



GOVERNING & MANAGING INFORMATION

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# Public Purpose Expenditures

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# I. Introduction

This information memo discusses the general criteria that must be met in order for a public expenditure to be valid. It also discusses specific expenditures and whether cities have specific authority to make them.

This memo is not intended to be an exhaustive list of lawful expenditures. Instead, it addresses the more common expenditures about which cities have questions. A city that has additional questions should contact the League of Minnesota Cities for further information, and consider getting a legal opinion from its city attorney or the attorney general.

# II. Criteria for valid public expenditures

In order for an expenditure of public funds to be lawful, it should meet both of the following standards:

- **Public purpose.** There must be a public purpose for the expenditure.
- **Authority.** There must be specific or implied authority for the expenditure in statute or in the city’s charter. Specific authority is usually fairly clear. In contrast, whether authority is implied by a particular statute or charter provision is subject to interpretation. Cities should consult with their city attorneys as to whether authority for a specific expenditure is implied.

[Minn. Const. Art. X, § 1](#)  
[Minn. Const. Art. XI, § 2](#)

[Minn. Const. Art. XII, § 1](#)

The Minnesota Constitution requires that taxation must be for a public purpose. It also generally prohibits giving or loaning the credit of the state to aid any individual, association or corporation.

Although a state law may be passed to give a city authority to spend money on various purposes, the Minnesota Constitution prohibits the Legislature from passing any local or special law that authorizes public taxation for a private purpose. Thus, a public expenditure must always be for a public purpose.

*Visina v. Freeman*, 252 Minn. 177, 89 N.W.2d 635 (1958)

This leads to the question of what is meant by “public purpose.” The meaning of “public purpose” is constantly evolving. The Minnesota Supreme Court has followed a liberal approach, and has generally concluded that “public purpose” means an activity that meets all of the following standards:

- The activity will benefit the community as a body.
- The activity is directly related to functions of government.
- The activity does not have as its primary objective the benefit of a private interest.

*City of Pipestone v. Madsen*,  
287 Minn. 357, 178 N.W.2d  
594 (1970)

The Minnesota Supreme Court has also held that the general objective of a public purpose is to promote the following for all of a city's residents:

- Public health
- Safety
- General welfare
- Security
- Prosperity
- Contentment

By no coincidence, these interests are the foundation of all legitimate council actions. Council members are elected or appointed to govern by and for these interests and to be the specialists on what best serves the local population. Therefore, a council's written determination of a valid public purpose based on reasonable findings of fact and the advice of the city attorney cannot and should not be underestimated. It is, after all, a city council's fundamental job to determine valid public purposes and to act in their service.

*Minnesota Energy & Economic  
Dev. Auth. v. Printy*, 351  
N.W.2d 319 (Minn. 1984)

Attorney general opinions can be useful for guidance in determining whether a public expenditure is valid. However, the opinions are not legally binding and the courts make the final decision. The proper focus of inquiry for a court is whether the expenditure will benefit the community as a whole and if it is related to the functions of government.

If an invalid public expenditure is made, the city could find itself dealing with the following problems:

- ***Taxpayer lawsuits.*** The council could have the expense of defending itself in a taxpayer lawsuit. If the taxpayer is successful, the expenditure might be found to be illegal. Personal liability for the expenditure might also fall upon the individual council members in some situations since they have a fiduciary responsibility to spend the public's money for a public purpose.
- ***Non-compliance finding by the state auditor.*** The state auditor could find that the city has made an unauthorized expenditure of public funds. This could result in future special audits and embarrassment for the city.
- ***Public mistrust.*** The council could lose the trust of the people in the community.
- ***Law changes.*** If the violation is substantial, the event could prompt the adoption of more restrictive legislation on city expenditures.

See Part V - *Public Purpose  
Expenditure Chart*

A later section of this memo contains a checklist cities can use to make a preliminary determination of whether specific expenditures will be a proper use of public funds.

### III. Common questions on public spending

This section outlines the areas where public officials have often had questions regarding public expenditures. Please note this section is not meant to be an exhaustive list of all valid or invalid city expenditures.

In many statutes, the ability to spend money in a particular way may be limited to certain types of cities. An example of this would be a statute that gives particular spending authority only to statutory cities or only to home rule charter cities.

[Minn. Stat. § 410.01](#)

Many statutes give authority for certain expenditures only to cities of a certain class. A city's class is determined by its population. Cities are classified as follows:

- **First class cities.** A first class city has a population over 100,000. (Cities do not generally lose first class status if their population drops below 100,000, unless the population drops more than a certain amount.)
- **Second class cities.** A second class city has a population over 20,000, but not more than 100,000.
- **Third class cities.** A third class city has a population over 10,000, but not more than 20,000.
- **Fourth class cities.** A fourth class city has a population that is 10,000 or less.

This section is primarily designed for statutory cities since home rule charter cities may have additional authority for expenditures in their city charters. These cities should check their charters for more details. Home rule charter cities may use a general law that applies to statutory cities as authority for an expenditure, as long as all of the following conditions are met:

[Minn. Stat. § 410.33](#)

- The city's charter is silent on the particular matter.
- There is no general law that prohibits a city charter from making the expenditure.
- There is no general law that expressly provides that a city's charter prevails over general law on the particular matter.

A.G. Op. 59-a-3 (Jan. 15, 1959)  
Minn. Stat. § 471.93

A last consideration in determining the validity of expenditures is that the attorney general has made a distinction between authority to spend money for a specific purpose and authority to give money to an organization generally committed to that purpose. For example, the attorney general said the authority to appropriate money for purposes of historical preservation permits a city to contract with a county historical society for specific services, but not to donate funds to the society to spend in its own discretion.

