

PART IV
REGULATORY FUNCTIONS OF CITIES

CHAPTER 12: CITY REGULATORY FUNCTIONS

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Chapter 12

City Regulatory Functions

Cities regulate many activities. However, city authority to regulate comes from state law. This chapter discusses activities most commonly regulated and licensed by cities.

I. Gambling overview

Most gambling is prohibited in Minnesota. Only five forms of gambling are legal under state law:

- Pari-mutuel betting on horse racing.
- A card club at Canterbury Park.
- Indian tribal casinos.
- A state lottery.
- Lawful gambling.

A. Lawful Gambling

Of these five forms of legalized gambling, *only* lawful gambling is subject to municipal regulation and only certain qualified organizations can conduct lawful gambling, which is the operation, conduct, or sale of:

- Bingo.
- Raffles.
- Paddlewheels.
- Tipboards.
- Pull-tabs.

See LMC information memo, [Lawful Gambling](#).

See the Office of the Legislative Auditor's [Gambling Regulation and Oversight](#).

LMC information memo, [Lawful Gambling](#).

Following is a short overview of the complex laws and rules on lawful gambling.

Note that some publications or reports refer to lawful gambling as “charitable gambling.” Previously, charitable gambling was the legal term for permitted gambling in Minnesota; now state law refers to gambling conducted by qualified organizations as “lawful gambling.” This chapter and the League information memo, *Lawful Gambling* use the term “lawful gambling” when discussing legal gambling conducted by qualified organizations.

1. State regulation

Minnesota cities do not license lawful gambling, the State of Minnesota does. The state regulates lawful gambling through the Gambling Control Board (the Board). The Board issues the following licenses and permits:

- Organization licenses
- Gambling manager licenses
- Premises permits

[Minn. Stat. § 349.213, subd. 1.](#)

Therefore, cities cannot require an additional *license* to conduct gambling from a qualified organization, a gambling manager or gambling employees that are registered with the Board. Nor can cities charge Board-licensed vendors a fee for selling gambling games.

a. Only qualified organizations conduct lawful gambling

[Minn. Stat. § 349.16.](#)

In Minnesota, only qualified organizations may conduct lawful gambling. Qualified organizations must be registered nonprofit corporations in Minnesota or be designated as exempt from the payment of income taxes by the IRS; they must also be in operation at least three years prior to applying, and have at least 15 members. These organizations may include, but are not limited to, American Legions, Veterans of Foreign Wars, Moose Lodges and Knights of Columbus, fire relief associations, local youth hockey or football booster clubs, and churches.

A city is not a qualified organization and cannot conduct lawful gambling, nor can any particular city department; for example, the fire department. (A firefighters' relief association, however, may conduct lawful gambling because it is a separately incorporated qualified organization within the meaning of the law.)

2. Permitting lawful gambling involves city regulation through approval process

[Gambling Control Board.](#)

Gambling licenses are issued to specific organizations to conduct lawful gambling. However, before the Board will grant a gambling license, the Board issues a premises permit, which involves cities.

a. State-issued premises permits

[2009 Minn. Laws, ch. 124, § 59 amending Minn. Stat. § 349.213, subd. 2.](#)

New gambling organizations must receive local approval of gambling activity. An organization applying to the Board for a gambling license must also apply for a premises permit to conduct lawful gambling at any specific location. The Board will not grant a license to an organization without at least one premises permit—and the Board must not approve an initial premises permit unless the city council approves it.

b. State-issued off-site premises permit

2009 Minn. Laws, ch. 124, § 33
amending Minn. Stat. §
349.213, subd. 2.

With board approval and permit, a licensed organization may conduct lawful gambling on premises other than the organization's permitted premises for up to four events in a calendar year. This off-premises gambling must be in connection with a county fair, the state fair, a church festival, or a civic celebration and must not exceed three days per event. No lease is required for the conduct of a raffle, and cities may not assess a fee for these off-site premises permits.

2. Gambling excluded or exempt from state licensing

To further complicate an already complicated area, some types of lawful gambling activities are exempt from state licensing and regulation. It is important for cities to know which lawful gambling events are excluded or exempt from state licensing requirements because cities may want to regulate these events through local permits.

Minn. Stat. § 349.166.

Minn. Stat. § 645.48.

Gambling that is *excluded* from state regulation generally includes some type of bingo games or raffles that are either held infrequently or have a low dollar amount in prizes.

Minn. Stat. § 349.166.

See LMC information memo,
Lawful Gambling.

Gambling that is *exempt* from state licensing includes some bingo games (except linked bingo games), raffles, paddlewheels, tipboards, and pull-tab operations; an organization may conduct such gambling without a license only in specific limited situations.

Minn. Stat. § 349.213.

Even so, when organizations hold these exempt games, and apply to the Board, the application must include a local government notification form, indicating local approval. Cities may require a local permit for exempt gambling activities but the permit fee is limited to \$100.

3. Proceeds from lawful gambling

Minn. Stat. § 349.12, subd. 25.

State law limits the use of gross profits (less prizes) from lawful gambling to lawful purposes or allowable expenses. There are 19 activities that meet the definition of lawful purpose expenditures. A few of these activities may provide direct or indirect benefits to cities and city residents. These categories include, but are not limited to:

- A “festival organization” conducting a community festival that is exempt from the payment of federal income taxes under section 501(c)(4) of the Internal Revenue Code.
- Recreational, community, and athletic facilities and activities intended primarily for persons under age 21.
- Contributions to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency.

- Activities by an organization or a government entity which recognize military service to the State of Minnesota or a community (subject to rules of the board.)

4. Local regulation

Cities may impose regulations on lawful gambling within the city that are more stringent than those imposed by state law, even banning gambling entirely. However, any more stringent regulation must apply equally to all forms of lawful gambling. The law specifically allows cities regulate in two basic areas:

- Fees and taxes.
- Local control over expenditures.

a. Fees and taxes

There are two types of fees and one tax that cities may institute in regard to lawful gambling:

- Permit fees.
- Investigation fees.
- Three percent tax.

