LEAGUE of MINNESOTA CITIES

HANDBOOK FOR MINNESOTA CITIES

Chapter 10
City Licensing

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LEAGUE of MINNESOTA CITIES

HANDBOOK FOR MINNESOTA CITIES

Chapter 10
City Licensing

Understand the basic concepts in licensing such as city authority, constitutional issues, pre-emption, and fees. Learn about licensed activities such as liquor, animals, peddlers, businesses, telecommunications and more.

RELEVANT LINKS:

I. Licensing generally

A license represents a regulatory device that ensures compliance with established rules and regulations that govern a specific occupation, profession, commercial trade, or other activity. A license does not represent a contract between a regulating entity and individuals or corporations. Rather, it allows the license holder to do something that the license holder could not do without the license.

A. State laws applicable to city licensing

1. Proof of workers' compensation coverage

Minn. Stat. § 176.182.

A city cannot issue a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with state law workers' compensation insurance coverage requirements. This includes requiring every applicant for a city license provide the name of the insurance company, the policy number, and the dates of coverage or a permit to self-insure.

2. State tax clearance required

Minn. Stat. § 270C.72, subd. 4.

Minn. Stat. § 270C.72, subd. 2(c).

Cities also must require applicants for any city-issued license to provide their Social Security number or individual taxpayer identification number and Minnesota business identification number on all license applications. Under state law, "license" includes any permit, registration, certification, or other form of approval authorized by statute or rule that a city issues as a condition of either doing business or conducting a trade, profession, or occupation in Minnesota.

Minn. Stat. § 270C.72, subd. 1.

A city must revoke and may not issue, transfer, or renew, any license for the conduct of a profession, occupation, trade, or business, if the Minnesota Department of Revenue notifies the city that the applicant either owes the state at least $500 in delinquent taxes, penalties, or interest or has not filed returns.

RELEVANT LINKS:

Before requiring a city to revoke a license, the Minnesota Department of Revenue must send notice to the applicant of its intent to require revocation of the license and of the applicant's right to a hearing held by the department. A city must revoke a license within 30 days after receiving notice from the department. A city that receives notice from the Department of Revenue may only issue, transfer, renew, or decide to not revoke the applicant's license, *if* the Department of Revenue issues a tax clearance certificate and the department or the applicant forwards a copy of the clearance to the authority.

Department of Revenue Steps for submitting Annual License Information.

Upon request, a city must provide the Department of Revenue with a list of all license applicants, including the name, address, business name and address, Social Security number, and business identification number of each applicant. The department may request a list of license applicants only once each calendar year. The Department of Revenue requests the information on an annual basis by December 31 on its annual license document.

B. State laws pre-empting or limiting city licensing

Vill. of Brooklyn Center v. Rippen, 255 Minn. 334, 96 N.W.2d 585 (1959). *Minnetonka Elec. Co. v. Vill. of Golden Valley*, 273 Minn. 301, 141 N.W.2d 138 (1966).

Minn. Stat. § 412.221.

Municipal regulatory powers come from either a statute or, in the case of charter cities, from a city's charter. As a result, a city may license a business or activity, either (1) when expressly allowed to do so by state statute; or (2) when implied by statute, such as when a license is necessary for a city to perform its general statutory powers (like preventing public nuisance or protecting the general welfare). This means cities may license certain businesses and activities peculiarly local in nature and not pre-empted by the state. Keep in mind that licenses are simply one way a city may regulate a given activity. A license provides the licensee a special privilege not accorded to others and which the licensee would not enjoy otherwise.

Minnetonka Elc Co. v. Vill. of Golden Valley, 273 Minn. 301, 141 N.W.2d 138 (1966). *City of Birchwood Vill. v. Simes*, 576 N.W.2d 458 (Minn. Ct. App. 1998). *Mangold Midwest Co. v. Vill. of Richfield*, 274 Minn. 347, 143 N.W.2d 813 (1966). But cf. *State v. Kuhlman,* 729 N.W.2d 577 (Minn. 2007).

State v. Westrum, 380 N.W.2d 187 (Minn. Ct. App. 1986).

Municipalities often regulate activities that are also subject to state regulations. If state law, however, so fully regulates a particular field of business or activity, that no room for local regulation exists, then the state law pre-empts local regulations (this is known as "field preemption"). For example, the courts have found that the state legislation establishing a conservation district that regulated docks and boat sizes fully occupied that field of legislation, leaving no room for local regulation.

Courts generally consider four factors when considering pre-emption: (1) the subject matter regulated; (2) whether the subject matter is so fully covered by state law that it has become solely a matter of state concern;

RELEVANT LINKS:

Eureka Twp. V. Petter, A17-0020 (Minn. Ct. App. Sept. 5, 2017) (unpublished decision).

(3) whether any partial legislation on the subject matter demonstrates an intent to treat the subject matter as being solely a state concern; and (4) whether the nature of the subject matter is such that local regulation will have an adverse effect on the general state population. If pre-emption does not apply, then cities can adopt local regulations that may differ from state law, so long as the local regulation complements or furthers state law (provided no direct conflict exists between the state regulations and the local ordinance).

Finally, cities cannot license where the state has expressly pre-empted local licensing authority. For example, a city may not license attorneys, doctors, or engineers.

1. Plumbers

Minn. Stat. § 326B.44.
Minn. Stat. § 326B.475.

State licensing laws specifically prohibit local licensing of plumbing contractors (except for those cities that licensed plumbers before state licensing commenced).

Minn. Stat. § 326B.43.
Minn. Stat. § 326B.46.
Minn. Stat. § 326B.805.

However, cities with systems of water works or sewage may, by ordinance, adopt local regulations providing for plumbing permits, approval of plans and specifications and inspections on plumbing. With some limited exceptions, state law requires plumbers to have some level of state licensure and state bonding. A state plumber license is not required for workers who install building sewer or water service and who have completed state-prescribed pipe laying training. Also, under certain conditions as prescribed by the law, a state plumber license is not required for individuals servicing or installing a commercial chemical dispensing system or servicing or replacing a commercial dishwashing machine, including connecting a commercial chemical dispensing system or commercial dishwashing machine to a water line or drain line.

Minn. Stat. § 326B.46, subd. 1.

Minnesota Department of Labor & Industry Website.

Plumbing Plan Review Agreements from Department of Labor & Industry.

