



HANDBOOK FOR MINNESOTA CITIES

**Chapter 19
Insurance and Loss Control**

Table of Contents

I. Loss control2

II. Liquor liability.....3

III. Workers’ compensation.....4

 A. Elected officials4

 B. Volunteers4

 C. Contractors5

IV. Property coverage.....5

V. Liability coverage.....6

 A. What is liability coverage?7

 B. Who should be covered?7

 C. Types of coverage to include.....8

 D. Joint powers entities9

 E. Independent administrative boards.....10

 F. Amounts of coverage.....10

VI. Open Meeting Law defense coverage11

VII. Automobile insurance.....11

VIII. Fidelity and faithful performance bonds12

IX. Employee benefit programs.....13

X. Tenant User Liability Insurance Program (TULIP)15

XI. Sources of insurance.....15

XII. How this chapter applies to home rule charter cities.....16

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.



HANDBOOK FOR MINNESOTA CITIES

Chapter 19 Insurance and Loss Control

Insurance helps pay lawful claims and can provide a defense when meritless claims are made. Learn about basic and specialty insurance coverage, fidelity and faithful performance bonds, sources of insurance, and more. Understand how loss control measures - the ongoing process of analyzing and responding to hazards - can reduce the likelihood that injuries will occur and claims will be made.

RELEVANT LINKS:

[LMCIT](#)

145 University Avenue West
St. Paul, MN 55103-2044.
(651) 281-1200.
(800) 295-1122.

[LMCIT Contract Review Service.](#)

I. Loss control

Cities can take a number of practical steps to avoid losses and reduce the cost of any losses that might occur. Loss control seminars, various risk management publications, and visits by loss control representatives all help avoid or minimize potential losses by highlighting areas of concern. In some cities, employees with risk management responsibilities may also be available to help. Whether or not your city is a member of the League of Minnesota Cities Insurance Trust (LMCIT), LMCIT staff also can provide assistance. Any city can access LMCIT publications and attend LMCIT educational seminars.

Losses can be controlled by following a number of best practices. For example, improving personnel practices reduces claims for wrongful termination, sexual harassment, discrimination, and other employment-related matters. A thorough review of city contracts, including joint powers and mutual aid agreements, will help avoid common contract liability exposures when working with other individuals or organizations. In addition, there are many preventative measures cities can take, classified under the broad title of ergonomics, to reduce or avoid repetitive work injuries. Finally, emergency vehicle driver training, preventive maintenance, and adopting internal controls to reduce the likelihood of embezzlement represent other areas on which cities could focus.

Even though many claims will be covered by insurance, loss control measures reduce the cost of the insurance. This is especially true if the city is insured through LMCIT, where rates are based on the actual cost of anticipated losses, and profit is not a consideration.

In addition to reduced insurance costs, there are other reasons to control losses. Frequent accidents and injuries reduce employee morale. Poor personnel policies affect employee performance. Frequent claims may reflect poorly on city management and even impact councilmembers at election time.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

[Minn. Stat. § 340A.603.](#)
[Minn. Stat. § 340A.801.](#)
[Minn. Stat. § 340A.90.](#)
[Minn. Stat. § 340A.409.](#)

See LMC information memo, [LMCIT Liability Coverage Guide](#), Section III-K, Liquor Liability.

See LMC information memo, [LMCIT Liability Coverage Guide](#), Section III-K, Liquor liability.

[Minn. Stat. §§ 465.13-.14.](#)

[Handbook, Chapter 11.](#)

[LMCIT Alcohol Awareness Training.](#)

[MMBA](#)
P.O. Box 32966
Minneapolis, MN 55432.
(763) 572-0222.
(866) 938-3925.

II. Liquor liability

Cities that operate on-sale or off-sale municipal liquor stores must purchase insurance to address their “dram shop” exposure—liability caused by the illegal sale of alcohol (such as to an obviously intoxicated person, to a person under the age of 21, or after hours). At a minimum, cities must have the following liquor liability coverage:

- Bodily injury (\$50,000 per person and \$100,000 per occurrence).
- Property damage (\$10,000 per occurrence).
- Loss of means of support (\$50,000 per person and \$100,000 per occurrence).
- Pecuniary loss (\$50,000 per person and \$100,000 per occurrence).

