



HANDBOOK FOR MINNESOTA CITIES

**Chapter 11
City Regulatory Functions**

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

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HANDBOOK FOR MINNESOTA CITIES

Chapter 11 City Regulatory Functions

Authority to regulate various activities in the city comes from state law. Learn about the activities most commonly regulated and licensed by cities such as lawful gambling, speed limits, traffic violations, parking regulations, utilities, curfew, loitering, open burning, noise, obscenity, and others.

RELEVANT LINKS:

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

Minn. Stat. § 349.12, subd.
24.

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

House Research Information
Brief: [Charitable Gambling
in Minnesota](#), 2015.
LMC information memo,
[Lawful Gambling](#).

I. Gambling overview

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

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

A. Lawful gambling

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

- Bingo, including electronic linked bingo.
- Raffles.
- Electronic raffles.
- Paddlewheels.
- Tipboards.
- Pull-tabs, including electronic pull-tabs.

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

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

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. § 349.213, subd. 1.](#)

[Minn. Stat. § 349.16.](#)

[Minn. Stat. § 349.16, subd. 2a.](#)

[Minnesota Gambling Control Board: 2017, Lawful Gambling Manual, Chapter 1.](#)

[Gambling Control Board.](#)

B. State regulation

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

- Organization licenses.
- Gambling manager licenses.
- Premises permits.

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

C. Only qualified organizations conduct lawful gambling

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

The Gambling Control board determines if a merger of two or more organizations meets the requirements of a qualified organization.

A city, or a city department, such as a fire department or a city parks and recreation department does not qualify as an organization and may not conduct lawful gambling, including raffles. By contrast, a fire relief association, which is a separate legal entity may conduct lawful gambling. Again, fire relief associations (not fire departments) are separately incorporated qualified organizations within the meaning of the law.

D. Permitting lawful gambling involves city regulation through approval process

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

RELEVANT LINKS:

[Minn. Stat. § 349.213, subd. 2.](#)

[Minn. Stat. § 349.213, subd. 2.](#)
[Minn. Stat. § 349.165, subd. 5.](#)

[Minn. Stat. § 349.166.](#)
[Minn. Stat. § 645.48.](#)

[Minn. Stat. § 349.166, subd. 2.](#)

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

1. State-issued premises permits

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

2. State-issued off-site premises permit

With board approval and permit, a licensed organization may conduct lawful gambling on premises other than the organization's permitted premises for up to 12 events in a calendar year. This off-premises gambling must be in connection with a county fair, the state fair, a church festival, or a civic celebration and must not exceed three days per event.

No lease is required for the conduct of a raffle, and cities may not assess a fee for these off-site premises permits.

E. Gambling excluded or exempt from state licensing

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

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

Gambling that is excluded from state licensing includes some bingo games (except linked bingo games), raffles, including high school raffles, paddlewheels, tipboards, and pull-tab operations. This type of gambling involves small amounts of money, such as bingo games where the total prizes do not exceed \$200. If an organization participates in gambling for five or fewer days in a calendar year and does not award prizes of more than \$50,000 in value in a calendar year, this type of gambling is exempt from state licensing.

While no license is required for exempt gambling, the Gambling Control Board does require the organization to obtain a permit. As part of the permitting process, the organization is required to obtain city approval for the proposed exempt gambling activity.

RELEVANT LINKS:

[Minn. R. 7681.0340.](#)

[Minn. Stat. § 349.213.](#)

[Minn. Stat. § 349.12, subd. 25.](#)

[Minn. Stat. § 349.12, subd. 25.](#)

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

Note: each organization conducting any gambling activity without a license should consult the Gambling Control Board and their legal counsel.

Cities may more stringently regulate gambling in city limits. A city may require a local permit for exempt gambling activities, but the permit fee is limited to \$100.

F. Proceeds from lawful gambling

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

- “Festival organizations.” This is an organization conducting a community festival that is exempt from the payment of federal income taxes under section 501(c) (4) of the Internal Revenue Code. Recreational, community, and athletic facilities and activities intended primarily for persons under age 21.
- Contributions to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency.
- Activities by an organization or a government entity which recognize military service to the state of Minnesota or a community (subject to rules of the board).
- Up to 100 percent for a building wholly owned or wholly leased by and used as the primary headquarters of the licensed veteran or fraternal organization, or a proportional amount subject to state approval and based on the portion of a building used as the primary headquarters of the licensed veteran or fraternal organization.

