

# CITIES BULLETIN



Issue 28

Sept. 3, 2019

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For legislative questions:  
[Contact IGR Staff](#)

For editorial or other Bulletin questions:

**Contact Claudia Hoffacker**

Editor  
(651) 215-4032 or (800) 925-1122  
[choffacker@lmc.org](mailto:choffacker@lmc.org)

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## Incomplete ‘Report’ Criticizes City Building Permit Fees



Industry study on city collection of building permit fees could lead to legislative action.

The Housing Affordability Institute released its second report on Aug. 20 claiming cities are overcharging building permit fees, and driving up the costs of new homes. From 2014 to 2018, the builders and developers say city fees outweighed city expenses by \$78 million.

### —Read the report: **Building Permit Fees: Boosting the Bottom Line for Minnesota Cities** *(Link to:*

[https://static1.squarespace.com/static/5c51e0890dbda309881ce7b1/t/5d5bd7976597350001e43252/1566300058925/BuildingPermitFees\\_HAI\\_2019.pdf?inline=true](https://static1.squarespace.com/static/5c51e0890dbda309881ce7b1/t/5d5bd7976597350001e43252/1566300058925/BuildingPermitFees_HAI_2019.pdf?inline=true))

### **Problems with industry claims**

The report does not provide the complete picture. Some of the largest omissions include:

- **Omitted: Building permit fees are based on valuation.** State rules specifically state, “Building permit fees shall be based on valuation.” Builders say that cities can only charge fees that are “fair, reasonable, and proportionate to the actual costs of the service.” While that is true, the more specific state requirement for building permit fees— not other fees—is that building permit fees shall be based on the value of the residential or commercial construction project.
- **Omitted: Builders and developers are involved in setting valuation.** State rules also require that when developers apply for a building permit, they must provide an estimated permit value that reflects the cost of construction. Based on this information provided by the developer, the building official then sets the valuation.
- **Omitted: Building permit fees do not adequately account for city costs.** The report failed to include other readily available data. Cities are required to report all fees and expenses related to development. To fairly analyze the data, all the fees collected and city expenses—which also include administrative, engineering, planning, and zoning expenses—should have been examined for the report.
- **Omitted: Information from years when the economy was weaker.** Residential development and the economy have been doing well in the last five years. If the snapshot was for the previous five years, it would tell a very

different story of many cities that used taxpayer money to cover city expenses related to new development not covered by developer fees.

### **Action needed**

Given the one-sided nature of this report and media coverage, we need your help. Talk to your legislators about how development fees and expenses work in your city. Emphasize that cities are in the best position to determine if their tax base should help pay for development. This is a policy decision that should be examined community by community—not by builders and developers.

The League has resources to help:

- **City and Residential Development Fee Key Messages** *(Link to: <https://www.lmc.org/media/document/1/developmentfeekeymessages.pdf>)*
- **Four Kinds of City Development Fees** *(Link to: <https://www.lmc.org/media/document/1/developmentfourkindsinfographic.pdf>)*
- **Development Fees and Cities Q&A** *(Link to: <https://www.lmc.org/media/document/1/developmentfeesandcitiesfaq.pdf>)*
- **Housing and Development Resources page** *(Link to: <http://www.lmc.org/page/1/HousingDevelopment.jsp>)*

### **Previous industry report**

The Housing Affordability Institute released a previous report on Feb. 4, 2019, that incorrectly blamed city fees and regulations as the largest reason for high housing costs. The League addressed the inaccuracies in the report through testimony at the Legislature.

—**Read previous League article: Industry Study of Metro Home Building Costs Released** *(Link to: <http://www.lmc.org/page/1/HousingReport.jsp>)*

### **What is the Housing Affordability Institute?**

The Housing Affordability Institute is a nonprofit organization formed by the Housing First (formerly Builders Association-Twin Cities) Minnesota Legal Defense Fund and is directed by a steering committee comprised of appointed individuals working in the housing industry. The group is seeking to “examine and propose solutions to the burdens government places on housing affordability and the housing industry.”

**Read the latest issue of the Cities Bulletin** *(Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>)*

## U.S. Dept. of Transportation Launches Rural Project Initiative



The program provides low-interest loans for a wide range of rural transportation projects.

