STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1648

Pauline Thomas,
Appellant,

vs.

City of Minneapolis, Division of Solid Waste and Recycling,
Respondent.

Filed July 18, 2011
Affirmed
Wright, Judge

Hennepin County District Court
File No. 27-CV-09-18710

Jill Clark, Jill Clark, P.A., Golden Valley, Minnesota (for appellant)

Susan L. Segal, Minneapolis City Attorney, Sara J. Lathrop, Tracey N. Fussy, Assistant City Attorneys, Minneapolis, Minnesota (for respondent)

Considered and decided by Halbrooks, Presiding Judge; Wright, Judge; and Bjorkman, Judge.

U N P U B L I S H E D O P I N I O N

WRIGHT, Judge

Appellant challenges the district court's summary judgment in favor of respondent, arguing that the district court erred by concluding that (1) respondent had authority to implement a garbage-cleanup program, (2) the cleanup program does not

violate equal-protection provisions of the Minnesota Constitution, and (3) appellant's right to due process was not violated during her administrative hearing. We affirm.

FACTS

Respondent City of Minneapolis (city) began a pilot neighborhood cleanup program in 1999. Under the cleanup program, if the solid-waste field crew observes unconfined garbage within 20 feet of an alley on garbage-collection day, the city immediately collects the garbage rather than providing the usual seven-day-notice period. The city also charges the resident a cleanup fee, regardless of who placed the garbage in the location. The amount of the cleanup fee increases for each subsequent collection of excess garbage. The effectiveness of the cleanup program led the city to expand it to other neighborhoods.

On July 11, 2001, the city mailed letters to all residents in the Central neighborhood that described the cleanup program, advised residents that it planned to expand the cleanup program to Central, and invited residents to a public meeting to discuss the cleanup program. The city also mailed letters to residents of Central on October 30, 2001 and January 24, 2002, advising them that the cleanup program would begin in 2002.

On March 18, 2002, appellant Pauline Thomas, a resident of Central, telephoned the Division of Solid Waste and Recycling of the city's Department of Public Works (public works) and complained that she had been charged a cleanup fee for the collection of two mattresses that had been illegally dumped on her property by a third party. Public works reversed the charged fee "[i]n an effort to work with [Thomas]" but advised

Thomas that she would be subject to cleanup fees in the future pursuant to the cleanup program. The city mailed letters to residents of Central, including Thomas, approximately every three months from March 2002 to March 2003, advising them that the cleanup program was in effect. The city discontinued the cleanup program in Central in 2003.

In March 2006, a member of a homeowners association in Central requested that the city resume the cleanup program in Central. On June 1, 2, and 5, 2006, the city advised all Central residents by letter that a community meeting would be held on June 8, 2006, to discuss the resumption of the cleanup program in Central. After that meeting, the Central Area Neighborhood Development Organization advised the city that it approved resumption of the cleanup program. And on July 13 and 14, 2006, the city advised all residents of Central by letter that the cleanup program would resume. The city mailed additional notification letters to all Central residents at least five times between August 2007 and February 2009.

On November 27, 2006, city workers observed furniture, appliances, boxes, and bags of garbage at Thomas's curb. The city field foreman tagged Thomas's garbage bin with a blue tag indicating that the city would clean up the excess garbage if it was not removed within 24 hours.[1] City workers collected the excess garbage the next day, and the city charged Thomas a $50 cleanup fee. Thomas telephoned public works and complained about the charge. Public works explained the cleanup program, emailed

[1] Although the cleanup program provides that excess garbage will be cleaned up immediately, the record reflects that, in practice, the city provided Thomas 24-hours' notice via blue notification tags.

Thomas a copy of the cleanup-program-notification letter, and advised Thomas by letter that she could dispute the charged fee at a hearing. Thomas requested a hearing to dispute the charge, but she failed to attend the hearing. She contends that she did not receive notification of the hearing.

On March 23, 2009, city workers again observed excess garbage at Thomas's curb, tagged it, and collected it after 24 hours. The city charged Thomas a $75 cleanup fee. Thomas advised public works by telephone that she was not responsible for the excess garbage and that she disapproves of the cleanup program. Public works scheduled a dispute hearing and notified Thomas of the hearing date by letter. On May 14, 2009, a hearing was conducted before a hearing officer regarding the fees charged for the 2006 and 2009 cleanups at Thomas's property. Thomas and a city representative appeared at the hearing. The hearing officer found that "the city proved the facts with reports and pictures submitted and oral testimony of [the] city representative," and that Thomas "did not refute the facts." The hearing officer upheld the cleanup fees.