[Minn. Stat. § 349.166.](#)

[Minn. Stat. § 349.213.](#)

[Minn. Stat. § 349.16, subd. 8.](#)

b. Local permit fee

Cities may require a local permit for the conduct of lawful gambling exempt from state licensing requirements (which are some bingo games—except linked bingo games—raffles, paddlewheels, tipboards, and pull-tab operations). The fee for a local permit may not exceed \$100.

[Minn. Stat. § 349.213.](#)

See LMC information memo, [Lawful Gambling](#).

c. Investigation fee

A city may assess an investigation fee on state licensed organizations, except that cities can no longer assess an investigation fee for bingo or a bingo hall license. The investigation fee may not exceed:

[Minn. Stat. § 349.16, subd. 8.](#)

- \$500 in First Class cities (greater than 100,000 population).
- \$250 in Second Class cities (20,001 to 100,000 population).
- \$100 in all other cities.

d. Three percent tax

Minn. Stat. § 297E.02.

Minn. Stat. § 349.213, subd. 3.

While the state automatically receives an 8.5 percent tax, a city may impose a gambling tax of up to 3 percent of the gross proceeds of gambling events (minus prizes awarded) on state licensed organizations. The tax must only raise such revenues as are necessary to cover costs the city incurs in regulating lawful gambling. A city cannot use these tax revenues for any other purpose. Thus, if the city's expenses will only be 2.5 percent of the gambling revenues, the city only charges a tax of 2.5 percent and not the full, maximum 3 percent. If a city imposes this gambling tax, it cannot assess an investigation fee against the state licensed organizations.

Minn. Stat. § 349.213, subd. 3.

Form LG500 City or County Annual Report, Up To 3% Regulatory Tax.

If a city imposes a gambling tax, it must annually by March 15 make a report to the Gambling Board on a board-prescribed form showing the amount of revenue raised by the tax and the use of the tax proceeds. Copies of the reporting form are available from the Gambling Control Division.

Minn. Stat. § 349.213, subd. 3.

In addition, if a city imposes a gambling tax, it must share all documents pertaining to site inspections, fines, penalties, or other corrective action involving local lawful gambling regulation with the board within 30 days of filing at the city or county of jurisdiction.

e. Local control over expenditures

Cities may set certain parameters on how organizations spend the net profits from local lawful gambling. Cities may:

2009 Minn. Laws, ch. 124, § 58 amending Minn. Stat. § 349.213, subd. 1.

See Form LG510 City or County Annual Report, 10% Contribution Fund.

- Require, by ordinance, that organizations contribute 10 percent of the net profit from lawful gambling to a fund administered by the city. A city with such a fund must by March 15 of each year file a report with the gambling control board, on a form the board prescribes, that lists all such revenues collected, interest earned on that revenue, and expenditures for the previous calendar year. The city must spend these funds only on lawful purposes (as defined in lawful gambling laws) or police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations.
- Require, by ordinance, that organizations expend all or a portion of its expenditures within the cities trade area.
- Require that organizations make specific expenditures of up to 10 percent of net profits. (This practice may violate the U.S. Constitution if a city designates too specific a cause. Cities should use caution and work with the city attorney before requiring specific expenditures from qualified organizations.)

Minn. Stat. § 349.213, subd. 1(b).

LMC information memo, memo, *Lawful Gambling, Specific Expenditures*.

5. Gambling in the municipal liquor store

a. Authority to lease space

Minn. Stat. § 412.211.

Minn. Stat. § 349.18, subd. 1(g);
2009 Minn. Laws, ch. 124, § 31
amending Minn. Stat. §
349.165, subd. 2.

Minn. R. 7861.0210, subparts
30, 31.

*Penn-O-Tex Oil Co. v. City of
Minneapolis*, 207 Minn. 307,
291 N.W. 131 (1940).

With a few exceptions, state law allows gambling only on premises owned or leased by the licensed organization. Cities may lease city-owned property to private parties, including state-licensed gambling organizations, when the city does not need the property for municipal purposes. Because of the limited space gambling booths typically require, or the limited space necessary behind the bar if bartenders sell pull-tabs, and because of the additional revenue and business gambling often draws, a city may lease space in the municipal liquor store to gambling organizations. The lease term is concurrent with the term of the premises permit and it must contain a 30-day termination clause. In order to comply with the statutes and rules governing leased premises, however, any space a gambling operation leases must be physically separated from all of the municipal liquor store equipment, except for pull-tabs that can be sold at or behind the bar where employees of the liquor store, acting as employees of the gambling operation sell pull-tabs.

See LMC information memo,
Public Purpose Expenditures.

The League of Minnesota Cities does not recommend allowing city liquor store employees to sell pull-tabs. The city pays municipal employees and provides for employment costs such as workers' compensation. If city employees sell pull-tabs, they devote city paid time to the benefit of a private organization and may be violating the constitutional requirement that all city expenditures be for a public purpose. Cities should consult the city attorney before authorizing municipal liquor store employees to sell pull-tabs.

Minn. Stat. § 349.168.

If the city decides to allow its liquor store employees to sell pull-tabs, it should be aware that the gambling organization must also hire the employees and that the employees must register on a form prescribed by the board. Registered employees must wear an identification card provided by the board whenever they conduct lawful gambling for compensation.

6. Enforcement

Contact the [Gambling Control Board](#) at (651) 639-4000.

[2008 Fiscal Year Report](#).

Contact [DPS Gambling Enforcement Division](#) at 651-296-6159.