(Published Sep 3, 2019)

The U.S. Dept. of Transportation's **Build America Bureau** (*Link to: <https://www.transportation.gov/buildamerica>*) has launched a new program called the Rural Project Initiative.

The program provides low-interest loans for a wide range of rural transportation projects. These loans could be useful to cities that need funds to leverage state dollars or to complement their own resources.

The sooner an eligible city applies for a loan under this program, the more likely they are to secure a loan. Once the funds are tied up, there will be longer waiting periods to access the money. Minnesota is among the first five states the agency has approached.

- **Learn more about the Rural Project Initiative from the Build America Bureau website** (*Link to: <https://www.transportation.gov/buildamerica/programs-services/tifia/tifia-rural-project-initiative-rpi>*)
- **Download the Rural Project Initiative brochure (pdf)** (*Link to: <https://www.transportation.gov/sites/dot.gov/files/docs/policy-initiatives/programs-and-services/tifia/322706/tifiaruralprojectsinitiative.pdf>*)

Questions about the Rural Project Initiative may be directed to Carl Ringgold, project development lead, at (202) 366-2750 or **[carl.ringgold@dot.gov](mailto:carl.ringgold@dot.gov)** (*Link to: <mailto:carl.ringgold@dot.gov>*) .

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### Your LMC Resource

**Contact Anne Finn**  
Assistant IGR Director  
(651) 281-1263 or (800) 925-1122

**[afinn@lmc.org](mailto:afinn@lmc.org)** *(Link to: <mailto:afinn@lmc.org>)*

## Focus on New Laws: Presidential Nomination Primary



Changes to the presidential nomination primary law will help protect the privacy of participants and ensure adequate reimbursement to cities that administer the primary.

(Published Sep 3, 2019)

**First Special Session Chapter 10** (*Link to: <https://www.revisor.mn.gov/laws/2019/1/Session+Law/Chapter/10/>*), the 2019 omnibus state government finance law, made modifications to the presidential nomination primary law enacted in 2016. The changes, which took effect July 1, include restricting information on participants' party choice and modifying language regarding reimbursement to cities.

The 2016 law created a process for the state of Minnesota to conduct a presidential nomination primary on March 3, 2020. This will be administered by cities and counties much the same way elections are conducted.

### Party choice

When the law was originally passed, Minnesota Statutes, sections **207A.12(b)** (*Link to: <https://www.revisor.mn.gov/statutes/cite/207A.12>*) and **201.091, subdivision 4** (*Link to: <https://www.revisor.mn.gov/statutes/cite/201.091>*) stipulated that when someone chose to participate in the primary, their party choice would be recorded on the public information list. This list is accessible to any registered voter in Minnesota who requests it from the Office of the Secretary of State (OSS).

Though the presidential nomination primary is a political activity and not an election, cities were very concerned that those who participated would not expect their party choice to become public information. Amending the statute was a League priority for the 2019 legislative session.

Article 4, sections 1 and 2 of First Special Session Chapter 10 amended Minnesota Statutes, section 201.091 by adding language requiring the secretary of state to maintain a list of the those who participated in the presidential nomination primary and the political party they selected.

Information maintained on the list is private data on individuals as defined in **Minnesota Statutes, section 13.02, subdivision 12** (*Link to: <https://www.revisor.mn.gov/statutes/cite/13.02>*), except that the secretary of state must provide the list to the chair of each major political party.

### State reimbursement to cities

**Minnesota Statutes, section 207A.15** (*Link to: <https://www.revisor.mn.gov/statutes/cite/207A.15>*) provides a process for local units of government to be reimbursed for expenses incurred from conducting the primary. The OSS will submit to Minnesota Management and Budget (MMB) an estimated cost of administering the primary, and MMB will provide funding to the OSS.

That funding will then be distributed to local units of government as a reimbursement based on expense reporting submitted to the OSS. Because the presidential nomination primary is a partisan activity administered on behalf of political parties, it is critical that local units of government be reimbursed fully and that no cost, anticipated or unanticipated, be borne by cities.