## A. Advertising

Minn. Stat. §§ 469.187-.189

City officials often ask if they may spend money on advertising. Generally, there is authority for making advertising expenditures. However, sometimes the authority may be limited to a particular kind of advertising.

A.G. Op. (January 30, 1930)

Although cities have authority to spend money on various types of advertising, council members should carefully review these expenditures beforehand to ensure the facts support that it is an advertising expenditure. The attorney general has said that a donation under the guise of advertising is not proper.

A city seeking to make advertising expenditures that are not outlined in this memo should contact the League for further information or consult its city attorney for a legal opinion.

### 1. Second and third class cities

Minn. Stat. § 469.188  
Minn. Stat. § 410.01

Any second or third class city (whether a statutory or home rule charter city) may levy a tax for the purpose of advertising the following:

- Agricultural resources of the community.
- Industrial business of the community.
- All other resources of the community.

### 2. Second, third, and fourth class cities

Minn. Stat. § 469.189  
Minn. Stat. § 410.01

The governing body of any second, third, or fourth class statutory or home rule charter city may annually appropriate money to advertise the city and its resources and advantages. The money may only be used:

- To advertise the city.
- For cooperative programs of promotion for the area by more than one municipality and its resources and advantages.

### **3. Statutory cities**

[Minn. Stat. § 469.186](#)  
Part III - GG - *Tourism*.

Any statutory city may spend money to create a bureau of information and publicity for the purpose of furnishing tourists information and for outdoor advertising. In addition, these bureaus can serve the purpose of preparing, publishing, and circulating information and facts concerning the recreational facilities and business and industrial resources of the community.

#### **B. Airports**

[Minn. Stat. § 360.032](#)  
[Minn. Stat. § 360.043](#)  
[Minn. Stat. §§ 360.011-.076](#)

All cities, towns, and counties in Minnesota have the power to acquire, maintain, and operate airports. In addition, cities, towns, and counties may assist other municipalities with powers that those municipalities have under the aeronautics code.

#### **C. Bridges**

[Minn. Stat. § 441.26](#)  
[Minn. Stat. § 410.01](#)

All statutory cities may spend money to assist in the improvement and maintenance of roads and bridges outside the city limits, as long as they lead into the city. Fourth class home rule charter cities also have this authority.

[Minn. Stat. § 441.48](#)  
[Minn. Stat. §§ 441.47-.55](#)

All cities have the power to acquire, purchase, construct, maintain, and operate bridges and the bridges' approaches. In order to use this authority, however, a city must pass an ordinance determining to exercise powers granted by certain state statutes.

#### **D. Businesses**

[Minn. Stat. Ch. 469](#)  
See Part III - K - *Economic development*  
[DEED](#) can be reached at (651) 259-7114 or (800) 657-3858.

A number of statutes empower cities to provide money or real property for economic development purposes under various programs. Likewise, there is limited authority to provide low-cost land for housing redevelopment purposes. These different programs are briefly discussed in a later section of this memo. For further information, contact the League or the Minnesota Department of Employment and Economic Development (DEED).

#### **E. Cemeteries**

[Minn. Stat. § 412.221, subd. 9](#)

Statutory cities may acquire, hold, and manage cemetery grounds. Cemeteries may be acquired by purchase, gift, devise, condemnation, or otherwise.

[Minn. Stat. § 471.84](#)  
[Minn. Stat. § 410.01](#)

Any statutory city, town, or fourth class home rule charter city may appropriate up to \$10,000 per year to any public or privately owned cemetery located within or outside the city's boundaries. The cemetery must be used for burial of the dead without restriction. The statute does not specify a particular use of the money by the cemetery.

## **F. Community celebrations**

City officials often ask if the city may hold a celebration for the community or contribute to an organization that will be holding a community celebration. Although there is no general authorization for festival expenditures, there is some statutory authority to support these expenditures in limited circumstances.

### **1. County fairs**

[Minn. Stat. § 38.12](#)

Any city or town may appropriate money to a county and district agricultural society or association if the following conditions are met:

- The society or association must be a member of the Minnesota state agricultural society.
- The city or town must have a county fair held within its corporate limits or in close proximity.

### **2. Memorial Day observances**

[Minn. Stat. § 465.50](#)

All cities have the authority to spend money for Memorial Day observances in commemoration of the noble and valiant deeds of the nation's dead soldiers. Cities may spend up to \$300 annually for each 75,000 of population.

### **3. Centennial and historical celebrations**

[Minn. Stat. § 471.93](#)

See Part III - Q – *Historical*

The statutes do not specifically authorize cities to spend money for city centennial celebrations. An argument can be made, however, that cities may spend money on such local celebrations under a statute allowing cities to spend money to commemorate important historical events that occurred in the city. A later section of this memo discusses this authority in more detail.

## **G. Community centers**

[Minn. Stat. § 471.935](#)

[Minn. Stat. §§ 471.15-.191](#)

Any city may appropriate money to support the facilities, programs, and services of a public or private nonprofit senior citizen or youth center. There is no specific authority for cities to finance other community centers, but many cities have done so through the state recreation statutes.

## **H. Decorations**

[Minn. Stat. § 412.221, subd. 34](#)

Statutory cities may spend money on decorations, signs, plaques, and attached accessories for public streets, buildings, and parks. Cities should be careful that decorations, such as those for the Christmas holidays, are not primarily religious in nature.