Lawful gambling is a source of entertainment and raises revenue for worthy causes (over \$207,000 in 2008). However, due to the large amount of money involved each year, there is the possibility that illegal gambling and misuse of funds will cause problems for cities and qualified organizations. If a city believes that an organization conducting lawful gambling is not complying with the laws on allowable and lawful expenses or other gambling activities, the Board is the correct agency to contact. The Department of Public Safety's Alcohol and Gambling Enforcement Division investigates allegations of criminal conduct relative to any form of gambling.

II. Vehicles on city streets

[Minn. Stat. ch. 169.](#)

[Minn. Stat. § 169.04.](#)

See also, D. Administrative Traffic Citations.

Although complete vehicle and traffic regulations are contained in the state and federal law, cities are authorized by state law to regulate certain traffic-related activities by passing local ordinances—and many do. This section focuses on what cities can regulate when it comes to vehicles and speed.

A. Low-power motorized vehicles

See Minnesota House of Representatives Research Department, Information Brief: [Low Power Vehicles.](#)

New vehicles, from golf carts to electric bicycles, may use city streets. Generally, cities may regulate use of some of these low-power vehicles on city streets but regulation depends on the vehicle and state law. Operators of these vehicles must also comply with insurance, safety equipment, and sometimes state licensing when using them on public roadways. Use of such vehicles on private land is not subject to regulation by the state or the city.

1. Motorized foot scooters

[Minn. Stat. § 169.011, subd. 46.](#)

[Minn. Stat. § 169.225.](#)

“Motorized foot scooter” means a device with handlebars that the operator can stand or sit on, powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion. It has no more than two 12-inch or smaller diameter wheels and has an engine or motor that is capable of a maximum speed of 15 miles per hour (mph) on a flat surface. State law prescribes safety equipment for motorized foot scooters and the minimum age of operators (age 12), and generally prohibits use on sidewalks. Under current state law, cities cannot prohibit or regulate motorized foot scooters on city streets. A city may, however, prohibit motorized foot scooters on a bike path, lane, trail or bikeway designated for non-motorized use only and governed by a local ordinance.

2. Mini-trucks, all-terrain vehicles (ATVs), and golf carts

[Minn. Stat. § 169.045.](#)

[Minn. Stat. § 169.022.](#)

2009 Minn. Laws, ch. 158, §2 amending Minn. Stat. § 169.045.

Beckius v. City of Canby, No. A07-1497 (Minn. Ct. App. July 1, 2008)(unpublished decision).

Cities may, but are not required, to issue permits as spelled out in a local ordinance so residents may operate mini-trucks, golf carts, or ATVs on designated roadways under city jurisdiction. Such mini-truck, golf cart, and ATV ordinances must:

- Regulate only what the state law allows.
- Be merely additional and complementary to a state law and cover specifically what the statute covers generally.
- Provide the same procedural protections as the state law when prosecuting offenses covered by an ordinance.
- Not prohibit what state law allows.

Cities may restrict permit holders to operate these vehicles only in certain areas in the city, require annual renewal of permits, and revoke permits if owners show an inability to operate the vehicles safely. Under state law, a person operating such a vehicle on public roads need not have a driver's license, but cities may require that by ordinance. State law requires insurance on these vehicles, and many city ordinances reinforce this by requiring proof of insurance before the city issues a permit.

2009 Minn. Laws, ch. 158, §1-2 amending Minn. Stat. § 169.01, subd. 40a.

Minn. Stat. § 169.045.

“Mini-truck” means a motor vehicle that has four wheels; is propelled by an electric motor or an internal combustion engine with an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including having a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards. To operate legally on public roadways, a mini-truck must have at least two headlamps; at least two tail lamps; front and rear turn-signal lamps; an exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror; a windshield; a seat belt for the driver and front passenger; and a parking brake.

Minn. Stat. § 169.045, subd. 1.

Minnesota Department of Natural Resources Off-highway vehicle regulations.

Minn. Stat. § 84.922.

For city purposes a “four-wheel all-terrain vehicle” that may, by ordinance, be permitted to operate on city streets is a four-wheel motorized flotation-tired vehicle with four low-pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds. A person must not operate an all-terrain vehicle on a public street or highway unless the vehicle has working head- and taillights and brakes. Note: The Minnesota Department of Natural Resources (DNR) also regulates registration of ATVs and *off-highway* use of ATVs, but cities do not regulate such use.

Minn. Stat. § 169.045, subd. 3-8.

State law does not define “motorized golf carts,” but requires that they display a slow-moving vehicle emblem when operating on public roadways. No one may operate a golf carts in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet. All the rights and duties applicable to the driver of any other motor vehicle apply to those who operate a golf cart on designated roadways, and operators must have insurance for the cart.

3. Neighborhood electric vehicles (NEVs) and medium-speed electric vehicles

Minn. Stat. § 169.011, subd. 47.

Minn. Stat. § 168.05, subd. 9.

49 C.F.R. § 571.500.

An NEV is a four-wheeled electrically powered motor vehicle that can go 20 mph, but not more than 25 mph, on a paved level surface. NEVs must have a state-issued certificate of title. NEVs may operate only on streets and highways with a speed limit of 35 mph or less. NEVs must comply with federal equipment and vehicle safety requirements for low speed vehicles.

Minn. Stat. § 169.011, subd. 39.
49 C.F.R. § 571.500.

“Medium-speed electric vehicle” means an electrically powered four-wheeled motor vehicle, equipped with a roll cage or crushproof body design, that can attain a maximum speed of 35 mph on a paved level surface, is fully enclosed, and has at least one door for entry, has a wheelbase of 40 inches or greater, and meets requirements in federal regulations.

Minn. Stat. § 169.224.

Cities may regulate NEVs and/ or medium-speed electric vehicles. A city may prohibit or restrict the operation of NEVs and medium-speed electric vehicles on any street or highway under the city’s jurisdiction. State law also prescribes use of these vehicles.

4. Other low-power vehicles

Minn. Stat. § 169.011, subd. 4.