G. Local regulation

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

- Fees and taxes.
- Local control over expenditures.

RELEVANT LINKS:

[Minn. Stat. § 349.213.](#)
[Minn. Stat. § 349.16, subd. 8.](#)

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

[Minn. Stat. § 349.213.](#)

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

[Minn. Stat. § 349.213, subd. 1.](#)
[Form LG510 City or County Annual Report, 10% Contribution Fund.](#)

[Minn. Stat. § 349.213, subd. 1\(b\).](#)
LMC information memo,
[Lawful Gambling.](#)

[Minn. Stat. § 349.213, subd. 1 \(f\) \(1-2\).](#)

1. Fees and taxes

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

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

2. Local permit fee

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

3. Local control over expenditures

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

a. 10 percent fund

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

RELEVANT LINKS:

[Minn. Stat. § 412.211.](#)
[Minn. Stat. § 349.18, subd. 1.](#)
[Minn. Stat. § 349.165, subd. 2.](#)
[Minn. R. 7861.0210, subparts 30, 31.](#)
Penn-O-Tex Oil Co. v. City of Minneapolis, 207 Minn. 307, 291 N.W. 131 (1940).

LMC information memo, [Public Purpose Expenditures.](#)

[Minn. Stat. § 349.168.](#)

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

H. Gambling in the municipal liquor store

1. Authority to lease space

With a few exceptions, state law allows gambling only on premises owned or leased by the licensed organization. Cities may lease city-owned property to private parties, including state-licensed gambling organizations, when the city does not need the property for municipal purposes. Because of the limited space gambling booths typically require, or the limited space necessary behind the bar if bartenders sell pull-tabs and because of the additional revenue and business gambling often draws, a city may lease space in the municipal liquor store to gambling organizations. The lease term is concurrent with the term of the premises permit and it must contain a termination clause.

To comply with the statutes and rules governing leased premises, however, any space a gambling operation leases must be physically separated from all the municipal liquor store equipment, except for pull-tabs that can be sold at or behind the bar where employees of the liquor store, acting as employees of the gambling operation sell pull-tabs.

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

Cities should consult the city attorney before authorizing municipal liquor store employees to sell pull-tabs.

If the city decides to allow its municipal liquor store employees to sell pull-tabs, it should be aware that the gambling organization must also hire the employees and that the employees must register on a United States government-required form the gambling organization board prescribes, documenting the person's identity and employment authorization. Registered employees must wear an identification card provided by the board whenever they conduct lawful gambling for compensation.

I. Enforcement

Lawful gambling is a source of entertainment and raises revenue for worthy causes, an estimated \$83 million in 2018, the most recent available at time of publication.

RELEVANT LINKS:

[Annual Report
State of Minnesota
Gambling Control Board,
2018.](#)

[Alcohol and Gambling
Enforcement Division
445 Minnesota Street
\(Skyway level\)
St. Paul, MN 55101-2156
Phone: \(651\) 201-7500](#)

[Minn. Stat. ch. 169.
Minn. Stat. § 169.04.](#)

[Minn. Stat. § 169.011, subd.
46.
Minn. Stat. § 169.225.](#)

[LMC information memo,
*Special Vehicles Operating
on City Streets.*](#)

See also, House Information
Brief, [Low Power Vehicles](#)
Feb. 2018.

However, due to the large amount of money involved each year, over \$ 2 billion spent on gambling in 2017, there is the possibility that illegal gambling and misuse of funds will cause problems for cities and qualified organizations.

If a city believes that an organization conducting lawful gambling is not complying with the laws on allowable and lawful expenses or other gambling activities, the Board is the correct agency to contact.

The Department of Public Safety's Alcohol and Gambling Enforcement Division investigates allegations of criminal conduct relative to any form of gambling.