Minnesota's Department of Labor & Industry (DLI) reviews proposed plumbing projects to ensure compliance with the Minnesota Plumbing Code. Cities may enter into agreements with the state to perform plumbing plan and specification reviews. Cities of the first class have their own plumbing programs. A number of other cities have plan review agreements with DLI and take responsibility for plan review on most plumbing projects. However, some projects in cities of the first class and cities with plan review agreements still require state review by the DLI. These projects include:

- Hospitals, nursing homes, supervised living facilities, free-standing outpatient surgical centers, correctional facilities, boarding care homes, or residential hospices, and similar state-licensed facilities.

RELEVANT LINKS:

- Public buildings owned and paid for by the state or a state agency regardless of cost, and school district building projects or charter school building projects regardless of cost.
- Projects of a special nature, including dialysis facilities and other projects for which a department plan review is requested by either the municipality or the state.

2. Building movers

Minn. Stat. § 221.81, subd. 1(a).

Building movers include people, corporations, or other entities that raise, support off the foundation, and move buildings on and over public streets and highways.

Minn. Stat. § 221.81, subd. 3b.

Building movers do not include people who move manufactured homes or modular homes, farmers moving their own farm buildings, or people moving buildings less than 16 feet wide by 20 feet long. A building mover may not move a building on or across a street or highway without first obtaining a permit from the proper road authority.

Minn. Stat. § 221.81, subd. 3c.

Minn. Stat. § 160.02, subd. 25.

A city, as a road authority, must not issue a permit to move a building unless the applicant has a current state-issued license. A city, outside of its capacity as the controlling road authority, may not require a license, bond, cash deposit or additional insurance to move buildings, other than the license and insurance coverage required by the Commissioner of Transportation.

Minn. Stat. § 221.81, subd. 3c.

In its capacity as a road authority, however, a city may charge a fee for services performed and may, by ordinance, require a permit which reasonably regulates the hours, routing, movement, parking, or speed limit for a building mover operating on streets or highways under its jurisdiction. A building mover must comply with the State Building Code as well.

Minn. Stat. § 221.031, subd. 6.

Building movers must comply with state law, displaying the mover's name, address, and U.S. Department of Transportation number on the power unit of a vehicle used to move buildings and on buildings being moved.

3. Food manufacturer, processor, or distributor and dairy plants

Minn. Stat. § 28A.04.

Minn. Stat. § 28A.06.

Minn. Stat. § 28A.0753.

The state licenses food manufacturers, processors, distributors, sellers, and handlers, as well as food storage facilities. Cities generally may not license these entities or activities. Local ordinances regulating where a manufacturer, processor, or distributor locates its plant do apply.

RELEVANT LINKS:

State law also governs all delivery equipment a food manufacturer, processor, or distributor uses and exempts local licensing. Delivery equipment approved by the state must carry a state-issued certificate of approval at all times.

4. Alarm & communications services

Minn. Stat. § 326B.34.

State law prohibits a city from requiring a licensed power limited technician, technology system contractor, or individual employed by a technology system contractor from obtaining any authorization, permit, franchise, or license from, or pay any fee, franchise tax, or other assessment to, a city as a condition for performing any work within the scope of a state license. State law does not prohibit a unit of local government from charging a franchise fee to the operator of a cable communications company.

C. Inspections

1. Water softener installers

Minn. Stat. § 326B.44.

A city may pass an ordinance establishing regulations, reasonable standards, and inspections for persons engaged in the business of installing water softeners. This applies in limited situations and only to those companies or individuals not licensed as a contractor by the Minnesota Commissioner of Labor and Industry.

2. Hospitals and other health care facilities

Minn. Stat. § 144.653, subd. 2.

The commissioner of health may enter into agreements with cities for locally employed inspectors to perform the inspection of hospitals and other health care facilities.

3. Limited school inspections

Minn. Stat. § 299F.47 subd. 4.

If a city had already inspected public school buildings and charter schools between January 1, 1987, and January 1, 1990, then that city can continue to provide those inspections. In all other instances, the state fire marshal performs these inspections.

4. Electrical inspection

Minn. Stat. § 326B.36.

A city may pass an ordinance providing for electrical inspections that mirror the statutorily required electrical inspection in state law. A city shall not require any individual, partnership, corporation, or other business association, holding a license from the Commissioner of Administration, to pay any license or registration fee.

RELEVANT LINKS:

A city may, by ordinance, require each individual, partnership, corporation, or other business association doing electrical work within the city to have on file, with the city, a copy of the current license issued by the commissioner.

II. City authority to license

A city's authority to license comes from either a specific grant of authority from the legislature or from its authority to provide for its general health, safety, and welfare.

When a city official proposes local licensing of any activity or occupation, a city first must determine whether the state already licenses that activity and, if so, whether the law forbids or allows a local license.

Minn. Stat. § 412.221, subd. 32.

City of St. Paul v. Dalsin, 245 Minn. 325, 71 N.W.2d 855 (1955). *State v. United Parking Stations*, 235, Minn. 147, 50 N.W.2d 50 (1951).

If not specifically allowed by state statute, local licensing authority may arise out of either a city's right to exercise its police power to protect and promote the public welfare or a city's general welfare clause. The Supreme Court has cited the general welfare clause as adequate authority for many licensing ordinances.

Home rule charters generally include similar specific and general welfare authority to license and regulate businesses or other activities.

Minn. Stat. § 412.221, subds. 19, 20, 21, 25, 27, 30.
Minn. Stat. § 28A.065 (carnivals, circus & fairs).

State law provides specific statutory authority to license many different businesses or activities, including:

Minn. Stat. § 330.025 (auctioneers).
Minn. Stat. § 325F.742 (precious metal dealers).
Minn. Stat. § 412.221, subds. 19 (transient commerce), 20 (taxis, haulers, and car rentals), 21(animals), 25 (amusements), 27(dances), 30 (restaurants).
Minn. Stat. § 28A.065 (carnivals, circus & fairs).

- auctioneers,
- transient merchants and dealers,
- hawkers,
- peddlers,
- solicitors and canvassers,
- baggage wagons,
- dray drivers, taxicabs,
- automobile rental agencies,
- liveries,
- riding academies,
- circuses,
- theatrical performances,
- amusements or shows of any kind,
- keeping of billiard tables,
- bowling alleys,
- devices commonly used for gambling purposes,
- public dances and dance halls,

RELEVANT LINKS:

- restaurants and public eating houses (except for restaurant or delicatessen in a grocery store)
- precious metal dealers.

