. Overall, he wanted to ensure that innocent kids who may get caught up in illegal activities are protected and that measures taken are fair and just.

MS. SCHWAB continued the presentation.

- Regulation of Brass Knuckles
 - Arizona is one of 12 states where brass knuckles are legal
 - Phoenix
 - Unlawful to sell, give away or to possess for the purpose of sale or giving away.
 - Unlawful for any person, except a police officer, to carry brass knuckles concealed (criminal)
 - Yuma
 - Unlawful for any person to sell, give away, or to possess for the purpose of sale or giving away except for resale to law enforcement officer or licensed security guard (criminal)
- Review of Incidents

- 55 cases reviewed where brass knuckles were listed in criminal and non-criminal investigations between January 2021 – March 2024
- 4 cases contain juveniles and brass knuckles
- No pattern of use in criminal activity evident
- Brass Knuckles Proposed Code Changes
 - Prohibiting the sale to, or the supply of and possession of brass knuckles by minors
 - Possible penalties
 - Civil up to \$2,500 fine
 - Criminal up to 180 days jail, 3 years probation, \$2,500 fine
- Next Steps
 - Full City Council Consideration – April 2024
 - Ordinance Implementation – May-June 2024
 - Training & Education for Law Enforcement and Community Partners (Continuous)
 - Monitoring and Evaluation Framework (Continuous)
- Questions

Adjourn

The meeting was adjourned at 5:41 p.m.

ATTEST: _____
City Clerk

Mayor

Approval Date of Minutes: May 9, 2024

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the City Council of Chandler, Arizona, held on the 4th day of April 2024. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this _____ day of May, 2024.

City Clerk