II. Vehicles on city streets

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

A. Motorized foot scooters, mini-trucks, utility task vehicles, all-terrain vehicles, and golf carts

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

State law prescribes safety equipment for motorized foot scooters and the minimum age of operators (age 12), and generally prohibits use on sidewalks. Under current state law, cities cannot prohibit or regulate motorized foot scooters on city streets. A city may, however, prohibit motorized foot scooters on a bike path, lane, trail or bikeway designated for non-motorized use only and governed by a local ordinance.

Cities may, but are not required to, issue permits as spelled out in a local ordinance so residents may operate mini-trucks, golf carts, ATVs or UTVs on designated roadways under city jurisdiction. The League publishes an information memo that discusses, in detail, all sorts of special vehicles and regulation of them. The memo includes information on:

RELEVANT LINKS:

[Minn. Stat. § 169.045.](#)
[Minn. Stat. § 169.022.](#)
[Minn. Stat. § 169.045.](#)
Beckius v. City of Canby, No. A07-1497 (Minn. Ct. App. July 1, 2008) (unpublished decision).

[Minn. Stat. § 169.011, subds. 26a, 39, 47, 54a.](#)

[Minn. § 168A.05, subd. 9.](#)
[49 C.F.R. § 571.500.](#)

[Minn. Stat. § 169.224.](#)

[Minn. Stat. § 169.011, subd. 1a.](#)

LMC information memo,
Special Vehicles Operating on City Streets.

[Minn. Stat. § 169.011, subd. 4.](#)
[Minn. Stat. § 169.011, subd. 27.](#)

- Mini-trucks.
- All-terrain vehicles (ATVs).
- Golf carts.
- Utility task vehicles (UTVs).

B. Electric vehicles

Electric vehicle includes:

- A neighborhood electric vehicle (NEV). An NEV is a three or four-wheeled electrically powered motor vehicle that can go 20 mph, but not more than 25 mph.
- A medium-speed electric vehicle means an electrically powered four-wheeled motor vehicle, equipped with a roll cage or crushproof body design, that can attain a maximum speed of 35 mph.
- A plug-in hybrid electric vehicle.

A “medium-speed electric vehicle” means an electrically powered four-wheeled motor vehicle, equipped with a roll cage or crushproof body design, that can attain a maximum speed of 35 mph. A person may operate a three-wheeled neighborhood electric vehicle without a two-wheeled vehicle endorsement, provided the person has a valid driver's license. Federal law refers to such vehicles as “low speed vehicles.”

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

Oddly, the definition of ‘electric vehicle’ does not include an “all-electric” vehicle. An “all-electric vehicle” is an electric vehicle that is exclusively powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current. The definition of “all-electric vehicle” does not encompass a plug-in hybrid electric vehicle. Cities do not regulate all-electric vehicles.

C. Other low-power vehicles

Many newer low-power vehicles may show up on city streets that are not subject to city regulation, but are governed by state law. Currently the list includes:

- Pocket bikes.
- Mini-motorcycles.
- Motorized bicycles.

RELEVANT LINKS:

[Minn. Stat. § 169.011, subd. 3a.](#)

[Minn. Stat. § 169.011, subd. 26.](#)
[Minn. Stat. § 169.011, subd. 93.](#)

[Minn. Stat. § 84.81, subd. 3.](#)

[Minn. Stat. § 84.87.](#)
[Minn. Stat. § 84.777, subd. 2.](#)
[Minn. Stat. § 84.928.](#)
[Minn. R. 6100.4100.](#)

[Minn. Stat. § 84.795.](#)
[Minn. R. 7460.5100.](#)

[Minn. Stat. § 169.222.](#)

[Minn. Stat. § 160.263, subd. 2.](#)
[LMC information memo, *Special Vehicles Operating on City Streets.*](#)

- Electric-assisted bicycles or mopeds.
- Autocycles.

D. Low-power vehicles for pedestrian use

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

E. Snowmobiles

Cities may, by ordinance, allow two-way operation of snowmobiles on either side of the right-of-way of a street or highway under city jurisdiction, where the city, as road authority, determines that two-way operation will not endanger users of the street or highway or riders of the snowmobiles using the trail. City ordinances must follow state law requirements. Snowmobile operation during the firearms deer hunting season is restricted by state law and rules adopted by the Dept. of Natural Resources. Any penalties in a local ordinance for an offense must match the penalty in state law for that same offense.