If the insurance policy includes an annual aggregate policy limit, that annual limit must equal at least \$300,000.

Cities that authorize special event liquor sales by an instrumentality of the city (such as the fire relief association) should also purchase dram shop insurance regardless of whether they have a municipal liquor store. Even though not mandatory, a city that authorizes special event liquor sales should purchase dram shop insurance to protect its taxpayers from liability arising from something that may occur at the special event.

City taxpayers bear the risk if a city has inadequate liquor liability coverage. A judgment against the city that exceeds the amount of coverage can be spread against all the taxable property in the city.

Any city with a municipal liquor store should carry liability coverage limits of at least \$500,000, and should strongly consider higher limits of \$1 million or more. Carrying less coverage exposes taxpayers to unfunded financial risks.

As with all areas of liability, loss control is extremely important in liquor sales. Servers should be trained to recognize signs of intoxication, and encouraged by management to refuse to serve intoxicated or underage persons.

LMCIT offers dram shop insurance to cities that participate in its property/casualty program. In addition, the Minnesota Municipal Beverage Association (MMBA) provides considerable loss control assistance and information to municipalities operating liquor stores.

RELEVANT LINKS:

[Minn. Stat. § 176.181.](#)
Contact LMCIT for more information on [Workers' Compensation Coverages](#).

See LMC information memos, [LMCIT Workers' Compensation Coverage Guide](#) and [Comparing Coverage Quotes](#).

[Minn. Stat. § 176.011, subd. 9.](#)
See LMC information memo, [LMCIT Workers' Compensation Coverage Guide](#).

[Minn. Stat. § 176.011, subd. 9.](#)
See LMC information memos, [LMCIT Liability Coverage Guide](#), Section III-U, Volunteers, and [LMCIT Workers' Compensation Coverage Guide](#).
[Minn. Stat. § 12.22, subd. 2a.](#)

III. Workers' compensation

With certain exceptions, all cities must pay workers' compensation *benefits* to their employees for work-related injuries. The law, as written, intends to ensure the quick and efficient delivery of benefits to injured workers. No requirement mandates cities to purchase workers' compensation insurance, but unless a city has the financial means to pay compensation benefits directly from the city treasury, it should purchase the insurance. LMCIT offers this type of insurance, as do other carriers.

Because of the potential magnitude of workers' compensation claims, the League strongly recommends that almost all cities purchase insurance. However, if a city's workers' compensation premium costs exceed \$250,000 a year, a city could consider self-insuring. LMCIT can assist those cities as well. Unlike private employers, political subdivisions don't need the approval of the Department of Labor and Industry to self-insure.

A. Elected officials

Minnesota's workers' compensation statutes provide benefits to "employees" who are injured while working. City officials elected or appointed for a regular term of office constitute employees for workers' compensation purposes *only if* the city passes an ordinance or resolution to that effect. If the city has not passed an ordinance or resolution stating the city considers its elected or appointed officials as employees for workers' compensation purposes, then an elected or appointed officer, injured while performing his or her duties for the city, would not qualify for workers' compensation benefits.

For these essentially part-time, minimally compensated positions, workers' compensation benefits are based on the individual's actual earnings from all employment. In other words, the calculation of benefits include the total earnings from the official's regular employment plus the salary (if any) from the city for serving as an elected official or an appointed official on a board or commission.

B. Volunteers

Certain volunteers also qualify as employees for workers' compensation purposes. These include volunteer firefighters, ambulance attendants, first responders, law enforcement assistance volunteers, emergency management volunteers, and disaster assistance volunteers (if registered with the city). These "volunteers" can receive workers' compensation benefits if they are injured while performing volunteer services for the city.

RELEVANT LINKS:

[Besch v. Arden Hills](#), 262 Minn. 527, 115 N.W. 2d 338 (1962).

See LMC information memo, [LMCIT Workers' Compensation Coverage Guide](#).

[Minn. Stat. § 176.182](#).
See LMC information memo, [Competitive Bidding Requirements in Cities](#).