# I. Donations to organizations

A.G. Op. 59-a-22 (Dec. 4, 1934)

Cities are often asked to make donations to organizations operating for good causes. Without express authority by charter or statutory provision, cities have no authority to appropriate or give away public funds as donations to any person, corporation or private institution. While there's no statutory authority to donate in general, there are some alternatives to consider. And there is statutory authority to donate for some specific causes or situations.

## 1. Nonprofit organizations in general

The attorney general has considered the question of donating public funds to various groups and found the following public expenditures to be improper due to a lack of specific authority to donate:

A.G. Op. 59-a-3 (May 21, 1948)

- To support the Boy Scouts.

A.G. Op. 59-a-3 (Aug. 19, 1941)

- To support a 4-H Club.

A.G. Op. 218-r (Aug. 15, 1951)

- To sponsor a local bowling team.

A.G. Op. 59-a-22 (Aug. 7, 1951)

- To sponsor a local kittenball team (similar to softball).

A.G. Op. 476-b-2 (Apr. 20, 1944)

- To help the American Legion build a Legion Hall.

A.G. Op. 218-r (Feb. 10, 1942)

- To help support the Red Cross.

A.G. Op. 476-b-2 (Apr. 29, 1954)

- To support a campaign to stop expansion of a neighboring city airport.

Minn. Stat. § 412.221, subd. 2  
Minn. Stat. § 349.213

There are, however, other options. One idea is for the city to use the contracting power to give effect to another power of council, such as contracting for a club to spend a Saturday cleaning up public grounds in exchange for money. Also, if a city maintains a fund created from gambling proceeds, those proceeds may be used for many types of charitable contributions.

## 2. Artistic organizations

Minn. Stat. § 471.941

Counties, cities, and townships may appropriate money to support artistic organizations. The appropriation may be divided among multiple artistic organizations in proportions determined by the governing body.

An “artistic organization” is an association, corporation, or other group that provides an opportunity for people to participate in the creation, performance, or appreciation of artistic activities. The statute provides examples of “artistic activities” cities can support with this appropriation, but it is by no means an exclusive list.

### 3. Chamber of commerce

Minn. Stat. § 469.191  
A.G. Op. (Jun. 27, 1997)  
(informal letter opinion to  
Staples)

See Part III - J – *Dues*

State law authorizes cities “to appropriate not more than \$50,000 annually to any incorporated development society or organization of the state for promoting, advertising, improving, or developing the economic and agricultural resources of the city.” The attorney general’s office has opined that while this authority allows a city to contribute up to \$50,000 annually to a chamber of commerce, it does not allow a city to become a member of the chamber of commerce, or to pay dues to it.

### 4. Community food shelves

Minn. Stat. § 465.039  
Minn. Stat. § 465.037  
Minn. Stat. § 469.191  
See Part III - R - *Hospitals* and  
K - *Economic Development*

Any city or county may appropriate an amount to provide grants to nonprofit organizations that operate community food shelves and provide food to the needy without charge. There is also authority to provide public money to support hospitals and certain economic development organizations. These circumstances are discussed in more detail in a later part of this memo.

### 5. Prevention of cruelty to animals

Minn. Stat. § 343.11

If a city contains a society for the prevention of cruelty to animals (SPCA), it may appropriate for the maintenance and support of that SPCA “in the transaction of the work for which they are organized” any sum of money not otherwise appropriated. However, no part of such an appropriation may be expended for the payment of the salary of any officer of the society.

## J. Dues

A.G. Op. 92-a-30 (Jan. 29,  
1986)  
A.G. Op. (Jun. 27, 1997)  
(informal letter opinion to  
Staples)

According to the attorney general, cities cannot join or become members of “private” organizations, absent specific statutory authority—even if there is specific authority to contribute to the organization. And without authorization for membership, there is no authority to pay for membership. However, as noted previously, instead of paying dues, a council may contract and pay for services generally provided by an organization if doing so achieves one of council’s powers.

Minn. Stat. § 471.96

All cities, counties, and towns may appropriate money for membership in county, regional, state, and national associations of a civic, educational, or governmental nature. The associations must have as their purpose the betterment and improvement of municipal governmental operations. This authorization also allows these public entities to participate in the meetings and activities of these associations.

Minn. Stat. § 465.58

All cities and urban towns in Minnesota may appropriate money to pay dues to become members of the League of Minnesota Cities.

## K. Economic development

Minn. Stat. ch. 469

A number of statutes empower cities to provide money or real property for economic development purposes under various programs. Although the specific requirements of these statutes are not within the scope of this memo, the following is a summary of some of the more common tools available:

Minn. Stat. § 469.185

- Conveyance of city-owned land for a nominal amount to encourage business and industry, under certain conditions.

Minn. Stat. §§ 116J.993-.995

- “Business subsidies,” including contributions of personal property, real property and/or infrastructure.

Minn. Stats. § 469.191

- Grants to certain economic development organizations.

Minn. Stat. §§ 469.124-.134

- Creation of development districts.

Minn. Stat. §§ 469.090-.1081

- Economic Development Authority programs.

Minn. Stat. § 469.192

- Economic development loans.

Minn. Stat. §§ 469.1812-.1816

- Tax abatement.

DEED can be reached at (651) 259-7114 or (800) 657-3858F.

For further information about economic development programs, contact the League or the Minnesota Department of Employment and Economic Development (DEED).

## L. Elections

Cities can spend money to hold general and special elections they are authorized by law to conduct.

### 1. Special elections/advisory elections

A.G. Op. 472-o (Jul. 31, 1959); A.G. Op. 185-b-2 (Jun. 28, 1962); and A.G. Op. 185-b-2 (Apr. 6, 1962)

See LMC information memo, *City Special Elections*.