F. Non-motorized pedal bikes and bike lanes

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

- When overtaking and passing another vehicle proceeding in the same direction.
- When preparing for a left turn at an intersection or into a private road or driveway.
- When reasonably necessary to avoid conditions, including fixed or moving objects, vehicles, pedestrians, animals, surface hazards, or narrow lanes, that make it unsafe to continue along the right-hand curb or edge.
- When operating on the shoulder of a roadway or in a bicycle lane.

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

RELEVANT LINKS:

[Minn. Stat. § 160.263, subd. 4.](#)

[Minn. Stat. § 169.14. See, Minnesota Department of Transportation: Speed Limits in Minnesota.](#)

[Minnesota Speed Limits House Research Short Subject, June 2017.](#)

[2019 Minn. Laws 1st Spec. Sess. Ch. 3 amending Minn. Stat. § 169.14, subd. 5h.](#)

[Minn. Stat. § 169.14, subd. 5a. See, Minnesota Department of Transportation: "School Zone Speed Limits." Minn. Stat. § 160.263, subd. 4.](#)

[Minn. Stat. § 169.14, subd. 5b. Minn. Stat. § 169.011, subd. 90.](#)

The city council may, by resolution or ordinance, and without an engineering or traffic investigation, designate a safe speed, not lower than 25 mph, for any street or highway with an established bicycle lane. However, a city may not prohibit an electric-assisted bicycle on any bikeway, roadway, or shoulder, unless the city council decides that operation of the electric-assisted bicycle is not consistent with the safety of other people using the bikeway, road or shoulder. Alternatively, a city council may prohibit the use of an electric-assisted bicycle if it contradicts the terms of any property conveyance. The ordinance or resolution designating a safe speed is effective when the city has erected appropriate signs designating the speed.

III. Speed limits

State law governs speed limits on all public roads. A 2019 law change has provided cities with increased authority to set speed limits on city streets without conducting an engineering or traffic investigation or seeking approval of the commissioner of Transportation. Previously, cities only had the authority to change speed limits in the specific circumstances detailed below. The law change allows cities to establish speed limits in a consistent and understandable manner. Before adjusting speed limits, cities must develop procedures to set speed limits. According to the statute, a city's procedures must minimally consider the national urban speed limit guidance and studies and local traffic crashes, and must also include methods of communicating speed limit changes to the public. The city must erect signs displaying the altered speed limit. Note that this law change applies solely to city streets. The law change does not grant cities authority to alter the speed limit of other types of streets within the city, such as county or state highways.

A. School zones and bike lanes

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

B. Urban districts

Cities can, by resolution, change the speed limit on certain segments of city streets or municipal state-aid streets in an "urban district," which is the area next to and including any street that is built up with structures devoted to business, industry, or houses at intervals of less than 100 feet

RELEVANT LINKS:

[Minn. Stat. § 169.011, subd. 2.](#)

[Minn. Stat. § 169.14, subds. 5c, 5d, 5e.](#)
[Minn. Stat. § 169.14, subd. 5d and subd. 6a.](#)

[Minn. Stat. § 169.14, subd. 5e.](#)

[Minn. Stat. § 169.14, subd. 2\(d\).](#)

[Minn. Stat. § 169.14, subd. 5.](#)

[Minn. Stat. § 169.14, subd. 4.](#)

[Minn. Stat. § 169.011, subd. 64.](#)

[Minn. Stat. § 169.14, subd. 2\(7\).](#)

for a quarter of a mile or more. The speed limit goes into effect when the city puts up speed limit signs that also designate the beginning and end of the district. The city must send a copy of the resolution to the commissioner of the Department of Transportation at least 10 days before putting up the signs.

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

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

2. City-requested variations in speed

Speed limits must be reasonable and safe. Cities may request that the Transportation commissioner set different speed limits in the city if the council believes that the existing speed limit on any street or highway in the city (and not a part of the trunk highway system) is greater or less than a reasonable or safe speed.

The city may request that the commissioner authorize posting signs designating what speed is reasonable and safe based on an engineering and traffic investigation.