[Wangen v. City of Fountain](#), 255 N.W.2d 813 (Minn. 1977).

See LMC information memo, [Making and Managing City Contracts](#), Section IV, Managing risks in contract provisions.

[Minn. Stat. § 176.021, subd. 4](#).

See LMC information memo, [LMCIT Property, Crime, Bond, and Petrofund Coverage Guide](#).

Indemnity benefits for volunteers generally are based on the wage of paid employees performing similar services in nearby cities.

Other types of volunteers do not qualify as employees and, therefore, are not entitled to coverage under the Workers' Compensation Act. However, an injured volunteer, although not covered through workers' compensation, may choose to pursue compensation through a tort claim, if the injury resulted (at least in part) by the city's negligence or the negligence of a city officer, employee, or other volunteer (and the injured wasn't more at fault than the city). In order to address these situations, many cities carry optional accident coverage for volunteers, providing no-fault benefits to most volunteer positions.

C. Contractors

By law, any contractor doing business with the city must provide evidence of having workers' compensation insurance. Evidence of compliance includes the contractor showing one of the following:

- Proof of insurance.
- Proof that he or she does not have employees (and thus is not an employer).
- Proof that he or she is self-insured.

Although the workers' compensation laws do not create any liability on the city's part for providing workers' compensation benefits for the employees of contractors without coverage, the city may still find itself responsible to pay benefits. For example, a court could determine that the contractor really acted as a subcontractor, and the city as the general contractor, therefore making the city liable for providing workers' compensation benefits to the subcontractor's employees. In the alternative, an independent contractor, if a sole proprietor with no employees, might meet the criteria of a city "employee" entitled to benefits. When dealing with "sole proprietor" independent contractors, the city must proceed with caution to make sure the contractor meets the criteria of an independent contractor or, in the alternative, purchases workers' compensation coverage. An employee cannot waive coverage rights under the Workers' Compensation Act.

IV. Property coverage

An insurance policy represents a type of contract. Property insurance generally covers the loss of or damage to buildings, contents, mobile equipment, and motor vehicles named in the contract due to the risks and hazards specified in the contract. Typical risks and hazards include fire, weather, and a variety of other causes.

RELEVANT LINKS:

LMCIT Property/Casualty Program.<http://www.lmnc.org/pdfs/LMCITMemos/RenewingPCCCoverage.pdf>

See LMC information memo, *LMCIT Property, Crime, Bond, and Petrofund Coverage Guide*, Section II-D, Coverage limits.

See LMC information memo, *LMCIT Property Appraisal Program*.

See LMC information memo, *LMCIT Property, Crime, Bond, and Petrofund Coverage Guide*, Section VI-B, Flood coverage.

See LMC information memo, *LMCIT Property, Crime, Bond, and Petrofund Coverage Guide*, Section VI-C, Equipment breakdown coverage.

See LMC information memo, *The Agents Role and Compensation in LMCIT*.

See LMC information memo, *LMCIT Liability Coverage Guide*.

Indemnification of loss covers the actual cost of the property or its loss or, in the alternative, replacement value. Although the insurance industry has standard insurance industry policy language for property coverage generally, coverage for cities can and should be broader. It is imperative cities review the contract, the types of perils insured against the list of covered property, and the form of indemnity.

Property insurance should provide broad coverage, be simple and easy for the city to administer, and should minimize the potential for errors that result in inadvertent gaps in coverage.

To best protect the city, cities should obtain blanket limit coverage based on replacement cost with a no co-insurance clause.

Unique to coverage by LMCIT, its property coverage policy automatically covers equipment valued at less than a specified amount (\$25,000, for example), without cities having to schedule that equipment individually (as most private insurers would require). LMCIT also offers a property-appraisal service to determine the appropriate building values for coverage purposes.

Cities should consider purchasing flood and other water-damage insurance as well. A national flood-insurance program provides coverage for buildings in flood-hazard areas, but the insurance has many limitations. Additional wrap-around insurance for these structures may be necessary to ensure adequate coverage.