Many newer low-power vehicles may show up on city streets. Currently, pocket bikes, mini-motorcycles, motorized bicycles, and electric-assisted bicycles or mopeds are not subject to city regulation, but are governed by state law.

Minn. Stat. § 169.011, subd. 27.

5. Low-power vehicles for pedestrian use

Minn. Stat. § 169.011, subd. 26.
Minn. Stat. § 169.011, subd. 93.

Some low-power vehicles are for pedestrian use. These include Segways, or “electric personal assistive mobility devices,” manual or motorized wheelchairs, scooters, tricycles, or similar devices used by people with disabilities as a substitute for walking. Such devices are not subject to city regulation.

6. Snowmobiles

Minn. Stat. § 84.81, subd. 3.
Minn. Stat. § 84.87.
Minn. Stat. § 84.928.

“Snowmobile” means a self-propelled vehicle designed for travel on snow or ice and steered by skis or runners. Cities may, by ordinance, allow two-way operation of snowmobiles on either side of the right-of-way of a street or highway under city jurisdiction, where the city, as road authority, determines that two-way operation will not endanger users of the street or highway or riders of the snowmobiles using the trail. City ordinances must follow state law requirements. Any penalties in a local ordinance for a particular offense must match the penalty in state law for that same offense. No city resolution or ordinance restricting the period of time within which snowmobiles may be operated on public waters is valid unless first submitted to the commissioner of natural resources and approved by the commissioner in writing.

Minn. R. 6100.5200, subp. 2.
Minn. Stat. § 84.795.
Minn. R. 7460.

B. Non-motorized pedal bikes

Minn. Stat. § 160.263, subd. 2.

A city may, by ordinance, designate any roadway or portion of a roadway under its jurisdiction as a bicycle lane, and designate any sidewalk or portion thereof under its jurisdiction as a bicycle way, provided the designation does not destroy a pedestrian way or pedestrian access.

A city that designates a bicycle way or bicycle lane may:

- Designate the type and character of vehicles or other modes of travel that are allowed on the lanes or ways, provided this operation is not inconsistent with the safe use and enjoyment of bicycles.
- Establish priority rights of way on the lane or way, and otherwise regulate the use of the lane or way.
- Paint lines, construct curbs, or establish other physical separations to exclude the use of the lane or way by vehicles other than those specifically permitted by the city.

The city council may, after public hearing, prohibit through-traffic on any highway or a highway portion if the council has designated it as a bicycle lane. Through-traffic on a trunk highway may not be prohibited. The city must erect and maintain official signs giving notice of the regulations and priorities, and must also mark all bicycle lanes and bicycle ways with appropriate signs.

Minn. Stat. § 160.263, subd. 4.

The city council may, by resolution or ordinance, and without an engineering or traffic investigation, designate a safe speed, not lower than 25 mph, for any street or highway with an established bicycle lane. The ordinance or resolution designating a safe speed is effective when the city has erected appropriate signs designating the speed.

Minn. Stat. § 169.222.

Persons operating bicycles have all of the rights and duties applicable to the driver of any other vehicle, except as provided by law. A city cannot prohibit persons from riding in the road, even if a bicycle path is available. Persons operating a bicycle upon a roadway are required to ride as close as practicable to the right-hand curb or edge of the roadway, with certain exceptions.

III. Speed limits

Minn. Stat. § 169.14.

“Regulatory Speed Limits”
Minnesota Department of
Transportation.

State law governs speed limits on all public roads. If a city council wishes to change any speed limit set by state law, it must first seek the commissioner of Transportation’s approval. For example, state statute sets the speed limit of 30 miles per hour on most city streets. The city cannot raise or lower that limit by local ordinance, except in limited circumstances specified in the statutes, which are discussed below.

1. School zones

Minn. Stat. § 169.14, subd. 5a.

“School Speed Limits”
Minnesota Department of
Transportation.

A council may, within statutory limits and only upon completion of engineering and traffic investigations prescribed by the commissioner of the Department of Transportation, establish lower speed limits on city-controlled streets within a school zone. If the street is a trunk highway, the consent of the Transportation commissioner is needed.

2. Streets with bike lanes

Minn. Stat. § 160.263, subd. 4.

Cities may designate lower speed limits for roads with bike lanes. No state approval is necessary. . The council may, by resolution or ordinance (and without an engineering or traffic investigation), designate a safe speed no lower than 25 mph for any street or highway under its authority upon which it has established a bicycle lane. The ordinance or resolution designating a safe speed is effective when the city posts speed limit signs along the street or highway.

3. Urban districts

Minn. Stat. § 169.14, subd. 5b.

Minn. Stat. § 169.011, subd. 90.

Cities can, by resolution, change the speed limit on certain segments of city streets or municipal state-aid streets in an “urban district,” which is the area next to and including any street that is built up with structures devoted to business, industry, or houses at intervals of less than 100 feet for a distance of a quarter of a mile or more. The speed limit goes into effect when the city puts up speed limit signs that also designate the beginning and end of the district. The city must send a copy of the resolution to the commissioner of the Department of Transportation at least 10 days before putting up the signs.

4. Alleys, work zones, city streets, and park roads

Minn. Stat. § 169.14, subds. 5c, 5d, 5e.

Minn. Stat. § 169.011, subd. 2.

Minn. Stat. § 169.14, subd. 2d.

“Alleyway” means a private or public passage or way in a city that is less than the usual width of a street; may be open to, but is not designed primarily for, general vehicular traffic; intersects or opens to a street; and is primarily used to enter or exit by owners of abutting properties. Cities may regulate speed limits for alleyways based on their own engineering and traffic investigations. Alleyway speed limits established at other than 10 mph shall be effective when proper signs are posted. Cities may also regulate speeds in work zones on city controlled streets and park roads (but if the park road is a trunk highway, the city must first obtain the Transportation Department commissioner’s approval). State law requires, however, that a person who violates these locally set speed limits by driving 20 mph or more in excess of the applicable speed limit be assessed an additional surcharge equal to the amount of the fine imposed for the speed violation, but not less than \$25.