Some cities also license emergency wrecker services, nuisance wildlife removal businesses, rental housing, and coin-operated devices (vending machines). Section III of this chapter discusses, in more detail, some of the more commonly city-licensed businesses.

A. Constitutionality and reasonableness

9 McQuillin Mun. Corp. § 26:6 (3d ed.).
6A McQuillin Mun. Corp. § 24:9 (3d ed.).
City of St. Paul v. Dalsin, 245 Minn. 325, 71 N.W.2d 855 (1955).

The terms and conditions set forth in licensing ordinances, like other regulatory ordinances, must be reasonable in their terms and conditions and cannot place unnecessary, unreasonable, or oppressive restrictions that conflict with the state or federal constitution. This represents a question of fact in every case.

Ukkonen v. Gustafson, 309 Minn. 260, 244 N.W.2d 139 (1976).

Courts presume municipal ordinances constitutional, placing the burden of proving them unconstitutional on the party challenging the ordinance.

Licensing ordinances that have survived challenges have included terms that set forth, among other things, the:

- method of applying for the license;
- license term;
- qualifications of the license applicant;
- bond and insurance requirements;
- reasons for denial,
- revocation, and suspension of a license;
- transferability of the license.

Licensing ordinances should address procedural issues—such as who investigates the applicant; who decides whether the applicant is qualified; and what procedural rights an applicant has in case of a denial, suspension, or revocation.

Vill. of Schaumberg v. C.B.E., 444 U.S. 620, 100 S. Ct. 826 (1980).

Working America, Inc. v. City of Bloomington, 142 F.Supp.3d 823 (D. Minn. 2015).

Courts, rarely deem licensing ordinances unconstitutional. However, the licensing of solicitors has spurred constitutional concerns and various courts have found several city-licensing provisions unconstitutional for unlawfully restricting solicitors' rights of free speech. Courts recognize solicitation as a form of expression entitled to the same constitutional protections as traditional speech. Ordinances that treat individuals differently depending on the function or purpose of their speech have been found to be unconstitutional. As a result, cities should take special care and should consult their city attorney in drafting ordinances that restrict solicitors.

RELEVANT LINKS:

City of St. Paul v. Dalsin, 245 Minn. 325, 71 N.W.2d 855 (1955).

Sverkerson v. City of Minneapolis, 204 Minn. 388, 283 N.W. 555 (1939) (required proof of insurance).

State v. United Parking Stations, Inc., 235 Minn. 147, 50 N.W.2d 50 (1951).
Minn. Stat. § 87A.08 (shooting ranges).

B. Licenses as a regulatory device

As stated above, licensing represents a means of regulation. The power to regulate includes authority to provide standards for a certain business or activity, and to attach requirements for meeting those standards.

Even if the enabling statute or charter does not so provide, a city can require a reasonable bond to ensure compliance with standards and to protect the city. Furthermore, a licensing ordinance may require an applicant to furnish liability insurance as a condition of a license.

In limited situations, cities regulate certain business or activities to prevent nuisances from arising. For instance, state law specifically allows cities, by ordinance, to regulate the days and hours of shooting range operations.

U.S. Const. art. IV, § 2.
Working America, Inc. v. City of Bloomington, 142 F.Supp.3d 823 (D. Minn. 2015).

U.S. Const. Amend. XIV, § 1.
Kalra v. State of Minnesota, 580 F. Supp. 971 (D. Minn. 1983).

C. Discrimination against applicants

Courts have found some city ordinances that discriminate between categories of applicants (by either refusing to grant licenses to one set of applicants and not the other, or by granting similar licenses on different terms) unconstitutional.

Courts have ruled that non-citizens fall within the protection of the equal protection and due process clauses and, as a result, cities may not adopt an ordinance that denies a license based on non-U.S. citizenship.

Requiring applicants for a liquor license to be state residents is unsettled law. Adding additional eligibility criteria for liquor licenses, beyond what state law requires, may be questionable and should be avoided. Because of the complexities in licensing requirements, cities should consult their city attorney.

LMC Chart, *Fees Set by Ordinance or Resolution*.
Minn. Stat. § 340A.408.
Minn. Stat. § 340A.26.
Minn. Stat. § 340A.28.
Minn. Stat. § 28A.09.
Minn. Stat. § 624.20, subd. 1(d).
Minn. Stat. § 458A.
Minn. Stat. § 473.448.
Minn. Stat. § 103I.111.

Barron v. City of Minneapolis, 212 Minn. 566, 4 N.W.2d 622 (1942).

D. License fees

Cities can require fees for administering licenses. Statutes granting authority to issue licenses often do not specify maximum fees; however, in a few cases, statutes either set maximum fees for city licenses or prohibit fees all together. For instance, state law sets maximum fees for off-sale liquor licenses, and it requires that a retail on-sale intoxicating license fee cover only the costs of issuing, inspecting, and other directly related costs for enforcement. These liquor fee requirements apply to more than just retail sale of liquor and include, for example, small brewers, brewer taprooms, and micro-distilleries. Limits on license fee for certain vending machines also may apply, depending on what is being sold and the types of inspections required.

RELEVANT LINKS:

Such fees must be based on the city's costs involved in administering the license program and not on the value of the items sold. As another example, state law limits the amount charged for license fees that municipalities may impose when permitting the sale and storage of legal fireworks.

Complete prohibitions on cities charging license fees also exist in state law. Some include prohibitions on charging license fees on certain transit commissions and licensed well contractors.

LMC Chart, *Fees Set by Ordinance or Resolution*. See Section II.D.1. below.

Most license fees should be set by ordinance and not resolution. Although cities find fixing license fees by resolution more convenient, a court may not find fixing fees in such a manner valid, except, of course, in those rare instances when the enabling state statute allows fee setting by resolution. LMC has prepared an informational table which lists when the law allows fee setting by resolution, when a public hearing or individual notice is required, and those instances when state law limits the fee amount.

Orr v. City of Rochester, 193 Minn. 371, 258 N.W. 569 (1935).