Additionally, cities should look into “boiler and machinery” or “machinery breakdown” coverage. As the name suggests, this type of coverage can protect the city from losses caused by machinery breakdowns. Standard property-insurance policies typically do not cover that type of loss.

It is best to discuss the coverage available for your city with an insurance agent. All licensed agents can sell the League of Minnesota Cities Insurance Trust property/casualty policy, designed specifically to meet the needs of Minnesota cities.

V. Liability coverage

Cities often get sued for a person’s injury or loss. Typically these claims, called liability claims, include general liability, errors-and-omissions liability, police liability, ambulance liability, firefighter liability, employment liability, and so forth. The city should make sure its liability policy covers all areas of liability.

RELEVANT LINKS:

[Handbook, Chapter 18.](#)

See LMC information memo, [LMCIT Liability Coverage Guide](#), Section III-J, Land use and special risk litigation.

A. What is liability coverage?

Liability coverage insures against claims made against the city, an officer or employee, or another covered party for losses or injures to that third party and does not apply to losses the city itself suffers (the city's property coverage covers losses the city suffers itself). To prove city liability, the person injured or who suffered the loss must demonstrate all of the following:

- The city, or one of its officers or employees in the course of their duties, acted negligently. That is, the city must have done something it should not have done or failed to do something it should have done.
- The negligent act or acts directly caused actual damages.
- The conduct causing the damages does not qualify for immunity from liability claims.

A lawsuit that demands a city do something (such as issue a building permit) rather than pay damages typically does not trigger coverage under conventional liability insurance policies. Oftentimes, litigation relating to a city's land use regulation decisions, development or redevelopment activity, franchising, city enterprise operations, or debt obligations do not include a claim for damages; but rather request relief through action or inaction of the city. These types of lawsuits also can generate significant costs and fees, strapping cities with a significant financial burden. Unlike conventional liability insurance, LMCIT's coverage covers litigation relating to these types of special litigation risks, regardless of whether the claimant sues for damages.

B. Who should be covered?

Covered parties in a liability policy should include the city and its officers, employees, and all volunteers. Coverage also applies to relief associations. Excluded from the coverage, unless specifically named in the coverage document, are officials or employees of a utilities commission, port authority, housing and redevelopment authority (HRA), economic development authority (EDA), redevelopment authority, municipal power or gas agency, hospital or nursing home board, airport commission, or joint powers board. As a rule of thumb, the city should ensure its policy names the following:

- City councilmembers.
- Members of boards or commissions.
- City volunteers (whether individuals or organizations).
- Other elected or appointed officials.
- City employees (whether full-time, part-time, or temporary).

RELEVANT LINKS:

See LMC information memo,
[Comparing Coverage Quotes.](#)

- Relief associations and their officers, employees, and members.
- The ambulance service medical advisor or other medical advisor.
- Former city officers, employees, and volunteers.

C. Types of coverage to include

Many conventional insurance policies exclude coverage for the types of claims listed below. However, because these types of claims present significant risk of liability exposure to cities, a city should seek out liability coverage that includes coverage for these risks:

- Libel, slander, defamation, and invasion of privacy arising out of comments made at a public meeting or in the performance of an employee's duties, especially arising out of the operation of a public-access or city cable TV channel, or a cable broadcast of council meetings.
- Claims that a police officer used unreasonable force.
- Liability for employment actions such as hiring, firing, disciplining, or promoting, including back wages awarded as damages for wrongful termination.
- Liability for claims of sexual or racial harassment.
- Claims for punitive damages to the extent permitted by law.
- Violations of civil rights, including payment of attorney's fees.
- Claims for indemnification of volunteer firefighters for automobile liability incurred while responding to a fire.
- Claims arising out of a city officer or employee's malfeasance, including defense costs of the person accused of malfeasance.
- Defending charges of Open Meeting Law violations against city officials. (These actions do not involve monetary damages, but rather an imposition of civil penalties; however, the costs of defense of these matters easily can exceed any penalty assessed. Keep in mind that this coverage covers the cost of defense but not reimbursement for the civil penalty imposed, if a violation found.
- Claims based on lead or asbestos contamination, the accidental spills of pollutants, or mold.
- The fiduciary liability of city officials (including board members of a fire relief association).
- Claims arising from the failure to supply utilities.
- Legal costs for litigation relating to land use regulation or development (even if that litigation doesn't involve a claim for damages).
- Underground tank liability.
- Liability coverage for fireworks displays (if the city owns, sponsors, or operates).
- Liability for claims arising out of strikes, riots, or civil commotion.