Special elections that are authorized by statutes or charter provisions are considered a valid public expenditure. But elections on questions the public is not authorized by statute or charter provision to answer are considered advisory elections and are prohibited. Therefore, no public money may be spent on them.

Many home rule charter cities have charters containing initiative and referendum provisions. These provisions give these cities additional powers with regard to the types of questions that can be put on the ballot at a special election. Voters in these cities often have the right to petition for special elections in certain circumstances.

## 2. Advocating/educating on a ballot question

A common question is whether a city can spend money for advertisements encouraging voters to support the city's position on a local ballot question, such as a "yes" vote for a special election to issue bonds or a "no" vote on a city charter issue. A related question is whether a city can spend money either to support or oppose a state constitutional amendment ballot initiative.

### a. Local ballot initiatives

A.G. Op. 159-a-3 (May 24, 1966)

Regarding a local ballot initiative, the attorney general has opined that a political subdivision may expend a reasonable amount of funds to educate voters as to facts pertinent to a ballot question. According to the opinion, publications intended merely to inform the public of financial conditions and potential effects of the passage or failure of a ballot question may be published and distributed by the local subdivision. The publications cannot, however, promote a vote for or against the issue.

### b. State constitutional ballot initiatives

A.G. Op. 442-a-20 (Jul. 10, 1952)

Historically, the attorney general has also frowned on expenditures to support a position on a state constitutional ballot initiative. A 1952 opinion addresses a situation where a town wanted to spend money to advocate the adoption of a constitutional amendment. The attorney general found the expenditure illegal, stressing that use of taxpayer money to support one political position was improper since taxpayers can have differing opinions about almost any political question.

See the state auditor's  
Statement of Position  
Expenditure of Public Funds on  
Ballot Issue Advocacy  
A.G. Op. (June 30, 2006)  
(informal letter opinion)

At the same time, the attorney general has said there are limited circumstances where spending money to advocate a position could be proper. The attorney general and the state auditor recognize that where a state action or proposal could have a "direct and substantial effect" on the interests of a local government entity, the public entity could spend public funds to protect or promote its interests—even by financially supporting one side of a ballot issue.

The attorney general and state auditor quickly point out that public funds cannot be spent for advocacy for a position where the proposed measures' effect would be "only indirect and in common with the public at large."

It is up to the city council to make findings as to whether or not a measure has a "direct and substantial effect." Therefore, cities that wish to spend money to encourage a particular vote on a local ballot initiative should first consult with their city attorneys.

Minn. Stat. § 297A.99, subd. 1(d)

### **c. Local sales tax**

Lastly, regardless of what a city and its attorney decide, cities are currently banned from expending funds, advertising, promoting, or holding a referendum to support special legislation for a new local sales tax. The ban is scheduled to end after May 31, 2010.

## **M. Employees/staff/public officials**

Cities often ask about a number of different types of employee costs. These include:

- Pay, expenses, and benefits.
- Miscellaneous items (bonds, recognition events, and flowers)

### **1. Pay, expenses, and benefits**

Minn. Stat. § 412.111

Statutory cities may define the duties of its staff, as well as fix the compensation for those positions.

#### **a. Bonuses**

A.G. Op. 270-d (Aug. 12, 1977)  
A.G. Op. 107-a-3 (Jan. 22, 1980)  
A.G. Op. (Feb. 6, 1998)  
(informal letter opinion to Champlin)

The attorney general has said that a bonus for past services is void as a gratuity in the absence of some type of agreement or understanding. However, it would appear a bonus could become payable if it followed a prior agreement or understanding that such a bonus would become payable. Most recently the attorney general's office has opined that "an agreed monetary bonus might be provided as part of a salary plan to employees who meet performance or longevity standards...."

#### **b. Insurance benefits**

Minn. Stat. § 471.61, subd. 1  
Minn. Stat. § 471.61, subd. 2a  
Minn. Stat. § 471.61, subd. 5

Municipalities may insure or protect their officers and employees and their dependents under group health insurance, life insurance, and accident insurance. The city may pay all or any part of the premium or charges on the insurance or protection. Such a payment is deemed to be additional compensation paid to the officer or employee, but is not considered income for the purpose of determining contributions or benefits under a public pension or retirement system. Any city or town may insure or protect its retired officers and employees under a group life, health, accident, medical and surgical benefits, or hospitalization insurance or benefits. A city may also contract with an insurance company for the voluntary purchase of long-term care insurance by employees and their dependents.

### **c. Mileage reimbursement**

[Minn. Stat. § 471.665](#)

[Minn. Stat. § 471.665, subd. 3](#)

Cities may pay a mileage reimbursement for staff who travel for city business and use their own vehicles. The maximum amount to be reimbursed must be set by the city council. The Internal Revenue Service (IRS) sets the rate that is tax deductible for business use. If a city sets its rate higher than the IRS rate, any additional amounts must be treated as income to the employee. In lieu of the mileage allowance, the council may pay a monthly or periodic allowance to any officer or employee for using his or her personal vehicle for city business. However, no allowance in lieu of mileage may be paid to council members.

### **d. Preventive health and employee recognition (plaques, dinners, parties)**

[Minn. Stat. § 15.46](#)

Minnesota State Auditor  
Statement of Position:  
*Employee Recognition  
Programs and Events*

State law allows a statutory or home rule charter city to establish and operate a program of preventive health and employee recognition services for its employees and to provide necessary staff, equipment, and facilities and to expend funds as necessary to achieve the objectives of the program. The state auditor has released a statement of position construing this authority narrowly.