5. City-requested variations in speed

Minn. Stat. § 169.14, subd. 5.

Speed limits must be reasonable and safe. Cities may request that the Transportation commissioner set different speed limits in the city if the council believes that the existing speed limit on any street or highway in the city (and not a part of the trunk highway system) is greater or less than a reasonable or safe speed. The city may request that the commissioner authorize posting signs designating what speed is reasonable and safe based on an engineering and traffic investigation.

Minn. Stat. § 169.14, subd. 4.

The transportation commissioner may also establish different speed zones on trunk highways inside city limits without council approval.

6. Residential roadways

Minn. Stat. § 169.011, subd. 64

Minn. Stat. § 169.14, subd. 2(7)

“Residential roadway” means a street or portion of a street that is less than one-half mile in length, which the city classifies as a local street. If a city designates a street a residential roadway, then the speed limit is 25 mph, but it is not effective until the city posts the speed limit signs also indicating the beginning and end of the residential roadway.

7. Rural residential districts

2009 Minn. Laws, ch. 56, amending Minn. Stat. § 169.011, adding subd. 69a and amending Minn. Stat. § 169.14, subd. 2 and subd. 5f.

“Rural residential district” means the territory contiguous to and including any city street with houses situated at intervals on either side of the road averaging 300 feet or less for a distance of a quarter of a mile or more. The speed limit in a rural residential district is 35 mph, but is not effective until the city posts signs designating the speed limit and indicating the beginning and end of the rural residential district. Rural residential districts established and posted before Aug. 1, 2009, continue to qualify.

IV. Traffic violations

Minn. Stat. § 169.022.

Traffic violation ordinances must set penalties in the ordinance. Penalties must be the same as those in state law for the same offenses.

A. Uniform tickets

Minn. Stat. § 169.99.
Minnesota Department of Public Safety.

When charging people with traffic violations, Minnesota law enforcement agencies, including city police departments, must use the uniform traffic ticket prepared by the commissioner of public safety. As of July, 2008, all parts of the uniform traffic ticket must give conspicuous notice of the fact that, if convicted, the person to whom it was issued must pay a state imposed surcharge and the current amount of the required surcharge. However, law enforcement agencies may continue to issue nonconforming tickets until the supply of those tickets has been exhausted. Copies of this ticket and instructions are available from the Department of Public Safety.

B. Administrative traffic citations

2009 Minn. Laws, ch. 158, §§ 4-6 and 9 to be codified as Minn. Stat. § 169.999.

New law authorizes a new and exclusive use of administrative traffic citations for minor traffic offenses. This means no statutory or home rule charter city may use a different process for issuing such citations. A city may, however, issue other kinds of administrative citations pursuant to local ordinance for non-traffic matters such as liquor licensing ordinance violations, nuisance and animal ordinance violations, and so on.

See LMC, *Administrative Traffic Citations Tool Kit (Tool Kit)*.

A city that employs peace officers must take a number of steps before issuing administrative traffic citations. This is an overview of the new law focusing on the basic steps.

See [LMC Tool Kit: Model Council Resolution](#).

First, a city must pass a resolution that, at a minimum:

- Authorizes issuance of administrative citations for \$60 per violation.
- Obligates the city to provide a neutral third party to hear and rule on challenges to administrative citations.
- Bars peace officers from issuing administrative citations in violation of this law.

Second, the city must set up a process where a neutral third party may hear and rule on challenges to these citations. (The legislative intent is that this be someone other than city staff or the city council.)

See [Tool Kit: Sample Letter Notifying DPS of Passage of City Resolution](#).

Third, a city must notify the commissioner of Public Safety after it passes a resolution allowing peace officers to use administrative traffic citations.

See [Tool Kit: Model Flyer for Administrative Traffic Citation Recipients](#).

Fourth, the city must develop a flyer or some communication to give to anyone who gets an administrative traffic citation, describing how the person may contest it.

Fifth, the law requires a city to use a new prescribed uniform citation form designed by the commissioner of Public Safety.

[2009 Minn. Laws, ch. 158, § 1 amending Minn. Stat. § 6.74.](#)

Sixth, the city must track the number of administrative traffic citations issued and the money taken in with these citations. When a city peace officer issues the administrative traffic citation, the city must share the fine with the state in the following manner: two-thirds of the fine (\$40) remains with the city that issued the administrative citation and one-third of the fine (\$20) must be paid to the state. Furthermore, the city must use one-half of the city's share (\$20) for law enforcement purposes. The new law requires that the funds "be used to supplement but not supplant any existing law enforcement funding." Note: the law specifically requires that the state auditor collect information from cities every year on the administrative fines cities assess and collect under this new law.

Contact [LMC Research Department](#) at 651-281-1200 for more information.

Once these steps have been taken, then a peace officer may issue an administrative citation to a vehicle operator who:

- Violates the speed limit by less than 10 miles per hour.
- Fails to obey a stop line.
- Operates a vehicle with a cracked windshield or other specific equipment violations.

[2009 Minn. Laws, ch. 158, §7 amending Minn. Stat. § 357.021, subd. 6; 2009 Minn. Laws, ch. 158, §6 to be codified as Minn. Stat. § 169.999, subd. 6.](#)

Administrative citations are not subject to the state surcharge on other traffic violations. Those with commercial driver's licenses are not subject to administrative citations nor are drivers of commercial vehicles.

V. Signs on city streets

Minn. Stat. § 169.06.
Minnesota Department of
Transportation.

The Department of Transportation has prepared a uniform sign manual that contains uniform descriptions and specifications for all traffic signs. Cities can receive further information about this manual and about highway signs in general, from the Department of Transportation or from the district highway engineer.