RELEVANT LINKS:

See LMC information memo, [Reducing LMCIT Premium Costs](#).

Minn. Stat. § 471.59. Handbook, Chapter 17.

See LMC information memo, [LMCIT Liability Coverage Guide](#), Section III-I, Joint powers entities.

Contact LMCIT for more information on [Joint Powers](#).

The League of Minnesota Cities Insurance Trust’s liability coverage and additional optional coverage address these risks, while preserving the city’s statutory and common law defenses (some other policies waive all “governmental immunity” defenses).

Indeed, cities should make the conscious decision to exclude certain types of claims from coverage, and should not have that decision made for them merely by purchasing the least expensive policy. Every claim made against a city that is not covered by insurance represents a potential loss to the taxpayers. Retaining these risks may save money on premiums, but a better and more predictable way to reduce costs is through deductibles. With deductibles, the city retains the financial responsibility for claims up to a certain dollar amount each year and can budget for this type of loss.

D. Joint powers entities

Joint powers agreements can provide an effective and efficient way to deliver various services to citizens. Cities often enter into agreements to provide:

- Police, fire, and other emergency services.
- Building inspection.
- Garbage removal.
- Economic development.

However, LMCIT liability coverage doesn’t apply to claims arising from the activities of a joint powers entity unless that entity is specifically named as a covered party. Private insurance policies typically have a similar exclusion for joint ventures. Unless the joint powers entity has arranged for coverage in its own name, neither the city and its officers and employees, nor the joint entity and its officers and employees, will have coverage for a liability claim or suit arising out of the activities of the joint powers entity. Cities should make sure any joint powers entity with which it is involved has liability coverage. The joint powers entity could purchase liability coverage (and property and workers’ compensation coverage, if appropriate), or one of the contracting governing bodies could insure the joint powers entity under the governing body’s own insurance policy.

Cities should review all their joint powers contracts, including mutual aid agreements and service contracts. If the contract creates a separate board with power to do any of the following, the joint powers entity probably does not have coverage under the city’s liability policy:

- Receive and expend funds.
- Enter into contracts.
- Hire employees.

RELEVANT LINKS:

See LMC information memo, [LMCIT Liability Coverage Guide](#), Section III-Q, Separate city boards and commissions.

[Minn. Stat. § 466.04, subd. 1.](#)
See LMC information memo, [LMCIT Liability Coverage Guide](#), Section II-D, Coverage limits.

[Handbook, Chapter 18.](#)

- Purchase or acquire real or personal property.
- Sue or be sued.

Not every joint powers contract creates a joint powers entity. If a joint powers agreement merely provides for cooperation in some venture, then likely a new entity did not arise out of the agreement, allowing coverage for the joint powers activities under the insurance of the governing bodies. An example would be when one city agrees, in return for money, to plow snow or provide police protection in another city. The insurance of the city providing the service would likely cover the activities in the other city.

E. Independent administrative boards

Independent administrative boards created under statute or charter provisions require specialty coverage for certain exposures. In addition, these boards (and the activities under their control) may not be covered by the city's liability policy unless the policy specifically names them as covered parties. Cities that have the following independent administrative boards should review their policy accordingly::

- Gas, electrical, or steam utilities commission.
- Port authority, housing and redevelopment authority, economic development authority, municipal redevelopment authority, or other similar agency.
- Municipal power or gas agency.
- Airport board or commission.
- Hospital, nursing home, and medical clinic board or commission.

F. Amounts of coverage

The liability limits of a city, and an officer or employee of a city, for a tort arising out of an alleged act or omission occurring in the performance of duty may not exceed \$500,000 per individual claim and \$1,500,000 for all claims arising from a single occurrence.