[Minn. Stat. § 412.111](#)

Apart from the employee recognition statute, state law says council fixes the “compensation” of its employees and no definition of “compensation” is restricted to monetary forms alone. A city council might find there is a public purpose in promoting employee morale, job satisfaction, teamwork, and productivity through forms of compensation designed for competition with the private sector. This would seem to allow a program for wellness and recognition to arise as a term of employment much like a bonus.

### **e. Public officials’ expenses**

[Minn. Stat. § 465.54](#)

Statutory cities may pay the expenses incurred by council members for their official duties relating to their city’s bureau of information and tourism. This does not include trips for lobbying purposes, meetings, and conventions unless they are connected with specific municipal projects pending before the official who is making the trip.

### **f. Severance pay**

[Minn. Stat. § 465.72](#)

The League’s Research and  
Information Services can be  
reached at (800) 925-1122 or  
(651) 281-1200;

Cities may pay severance pay to their employees, and adopt rules for the payment of severance pay to employees who leave employment. Severance pay cannot be more than the equivalent of one year of pay. It must be paid in a manner mutually agreeable to the employee and the employer, and must be paid over a period not more than five years from retirement or termination. For more information regarding the requirements for these types of severance pay situations, contact the League.

**g. Vacation leave**

Minn. Stat. § 471.66

Any city council may grant paid vacations to its regularly employed employees and officers. Vacation policies may be adopted by ordinance or resolution. The council may determine the terms and conditions under which vacations are granted.

**2. Miscellaneous items**

Cities often ask if it is proper to spend money on the following miscellaneous items for their officers and staff:

**a. Bonds**

Minn. Stat. § 415.18

City councils may pay to provide fidelity or faithful performance bonds for city officers and employees who are required to furnish them.

**b. Flowers**

Minn. Stat. § 471.895

There is no specific authority for purchasing flowers for a staff member or city official who is ill or has lost a family member. Although city staff might contribute their own money, there is a potential problem with employees purchasing gifts for a supervisor under the state’s gift law.

For more information on the gift law, see LMC information memo, *Official Conflict of Interest*.

The gift law prohibits a person from giving a gift to an elected or appointed official if the official has the power to make a decision that is of financial interest to the person giving the gift. Since supervisors could be considered “appointed” officials and could give feedback that directly affects salary raises for the staff they manage, there is a potential for violation of the gift law if staff give the supervisor any gift beyond those authorized by law.

**N. Entertainment (musical)**

Minn. Stat. § 412.221, subd. 15  
Minn. Stat. § 410.33

Statutory city councils may spend money to provide free musical entertainment. Many home rule charter cities contain similar authority in their charters. If the city’s charter is silent on the matter, it may use the same statute as statutory cities.

Minn. Stat. § 449.06  
Minn. Stat. § 410.01

Fourth class home rule charter cities may levy a tax for the purpose of providing musical entertainment to the public in public buildings or on public grounds. The maximum amount that may be spent in any year is \$3,500.

Minn. Stat. § 449.08  
Minn. Stat. § 410.01

Any third class city may levy a tax to pay to provide free musical entertainment to the public. The annual expenditure is limited to \$3,000.

Minn. Stat. § 449.09  
Minn. Stat. § 410.01

There is also a more general law that permits towns, statutory cities, and home rule charter cities of the second, third, and fourth class to levy a tax for funding a band, orchestra or chorus. In order to use this authority, the council must get permission from the city’s voters.

[Minn. Stat. § 449.10](#)

[Minn. Stat. § 449.11](#)

In order to put the question on the ballot, it must be proposed by a petition signed by 10 percent of the voters. The statute provides the language of the ballot question. Once the city receives the petition, the council must put the question to the voters at the next general municipal election.

[Minn. Stat. § 449.09](#)

If the majority of voters who vote on the question approve it, the tax is levied and the money must be kept in a special fund. The money may be used for maintenance, transportation and employment of a band, orchestra, or chorus for municipal purposes. If the musical group is discontinued or by vote the city decides not to employ a band, orchestra, or chorus, the governing body may transfer the sums already levied and collected to the general fund

## **O. Furniture and office supplies**

[Minn. Stat. § 412.221, subd. 1](#)

Statutory cities may purchase office supplies, such as furniture, equipment, and stationary supplies that are necessary for city purposes. Charters of home rule charter cities usually have similar authority.

## **P. Garbage**

[Minn. Stat. § 412.221, subd. 22](#)

[Minn. Stat. § 410.33](#)

Statutory cities may adopt ordinances to regulate or provide for the disposal of sewage, garbage, and other refuse. Home rule charter cities often have similar authority in their charters. If their charter is silent on the matter, they may use the authority for statutory cities.

## **Q. Historical**

[Minn. Stat. § 471.93](#)

[Minn. Stat. § 410.01](#)

All statutory cities and second, third, or fourth class home rule charter cities may appropriate money for the purpose of commemorating the anniversary of any important and outstanding event in the city's history. This authority allows cities to spend money on:

- Collecting data and material pertaining to the history of the city.
- Preserving, storing, and housing data and material pertaining to the history of the city.
- Printing and publishing data and material pertaining to the history of the city.
- Commemorating the anniversary of any important and outstanding event in the city's history.
- Preserving historic data for future generations.

## R. Hospitals

[Minn. Stat. § 412.221, subd. 16](#)

[Minn. Stat. § 410.01](#)

[Minn. Stat. §§ 447.05-.06](#)

All statutory cities may spend money to provide hospitals. Third and fourth class home rule charter cities may establish, acquire, and operate hospitals. These cities may also acquire property by gift, purchase, or condemnation for the location of a municipal hospital.