Minn. Stat. § 169.04.
Minn. Stat. § 169.06.

The council may, at its discretion, designate through-streets in the city and provide for the installation of stop signs wherever it thinks necessary. Cities can also regulate turns at busy intersections, such as U-turns or left-hand turns, or post certain streets as one-way streets. Whenever a city imposes a special regulation or speed limit, it should post a sign indicating the regulation at the starting point of the regulation and anywhere else the city determines necessary to assist the enforcement of the regulation. In fact, several types of regulations are not valid until proper signs have been posted. Cities cannot put up signs on trunk highways without the approval of the transportation commissioner.

VI. Parking regulations

Minn. Stat. § 169.04. Minn.
Stat. § 459.14, subd. 6.
See LMC information memo
*Parking—Notes and
Ordinances* (555D.1.3).

Any city action regulating parking on streets in the city must be done by ordinance. Include rates, fees, charges, taxes for on-street parking, penalties for violating such regulations, and prohibitions in the ordinance, too. A city ordinance may provide that the presence of a vehicle in or upon any public street, alley, or highway in the municipality stopped, standing, or parked in violation of such ordinance, shall be prima facie evidence that the person in whose name such vehicle is registered as owner committed or authorized the commission of such violation. Common city parking regulations include: winter parking restrictions to allow for snowplowing, time limits, and truck parking restrictions—especially in residential districts. The League has a large file of sample parking ordinances cities can use as guides for developing their own regulations.

Minn. Stat. § 169.041.

Minn. Stat. § 169.041, subd. 3

State law recognizes city authority to order vehicles towed if found in violation of local parking ordinances. Cities may authorize a private towing company to do the actual towing but a city may not order a vehicle towed from public property unless a peace officer or parking enforcement officer has prepared, in addition to the parking citation, a written towing report describing the motor vehicle and the reasons for towing. The report must be signed by the officer and the tow driver. Also, a “four-hour waiting period” usually applies, meaning a city must wait at least four hours from the time a traffic ticket or citation is issued before ordering the vehicle towed. The four-hour waiting period does not apply if a public safety risk exists, including but not limited to:

Minn. Stat. § 169.041, subd. 4.

- The vehicle is parked in violation of snow emergency regulations.
- The vehicle is parked in a rush-hour restricted parking area.
- The vehicle is blocking a driveway, alley, or fire hydrant.
- The vehicle is parked in a bus lane, or at a bus stop, during hours when parking is prohibited.
- The vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign.
- The vehicle is parked in a disability transfer zone or disability parking space without a disability parking certificate or disability license plates.

Minn. Stat. § 169.041, subd. 7

A city may be liable for damages if it incorrectly orders a vehicle towed.

VII. Utilities

Cities may exercise either of two different kinds of utility regulation: through city ownership of the utility, or through the regulation of privately owned and operated utilities.

A. City-owned municipal utilities

Minn. Stat. § 412.321, subd. 2.

Before a city can establish a municipal utility (except water) the voters must approve the venture at a general or special election. A five-eighths majority of those voting on the question is necessary for approval. The ballot question must state whether the city will construct, purchase, or lease the utility and the estimated maximum amount it will cost.

1. Operation, rates, and payments

Minn. Stat. § 412.321.

Minn. Stat. ch. 452 (general).

Minn. Stat. § 452.25.

Minn. Stat. § 452.26.

Minn. Stat. ch. 453 (electric).

Minn. Stat. ch. 453A (gas).

Cities may own and operate any water works, gas, telephone, light, power, or heat plant for supplying its own needs or supplying utility service to private customers, or both. A municipal gas agency or any municipal utility may enter into a joint venture to provide gas utility service. Cities may also purchase gas, electricity, water, or heat wholesale and resell it to local consumers. For purposes of municipal gas, “city” includes a city organized and existing under the laws of another state or a city charter that participates in a municipal gas agency with Minnesota cities.

Minn. Stat. ch. 216B.

The Minnesota Public Utilities Act (Act) regulates public utilities that supply retail natural, manufactured or mixed gas and electric service. Because the residents of a city effectively regulate city utilities, the act doesn't generally regulate them, although certain provisions are specifically made applicable to city-owned gas and electric utilities. In addition, cities can elect to be subject to the full act and to regulation by the Minnesota Public Utilities Commission. Portions of the act affect city utilities in the area of record keeping. City utility books must be open to the inspection of the commission. The provisions of the act for establishing service areas also apply to city utilities.

A.G. Op. 624-A-3, (June 28, 1999).

For statutory cities, see Minn. Stat. §§ 412.221, 412.331 and 412.361.

For charter cities, see Minn. Stat. § 410.07.

Once the city establishes the utility, the council may operate the utility, or a commission can be created for that purpose. City councils or public utility commissions may set reasonable rates, including rates in excess of the precise amounts required to operate utilities. The city council or local public utilities commission may transfer moneys from the public utilities fund to the city general fund for public purpose expenditures—but this general rule is subject to restrictions in the charter in charter cities.

Minn. Stat. § 216B.097.

See LMC information memo, *Securing Payment of Utility Charges*.

Memphis Light, Gas, & Water Div. v. Craft, 436 U.S. 1, 98 S. Ct. 1554 (1978).

Generally, municipal utilities have the right to shut off water, electricity, or gas if a consumer fails to pay reasonable charges or fails to comply with reasonable regulations. A municipal utility must provide reasonable notice of a pending shut-off and tell the consumer of his or her right to protest the shut-off as unjustified. If a customer appeals a pending shut-off using the appropriate appeal process, a city must not shut off service while the appeal is pending.

2. Extending services outside city boundaries

Minn. Stat. § 412.321, subd. 3.
Minn. Stat. § 471.591.

Village of Blaine v. Independent Dist. No. 12, 272 Minn. 343, 138 N.W.2d 32 (1965).