Thomas appealed the decision to the Hennepin County District Court, arguing that (1) the city lacks authority to assess fees pursuant to the cleanup program, (2) the cleanup program violates the right to equal protection provided by the Minnesota Constitution because public works did not provide Thomas with the full seven-days notice to clean up excess garbage that is provided to residents of other Minneapolis neighborhoods, (3) the administrative hearing denied her the right to due process guaranteed by the Minnesota Constitution, and (4) the cleanup program violates Minneapolis ordinances prohibiting discrimination.

The city moved for summary judgment, which the district court granted. The district court concluded that (1) the cleanup program is authorized under Minneapolis, Minn., Code of Ordinances (MCO) §§ 225.570, 225.690 (2011); (2) the cleanup program does not violate the Uniformity Clause, Minn. Const. art. X, § 1, the Rights and Privileges Clause, Minn. Const. art. I, § 2, or the prohibition of special laws, Minn. Const. art. XII; and (3) Thomas was not deprived of her due-process rights. This appeal followed.

D E C I S I O N

We review the district court's decision to grant summary judgment to determine whether there are any genuine issues of material fact and whether the district court erred in its application of the law. *State by Cooper v. French*, 460 N.W.2d 2, 4 (Minn. 1990). In doing so, we view the evidence in the light most favorable to the party against whom summary judgment was granted. *Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993). Summary judgment shall be granted if the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that either party is entitled to judgment as a matter of law." Minn. R. Civ. P. 56.03.

I.

Thomas argues that the city lacked the authority to implement the cleanup program. The city counters, and the district court held, that the cleanup program is authorized by MCO §§ 225.570, 225.690(a).

The interpretation and application of a city ordinance is a question of law, which we review de novo. *Frank's Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 608 (Minn. 1980). The rules governing statutory interpretation are applicable to the interpretation of city ordinances. *Yeh v. Cnty. of Cass*, 696 N.W.2d 115, 128 (Minn. App. 2005), *review denied* (Minn. Aug. 16, 2005). Therefore, when construing an ordinance, we first determine whether the language is reasonably subject to more than one interpretation. *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). In doing so, we construe the language of an ordinance according to its plain and ordinary meaning and consider the ordinance in light of its underlying policy. *Frank's Nursery Sales, Inc.*, 295 N.W.2d at 608-09. If the ordinance language is unambiguous, we give effect to the unambiguous text. *Cannon v. Minneapolis Police Dep't*, 783 N.W.2d 182, 193 (Minn. App. 2010). If the ordinance language is ambiguous, we ascertain and effectuate the intention of the drafter and must presume that the drafter intended the entire section to be effective and not lead to an absurd result. *Id.* at 194 (citing Minn. Stat. §§ 645.16-645.17 (2008)).

MCO § 225.570 provides:

> The city engineer shall have the supervision and control of the collection, removal and disposal of solid waste in the city. The city engineer shall prepare, promulgate and enforce such additional rules, regulations and conditions not inconsistent with this article, as may be deemed necessary for the collection and disposal of solid waste.

And MCO § 225.690(a) requires city haulers to collect all solid waste lying within a radius of 20 feet of the solid waste collection point and provides: "Under regulations

drafted by the city engineer, time limitations and charges may be established for the collection under this section." The MCO does not define "promulgate."[2] Accordingly, we must construe the word according to its ordinary meaning. *See Amundson v. State*, 714 N.W.2d 715, 720 (Minn. App. 2006) (stating that courts should construe a word according to its ordinary meaning, unless the legislature has provided a specific definition), *review denied* (Minn. Aug. 15, 2006).

To promulgate means "1. To declare or announce publicly; to proclaim. 2. To put (a law or decree) into force or effect. 3. (Of an administrative agency) to carry out the formal process of rulemaking by publishing the proposed regulation, inviting public comments, and approving or rejecting the proposal." *Black's Law Dictionary* 1334 (9th ed. 2009); *accord The American Heritage Dictionary* 1450 (3d ed. 1992) (providing that to promulgate means "[t]o make known . . . by public declaration; announce officially. . . . To put (a law) into effect by formal public announcement"). The practice of publication followed by agency approval after public comment is one of several methods of promulgation under these definitions.