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

3. Residential roadways

“Residential roadway” means a street or portion of a street that is less than one-half mile in length, which the city classifies as a local street.

If a city designates a street a residential roadway, then the speed limit is 25 mph, but it is not effective until the city posts the speed limit signs also indicating the beginning and end of the residential roadway.

RELEVANT LINKS:

[Minn. Stat. § 169.011, subd. 69a.](#)
[Minn. Stat. § 169.14, subd. 2.](#)
[Minn. Stat. § 169.14 subd. 5f.](#)

[Minn. Stat. § 169.022.](#)

[Minn. Stat. § 169.99.](#)

[Minnesota Department of Public Safety.](#)

[Minn. Stat. § 169.999.](#)

4. Rural residential districts

“Rural residential district” means the territory contiguous to and including any city street with houses situated at intervals on either side of the road averaging 300 feet or less for a quarter of a mile or more.

The speed limit in a rural residential district is 35 mph, but is not effective until the city posts signs designating the speed limit and indicating the beginning and end of the rural residential district. Rural residential districts established and posted before Aug. 1, 2009, continue to qualify.

IV. Traffic violations

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

A. Uniform tickets

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

B. Administrative traffic citations

The law now authorizes cities that choose to do so, an exclusive use of administrative traffic citations for minor traffic offenses.

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

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

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

- Authorizes issuance of administrative citations for \$60 per violation.

RELEVANT LINKS:

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

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

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

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

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

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

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

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

Administrative citations are not subject to the state surcharge on other traffic violations.

An administrative citation may not be issued to the holder of a commercial driver's license, or the driver of a commercial vehicle in which the administrative violation was committed.

[Minn. Stat. § 169.999, subd. 3.](#)

[Minn. Stat. § 169.999, subd. 8 \(b\).](#)

[Minn. Stat. § 357.021, subd. 6 \(g\).](#)
[Minn. Stat. § 169.999, subd. 6.](#)

[49 C.F.R § 384.226.](#)
[Minn. Stat. § 171.163.](#)

RELEVANT LINKS:

[Minn. Stat. § 169.06.](#)

Minnesota Department of Transportation: [Minnesota Manual on Uniform Traffic Control Devices \(MN MUTCD\)](#)

[Minn. Stat. § 169.04.](#)

[Minn. Stat. § 169.06.](#)

[Minn. Stat. § 169.04 \(b\).](#)

[Minn. Stat. § 169.04.](#)
[Minn. Stat. § 459.14, subd. 6.](#)

LMC Research Department
at research@lmc.org or 651-281-1200 or 800-925-1122.

[Minn. Stat. ch. 168B.](#)

[Minn. Stat. § 168B.035, subd. 2.](#)

V. Signs on city streets

The Department of Transportation produces the Minnesota Manual on Uniform Traffic Control Devices (MN MUTCD) that contains uniform descriptions and specifications for all signs and traffic control devices.

Cities can get this manual and information about highway signs online or from the Department of Transportation or from the district highway engineer.

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

VI. Parking regulations

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

State law recognizes city authority to order vehicles towed if found in violation of local parking ordinances. Cities may authorize a private towing company to do the actual towing, but a city may not order a vehicle towed from public property unless a peace officer or parking enforcement officer has prepared, in addition to the parking citation, a written towing report describing the motor vehicle and the reasons for towing.

RELEVANT LINKS:

[Minn. Stat. § 168B.035, subd. 3.](#)

A city, acting as a towing authority, may not tow a motor vehicle because the vehicle:

- Has expired registration tabs that have been expired for less than 90 days.
- Is at a parking meter on which the time has expired and the vehicle has fewer than five unpaid parking tickets.