Cities have express authority to extend utility services beyond the city limits. A city cannot extend a public service utility into another incorporated city without the consent of the other city.

Minn. Stat. § 471.591.

Before extending service to an unincorporated area, the city must meet in joint session at least once with the town board of the affected area and the county planning commission to review the plans and consider comments. After that, the city may extend services according to law. This law does not apply to any sewer district or sanitary district the city creates under special law. The Act also restricts a city's extension of electric services outside of its boundaries.

Minn. Stat. § 216B.37 to 216B.43.

B. Privately owned “public utilities”

Minn. Stat. ch. 216B.

The Act regulates privately owned utilities furnishing retail natural, manufactured, or mixed gas or electric service to the public as defined in the act. Just to clarify this point – privately owned utilities are known as “public utilities” in Minnesota law. (City owned utilities, such as city water systems, are known as “municipal utilities.”) The act sets procedures for rate regulation, standards of service, systems of accounts, construction of facilities, assignment of service areas, and other matters.

Minn. Stat. § 216B.66.

The Act repealed all other laws on privately owned public utilities. As a result, it repealed most of the previously existing authority of cities over privately owned public utilities.

Minn. Stat. § 412.221, subds. 7, 11, 32.

Minn. Stat. § 301B.01.

Minn. Stat. ch. 216B.

Minn. Stat. ch. 451. Minn. Stat. ch. 452.

Country Club Dist. Service Co. v. Village of Edina, St. Paul Fire and Marine Ins. Co., Intervener, 214 Minn. 26, 8 N.W.2d 321 (1943); *McRoberts v. Washburne*, 10 Minn. 8 (1865) 1865 WL 930.

Statutory cities and most charter cities still retain the authority, in most circumstances, to grant contracts or franchises to privately owned public utilities (other than telecommunications utilities). This authority is derived through several different statutes and court cases and appears to be unquestionable today.

Minn. Stat. § 216B.36.

LMC information memo, *Model Right-of-Way Ordinance*.

In fact, if a city has a right of way ordinance, privately owned public gas and electric utilities may not use city streets to furnish utility services without first securing a license, permit, right or franchise to use the public rights of way. Cities most commonly enter into franchise agreements with privately owned public utilities.

A.G. Op. 624-C-14 (Nov. 25, 1964).

The council has the power to determine whether to grant a franchise to a utility company. A citizen vote on this question is not necessary for the council to grant the franchise.

Northern States Power Co. v. City of Oakdale, 588 N.W.2d 534 (Minn. Ct. App. 1999).

A city can require electric distribution lines to be placed underground either through a franchise agreement or by ordinance.

Minn. Stat. § 216B.36.

State law contains several specific provisions on city franchises. The city may require the privately owned public utility to obtain a license, permit, right or franchise. The city can charge fees to raise revenues or defray increased costs resulting from utility operations. The city can base the fee on gross operating revenues or gross earnings from the utility's operation in the city.

C. Cable communications extensions

Minn. Stat. § 238.17.

A cable communications system must obtain an extension permit from a city (or cities in a joint powers agreement) to extend or provide service outside the cable service boundaries. Along with other legal requirements extension permits must include a schedule of the subscriber rates and the procedure to be used to change subscriber rates. Consult the city attorney for the process and requirements related to cable communication extension permits.

VIII. Nuisances

Minn. Stat. § 412.221, subd. 23.

See LMC information memo, *Public Nuisances*.

The statutory city code gives councils the power, by ordinance, to define nuisances and provide for their regulation, prevention or abatement. Most charters contain similar provisions.

[Minn. Stat. § 561.01.](#)

The statutory definition of “nuisance” is anything that is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with a comfortable enjoyment of life or property. The council has authority to explicitly define a particular nuisance, and then to provide for its regulation or abolition.

Nuisances are either public nuisances or private nuisances. A private nuisance causes damage to only one or a few persons. For example, a person directing water into a neighbor’s yard is a private nuisance, and the neighbor wronged by the misdirected water may take action against the person responsible. Cities need not deal with private nuisances, and private nuisances are not subject to municipal action. Public nuisances affect a considerable number of people and they violate public rights and produce a common injury, or they injure or annoy that portion of the public that comes into contact with them.

St. Paul v. Gilfillan, 36 Minn. 298, 31 N.W. 49 (1886) *Cf.* *City of St. Paul v. Haugbro*, 93 Minn. 59, 100 N.W. 470 (Minn. Jul 22, 1904).

City ordinances may only regulate public nuisances. Cities may not, without other specific authority, declare something to be a nuisance that, according to the standards of the courts, is not in fact a nuisance.

35 Dunnell Minn. Digest *Nuisances* §§ 4.00-4.15 (4th ed. 1997).

The courts in Minnesota have defined the following to be nuisances under particular circumstances: accumulations of filth; noise from various activities; animals; offensive odors; automobile wrecking; houses of prostitution; hazardous buildings; sawmills; keeping and storing of fish; three or more people standing on the sidewalk and obstructing free passage; icy driveways or sidewalks; buildings overhanging public streets; stockyards; slaughterhouses and rendering works; odor of gas escaping from a gas plant; offensive odors from petroleum tanks; gas escaping from the engines in streets; gases and gas odors intentionally caused; the emission of smoke, dirt, or cinders from chimneys and smoke stacks; obstructions in public ways (streets) or public waters; pollution of watercourses; ditches that cause water to be collected and spread onto adjacent land; discharge of sewage onto adjacent lands; and cesspools.

Cities may find other things, acts or uses of property to be nuisances. City councils should seek the advice of the city attorney before making such a declaration.

See LMC information memo, [Public Nuisances](#) for a model nuisance ordinance.

A council can best control public nuisances through an ordinance or ordinances that define and classify nuisances, provide for their abatement, and establish penalties for violations. The League has several sample ordinances and a model ordinance that can provide assistance to cities looking to draft a nuisance ordinance.