Here, in both 2001 and 2006, residents of Central were advised of the proposed cleanup program and its rules. And on both occasions, residents were invited to provide public comments at a community meeting before the cleanup program was implemented. Moreover, residents of Central were notified by letter on multiple subsequent occasions

[2] Thomas relies on Minn. Stat. ch. 14 (2010), which pertains to state administrative procedure for the adoption of public rules. But public works is not a state administrative agency. And although chapter 14 is referenced in MCO § 141.40(10) (2011) (providing for the promulgation of rules by the commission on civil rights), it is not referenced in the sections of the MCO that are relevant here.

of the cleanup program's implementation and requirements. These actions fall within the ordinary meaning of "promulgate."

Accordingly, the district court did not err by concluding that the city properly implemented the cleanup program under the authority of MCO §§ 225.570, 225.690(a).

II.

Thomas next argues that the cleanup program violates equal-protection provisions of the Minnesota Constitution. Specifically, Thomas asserts that the cleanup program violates her right to equal protection under the Uniformity Clause, Minn. Const. art. X, § 1, and the Rights and Privileges Clause, Minn. Const. art. I, § 2; and the prohibition of special laws, Minn. Const. art. XII. The constitutionality of an ordinance is a question of law, which we review de novo. *State v. Castellano*, 506 N.W.2d 641, 644 (Minn. App. 1993).

A.

Article X, section 1, of the Minnesota Constitution provides that "[t]axes shall be uniform upon the same class of subjects." Article I, section 2, of the Minnesota Constitution provides that "[n]o member of this state shall be disenfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers." Because both provisions require persons who are similarly situated to be treated alike, we apply the same analysis to challenges under each of these constitutional provisions. *Compare Kolton v. Cnty. of Anoka*, 645 N.W.2d 403, 411 (Minn. 2002) (Rights and Privileges Clause challenge) *with Little Earth*

of United Tribes, Inc. v. Hennepin Cnty., 384 N.W.2d 435, 441 (Minn. 1986) (Uniformity Clause challenge).

Although all similarly situated persons must be treated alike, only invidious discrimination is constitutionally offensive. *Scott v. Minneapolis Police Relief Ass'n*, 615 N.W.2d 66, 74 (Minn. 2000). When a suspect class is not involved, an ordinance is presumed to be constitutional, and the burden is on the party challenging the ordinance to prove a constitutional violation beyond a reasonable doubt. *Rio Vista Non-Profit Hous. Corp. v. Ramsey Cnty.*, 335 N.W.2d 242, 245 (Minn. 1983). Unless a constitutional challenge involves a suspect classification or a fundamental right, we review the challenge using a rational-basis standard, and we will uphold the law if its classification is rationally related to a legitimate state interest. *Scott*, 615 N.W.2d at 74. But a law that "establishes classifications by race, alienage, or national origin . . . is subject to strict scrutiny and will be upheld only if it is necessary to serve a compelling state interest." *In re Welfare of M.L.M.*, 781 N.W.2d 381, 388 (Minn. App. 2010).

Thomas contends that the strict-scrutiny standard should apply because she is African American and the cleanup program is being implemented only in neighborhoods with high minority populations. Central, for example, is 28 percent white and 44 percent African American. But the city presented evidence that the cleanup program also was implemented in the Field, Regina, and Northrup neighborhoods from 2002 to 2004; the Folwell neighborhood from 2003 to 2005 and from 2009 to the present; the Hawthorne neighborhood from 2006 to the present, and the Camden neighborhood from 2009 to the

present. The city also presented 2000 census evidence demonstrating the racial percentages of these neighborhoods:

Neighborhood	Percentage African American	Percentage White
Camden	11	80
Field	24	70
Folwell	42	40
Hawthorne	54	21
Northrup	9	84
Regina	49	40

The city also demonstrated that the cleanup program has been implemented, at times of the year when university students move in and out, in the Como, Marcy-Holmes, and Prospect Park neighborhoods, each having a majority-white population.