The limit drops to \$1,000,000 for any number of claims arising out of a single occurrence, if the claim involves a nonprofit organization engaged in or administering outdoor recreational activities funded in whole or in part by a city or operating under the authorization of a permit issued by a city.

These statutory limits, or caps, do not apply to all types of claims against the city or its officers or employees. The following claims have either no limits or higher limits on the monetary amount a claimant can recover:

- Contractual liability.
- Eminent domain/condemnation.

RELEVANT LINKS:

[Minn. Stat. § 466.06.](#)

[Minn. Stat. Ch. 13D.](#)
See LMC information memo, [LMCIT Liability Coverage Guide](#), Section III-M, Open meeting law and bankruptcy lawsuits.

See LMC information memo, [LMCIT Auto Coverage Guide](#),
[Minn. Stat. Ch. 65B.](#)
[Minn. Stat. § 65B.49.](#)

- Constitutional claims.
- Federal civil rights violations.
- Claims based on liquor sales.

These statutory tort liability limits restrict the amount of money a claimant, injured by the city's negligence, could receive if the actual damages exceed the statutory liability limits. Some cities may, as a matter of public policy, wish to provide more protection to claimants to more fully compensate for injuries or losses that exceed the statutory limits of liability. Cities can waive the statutory liability limits, in which case, the damages recovered could be up to the amount of coverage carried.

Excess liability coverage can give the city additional protection for those types of claims not limited by statutory caps. Excess liability insurance pays up to a specified amount, so it may not cover the entire amount of a possible loss.

VI. Open Meeting Law defense coverage

The League of Minnesota Cities Insurance Trust offers members of the LMCIT property/casualty program Open Meeting Law (OML) defense coverage. Elected or appointed city officials receive reimbursement for 100 percent of the legal costs incurred in defending an OML lawsuit, as long as legal costs do not exceed \$50,000.

As a reminder, officials or employees of a utilities commission, port authority, HRA, EDA, redevelopment authority, municipal power or gas agency, hospital or nursing home board, airport commission, or joint powers board are excluded from the coverage (unless specifically named in the coverage policy).

However, the following two, potentially significant costs will not be reimbursed:

- Any fine or penalty for violating the OML.
- Any award for the opposing party's attorney's fees.

There are good public policy reasons for protecting city officials from the risks inherent to the OML. Understandably, some may consider using taxpayers' funds to defend possible violations to be inappropriate.

VII. Automobile insurance

Minnesota requires all licensed vehicles to have no fault (PIP), liability, uninsured, and underinsured coverage. Cities should insure city automobiles and other vehicles (including unlicensed vehicles).

RELEVANT LINKS:

[Janzen v. Land O'Lakes](#), 278 N.W.2d 67 (Minn. 1979).

[Handbook, Chapter 8.](#)

[Minn. Stat. § 412.111](#)

[Minn. Stat. § 574.20.](#)

See LMC information memo, *LMCIT Property, Crime, Bond, and Petrofund Coverage Guide*, Section VI-A, Bond coverage.

[Minn. Stat. § 415.18.](#)

LMCIT automatically provides coverage on all city vehicles (including police, fire, and ambulance vehicles).

The uninsured/underinsured motorist coverage helps ensure that an injured driver will be compensated if she or he suffers injuries in an accident caused by an uninsured or underinsured driver. This coverage steps into the place of the liability insurance that the other driver should have possessed. LMCIT automatically provides a \$200,000 limit for uninsured/underinsured coverage.

In the case of city vehicles though, an injury to the driver while operating a city vehicle would, in most cases, be covered by workers' compensation. Under Minnesota law, an employer/workers' compensation insurer cannot bring a subrogation action against the employee's uninsured/underinsured motorist recovery. This result is based on the principle of "first party coverage," that is, that the benefits under the uninsured motorist policy is something that goes directly to the insured by reason of a contract with the insurer. Although it may seem like a double recovery, courts in Minnesota view it as "receiving money from two separate sources".