When setting fees, cities should consider a number of things. First, cities should not view municipal licensing as a significant source of revenue. License fees must approximate the direct and indirect costs associated with issuing the license and policing the licensed activities. License fees that significantly exceed these costs are considered unauthorized taxes.

This means a license fee may not be so high as to be prohibitive or produce any substantial revenue beyond the actual cost to issue the license and to supervise, inspect, and regulate the licensed business.

Minneapolis St. Ry. Co. v. City of Minneapolis, 236 Minn. 109, 52 N.W.2d 120 (1952). *Crescent Oil Co. v. City of Minneapolis,* 177 Minn. 539, 225 N.W. 904 (1929).

Unless otherwise specified by state law, the amount of a license fee largely lies within the discretion of the city council. A court will not presume a particular license fee exceeds the amount a city may legally charge. One who claims a fee unreasonable must produce evidence supporting this contention.

Lyons v. City of Minneapolis, 241 Minn. 439, 63 N.W.2d 585 (1954). *State ex rel. Remick v. Clousing*, 205 Minn. 296, 285 N.W. 711 (1939).

Without any evidence to that effect, a court will seldom substitute its judgment for that of a local council to declare a license or ordinance unreasonable because of the fee charged for the license.

Crescent Oil Co. v. City of Minneapolis, 177 Minn. 539, 225 N.W. 904 (1929). *Ramaley v. City of St. Paul*, 226 Minn. 406, 33 N.W.2d 19 (1948).

Second, the fee amount should sufficiently reimburse a city for all expenses related to license regulations but should not cover other unrelated expenses. For example, in setting the fee for a gas station, a city may not recoup, through the license fee, the cost of extra police protection needed for occasional crime epidemics involving gasoline stations. In other words, a city may not recover expenses it incurs merely because of the nature of having the business located in its city.

RELEVANT LINKS:

License fees that yield incidental revenue beyond the expense of providing services generally are not objectionable.

Barron v. City of Minneapolis, 212 Minn. 566, 4 N.W.2d 622 (1942).
City of St. Paul v. Traeger, 25 Minn. 248 (1878).

Last, cities should know that courts likely would invalidate an ordinance that requires a license for a non-nuisance-prone activity, if the fee exceeds the cost of issuing the license and the ordinance does not either require inspection of the business or impose other cost generating regulations concerning it. Because a license enables cities to enforce regulations, licensing ordinances should contain standards to guide the conduct of the licensed business or activity.

Cities must set their license fees based on their particular situation and not based solely on what fees have been found to be reasonable in other cities. The reasonableness of a fee amount must take into consideration factors specific to the business or activity, such as the kind of business, the degree of inspection and regulation of that business or activity and the value of the dollar at the time other similar fees were set—all of which vary greatly from one city to another. Basing a fee solely on what other cities charge has not withstood challenge.

1. Fix license fees by ordinance

Most cities fix license fees in the licensing ordinance. Although fixing license fees by resolution would eliminate the necessity of amending the ordinance and publishing it every time a city changes the fee, this procedure probably is invalid, unless the enabling authority for the license permits the use of a resolution (which is rare).

Handbook, *Meetings Motions Resolutions and Ordinances*.
LMC Chart, *Fees Set by Ordinance or Resolution*.

Some cities adopt a fee schedule to set or change licensing and other regulatory fees. The fee schedule lists each fee charged by a city for each type of license. Cities usually include the fee schedule as an appendix to a city's ordinance book. Fee schedules take the place of listing individual dollar amounts in each separate licensing or regulatory section of the ordinance book.

By using a fee schedule, a city can revise all its fees at once in a single ordinance revision, rather than revising many separate ordinance provisions. The schedule also generally makes it easier to handle publishing concerns. Cities should use caution with fee schedules because they can blur the distinctions between different types of licensing fees. State statute may impose unique notice or hearing provisions regarding a change in licensing fees. In other instances, State statutes may prescribe dollar limitations on certain fees. Cities must heed these requirements in changing their fees even when using a blanket fee schedule.

RELEVANT LINKS:

2. Pro rata fees

Moore v. City of St. Paul, 48 Minn. 331, 51 N.W. 219 (1892).
City of Duluth v. Rosenblum, 180 Minn. 352, 230 N.W. 830 (1930).
Village of Minneota v. Martin, 124 Minn. 498, 145 N.W. 383 (1914).

If a license fee covers more than the cost of just issuing the license, a city should provide for a pro rata fee for those who get licenses during the year (assuming all licenses for the activity expire the same day). Failure to do so may make the ordinance void for discrimination against the short-term licensee. This does not apply where the license fee covers only the cost of issuing the license. Keep in mind that a court may find, as reasonable, a high "per diem" fee even when the fee amounts to more than the proportionate amount of the corresponding annual fee.

3. Installment payments

A.G. Op. 125a-66 (Aug. 12, 2003).

A.G. Op. 218g-6 (May 11, 1943).
A.G. Op. 218g-6 (Apr. 21, 1951).
A.G. Op. 218g (Nov. 15, 1965).

Except for a very few large fees, most cities require payment of the entire license fee before issuing a license. Generally, city councils view installment payments as unwise since this type of payment instills less financial burden on licensees, which may decrease motivation to comply with laws and city ordinances. Also, installment payments often result in granting licenses to less stable or financially responsible people. However, the attorney general has ruled on several occasions that the council may permit payment of liquor license fees in installments. Three criteria must exist to make the installment payment of license fees permissible:

- First, the ordinance should provide for installment payment.
- Second, the payment of each installment should come due before the beginning of the period to which it relates. For example, if the council allows payment of license fees on a quarterly basis and the license year begins January 1, the second quarter fee should be due before April 1. The ordinance should provide that if a business does not pay any installment, a city will revoke the license.
- Third, the licensee should bear responsibility for the full year's license fee upon receiving the license, whether or not the business continues to operate. A city may seek to recover the unpaid installments as they fall due even though the business ceases operation. To minimize problems, the ordinance should contain an express provision to this effect.

4. Refunds

Minneapolis Brewing Co. v. Bagley, 142 Minn. 16, 170 N.W. 704 (1919).
Mediterranean Inc. v. City of Bloomington, 299 N.W.2d 742 (Minn. 1980).

A business or activity cannot recover a license fee it voluntarily paid unless a statute or charter authorizes recovery. Cities should work with their city attorney to determine if a refund of a license fee is authorized. Generally, a business owner has no right to a refund of a pro rata portion of the license fee when the licensee sells a business during the period of the license.