Thomas does not refute this evidence. Rather, she argues that only a limited version of the cleanup program is implemented in the neighborhoods surrounding the University of Minnesota whereas, by contrast, a longer-term version of the cleanup program is implemented in minority neighborhoods. But this argument only addresses the three neighborhoods surrounding the University of Minnesota. The city's evidence establishes that the longer-term cleanup program has been implemented in several majority-white neighborhoods that are not near the University of Minnesota. Moreover, the city presented evidence that the cleanup program is implemented only at the request of a neighborhood association and only if the ward's city council member and public works agree that the association's request is appropriate. Indeed, the cleanup program often ends after a period of time because the excess-garbage problem declines. On this record, Thomas has not established that the cleanup program involves a suspect classification. Thus, we apply the rational-basis standard.

Under the Minnesota rational-basis standard,

> (1) The distinctions which separate those included within the classification from those excluded must not be manifestly arbitrary or fanciful but must be genuine and substantial, thereby providing a natural and reasonable basis to justify legislation adapted to peculiar conditions and needs; (2) the classification must be genuine or relevant to the purpose of the law; that is there must be an evident connection between the distinctive needs peculiar to the class and the prescribed remedy; and (3) the purpose of the statute must be one that the state can legitimately attempt to achieve.

State v. Garcia, 683 N.W.2d 294, 299 (Minn. 2004) (quoting *State v. Russell*, 477 N.W.2d 886, 888 (Minn. 1991)). When applying the Minnesota rational-basis standard, unlike the similar federal standard, appellate courts "'have been unwilling to hypothesize a rational basis to justify a classification . . . . Instead, [appellate courts] have required a reasonable connection between the actual, and not just the theoretical, effect of the challenged classification and the statutory goals.'" *Id.* (quoting *Russell*, 477 N.W.2d at 888).

In this case, residents of the neighborhoods subject to the cleanup program are given a 24-hour notice to remove excess garbage before a cleanup fee is imposed, while residents of other Minneapolis neighborhoods are given a seven-day notice. The city presented evidence that the cleanup program is adapted to "peculiar conditions and needs"; namely, it is implemented only when it is requested by the neighborhood association and is deemed appropriate by the ward's city council member and public works, and it is discontinued when it is no longer necessary to reduce excess garbage. More specifically, the city presented evidence that residents of Central wanted to clean up

the neighborhood, raise property values, and reduce misdemeanor crime because prostitutes used abandoned mattresses in alleys and drug dealers used piles of garbage to hide their criminal activity. This record establishes "genuine and substantial" distinctions between neighborhoods that provide "a natural and reasonable basis" for disparate treatment in the application of the cleanup program. *Id.* (quotation omitted).

The city also demonstrated a connection between the distinctive needs of Central and the cleanup-program remedy. The undisputed evidence establishes that the cleanup program was implemented in the entire Central neighborhood after proving successful in other neighborhoods and in a pilot program implemented in one part of the Central neighborhood. The cleanup program was implemented again when residents requested it in 2006 and the neighborhood-development organization unanimously endorsed the cleanup program. Central residents praised the cleanup program and the "significant difference in Central's appearance" attributable to the cleanup program. And the number of properties in Central that were charged fees under the cleanup program declined from 321 properties in 2007 to 260 properties in 2009, thereby evincing a reduction in excess garbage. This record establishes "an evident connection between the distinctive needs peculiar to the class and the prescribed remedy." *Id.* (quotation omitted).

A city may legitimately resort to the police power "for the purpose of preserving public health, safety, and morals, or abating public nuisances." *C & R Stacy, LLC v. Cnty. of Chisago*, 742 N.W.2d 447, 453 (Minn. App. 2007) (quotation omitted). This includes the authority to regulate garbage collection within its jurisdiction. *Troje v. City Council*, 310 Minn. 183, 186-88, 245 N.W.2d 596, 598-99 (1976). Minneapolis city

ordinances authorize this cleanup program's rules. MCO §§ 225.570, 225.690(a). The city implemented the cleanup program in Central to clean up the neighborhood, raise property values, and reduce misdemeanor crime. These are objectives that the city can legitimately attempt to achieve.

In sum, our careful review of the record establishes that the cleanup program satisfies the rational-basis standard, and Thomas has not met her burden of proving beyond a reasonable doubt that the cleanup program violates either the Uniformity Clause or the Rights and Privileges Clause of the Minnesota Constitution.

B.

Thomas next argues that, because the state is prohibited from passing special laws relating to special localities under Article XII of the Minnesota Constitution, the city is similarly prohibited from passing special rules relating to specific portions of the city. Assuming without deciding that the prohibition against special laws applies, we conclude that Thomas has not proven a violation.