VIII. Fidelity and faithful performance bonds

State statutes require public employee bond coverage for certain city positions. However, having this coverage for all employees of the city minimizes the risk of loss for the city. Ideally, cities would get coverage not only for city employees, but also employees of fire relief associations, other city-related organizations, and joint powers entities, including employees of EDAs, port authorities, and HRAs. When an officer or employee of any statutory or home rule charter city is required to furnish a fidelity or faithful performance bond, the governing body of the city, or the board or commission to whom the officer or employee is responsible, may provide for the payment of the premium on the bond from city funds.

A fidelity bond covers the risk of employee dishonesty—the risk that an employee will steal the city's money.

A faithful performance bond covers any loss the city or a member of the public suffers because an employee failed to faithfully perform his or her duty—including the same dishonesty risks that a fidelity bond would cover. In addition, it could cover a loss to the city that results from the employee's carelessness or incompetence. It also could cover city losses due to the malfeasance, willful neglect of duty, or the bad faith of an employee. A faithful performance bond does not relieve an employee from the consequences of his or her wrongdoing; it protects the city and the public.

RELEVANT LINKS:

[Minn. Stat. § 574.24.](#)
[Minn. Stat. § 574.25.](#)

[Minn. Stat. § 412.111.](#)

[Minn. Stat. § 69.051, subd. 2.](#)

[Minn. Stat. § 469.051, subd. 6.](#)

[Minn. Stat. § 469.096, subd. 6.](#)

[Minn. Stat. § 349.167, subd. 1.](#)

MCFOA.

See LMC information memo, [LMCIT Property, Crime, Bond, and Petrofund Coverage Guide](#), Section VI-A, Bond coverage.

See LMC information memo, [LMCIT Property, Crime, Bond, and Petrofund Coverage Guide](#), Section VI-A, Bond coverage.

When a person has a claim against a public employee covered by a faithful performance bond, the claim is to be paid first out of the property of the employee (if sufficient property can be found), and, if not, out of the property of the surety.

When a city makes a claim against an employee under a faithful performance bond to recover a loss the city suffered because of an employee's mistakes or carelessness, the city essentially is saying that the employee failed to faithfully perform his duties and, therefore, the employee should repay the city for the loss he or she caused.

The statutes require faithful performance bonds for certain officers. The list below highlights some of the statutorily required bonded positions and the minimum amounts required:

- Statutory city clerks and treasurers (no minimum bond specified).
- Relief association treasurers (the bond must be at least 10 percent of the relief association's assets, up to \$500,000).
- Port authority and economic development authority treasurers (the bond must be equal to at least twice the amount of money likely to be on hand at any one time, up to \$300,000).
- Gambling managers (the bond must be at least \$10,000).

The above amounts represent only minimums of coverage and, as a result, a city could require higher bond amounts. Some charters may require higher amounts and also might specify other officers or employees to be covered.

The Municipal Clerks and Finance Officers Association (MCFOA) recommend that the amount of a fidelity bond equal the sum of 10 percent of the city's annual revenues plus the market value of negotiable securities. A table showing the suggested minimum amounts of bond coverage is available.

IX. Employee benefit programs

Insurance is available to fund a wide variety of employee benefit programs, including health, dental, disability, and life insurance coverage. The level of coverage available to city employees usually represents a council decision, although labor agreements also may determine insurance options for employees. The city may agree to pay all or a portion of the cost as a part of its employee-compensation package. No state or federal law requires cities to offer health insurance coverage to either full- or part-time employees. However, the League encourages cities to establish their eligibility requirements in a personnel policy or collective bargaining agreement to avoid discrimination on the basis of any protected status.

RELEVANT LINKS:

[See HR Reference Manual, Chapter 4.](#)

[League HealthCare Reform Resource Page](#)

[See HR Reference Manual, Chapter 4.](#)

In addition, the insurance carrier may have minimum requirements relating to eligible employees.