RELEVANT LINKS:

Minn. Stat. § 340A.408, subd. 3a.
Minn. Stat. § 471.707.

5. Notice of fee increase

Whether a city needs to give notice of a license fee increase depends on the type of license in question. For instance, cities may increase fees for liquor licenses and vending machines only after notice and a hearing. Existing licensees must receive a mailed notice at least 30 days before the hearing on the proposed change. These provisions supersede any charter provisions.

Minn. Stat. § 415.19.

In addition to notice of fee increase by ordinance, state law requires cities to also notify applicants applying for a license or a license renewal of the availability of ordinance notification. The ordinance notification law requires a city that sends out information via email to allow businesses to sign up for email notification of proposed ordinances, which includes notification from a city of the ordinance at least 10 days before the initial hearing on the proposed ordinance. If a city does not send out information via email, it must post the notification of the proposed ordinance in the same location as it pots other public notices.

E. Issuing licenses

The council's authority to grant or refuse a license varies with the nature of the business or activity. At one end of the spectrum are licenses that will be issued to anyone that applies as long as the applicant pays the required fee and meets the other conditions specified by the ordinance.

When the applicant complies with the requirements, a city must issue the license, such as a dog license.

State ex rel. Howie v. Common Council of Northfield, 94 Minn. 81, 101 N.W. 1063 (1904). *State ex rel. Gopher Sales Co. v. City of Austin*, 246 Minn. 514, 75 N.W.2d 780 (1956).

On the other end of the spectrum lies licenses for those types of businesses or activities that present such potential abuses that a city may prohibit them altogether or, in lieu of the prohibition, may decide to limit their number or impose qualifications.

When the council imposes such a limit, the council cannot grant licenses to all qualified applicants.

Polman v. City of Royalton, 311 Minn. 555, 249 N.W.2d 466 (1977). *Wajda v. City of Minneapolis*, 310 Minn. 339, 246 N.W.2d 455 (1976). *See also, Anton's Inc. v. City of Minneapolis,* 375 N.W.2d 504 (Minn. Ct. App. 1985).

When dealing with licenses available only in a limited quantity, the burden rests with the unsuccessful applicant to show that council's action in granting the license to the successful applicant constituted a clear abuse of discretion. In light of the council's broad discretion in licensing cases, courts do not often overturn a council's denial of these types of licenses.

RELEVANT LINKS:

1. Discretion in administering licenses

After adopting a licensing ordinance, a council's continued role in the licensing process depends on the amount of discretion involved in granting the license. In the case of the keeping of animals, for example, issuing a license may represent a purely ministerial act. In such a case, issuing a license to keep an animal can fall within duties of a clerk or an administrative officer. The person applying for an animal license, however, should have the opportunity to appeal a denial. This chance to appeal protects the denied applicant's due-process rights.

State ex rel. Labovich v. Redington, 119 Minn. 402, 138 N.W. 430 (1912).

In other instances, such as licensing liquor sales, dance halls, theaters or activities that have the potential to cause problems, discretion becomes an essential part of license administration. Making an administrative official, rather than the council, responsible for licensing in these instances not only seems impractical, but it may also be illegal.

State v. Brattrud, 210 Minn. 714, 297 N.W. 713 (1941).

The duty of the mayor and clerk of statutory cities to attach their signatures to licenses represents a ministerial function, not a discretionary one. They may not refuse to sign unless they consider the license illegal.

2. Issuing licenses to councilmembers

Minn. Stat. § 471.87. Minn. Stat. § 471.88.

With some specific exceptions, no councilmember may have a direct financial interest in a contract with a city. This, however, does not apply to the granting of licenses—at least where the licensee does not need to furnish a bond—because a license constitutes a privilege, not a contract.

A.G. Op. 90-A (Aug. 15, 1934).
LMC information memo, *Official Conflict of Interest.*
Handbook, *Elected Officials and Council Structure and Role*.

In instances other than contracts, councilmembers who have a personal interest in a matter before the council, such as a license application, should disqualify themselves from participating in the discussion or from voting on the matter.

This may include situations when a councilmember holds a license, and the council is considering disciplinary action against a license holder of a similar license or is considering the granting of a similar license. The councilmember could have a sufficient personal interest in the outcome and not want to participate in the matter.

Typically, this potential competitive interest likely would not result in a legal conflict of interest; however, the interested councilmember may prefer to avoid the possibility of criticism by removing themself from the disciplinary proceedings and abstaining from the vote.

RELEVANT LINKS:

3. Number of licenses

Troje v. City Council of City of Hastings, 310 Minn. 183, 245 N.W.2d 596 (1976). *Minneapolis Taxi Owners Coalition, Inc. v. City of Minneapolis,* 572 F.3d 502 (8th Cir. 2009).

Just as cities have discretion in setting higher license fees for businesses and activities that require a higher level of investigation and inspections, cities also have the power to limit the number of licenses issued for a particular type of business or activity, if the business or activity may create a nuisance that threatens the public welfare. For example, a city may choose to award only one license for garbage collection if it finds it in the public interest to do so.

Cities should use caution in restricting licenses since courts will closely scrutinize such limitations. Indeed, anti-trust problems also may arise if the number of licenses unreasonably restricts trade.

4. Extending licenses beyond council term

In general, the council may grant a license extending for a limited amount of time beyond the term of office of some of the current council members. It is common practice to have all licenses expire at the same time, usually without regard to the remaining portion of the term of councilmembers. In the absence of a special charter provision, a statute, or an ordinance restriction, no legal barrier to this practice exists.

5. Right to renewal

State v. Havorka, 100 Minn. 249, 110 N.W. 870 (1907). *Paron v. City of Shakopee*, 226 Minn. 222, 32 N.W.2d 603 (1948). *Ukkonen v. Gustafson*, 309 Minn. 260, 244 N.W.2d 139 (1976).

Tamarac Inn, Inc. v. City of Long Lake, 310 N.W.2d 474 (Minn. 1981).

When a license comes up for renewal, the licensee sits in the same position as any other applicant, unless a statute or charter provides otherwise. At the end of a license period, the licensee has no vested right in the license. The courts, however, will review the non-renewal of an existing license with increased scrutiny, similar to a revocation.