First Special Session Chapter 10 also added new language to Minnesota Statutes, section 207A.15, subdivision 2 regarding reimbursable local expenses. In addition to those items currently listed in statute, “other expenses as approved by the secretary of state” was added for those items that may be unanticipated.

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## Your LMC Resource

### Contact Ann Lindstrom

IGR Representative

(651) 281-1261 or (800) 925-1122

**[alindstrom@lmc.org](mailto:alindstrom@lmc.org)** (*Link to: <mailto:alindstrom@lmc.org>*)

### Contact Amber Eisenschenk

Research Manager

(651) 281-1227 or (800) 925-1122

**[aeisenschenk@lmc.org](mailto:aeisenschenk@lmc.org)** (*Link to: <mailto:aeisenschenk@lmc.org>*)

## FCC Changes to Cable Franchise Fees Take Effect Sept. 26



Cities should begin preparing for changes that allow a cable operator to reduce franchise fee payments to cities.

(Published Sep 3, 2019)

The Federal Communications Commission (FCC) adopted its Third Report and Order, FCC 19-80, on Aug. 1, making dramatic changes to cable franchises, many of which are managed by cities. The rule revisions were published in the **Federal Register** ([Link to: https://www.federalregister.gov/documents/2019/08/27/2019-18230/local-franchising-authorities-regulation-of-cable-operators-and-cable-television-services?](https://www.federalregister.gov/documents/2019/08/27/2019-18230/local-franchising-authorities-regulation-of-cable-operators-and-cable-television-services?utm_source=federalregister.gov&utm_medium=email&utm_campaign=subscription+mailing+list)

[utm\\_source=federalregister.gov&utm\\_medium=email&utm\\_campaign=subscription+mailing+list](https://www.federalregister.gov/documents/2019/08/27/2019-18230/local-franchising-authorities-regulation-of-cable-operators-and-cable-television-services?utm_source=federalregister.gov&utm_medium=email&utm_campaign=subscription+mailing+list)) on Aug. 27 and take effect on Sept. 26.

This means that after Sept. 26, cable operators may seek to reduce cable franchise fee payments to cities by deducting the value of any in-kind contributions, including but not limited to I-Nets, complimentary cable service to government buildings, right of way requirements, public, educational, and governmental (PEG) transport, and video-on-demand.

While there is planned litigation to challenge the order and an effort to put the order on hold until legal challenges are completed, it is important to note that the order will likely remain in effect during litigation. Affected cities and other local franchising authorities should begin preparations to comply with the order and address the impacts of it.

### Potential next steps for cities

Here are a few actions cities may want to take:

- Review current cable franchise agreements and associated documents to determine the fiscal impact from the order. The reduction in payments will likely impact current and future city budgets.
- Monitor franchise fee payments received after the order has gone into effect to determine if cable operators are offsetting the fee based on their calculation of the fair market value of certain in-kind contributions. Operators must be able to justify the reduction in payments and any discussion.
- Expect to hear from your cable operator and work to resolve disputes on fee reductions within 120 days.
- Determine if your city should join a coalition of local government entities who plan to appeal the order.



- Monitor League updates on the efforts to appeal the order and any efforts by the FCC to make the fair market value of PEG channel capacity subject to the 5% franchise fee cap.

For more background information about this bill, read a **previous Cities Bulletin article** ([Link to: http://www.lmc.org/page/1/FCC-CableFranchise.jsp](http://www.lmc.org/page/1/FCC-CableFranchise.jsp)).

**Read the current issue of the Cities Bulletin** ([Link to: http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp](http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp))

## Your LMC Resource

### Contact Daniel Lightfoot

IGR Representative

(651) 281-1295 or (800) 925-1122

**[dlightfoot@lmc.org](mailto:dlightfoot@lmc.org)** ([Link to: mailto:dlightfoot@lmc.org](mailto:dlightfoot@lmc.org))

### Kyle Hartnett

Staff Attorney

(651) 215-4084 or (800) 925-1122

**[khartnett@lmc.org](mailto:khartnett@lmc.org)** ([Link to: mailto:khartnett@lmc.org](mailto:khartnett@lmc.org))

## League Seeks City Attorney to Serve on Criminal Justice Advisory Group



City attorneys are encouraged to apply by Oct. 4.  
(Published Sep 3, 2019)

The Criminal and Juvenile Justice Information Advisory Group serves as the state advisory committee on statewide criminal justice information policy and funding issues. The League is seeking a city attorney to serve on the advisory group.