[Minn. Stat. § 447.045](#)

Cities with municipal liquor stores may spend money from the liquor dispensary fund to construct a community hospital. The dollar amounts vary depending upon the class and type of city and the type of liquor store. In some cases, a city must get voter approval before proceeding.

[Minn. Stat. § 465.037](#)

Any city or town may make grants for the use of a private, nonprofit or public hospital that serves the city or town. The city council or town board must authorize the grant (after an affirmative vote of the town electors at the annual or special town meeting).

[Minn. Stat. § 447.45](#)

Cities may issue revenue bonds to finance the acquisition and betterment of nursing homes and related facilities. Cities may jointly create hospital districts with the power to own and operate hospitals, nursing homes, and similar facilities.

## S. Housing

[Minn. Stat. ch. 462C](#)

Cities may adopt and develop municipal housing programs that can do the following:

- Make or purchase mortgage or rehabilitation loans to finance the acquisition or rehabilitation of single family housing for low- and moderate-income individuals and families; or
- Make or purchase loans to finance multi-family housing developments or the rehabilitation of multifamily housing developments if the program is submitted for review.

Contact [LMC Research and Information Service](#) at (800) 925-1122 or (651) 281-1200.

[Minn. Stat. §§ 469.001-.047](#)

Part III - K - *Economic development.*

Cities and participants in these programs must meet various criteria in order to qualify. Contact the League for more information. Housing and Redevelopment Authorities (HRAs) also have special authority to encourage the recovery and rehabilitation of blighted housing.

## T. Individuals and public entities

Part II - *Criteria for valid public expenditures*

The basic principle of valid public expenditures is that public money must be spent for a public purpose. It is thus understandable that public money may not generally be used for the benefit of an individual, although there are some limited exceptions. This section discusses some of the more common questions city officials have asked about using city money to help individuals.

## 1. Forgive property taxes and special assessments

Minn. Stat. § 435.193  
See LMC information memo,  
*Special Assessment Guide*.

Cities generally lack authority to forgive taxes or special assessments that have been levied to properties. However, state statutes do permit cities to defer special assessments for property owned by persons 65 years of age or older, persons retired by virtue of permanent or total disability, or members of the National Guard or other military reserves called to active duty if certain conditions are met.

Minn. Stat. §§ 469.1812-.1816

Property tax abatement is an economic development tool that is available to cities, counties, and school districts. Each taxing authority may abate its portion of taxes against a property that will be developed for a limited number of years. There are several criteria that must be met in order to use this tool. For further information about property tax abatement, contact the League.

## 2. Aid to remedy emergency situations

See Part III - I - *Donations to organizations*  
A.G. Op. 218-r (Feb. 10, 1942)  
A.G. Op. 476-b-2 (Oct. 11, 1946)

There is no specific statutory authority for cities to spend money to help individuals who may have suffered losses due to a natural disaster, such as a flood or tornado. As mentioned earlier, the attorney general has found that a city cannot donate money to the Red Cross or to similar organizations for the purpose of helping people recovering from a natural disaster.

Minn. Stat. § 12.02, subd. 1(3)  
Minn. Stat. § 12.37

Although direct financial assistance to individuals may be prohibited, cities may be able to assist other cities recovering from natural disasters. The emergency management statutes provide for rendering of mutual aid among political subdivisions of the state. Under one of these statutes, a political subdivision may enter into contracts and incur obligations to combat disaster and provide emergency assistance to victims of disasters. The statute also allows political subdivisions to provide this assistance without complying with the normal formalities, including those pertaining to the appropriation and expenditure of public funds.

Minn. Stat. § 12.331  
Minn. Stat. § 12.03, subd. 3

There is statutory authority for cities to provide personnel, equipment, and supplies to another political subdivision that requests assistance because of an emergency. “Emergency” is defined as an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from occurring. Disaster is defined as a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

### 3. Public entities

[Minn. Stat. § 465.035](#)

Any public corporation may lease or convey its land for nominal consideration to the U.S. government, the state or any government subdivision. This authority also allows public land to be similarly conveyed without consideration or for an agreed upon amount.

[Minn. Stat. § 471.85](#)

Any city, town, county, or school district may transfer its personal property to another public corporation for public use. The transfer may be made without consideration or for a nominal amount, and must first be authorized by the governing body.

[A.G. Op. 904 \(Jun. 27, 1963\)](#)

[A.G. Op. 1011 \(Dec. 27, 1968\)](#)

In a 1963 opinion, the attorney general concluded that this statute did not authorize the transfer of money between a county and a city. However, the opinion was modified in a 1968 opinion, where the attorney general said money could be donated from one public entity to another. But this opinion also said money could not be transferred between public bodies without considering other legal limitations, as well as the purposes for which the money was originally obtained. The opinion also cautioned against broadening the definition of “public purpose” by stressing that the use to which the donated property is to be put must be directly related to the public purposes of the transferring governing body.

As with other donations, cities should first seek a legal opinion from their city attorneys or from the attorney general.

### U. Insurance

[Minn. Stat. § 466.06](#)

A governing body of any municipality may get insurance against liability of the municipality and its officers, employees, and agents for damages. Municipalities may insure in amounts above the liability limits imposed by statute.

[Minn. Stat. § 471.61, subd. 1.](#)  
See discussion under Part III -  
M - *Employees/staff/public officials*

Municipalities may also insure or protect their officers and employees and their dependents. This topic is discussed in more detail in another section of this memo.