However, a towing authority may tow a motor vehicle, notwithstanding the above restrictions, if:

- The vehicle is parked in violation of snow emergency regulations.
- The vehicle is parked in a rush-hour restricted parking area.
- The vehicle is blocking a driveway, alley, or fire hydrant.
- The vehicle is parked in a bus lane or at a bus stop during hours when parking is prohibited.
- The vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign.
- The vehicle is parked in a disability transfer zone or disability parking space without a disability parking certificate or disability license plates.
- The vehicle is parked in an area that has been posted for temporary restricted parking at least 12 hours in advance (in a home rule charter or statutory city having a population under 50,000) or at least 24 hours in advance in another political subdivision.
- The vehicle is parked within the right-of-way of a controlled-access highway or within the traveled portion of a public street when travel is allowed there.
- The vehicle is unlawfully parked in a zone that is restricted by posted signs to use by fire, police, public safety, or emergency vehicles.
- The vehicle is unlawfully parked on property at the Minneapolis-St. Paul International Airport owned by the Metropolitan Airports Commission.
- A law enforcement official has probable cause to believe that the vehicle is stolen, or that the vehicle constitutes or contains evidence of a crime, and impoundment is reasonably necessary to obtain or preserve the evidence.
- The driver, operator, or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping.
- A law enforcement official has probable cause to believe that the owner, operator, or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses.
- The vehicle is unlawfully parked in a zone that is restricted by posted signs to use by taxicabs.

RELEVANT LINKS:

[Minn. Stat. § 412.321, subd. 2.](#)

[Minn. Stat. § 412.321.](#)
[Minn. Stat. ch. 452 \(general\).](#)
[Minn. Stat. § 452.25-26.](#)
[Minn. Stat. § 452.26.](#)
[Minn. Stat. ch. 453.](#)
[Minn. Stat. ch. 453A.](#)

[LMC information memo, *Securing Payment of Utility Charges.*](#)

[Minn. Stat. ch. 216B.](#)

[Minn. Stat. § 216B.097.](#)

[Minn. Stat. §§ 216B.37-216B.44.](#)
[Minn. Stat. § 216B.164, subd. 3.](#)

[Minn. Stat. 216B.098, subd. 5.](#)

[Minn. Stat. § 216B.164, subd. 5.](#)
[Minn. Stat. § 216B.164, subd. 11.](#)

- The vehicle is unlawfully parked and prevents egress by a lawfully parked vehicle.
- On a school day and during prohibited hours, the vehicle is parked in a school zone where an official sign prohibits parking. The vehicle is a junk, abandoned, or unauthorized vehicle, as defined in state law.

VII. Utilities

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

A. City-owned municipal utilities

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

1. Operation, rates, and payments

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

The Minnesota Public Utilities Act (Act) regulates public utilities that supply retail natural, manufactured, or mixed gas, solar, wind and electric service.

Because the residents of a city effectively regulate city utilities, the Act doesn’t generally regulate them, although certain provisions, such as the Cold Weather Rule and some aspects of charges and prohibiting shutting off utilities when medically necessary equipment is in use in residences are specifically made applicable to city-owned gas and electric utilities.

Dispute resolution procedures in this law may also apply to city owned cooperative electric utilities in some situations. The board of a cooperative electric association may elect by resolution, to assume the authority delegated to the Public Utilities Commission under this law.

RELEVANT LINKS:

[Minn. Stat. § 216B.164, subd. 9.](#)

[A.G. Op. 624-A-3 \(June 28, 1999\).](#)

For statutory cities, see [Minn. Stat. § 412.221](#). [Minn. Stat. § 412.331](#).

[Minn. Stat. § 412.361](#).

For charter cities, see [Minn. Stat. § 410.07](#).

[Minn. Stat. § 216B.097](#).

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

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

[Minn. Stat. § 412.321, subd. 3](#). [Minn. Stat. § 471.591](#). *Village of Blaine v. Independent Dist. No. 12*, 272 Minn. 343, 138 N.W.2d 32 (1965).

[Minn. Stat. § 471.591](#).

[Minn. Stat. §§ 216B.37-216B.43](#).

[Minn. Stat. ch. 216B](#).

Standards for municipal electric utilities related to safety, reliability, and service should be as consistent as possible with Minnesota Public Utilities Commission standards. The provisions of the Act for establishing electrical service areas also apply to city utilities.

Once the city establishes the utility, the council may operate the utility, or a commission can be created for that purpose.

City councils or public utility commissions may set reasonable rates, including rates more than the precise amounts required to operate utilities.

The city council or local public utilities commission may transfer moneys from the public utilities fund to the city general fund for public purpose expenditures—but this general rule is subject to restrictions in the charter in charter cities.