To avoid possible penalties under the federal Affordable Care Act (ACA), a city with 50 or more employees must offer affordable coverage to employees working an average of 30 or more hours a week. Under the Employer Shared Responsibility, if these employers do not offer affordable health coverage that provides a minimum level of coverage to their full-time employees (and their dependents), the employer may be subject to an Employer Shared Responsibility payment if at least one of its full-time employees receives a premium tax credit for purchasing individual coverage through MNSure, Minnesota's affordable insurance exchange. Employers are subject to penalties if they either (1) do not offer coverage and have at least one full-time employee who receives a premium, or (2) offer coverage, but also have at least one full-time employee receiving a tax credit. For example, if the city has at least 50 full-time equivalent employees and it does not offer coverage, and at least one full-time employee receives a premium tax credit, the city would have to pay an annual fee of \$2,000 per full-time employee working 30 or more hours per week (excluding the first 30 employees). Employees eligible for a premium tax credit are those whose household income is less than 400 percent of the federal poverty level.

Cities that have employee groups of 50 or less need not offer coverage or pay any part of the coverage; however, they may choose to do so if they like. Accurately counting employees can get difficult under the ACA. For example, an employer that employs 40 full-time employees (that is, employees employed 30 or more hours per week on average) and 20 employees employed 15 hours per week on average has the equivalent of 50 full-time employees, and would qualify as an applicable large employer. Additionally, seasonal workers count when calculating the number of full-time employees. However, if an employer's workforce exceeds 50 full-time employees (including full-time equivalents) for just 120 days or less during a calendar year, and the employees in excess of 50 employed during that period of no more than 120 days represented seasonal workers, the employer does not qualify as an applicable large employer.

Additionally, pursuant to the ACA, cities cannot offer employees cash (even on an after-tax basis) to reimburse the purchase of an individual health insurance plan. Such employer health care arrangements cannot be integrated with individual market policies to satisfy the market reforms and, therefore, violate the ACA and can trigger penalties such as excise taxes.

If a city provides health insurance for its employees, several laws govern its continuance and the level of benefits. State and federal laws require cities to offer employees continuation of some benefits for a certain period of time when certain qualifying events have occurred, such as:

RELEVANT LINKS:

[Tenant User Liability Insurance Program \(TULIP\)](#).

[LMCIT](#)
145 University Avenue West
St. Paul, MN 55103-2044.
(651) 281-1200
(800) 295-1122.

- Termination of employment.
- Retirement.
- Disability.
- Divorce.
- A dependent child no longer is eligible under the benefit plan.
- Death.
- Medicare eligibility.

X. Tenant User Liability Insurance Program (TULIP)

Minnesota cities often allow individuals and groups to use or rent municipal-owned facilities. Unfortunately, the city and event organizer may get sued if someone gets injured. Regardless of merit, these claims can cost the city time and money.

To help cities avoid these situations, LMCIT offers a program called TULIP—the Tenant User Liability Insurance Program. The program helps individuals and groups (called tenant users) protect themselves and their guests at events held at city-owned facilities. Minnesota cities automatically are eligible to offer TULIP to their tenant users, at no additional cost to the city. Liquor liability coverage also is available through the program.

XI. Sources of insurance

Many commercial sources sell the types of insurance discussed in this chapter. In addition, LMCIT offers these types of insurance to all League members.

LMCIT, a cooperative joint powers organization formed by Minnesota cities in 1980, provides joint self-insurance programs or “pools” for cities in Minnesota. Rather than paying premiums to buy insurance from an insurance company, cities contribute those premiums into a jointly owned fund. LMCIT uses the money in that fund to pay for member cities’ claims, losses, and expenses.

Cities have some unique coverage needs that the private industry’s standard policies often do not address very well. When comparing insurance quotations, price alone should not dictate a decision. Cities should compare the types, levels, and areas of coverage in addition to cost. LMCIT coverage typically exceeds the coverage and protection offered by commercial insurance companies.

RELEVANT LINKS:

See LMC information memo,
[LMCIT Eligibility
Requirements.](#)

Member cities collectively own and control LMCIT. LMCIT's purpose is to meet cities' risk management needs, and it does not operate as a for-profit organization. When income from premiums and investments exceeds losses and expenses, the extra funds return to member cities as dividends.

LMCIT emphasizes the importance of risk management through loss control seminars, loss control field agents, and various publications. This helps reduce claims, ultimately benefiting all LMCIT member cities.

XII. How this chapter applies to home rule charter cities

This chapter applies to all home rule charter cities, some of which may require certain types of insurance and levels of coverage in addition to those specified by law.