### V. Legal

[Minn. §§ 412.221, subd. 5;](#)  
[465.13; 466.08; 466.09](#)

All cities have general authority to spend money on legal costs, including hiring attorneys, defending or prosecuting lawsuits, and paying court judgments or settlements.

[Minn. Stat. § 465.76](#)

[Minn. Stat. § 466.07](#)

All cities must pay to defend and indemnify for damages claimed or levied against their officers and employees if the damages resulted while the officer or employee was acting in performance of the duties of his or her position; and the officer or employee was not guilty of malfeasance, willful neglect, or bad faith. All cities may reimburse their officers and employees for legal costs incurred to defend them against criminal charges that arise out of reasonable and lawful performance of their duties. Certain conditions must be met before such costs may be paid. The costs may include reasonable attorney's fees to defend the person against the criminal charges.

## **W. Libraries**

[Minn. Stat. § 134.07](#)

Any city or county may establish and maintain a library. All statutory cities and second, third, or fourth class home rule charter cities may establish and contribute to a library fund.

## **X. Local improvements**

[Minn. Stat. § 429.021](#)

See LMC information memo, *Special Assessment Guide*

Municipalities may spend money to make local improvements. Certain procedures must be followed, such as notice and public hearings if the project will be paid for with special assessments.

## **Y. Nuisance abatement**

[Minn. Stat. § 429.021, subd. 1\(8\)](#). See LMC Information memo, *Special Assessment Guide* and LMC Model *Nuisance Ordinance*

Municipalities may spend money to abate public nuisances.

## **Z. Memorials**

[Minn. Stat. §§ 416.01-.06](#)

All city councils may spend money to erect buildings, monuments, and parks to recognize those who served in the military. If necessary, council may acquire a site within the city for this purpose.

[Minn. Stat. § 465.50](#)

See Part III - F - *Memorial Day observances*

All cities may spend money for the purpose of aiding in the observance of Memorial Day in an annual commemoration to honor the noble deeds of the nation's dead soldiers. The dollar amount is limited to \$300 for each 75,000 in population.

## **AA. Park and recreation**

[Minn. Stat. § 412.491](#)

Statutory cities may spend money to establish, improve, ornament, maintain, and manage parks, parkways, and recreational facilities.

Minn. Stat. §§ 471.15-.191

All cities, towns, counties, and school districts may spend money to operate public recreational facilities. The statutes also permit up to \$800 per year to be spent for awards and trophies as part of these programs. Cities, towns, counties, and school districts may also join to operate public recreational facilities and programs with other government entities, American Legions, incorporated veterans' organizations, or nonprofit organizations.

A.G. Op. 59-a-3 (Jul. 12, 1948)

The attorney general has concluded that the above statutes do not permit a city to make donations to the Boy Scouts to assist with their private recreational programs.

A.G. Op. 218-r (Aug. 15, 1951); A.G. Op. 59-a-22 (Aug. 7, 1951)

The attorney general has also determined that cities cannot sponsor local sports teams, including bowling teams or kittenball teams (similar to softball).

See Part III - I - *Donations to organizations*

## **BB. Parking**

Minn. Stat. § 459.14

All statutory cities and home rule charter cities of the second, third, and fourth class may spend money to acquire or build automobile parking facilities. Such facilities may be within or outside the city's corporate limits. Minneapolis and St. Paul have similar authority, but the facilities must be within these cities' corporate limits.

Minn. Stat. § 412.221, subd. 14

Minn. Stat. § 469.176, subd. 4

All statutory cities have the power to acquire, improve, and operate automobile parking facilities and tourist camps. Publicly owned parking facilities can be financed with tax increment revenues.

## **CC. Public safety**

Minn. Stat. § 412.221, subd. 32

All statutory cities have the power to provide for the suppression of vice and immorality, the prevention of crime, and the protection of public and private property.

Minn. Stat. § 412.153

Statutory cities may expend public funds to acquire or lease residential property for housing or otherwise provide housing assistance in the city for one or more volunteer firefighters or ambulance personnel. The expenditure may only be made to attract and retain the qualified personnel necessary to ensure a city has timely public safety and related services. A city may make the expenditure only after the need for the expenditure has been established and approved at a public hearing.

Minn. Stat. § 412.111

Statutory cities also may create, as the council deems necessary, such offices and employment positions for city functions. Presumably, this authority would permit statutory cities to create positions dealing with public safety.

Minn. Stat. § 410.33

Home rule charter cities may have similar authority in their charters. If the charter is silent on this issue, a city may use the same authority as statutory cities.

## 1. Police

Minn. Stat. § 436.05

Minn. Stat. § 436.06

Any city, town, or county may contract for police services with another city, town, or county. Adjacent cities may establish joint municipal police departments unless located within a county that contains a first class city.

## 2. Fire

Minn. Stat. § 412.221, subd. 17

All statutory cities may establish fire departments and provide equipment and apparatus needed to prevent, control, or extinguish fires.

Minn. Stat. § 438.11

All cities may appropriate money to defray the expenses of members of the city's fire department for attending:

- The state convention of the Minnesota State Fire Department Association.
- The Minnesota State Fire School.
- The meetings of regional firefighters' associations.

## 3. Ambulance

Minn. Stat. § 471.476

All cities, towns, hospital districts, and counties (except for Hennepin County) have the authority to provide ambulance services.

## 4. Animal pounds

Minn. Stat. § 412.221, subd. 21

All statutory cities have the authority to establish animal pounds.

## 5. School patrols

Minn. Stat. § 465.69

Statutory cities may pay for the cost of training school patrol members, including attendance at any authorized school patrol camp within Minnesota.