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

2. Extending services outside city boundaries

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

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

B. Privately owned “public utilities”

The Minnesota Public Utilities Act (Act) regulates privately owned utilities furnishing retail natural, manufactured, or mixed gas or electric service to the public as defined in the act. Just to clarify this point – privately owned utilities are known as “public utilities” in Minnesota law.

RELEVANT LINKS:

[Minn. Stat. § 216B.66.](#)

[Minn. Stat. § 412.221, subs. 7, 11, 32. Minn. Stat. § 301B.01. Minn. Stat. ch. 216B. Minn. Stat. ch. 451. Minn. Stat. ch. 452. *US West Communications v. Redwood Falls*, 558 NW 2d 512 \(Minn. Ct. App. 1997\). *Country Club Dist. Service Co. v. Village of Edina, St. Paul Fire and Marine Ins. Co., Intervener*, 214 Minn. 26, 8 N.W.2d 321 \(1943\). *McRoberts v. Washburne*, 10 Minn. 23 \(1865\) 1865 WL 930.](#)

[Minn. Stat. § 216B.36. *City of Cohasset v. Minnesota Power*, 798 N.W.2d 50 \(Minn. 2011\). LMC information memo, *Regulating City Rights of Way*.](#)

[A.G. Op. 624-C-14 \(Nov. 25, 1964\).](#)

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

[Minn. Stat. § 216B.36.](#)

(City owned utilities, such as city water systems, are known as “municipal utilities”). The act sets procedures for rate regulation, standards of service, systems of accounts, construction of facilities, assignment of service areas, and other matters.

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

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

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

The council has the power to determine whether to grant a franchise to a utility company. No citizen vote on this question is required for the council to grant the franchise.

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

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

The city can base the fee on gross operating revenues or gross earnings from the utility’s operation in the city.

C. Cable communications extensions

A cable communications system must obtain an extension permit from a city (or cities in a joint power agreement) to extend or provide service outside the cable service boundaries.

RELEVANT LINKS:

[Minn. Stat. § 238.17.](#)

[Minn. Stat. § 412.221, subd. 23.](#)

LMC information memo, [Public Nuisances.](#)

[Minn. Stat. § 561.01.](#)

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

6A McQuillin Mun. Corp. § 24:63 (3d ed.).

Along with other legal requirements extension permits must include a schedule of the subscriber rates and the procedure to be used to change subscriber rates. Consult the city attorney for the process and requirements related to cable communication extension permits.

VIII.Nuisances

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

Most charters contain similar provisions.

A. Definitions

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

B. Public or private

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

C. City regulation of public nuisances

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

The courts in Minnesota have defined the following to be nuisances under circumstances:

- Accumulations of filth.
- Noise from various activities.
- Animals/
- Offensive odors.

RELEVANT LINKS:

- Automobile wrecking.
- Houses of prostitution.
- Hazardous buildings.
- Sawmills.
- Keeping and storing of fish.
- Three or more people standing on the sidewalk and obstructing free passage.
- Icy driveways or sidewalks.
- Buildings overhanging public streets/
- Stockyards.
- Slaughterhouses and rendering works.
- Odor of gas escaping from a gas plant/
- Offensive odors from petroleum tanks.
- Gas escaping from the engines in streets.
- Gases and gas odors intentionally caused.
- The emission of smoke, dirt, or cinders from chimneys and smoke stacks.
- Obstructions in public ways (streets) or public waters.
- Pollution of watercourses.
- Ditches that cause water to be collected and spread onto adjacent land.
- Discharge of sewage onto adjacent lands; and cesspools.

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

D. Strategies to control public nuisances

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

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

Also, residents, neighborhood organizations or the city attorney can bring nuisance actions in cases of prostitution, sale or possession of controlled substances or firearms violations. Damages, injunctive relief, and attorney fees are available in these civil actions.

LMC information memo,
[Public Nuisances.](#)

[Minn. Stat. §§ 617.80 - 617.87.](#) [Minn. Stat. § 617.90.](#)

RELEVANT LINKS:

[Minn. Stat. §§ 617.91 - 617.97.](#)

[Minn. Stat. § 412.221, subd. 32.](#)

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

83 A.L.R.4th 1056
(Originally published in 1991) Validity, construction, and effect of juvenile curfew regulations.

[Kolender v. Lawson](#), 461 U.S., 352, 103 S. Ct. 1855 (1983). But see [John Does I-100 v. Boyd](#), 613 F. Supp. 1514 (D.Minn.1985).