The advisory group will study and make recommendations to the governor, the Supreme Court, and the Legislature on criminal justice information funding and policy issues such as:

- Related data practices, individual privacy rights, and data on race and ethnicity.
- Information-sharing at the local, state, and federal levels.
- Technology education and innovation.
- The impact of proposed legislation on the criminal justice system related to information systems and business processes.
- Data and identification standards.

The advisory group is the result of a legislative recommendation by the Criminal and Juvenile Justice Information Policy Group and the Criminal and Juvenile Justice Information Task Force to merge those two groups into one advisory group and to revise the strategic direction of the group.

By state law, the League is the appointing authority for four members of the advisory group as follows:

- Two who represent the interests of city attorneys.
- One who works or resides in Greater Minnesota.
- One who works or resides in the seven-county metropolitan area.
- Of the two non-attorney appointees, at least one must be an elected official.

Current members on the Criminal and Juvenile Justice Information Task Force include Amy Schmidt of Ramsey County and Shana Conklin of Eagan representing city attorneys, and Mayor Steve Washburn of Watertown and Police Chief Roger Pohlman of Red Wing representing cities.

The League is seeking applicants for one of the appointments to represent the interests of city attorneys.

The new advisory group will meet quarterly or as needed.

—**Learn more about the advisory group** (Link to: <https://dps.mn.gov/divisions/bca/boards-committees/cjii-advisory-group/Pages/default.aspx>)

## How to apply

Interested city attorneys should complete a short questionnaire and submit it with a resume or brief bio to Ted Bengtson at **tbengtson@lmc.org** (Link to: <mailto:tbengtson@lmc.org>) by noon on **Oct. 4**.

—**Download the questionnaire (doc)** (Link to: <https://www.lmc.org/media/document/1/cjiiquestionnaire.doc>)

Questions about the advisory group? Please contact Dana Gotz, Executive Director, MN Justice Information Services, (651) 793-1007, **dana.gotz@state.mn.us** (Link to: <mailto:dana.gotz@state.mn.us>) .

Other League appointees currently on the advisory group are also able to answer questions. Please contact Ted Bengtson for their information.

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## Your LMC Resource

### Contact Ted Bengtson

IGR Administrative Coordinator  
(651) 281-1242 or (800) 925-1122

**tbengtson@lmc.org** (Link to: <mailto:tbengtson@lmc.org>)

## MnDOT Releases Connected and Automated Vehicles Strategic Plan



The plan includes 65 recommendations to guide infrastructure investments, prioritize research, modernize policy on connected and automated vehicles, and more.

(Published Sep 3, 2019)

The Minnesota Department of Transportation (MnDOT) has released a strategic plan pertaining to connected and automated vehicles (CAV), also known as autonomous vehicles.

Over the past year, MnDOT's Connected and Automated Vehicles Office (CAV-X) traveled across the state to meet with MnDOT districts and offices, cities, counties, planning organizations, transit agencies, universities, safety advocates, health care and accessibility advocates, planners, engineers, and the public to strategically prepare for CAV.

### Contents of the plan

The strategic plan includes 65 recommendations to guide infrastructure investments, prioritize research, build partnerships, modernize policy and regulation, mitigate operation and maintenance challenges, prepare the workforce, and engage stakeholders on CAV.

Recommendations include:

- Provide CAV resources and support to local, regional, and tribal governments.
- Convene workshops to develop guidance and share best practices.
- Hold demonstrations throughout Minnesota.
- Assess communications infrastructure to find opportunities to partner on building out fiber optic.
- Build traffic signal readiness for CAV.
- Develop a truck platooning network plan.
- Pilot innovative pavement markings.
- Continue the Minnesota CAV Challenge request for proposals.
- Develop CAV data sharing and network management plans.
- Evaluate CAV staffing abilities and create a CAV talent pipeline.