## DD. Real property

Minn. Stat. § 412.221, subd. 3

See LMC information memo, *Purchase and Sale of Real Property*

All statutory cities have the power to buy or lease land and buildings. Charter cities usually have similar powers in their city charters. To receive a copy of the LMC research information memo on city real estate transactions, contact the League.

Minn. Stat. § 463.152

Minn. Stat. § 469.185

State statute permits all cities and towns to spend money to acquire hazardous buildings and real estate using eminent domain. The statute specifically declares this action to be a public purpose.

Minn. Stat. § 465.01

Minn. Stat. ch. 117

Any city may acquire private property using eminent domain, whether it is located inside or outside the city limits.

Minn. Stat. § 463.02

Any city may acquire building line easements by purchase, grant, or condemnation.

## EE. Rewards

Minn. Stat. § 471.631

Any city may offer a reward for information leading to the apprehension, charging, or conviction of an individual who has committed a felony crime within the city's limits. The statute also allows a city to fund the payment of a reward that is offered by a nonprofit organization for the same information. The dollar amount is not set by statute, but must be one deemed appropriate by the council.

A.G. Op. 355-a (Aug. 23, 1972)

In a 1972 attorney general opinion, it was determined a city had the authority to offer a reward for information leading to the arrest and conviction of the person who had shot at animals in the city's zoo. In this opinion, the attorney general concluded that the general welfare clause in the city's charter permitted the city to take reasonable measures of self-protection to preserve its property due to threats.

Minn. Stat. § 412.221, subd. 32

In this attorney general opinion, the language of the city's charter provision was similar to the general welfare clause in the statutory city code, so this opinion might be appropriate for statutory cities. However, cities that wish to offer rewards for information regarding crimes should first contact their city attorneys.

## FF. Streets and sidewalks

Minn. Stat. § 412.221, subd. 6

Statutory cities have broad authority to establish, construct, alter, and maintain city streets, sidewalks, and sewers. Charter cities usually have similar authority in their charters.

Minn. Stat. § 441.26

Statutory cities and fourth class home rule charter cities have the power to appropriate and spend reasonable sums of money to assist in improving or maintaining roads outside city limits that lead into the city.

Minn. Stat. § 429.021

See the League information memo, *Special Assessment Guide*

Also see Part III - X - *Local improvements*

The local improvement code authorizes municipalities to undertake a variety of local improvements, including street and sidewalk improvements. Although municipalities may choose to pay for the cost of these improvements, they may also assess benefited properties for these costs. However, the assessment may not be more than the increase in market value of the benefited property due to the improvement.

## GG. Tourism

Minn. Stat. § 469.186

Any statutory city council may establish and maintain a bureau of information and publicity for the purpose of furnishing:

- Information for tourists.
- Outdoor advertising of tourist and city information.

- Preparing, publishing, and circulating information and facts concerning recreational facilities and business and industrial conditions of the community.

Minn. Stat. § 450.19

All cities and towns may establish and maintain public tourist campgrounds. The land acquired for these campgrounds may be inside or outside the city or town's corporate limits. The amount of money that may be spent per year for maintenance, improvement, or operation may not exceed 0.00806 percent of taxable market value.

Minn. Stat. § 469.190

Any city may impose a lodging tax to fund a local convention or visitor's bureau for the purpose of marketing the city as a tourist or convention center.

Minn. Stat. § 412.221, subd. 14

Statutory cities may spend money to acquire, improve, and operate parking facilities and tourist camps.

## HH. Utilities

Minn. Stat. § 412.321

Minn. Stat. § 465.74

Any statutory city may own and operate any utility, including waterworks, district heating system or gas, light, power, or heat plant. There is also specific authority for other cities to operate district heating systems, under certain conditions.

Minn. Stat. § 444.075

All towns and cities (except for first class cities) may build, construct, reconstruct, repair, enlarge, or obtain the following types of water or sewer systems:

Minn. Stat. § 444.075

Minn. Stat. § 412.221, subd. 11

- **Waterworks.** This includes mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a waterworks system. In addition, statutory cities may also provide wells, cisterns, reservoirs, waterworks, and other means of water supplies.

Minn. Stat. § 444.075

- **Sewer systems.** This includes sewage treatment works, disposal systems, and other facilities for disposing of sewage, industrial waste, and other wastes.

Minn. Stat. § 444.075

- **Storm sewer systems.** This includes mains, holding areas and ponds, and other appurtenances and related facilities for the collection and disposal of storm water.

## IV. Conclusion

Cities have broad authority to make a wide variety of expenditures. In order to be valid, these expenditures must be made for a public purpose, and have specific or implied statutory or charter authority. A city with questions about the validity of a specific public expenditure should contact the League for further information and seek a legal opinion from its city attorney or from the attorney general.

## V. Public purpose expenditure chart

This chart provides a summary of tests a public expenditure should meet in order to be valid. If an expenditure does not pass all of the following questions, the expenditure may be doubtful. In this case, a city should consult its city attorney before making the expenditure.

\* (Also see Part II for a discussion of the criteria for public purpose expenditures.)

<b>Test</b>	<i>Answer</i>	<b>Public expenditure <u>NOT</u> authorized</b>	<b>Public expenditure authorized</b>
1. Does a statute or charter provision specifically or implicitly authorize the specific expenditure?	Yes		✓
	No	✓	
2. Does the expenditure benefit the community as a whole?	Yes		✓
	No	✓	
3. Is the expenditure directly related to the functions of government?	Yes		✓
	No	✓	
4. Does the expenditure have as its primary objective the benefit of a private interest?	Yes	✓	
	No		✓