A city may deny the renewal of a business license if the licensee fails to comply with the ordinance and even, in some instances, for other reasons not specifically addressed in the licensing ordinance, so long as those reasons are not unnecessary, unreasonable, or oppressive to the licensee's business or licensed activities. A city always should give the licensee notice of the alleged violations of the licensing ordinance and the reason for the denial.

6. Refusal to issue license

Refusing a license also involves the exercise of reasonable discretion. A city council is not required to issue a license to every applicant.

RELEVANT LINKS:

Working America, Inc. v. City of Bloomington, 142 F.Supp.3d 823 (D.Minn. 2015).

State ex rel. Minces v. Schoenig, 72 Minn. 528, 75 N.W. 711 (1898). But cf. *State ex rel. Gopher Sales Co. v. City of Austin*, 246 Minn. 514, 75 N.W.2d 780 (1956).

Wajda v. City of Minneapolis, 310 Minn. 339, 246 N.W.2d 455 (1976).

In Re Walker's License, 210 Minn. 337, 300 N.W. 800 (1941). *Peterson v. Minneapolis City Council,* 274 N.W.2d. 918 (Minn. 1979).

State ex rel. Labovich v. Redington, 119 Minn. 402, 138 N.W. 430 (1912). *Franklin Theater Corp. v. City of Minneapolis*, 293 Minn. 519, 198 N.W.2d 558 (1972). *State v. Scatena,* 84 Minn. 281, 87 N.W. 764 (1901).

Minn. Stat. § 340A.415.

An ordinance, however, cannot authorize the council to discriminate between applicants either by granting a license to one and refusing a license to another without good reason, or to prohibit the business altogether by refusing to issue any licenses.

If an applicant has a history of dishonesty, or habitually resorts to fraudulent tricks and devices in conducting sales, a city council may refuse to issue a license. If a city council, however, arbitrarily refuses to grant a license to one type of citizen group and not another, or to prohibit the business altogether, the aggrieved party would have a legal remedy.

7. Grounds for denying a license

Before denying a license, city officials should make findings justifying the denial and support the denial with evidence. When a city exercises discretion and acts in a quasi-judicial capacity, the courts will not overturn a city's denial of a license when a city has provided a clear record supported by evidence justifying its actions.

Without clear findings of fact in the record, licensees have a better chance at claiming a city violated constitutional provisions, exceeded its statutory authority, made its decision based on an unlawful procedure, acted arbitrarily or capriciously, made an error of law, or lacked substantial evidence in view of the entire record submitted. However, proof in the record of one or more of the following common reasons often justify denial of a license:

- The applicant does not comply with (valid) prerequisites and conditions in the ordinance.
- The applicant is not of "good moral character," and the license is for a profession or occupation that affects the public health, safety, morals, or general welfare. The ordinance does not need to define "good moral character," or phrases like "professional misconduct." However, a city cannot disqualify a person from a licensed occupation because of a prior conviction of a crime (unless the crime directly relates to the occupation for which the person is seeking the license).
- The granting a license would threaten the safety, health, morals, and welfare of the public.
- The applicant made material misrepresentations in the application.

8. Power to suspend or revoke licenses

Most state laws granting particular licensing authority say nothing about suspension or revocation.

RELEVANT LINKS:

State ex rel. Peterson v. City of Alexandria, 210 Minn. 260, 297 N.W. 723 (1941). *Standard Oil Co. v. City of Minneapolis*, 163 Minn. 418, 204 N.W. 165 (1925).

Sabes v. City of Minneapolis, 265 Minn. 166, 120 N.W.2d 871 (1963).

City of Mankato v. Mahoney, 542 N.W.2d 689 (Minn. Ct. App. 1996).

E.T.O., Inc. v. Town of Marion, 375 N.W.2d 815 (1985). *Warsett v. City of Crystal,* 310 Minn. 325, 246 N.W.2d 182 (1976). A.G. Op. 218-G-14 (Oct. 21, 1941). A.G. Op. 218-G-14 (April 8, 1940).

An exception is the Intoxicating Liquor Act, which authorizes revocation or suspension for violation of any statute or ordinance relating to the sale of intoxicating liquor. Even where the statute or charter is silent with reference to revocations, the power to revoke is implied.

The same holds true for suspensions. Because suspension represents a less drastic penalty than revocation, the council probably has power to provide for suspensions whenever it has power to revoke. Suspension may occur without subsequent revocation.

The power to revoke or suspend is not absolute. A city must exercise honest and reasonable discretion and cannot act in an arbitrary or capricious manner. In addition, the law or ordinance must state the grounds for suspension or revocation and must reasonably relate to the public health, safety, morals, or welfare. Loss of the qualifications necessary to receive the license justifies revocation, as well as proof that misrepresentations on the application acted as the basis for establishing the necessary qualifications in the first place. Violation of any reasonable regulations related to the licensed business or activity also can result in revocation or suspension.

In some instances, unprofessional or dishonorable conduct may lead to suspension or revocation when the dishonesty or unprofessionalism relates to the licensed business. The attorney general found that willful misconduct of a law substantiating a license revocation or suspension need not result in an actual conviction; rather, proof of intentionally or knowingly engaging in the misconduct suffices. Best practice requires cities to work closely with the city attorney when dealing with revocation or suspension of a license.

a. Due process procedures for denying, revoking, or suspending licenses

Klingner v. City of Braham, 130 F. Supp. 2d 1068 (D. Minn. 2001). A.G. Op. 218-G-14 (April 8, 1940).

Federal courts are divided on whether licensees deserve due process in licensing. In the Eighth Circuit (the federal court to which Minnesota looks for guidance), due process applies if licensees can show either a property or deeply rooted fundamental interest in the renewal, transfer, or grant of the license.

Greater Duluth COACT v. City of Duluth, 701 F. Supp. 1452 (D. Minn. 1988).

If a property interest or fundamental interest exists in the grant, renewal, or transfer of the license, then cities must provide the licensee with sufficient due process. To meet constitutional requirements of providing due process when acting on license applications, suspensions or revocations, a city should provide:

RELEVANT LINKS:

Sabes v. City of Minneapolis, 265 Minn. 166, 120 N.W.2d 871 (1963). *State v. City of Duluth*, 125 Minn. 425, 147 N.W. 820 (1914).
Greater Duluth COACT v. City of Duluth, 701 F. Supp. 1452 (D. Minn. 1988).
Trumbull Div., Owens-Corning Fiberglass Corp. v. City of Minneapolis, 445 F. Supp. 911, 917 (D. Minn. 1978).
In re License of West Side Pawn, 587 N.W.2d 521 (Minn. Ct. App. 1998).