—**Access MnDOT's CAV strategic plan** (*Link to: <http://www.mndot.gov/automated>*)

Questions about the CAV strategic plan may be directed to Kristin White, CAV-X

innovation director, at [kristin.white@state.mn.us](mailto:kristin.white@state.mn.us) *(Link to: mailto:kristin.white@state.mn.us)* .

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## **Your LMC Resource**

### **Contact Anne Finn**

Assistant IGR Director

(651) 281-1263 or (800) 925-1122

[afinn@lmc.org](mailto:afinn@lmc.org) *(Link to: mailto:afinn@lmc.org)*

## City Officials: Apply to Serve on Firefighter Retirement Plan Board



The board provides guidance to PERA's Board of Trustees about the retirement coverage needs of volunteer firefighters.

(Published Sep 3, 2019)

The League is seeking an elected or appointed city official to serve on the Statewide Volunteer Firefighter Retirement Plan Advisory Board. The deadline to apply is **Oct. 4**.

The advisory board provides advice and guidance to PERA's Board of Trustees about the retirement coverage needs of volunteer firefighters who are members of the retirement plan. It also gives guidance about the legislative and administrative changes that would assist the retirement plan in accommodating volunteer firefighters who are not members of the retirement plan.

2018 Minnesota Statutes, **Chapter 353G** (*Link to: <https://www.revisor.mn.gov/statutes/?id=353G&view=chapter>*)

provides for an Advisory Board made up of representatives from townships, cities, fire chiefs and volunteer firefighters.

The advisory board consists of 10 members:

- One representative from townships, appointed by the Minnesota Association of Townships (Steve Fenske).
- Two representatives from Minnesota cities, appointed by the League of Minnesota Cities (Calvin Larson, Mayor of Shelvin, and ***vacancy***)
- One Fire Chief, appointed by the Minnesota State Fire Chiefs Association (Jeff Sanborn).
- One volunteer firefighter, covered by the lump-sum retirement, appointed by the Minnesota State Fire Chiefs Association (John King).
- One volunteer firefighter, covered by the monthly benefit retirement, appointed by the Minnesota State Fire Chiefs Association (Dan Anderson).
- Three volunteer firefighters, appointed by the Minnesota State Fire Departments Association (Marc Rosenblum, Marc Volk, and Jay Wood).
- One representative of the State Auditor's Office, designated by the state auditor (Rose Hennessy-Allen).

Preference will be given to officials from cities that have a fire relief association in the statewide plan.

- **See the list of cities with a fire relief association in the statewide plan (pdf)** (*Link to: [https://www.mnpera.org/wp-content/uploads/2018/04/2017\\_Historical\\_Data.pdf](https://www.mnpera.org/wp-content/uploads/2018/04/2017_Historical_Data.pdf)*)

- **Learn more about the statewide plan** (*Link to: <https://www.mnpera.org/plan-information/statewide-volunteer-firefighter-retirement-plan/>*)

The term for this appointment is three years (Oct. 17, 2019 to Oct. 31, 2022). There is no regularly scheduled meeting date, but this board has traditionally met once a year. Meetings are announced at least 10 days prior to the scheduled date.

—**Learn more about the advisory board** (*Link to: <https://www.mnpera.org/employers/svf/svf-board/>*)

## How to apply

City officials interested in serving on the advisory board should submit a completed questionnaire (link below) and a resume to Ted Bengtson at **[tbengtson@lmc.org](mailto:tbengtson@lmc.org)** (*Link to: <mailto:tbengtson@lmc.org>*) or by mail to 145 University Avenue West, St. Paul, MN 55103. Applications are due by noon on **Oct. 4**.

—**Download the questionnaire (pdf)** (*Link to: <https://www.lmc.org/media/document/1/svfragquestionnaire.doc>*)

**Read the current issue of the Cities Bulletin** (*Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>*)

## Your LMC Resource

### Contact Ted Bengtson

IGR Administrative Coordinator

(651) 281-1242 or (800) 925-1122

**[tbengtson@lmc.org](mailto:tbengtson@lmc.org)** (*Link to: <mailto:tbengtson@lmc.org>*)