Article XII, section 1, of the Minnesota Constitution provides: "In all cases when a general law can be made applicable, a special law shall not be enacted . . . . Whether a general law could have been made applicable in any case shall be judicially determined . . . ." A law is general if it is uniform in operation even though it creates separate classes and applies different rules to different classes. *Visina v. Freeman*, 252 Minn. 177, 196, 89 N.W.2d 635, 651 (1958). A law also is general if the nature of the class justifies disparate treatment and the classification is not arbitrary. *In re Tveten*, 402 N.W.2d 551, 558 (Minn. 1987). A classification is proper under the special-law provision if

> (a) the classification applies to and embraces all who are similarly situated with respect to conditions or wants justifying appropriate legislation; (b) the distinctions are not manifestly arbitrary or fanciful but are genuine and substantial so as to provide a natural and reasonable basis justifying the distinction; and (c) there is an evident connection between the distinctive needs peculiar to the class and the remedy or regulations therefor which the law purports to provide.

Masters v. Comm'r, Minn. Dep't of Natural Res., 604 N.W.2d 134, 139 (Minn. App. 2000) (quoting *Tveten*, 402 N.W.2d at 558-59).

Here, the record establishes that (a) the classification applies to similarly situated neighborhoods where excess garbage is a problem and the neighborhood has requested the cleanup program, (b) the cleanup program is implemented based on a neighborhood's request and demonstrated need, and (c) the cleanup-program remedy is connected to and addresses the distinctive needs of these neighborhoods.

Because the cleanup program is uniform in operation and the classification is justified and not arbitrary, it is a general law that does not violate the constitutional prohibition of special laws. Thomas is not entitled to relief on this ground.

III.

Thomas also asserts that her due-process rights were violated during her administrative hearing because (a) she was not given notice of the first hearing, (b) the hearing officer did not consider her arguments, (c) she was not permitted to cross-

examine the city's representative, and (d) the cleanup program fines the property owner regardless of who is responsible for the excess garbage.[3]

When a protected property interest is at stake, both the United States Constitution and the Minnesota Constitution require that court procedures provide reasonable notice and an opportunity to be heard. U.S. Const. amend. XIV, § 1; Minn. Const. art. I, § 7; *Comm'r of Natural Res. v. Nicollet Cnty. Pub. Water/Wetlands Hearings Unit*, 633 N.W.2d 25, 29 (Minn. App. 2001), *review denied* (Minn. Nov. 13, 2001). These due-process guarantees afford a party an opportunity to be heard at a meaningful time and in a meaningful manner appropriate to the interest involved and the nature of the proceeding. *Boddie v. Connecticut*, 401 U.S. 371, 378, 91 S. Ct. 780, 786 (1971). A party cannot assert a procedural due-process claim without first establishing "a direct and personal harm resulting from the alleged denial of . . . constitutional rights." *Riehm v. Comm'r of Pub. Safety*, 745 N.W.2d 869, 877 (Minn. App. 2008) (quotation omitted), *review denied* (Minn. May 20, 2008).

A.

Thomas requested a hearing to dispute the $50 fee charged in 2006. Although the city scheduled a hearing for Thomas, she contends that she did not receive notice of that

[3] Thomas also argues that the district court did not address her argument that MCO chapter 139, which prohibits racial discrimination, is at issue. But Thomas did not offer a legal argument on this issue to the district court or in her brief to us. We, therefore, decline to address this issue. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts generally will not consider matters not argued to and considered by the district court); *Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (holding that issues not briefed on appeal are waived); *Ganguli v. Univ. of Minn.*, 512 N.W.2d 918, 919 n.1 (Minn. App. 1994) (declining to address allegations unsupported by legal analysis or citation).

hearing. But Thomas's dispute of the 2006 fee was subsequently heard along with her dispute of the $75 fee charged in 2009. Thus, the 2009 hearing cured any due-process defect. *See Tamarac Inn, Inc. v. City of Long Lake*, 310 N.W.2d 474, 478 (Minn. 1981) (rejecting allegation of deprivation of due process when subsequent hearing occurred); *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 297 (Minn. App. 2007) (same).

B.