Hymanson and Lucky Lanes Inc. v. City of St. Paul, 329 N.W.2d 324 (Minn. 1983).

- A notice that specifies the time and place of the hearing, a statement of the charges, the facts supporting the grounds for the charges, and the applicant's right to be present and represented by counsel.
- A notice that the council will consider revocation due to the conduct and operation of the licensee's business does not suffice, unless the licensee receiving that notice had previous actual knowledge of the charges, the charges were proven, and the licensee had ample opportunity to be heard. A city still needs to reference the reason for the revocation or denial. To satisfy the due process notice standards, the notice must be mailed first class, addressed to the licensee, state the alleged ordinance violations, and inform the addressee that the council will consider suspending the license at an upcoming meeting.
- A hearing before the council or other licensing body. The council may, but need not, appoint a hearing examiner. The hearing should include a presentation of evidence to support the charges. The licensee should then have ample opportunity to refute the charges, to plead for retention of the license, or to justify the actions for which a city is seeking suspension or revocation. The council need not follow formal rules of evidence at the hearing, but the licensee should have ample opportunity to present a defense, including the following:
    - The right to cross-examine the witnesses who testify against the applicant or licensee.
    - The right to produce witnesses on their behalf.
    - A full consideration and a fair determination according to the evidence of the controversy.
    - A record or transcript of the hearing.

If the council finds a revocation or suspension necessary, it should adopt a resolution revoking or suspending the license as of a specified date.

The resolution need not recite the charges in the revocation or suspension. The council should send the licensee notice of the revocation, along with its findings or reasons for action. The licensee should receive this notice even if the licensee had attended the meeting where the council made its decision.

Flame Bar v. City of Minneapolis, 295 N.W.2d 586 (Minn. 1980).

Minn. Stat. § 340A.415.
Minn. Stat. ch. 14. CUP *Foods, Inc. v. City of Minneapolis*, 633 N.W.2d 557 (Minn. Ct. App. 2001).

A licensee may appeal a denial, revocation, or suspension to the court within the statutory time limit for appeal.

In an appeal, a court reviews the record kept by the municipal body. Accordingly, a city should thoroughly document and state, in detail, the reasons for the council's actions. The Administrative Procedures Act does not require transcribing notes unless someone requests them for purposes of rehearing or court review. A tape recording suitable for transcription should suffice.

RELEVANT LINKS:

Micius v. St. Paul City Council, 524 N.W.2d 521 (Minn. Ct. App. 1994).

When the issuing or the denial of a license involves discretion, or when a license has been suspended or revoked following a quasi-judicial hearing, the applicant or licensee can appeal via a writ of certiorari filed with the court of appeals. Again, the courts will not substitute their judgment for that of a city unless the court deems a city acted in an arbitrary or capricious manner. Generally, when a city clearly documents its reasons for its actions and cites specific evidence supporting those findings, the reviewing court will uphold a city's decision.

b. Necessary revocation

Minn. Stat. § 340A.415.

Except when a statute or ordinance provides otherwise, revocation for particular violations or other cause is discretionary, not mandatory.

If the council believes a particular revocation does not further a public interest, it may keep the license in force. The council may, by ordinance, provide for mandatory revocations (even if state law does not require it) if a city provides notice and a hearing. However, councils may find it difficult to administer automatic revocations for certain acts. In some cases, state law requires mandatory revocation for failure to conform to specific parts of the liquor or beer laws.

III. Licensed activities

The following subsections represent a selection of commonly licensed activities in cities. This list does not represent all the activities a city may license. Any city with questions about licensing an activity not covered in this Handbook should contact its city attorney. In addition, LMC maintains files of sample ordinances and other information that might be of assistance.

A. Rental housing

Camara v. Municipal Court of San Francisco, 387 U.S. 523 (U.S. 1967). *Rozman v. City of Columbia Heights*, 268 F.3d 588 (8th Cir. 2001). *Stewart v. City of Red Wing*, 554 F. Supp. 2d 924 (D. Minn. 2008).

McCaughtry v. City of Red Wing, 808 N.W.2d 331 (Minn. 2011), remanded to *McCaughtry v. City of Red Wing*, 816 N.W. 2d 816 (Minn. Ct. App. 2012), affirmed at *McCaughtry v. City of Red Wing*, 831 N.W.2d 518 (Minn. 2013).

Cities have an important interest in ensuring that rental housing does not endanger the health or safety of tenants and the community as a whole. Cities may adopt an ordinance requiring landlords to obtain licenses for rental properties. Some of the goals of a rental housing licensing program include:

- Addressing life, safety, general welfare, and health issues.
- Providing minimum standards for safe housing conditions related to safe living conditions such as cooking, heating, light, and ventilation.
- Providing minimum standards for building maintenance.
- Preventing blight due to dilapidated or substandard rental housing stock.

RELEVANT LINKS:

City of Golden Valley v. Wiebesick, 899 N.W.2d 152 (Minn. 2017).

Inspections of rental housing represent a common, but often controversial, condition for issuing or renewing rental licenses. If the owner or tenant refuses to consent to the inspection, then a city can pursue an administrative warrant based on reasonableness and a balancing of "the need to search against the invasion which the search entails." The Minnesota Supreme Court has found that, to obtain these warrants, a city need not prove individualized suspicion of a code violation where the warrant issued by a district court satisfies an ordinance containing reasonable standards. Cities should work closely with a city attorney to ensure the reasonableness of all components of a particular rental ordinance.

B. Liquor

Dakota Liquor, Inc. v. City of Prior Lake, A08-1783 (Minn. Ct. App. July 28, 2009)(unpublished decision).

LMC information memo, *Liquor Licensing and Regulation.*

In Minnesota, unlike most other states, state law generally gives cities the authority to issue retail liquor licenses. Cities may further limit the sale of intoxicating liquor but must do so in a local ordinance that a city consistently applies. State law lists many different types of liquor licenses, including new niche and specialty liquor licenses. LMC publishes an information memo that discusses liquor licensing and regulation of liquor sales by cities in detail.