In certain cases, the city attorney can bring an action to enjoin public nuisances involving prostitution, gambling, disorderly houses, and sale of controlled substances. This involves closing the building or a portion of it where these acts occur for up to one year.

See [Minn. Stat. §§ 617.80 to 617.87](#).

[Minn. Stat. § 617.90](#).

Also, residents, neighborhood organizations or the city attorney can bring nuisance actions in cases of prostitution, sale or possession of controlled substances or firearms violations. Damages, injunctive relief, and attorney fees are available in these civil actions. Property owners can bring a court action against a person (or a minor's parents) that damages property with graffiti.

[Minn. Stat. § 617.91 - 617.97](#).

Continuous criminal gang activity is also a public nuisance that city (or county) attorneys may sue to enjoin.

IX. Curfew

[Minn. Stat. § 412.221, subd. 32](#). [Minn. Stat. § 145A.05, subds. 7a and 9](#).

See LMC information memo, *The Curfew Memo* (165.1).

If a county board adopts a countywide curfew ordinance, a city can only adopt a curfew ordinance that does not conflict with the county ordinance and that is more restrictive. In the absence of a countywide ordinance, a statutory city council may, by ordinance, establish a city curfew for juveniles and provide penalties for repeated violations. The city may impose these penalties on the juvenile or on those legally responsible for the juvenile's conduct.

Curfew ordinances have traditionally been difficult to enforce in the courts. If a city follows case law guidelines on this issue, courts are willing to enforce such ordinances. These guidelines include clearly defining all terms, and allowing exceptions to the curfew for specific purposes such as emergencies, school sponsored events, lawful employment, or if the child is a legally emancipated minor.

X. Loitering

Kolender v. Larson, 461 U.S. 352, 103 S. Ct. 1855 (1983)
But see *John Does 1-100 v. Boyd*, 613 F.Supp. 1514 (D.Minn. 1985).

Loitering is a term without enforceable legal recognition. The courts have traditionally been reluctant to make it a crime simply to be on public streets or other public areas. The U.S. Supreme Court ruled that a criminal statute which required a loiterer to provide credible and reliable identification to a peace officer, but which had no specified standards as to what would satisfy the identification requirement, to be unconstitutional. The court found the statute to be unconstitutionally vague because it encouraged arbitrary enforcement. Instead of loitering ordinances, cities are encouraged to address the specific problems loitering ordinances were intended to prevent, such as trespassing, curfew violations, and criminal activities.

XI. Railroads and trains

See LMC information memo [Railroads and Cities](#).

The regulation of railroad crossings, train speeds, and train whistles is a subject of increasing difficulty due to increased train traffic and federal restrictions on the ability of cities to regulate these problems.

XII. Open burning

Minn. Stat. § 116.082.

See LMC information memo,
Open Burning in Cities.

A city located outside the metropolitan area may, by ordinance, permit the open burning of dried leaves between Sept. 15 and Dec. 1. The ordinance must set forth limits and conditions on leaf burning to minimize air pollution and fire danger and any other hazards. A copy of any ordinance must be sent to the Minnesota Pollution Control Agency (MPCA) and the Department of Natural Resources before it is effective.

XIII. Noise

Minn. Stat. § 116.07.

Minn. Stat. § 116.07, subd. 2.

Minn. R. 7030.

The MPCA controls noises that “may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life and property” and state rules set noise standards consistent with speech, sleep, annoyance, and hearing conservation requirements. The standards are in decibels. Both day- and nighttime levels exist for residential areas.

Minn. Stat. § 169.693.

State law also regulates noise limits for automobiles, trucks, motorcycles, and snowmobiles. For help and information on establishing a noise control program, contact the MPCA.

See LMC information memo,
Minnesota Model Noise Control Ordinance (400b).

Cities may still adopt local noise control ordinances. However, cities cannot set standards describing the maximum levels of sound pressure that are more stringent than those set by the MPCA with respect to environmental noise monitored at the location of the receiver. Cities can adopt more restrictive noise level limits than those set by the MPCA to regulate the emission of noise from specific sources.

XIV. Obscenity

Minn. Stat. § 617.241.

Minn. Stat. § 617.293, subd.
22.

State law defines and prohibits obscene performances and materials. Violation of the law is a gross misdemeanor. City attorneys may be required to prosecute offenses. State law also makes it a misdemeanor to display sexually explicit material in certain public places. City officials may want to review these statutes before deciding to pass any local ordinances. First Amendment rights for freedom of expression also restrict the ability of cities to regulate these problems. (See the discussion on using land use controls for regulating adult businesses in the League’s Adult Use Packet available through the LMC research service at 1-800-925-1122)

XV. Tough person contests

[Minn. Stat. § 341.21.](#)

[Minn. Stat. § 341.22.](#)

[Minn. Stat. § 341.25.](#)

[Minn. Stat. § 347.27.](#)

[Minnesota Combative Sports Commission.](#)

The Minnesota combative sports commission directs, supervises, regulates, controls, and has jurisdiction over all combative sports contests held within this state unless a contest is exempt from the application of this chapter under federal law. Combative sports includes any combination of amateur or professional boxing, kick boxing, wrestling, grappling, or other recognized martial arts known as “mixed martial arts.” The combative sports commission must adopt unified rules and develop policies and procedures for these activities. In addition, the law gives the combative sports commission the authority to regulate all “tough person” or “ultimate fight” contests and similar sporting events.

A number of Minnesota cities have enacted bans or ordinances prohibiting the sale of intoxicating liquor at such events. At this time, regulation of these activities by cities and the state combative sports commission is an open question. Consider discussing this issue with the city attorney before taking action on regulation of mixed martial arts or tough person contests.

XVI. How this chapter applies to home rule cities

[Minn. Stat. § 410.33.](#)

Absent some specific language in a charter, this entire chapter applies to home rule charter cities.