Property owners can bring a court action against a person (or a minor's parents) that damages property with graffiti. Continuous criminal gang activity is also a public nuisance that city (or county) attorneys may sue to stop.

IX. Curfew

If a county board adopts a countywide curfew ordinance, a city can only adopt a curfew ordinance that does not conflict with the county ordinance and that is more restrictive. In the absence of a countywide ordinance, a statutory city council may, by ordinance, establish a city curfew for juveniles and provide penalties for repeated violations.

The city may impose these penalties on the juvenile or on those legally responsible for the juvenile's conduct.

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

X. Loitering

Loitering is generally not considered criminal behavior. Courts are reluctant to make it a crime simply to be on public streets or other public areas. The U.S. Supreme Court found a criminal loitering statute unconstitutionally vague, because it required a loiterer to provide credible and reliable identification to a peace officer but had no specified standards as to what would satisfy the identification requirement. The Court found this encouraged arbitrary enforcement. Instead of loitering ordinances, cities are encouraged to address the specific problems loitering ordinances were intended to prevent, such as trespassing, curfew violations, and criminal activities.

XI. Railroads and trains

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

RELEVANT LINKS:

[Minn. Stat. § 116.082.](#)

[Minn. Stat. § 116.07.](#)
[Minn. Stat. § 116.07, subd. 2 \(c\).](#)
[Minn. R. 7030.](#)

[Minn. Stat. § 169.693.](#)

[Minn. Stat. § 617.241.](#)

[Minn. Stat. § 617.293, subd. 2.](#)

[Minn. Stat. § 341.28.](#)

[Minn. Stat. § 341.27.](#)

XII. Open burning

A city located outside the metropolitan area may, by ordinance, permit the open burning of dried leaves between Sept. 15 and Dec. 1. The ordinance must set forth limits and conditions on leaf burning to minimize air pollution and fire danger and any other hazards.

A copy of any ordinance must be sent to the Minnesota Pollution Control Agency (MPCA) and the Department of Natural Resources before it is effective.

XIII. Noise

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

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

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

XIV. Obscenity

State law defines and prohibits obscene performances and materials. Violation of the law is a gross misdemeanor. City attorneys may be required to prosecute offenses. State law also makes it a misdemeanor to display sexually explicit material in certain public places. City officials may want to review these statutes before deciding to pass any local ordinances. First Amendment rights for freedom of expression also restrict the ability of cities to regulate these problems.

XV. Tough person contests

The Commissioner of the Minnesota Department of Labor and Industry licenses, directs, supervises, regulates, controls, and has jurisdiction over

RELEVANT LINKS:

[Minnesota Office of Combative Sports.](#)

[Minn. Stat. § 341.21.](#)

[Minn. Stat. § 341.25 \(e\).](#)

[Minn. R. ch. 2202.](#)

[Unified Rules of Mixed Martial Arts.](#)

[Minn. Stat. § 341.28.](#)

[Minn. Stat. § 341.35.](#)

[Minn. Stat. § 410.33.](#)

all combative sports contests held within this state unless a contest is exempt from state law because of federal regulations.

Combative sports include any combination of amateur or professional boxing, kick boxing, wrestling, grappling, or other recognized martial arts known as “mixed martial arts.”

The “unified rules of mixed martial arts” are incorporated by reference and made a part of state law except as qualified by this state law and Minnesota Rules, chapter 2202. In the event of a conflict between state law and the unified rules, state law must govern.

The law gives the DOLI the authority to regulate all “tough person” or “ultimate fight” contests and similar sporting events. All tough person contests are subject to American Boxing Commission rules and bouts are limited to a maximum of four two-minute rounds. Being involved in an unlicensed prize fight, or engaging in any public combative sport match or contest for any prize, reward, or compensation, or for which any admission fee is charged directly or indirectly is a misdemeanor.

XVI. How this chapter applies to home rule cities

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