Thomas also asserts that the hearing officer did not consider her arguments because the hearing officer's decision did not address her constitutional equal-protection and due-process arguments. But a hearing officer at an administrative hearing "lacks subject matter jurisdiction to decide constitutional issues because those questions are within the exclusive province of the judicial branch." *Holmberg v. Holmberg*, 578 N.W.2d 817, 820 (Minn. App. 1998), *aff'd*, 588 N.W.2d 720 (Minn. Jan. 28, 1999). The hearing officer observed that Thomas did not dispute that the excess garbage was on her property; and, as the cleanup program requires, Thomas was held liable for the cleanup fee. The hearing officer properly limited his decision to non-constitutional issues, and Thomas's constitutional arguments were properly addressed by the district court. Moreover, we are without a record of Thomas's arguments to the hearing officer. Accordingly, on the record before us, the hearing officer did not deny Thomas the right to due process by not considering her arguments.

C.

Thomas maintains that the hearing officer also erred by not permitting her to cross-examine the city's representative. "The right to confront and cross-examine

witnesses is a fundamental aspect of procedural due process." *Hall v. Hall*, 408 N.W.2d 626, 633 (Minn. App. 1987), *review denied* (Minn. Aug. 19, 1987). But cross-examination is not essential to procedural due process in a quasi-judicial hearing before a city governing body. *Barton Contracting Co. v. City of Afton*, 268 N.W.2d 712, 715-16 (Minn. 1978) (observing that such hearings, unlike judicial proceedings, are not given under oath or limited by traditional rules of evidence); *see also Cole v. Metro. Council HRA*, 686 N.W.2d 334, 336 (Minn. App. 2004) (observing that hearing officer of local governing body acted in quasi-judicial capacity when taking evidence and hearing testimony). The record does not reflect whether Thomas sought and was denied an opportunity to cross-examine the city's representative. But a hearing officer in the city's finance department conducted a quasi-judicial hearing, which invokes fewer procedural-due-process requirements. *Id.* And the record reflects that Thomas did not dispute any material fact, which renders any potential error harmless. *See Riehm*, 745 N.W.2d at 877 (stating that appellant must establish direct and personal harm resulting from alleged denial of due-process rights). Thomas is not entitled to relief on this ground.

D.

Thomas also contends that the cleanup program violates her due-process rights by punishing her for the actions of third parties who dump garbage on her property. Thomas relies on *State v. Kuhlman*, which involved Minneapolis traffic ordinances under which the owner of a vehicle was guilty of a petty misdemeanor and subject to a fine if the owner's vehicle was photographed committing a red-light offense. 729 N.W.2d 577 (Minn. 2007). The Minnesota Supreme Court held that the ordinances were preempted

by a state criminal statute that prohibits red-light violations. *Id.* at 583-84. The city argued that the ordinances were consistent with the criminal statute because they merely permitted the city to enforce the statute. *Id.* at 583. But the *Kuhlman* court rejected this argument because the city ordinances created a presumption that the vehicle owner was the driver and eviscerated the presumption of innocence that is required under the criminal statute. *Id.* at 583-84. Because the city ordinances provided less procedural protection than the criminal statute by shifting the burden of proof, the ordinances were inconsistent with the statute. *Id.*

The facts and issues presented here are readily distinguishable. The cleanup program and relevant city ordinances are not alleged to conflict with, or provide less procedural protection than, a state statute. The cleanup program does not impose criminal penalties, and the burden of proof and procedural requirements of a criminal prosecution do not apply. *See State v. Guminga*, 395 N.W.2d 344, 347 (Minn. 1986) (observing that civil fines or license suspension do not present due-process implications of criminal penalties because they "do not entail the legal and social ramifications of a criminal conviction"); *Davis v. Comm'r of Pub. Safety*, 509 N.W.2d 380, 391 (Minn. App. 1993) (holding that reinstatement fee for driver whose license has been revoked is not intended to be punitive; rather, the fee is a civil penalty which does not require presumption of innocence). And the cleanup program does not penalize property owners based on the actions of third parties who dump garbage on the property owners' property. Rather, the cleanup program imposes a cleanup fee on property owners who fail to clean up excess garbage on their property. Thomas was provided an opportunity to dispute

whether she violated the cleanup-program rules by failing to clean up excess garbage from her property. She was not presumed guilty. She admitted that she did not clean up the excess garbage. And the failure to do so is a violation of the cleanup-program rules. Because the cleanup program neither imposed criminal penalties nor penalized Thomas for the actions of third parties, this argument also fails.

Affirmed.