C. Solid-waste collection

Minn. Stat. § 115A.93.
Troje v. City Council of Hastings, 310 Minn.183, 245 N.W.2d 596 (1976).

A person, or entity, may not operate a business to collect mixed municipal solid waste without a license from the city where the solid waste is collected. The local licensing entity shall submit a list of licensed collectors to the Pollution Control Agency.

A licensing authority shall require licensees to impose charges for collection of mixed municipal solid waste that increase with the volume or weight of the waste collected and must prohibit mixed municipal solid waste collectors from imposing a greater charge on residents who recycle than on residents who do not.

D. Animals

Minn. Stat. § 412.221, subd. 21.
LMC information memo: *Animal Regulation in Cities.*

State law allows city councils, by ordinance, to regulate the keeping of animals; to restrain their running at large; to authorize their impounding and sale or summary destruction; to establish pounds; and to license and regulate riding academies. While this probably does not authorize a complete prohibition against keeping animals within the city limits, it does permit reasonable regulations preventing a public nuisance.

RELEVANT LINKS:

For example, cities may prohibit farm animals from certain zoning districts within the city. Because of the many considerations going into regulation of animals, cities should work with their city attorneys, as well as consult state law and rules before adopting a comprehensive animal control ordinance.

1. Regulated exotic animals

Minn. Stat. § 346.155.

State law regulates the purchase, possession, breeding, and sale of large cats, bears, and nonhuman primates. A regulated animal includes any hybrid or cross between an animal listed above and a domestic animal, and offspring from all subsequent generations of those crosses or hybrids. Cities may adopt exotic animal ordinances so long as the ordinance does not conflict with any state law, which means the ordinance cannot forbid what the statute expressly permits.

Eureka Twp. V. Petter, A17-0020 (Minn. Ct. App. Sept. 5, 2017) (unpublished decision).

Cities should work with their city attorneys when drafting exotic animal ordinances since any number of state laws could conflict, including, but likely not limited to, fur farming for agricultural purposes and game and fish laws.

Every person that possesses one or more of these regulated animals must be licensed by the USDA and must notify, in writing, the local animal control authority using a registration form prepared by the Minnesota Animal Control Association and approved by the Board of Animal health. The local animal control authority can perform an initial site inspection and additional site inspection as the licensee acquires another regulated animal. However, state law sets a maximum amount the local animal control authority can charge for these site inspections. State law also criminalizes negligent failure to control a regulated animal or keep it properly confined if the animal causes harm to another person.

2. Dogs and cats

This section refers specifically to dogs because most cities regulate them by licensure, but a city may apply the same regulatory measures to other animals—such as cats. The League has sample ordinances regulating many different types of animals.

a. Dogs on restaurant patios

Minn. Stat. § 157.175.

A statutory or charter city may adopt an ordinance permitting local restaurants to allow dogs to join people on restaurant patios. Cities may charge reasonable fees to cover the cost of issuing such permits and regulating the activity. The ordinance must, at a minimum, contain the following provisions:

RELEVANT LINKS:

- A requirement that participating establishments apply for and receive a permit from the city before allowing patrons' dogs on their premises.
- Regulations and limitations as the local government deems necessary to protect the health, safety, and welfare of the public.
- A definition of "designated outdoor area" that is consistent with applicable rules adopted by the Department of Health.

The ordinance must not:

- Prohibit a food and beverage establishment from banning dogs.
- Limit the right of a person with disabilities to access places of public accommodation while accompanied by a service animal.

Before passing ordinances related to animals, cities may hold public hearings to gather feedback, public comment, and background information.

b. Dangerous dogs

Minn. Stat. § 347.542.

State law prohibits dog ownership by those who previously violated laws governing dangerous dogs or other laws related to animals.

Minn. Stat. §§ 347.50 to 347.56.
Minn. Stat. § 609.226.
Minn. Stat. §§ 347.40-.56.
Hannan v. City of Minneapolis, 623 N.W. 2d 281 (Minn. Ct. App. 2001).

In addition, state law expressly grants cities authority to regulate potentially dangerous dogs, but specifically prohibits ordinances that deal with specific breeds of dogs.

Minn. Stat. § 347.565.

Animal control authorities or local law enforcement agencies authorities must enforce the dangerous and potentially dangerous dog laws regardless of whether a city has adopted a local ordinance on the issue.

Minn. Stat. § 347.50.

LMC information memo: *Animal Regulation in Cities.*

An "animal control authority" is defined as "an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction."

Sawh v. Lino Lakes, 823 N.W.2d 627 (Minn. 2012).

While the law is not clear on a city's role in enforcing the dangerous and potentially dangerous dog provisions, if a city does not have an animal control operation or law enforcement agency, it seems that if the city already regulates animals, it likely would also have some level of responsibility for enforcing the dangerous and potentially dangerous laws. Cities also must include procedures for enforcing a local ordinance, including due process procedures. Due process simply means the city gives the owner notice and a chance to be heard before the city takes action.

RELEVANT LINKS:

3. Animal licensing generally

Minn. Stat. § 412.221, subd. 21.

As stated above, cities may adopt ordinances to license dogs and regulate their keeping. The license fee must be reasonable, but substantial enough to cover regulatory costs. Cities usually license dogs once they reach a certain age, usually three to six months old.

Whether or not an animal owner may keep an animal on the owner's property without a license fee or payment of the license fee depends on the ordinance. Most ordinances require licenses no matter where the animal is kept. In almost all cases, the city clerk has the duty to collect license fees; keep a list of dogs, cats, and owners; and issue license tags. Some cities, however, give these duties to the city police.

LMC information memo, *Data Practices: Analyze, Classify and Respond.*

License data generally represents public data under the Minnesota Government Data Practices Act (MGDPA). Because the MGDPA does not specifically classify pet licensing data as "not public", the data is presumed public. A city appointed "responsible authority" cannot ask about the proposed use of requested data and cannot withhold data based on knowledge or suspicion of a proposed use.

As a result, no legal basis exists for withholding the data. It is entirely appropriate for the responsible authority to provide a license applicant with a Tennessen warning that informs the applicant of the public nature of the data and the possibility of disclosure upon request, along with the city's reason for collecting the data.

Minn. Stat. § 412.221, subd. 21.
Minn. Stat. ch. 347.
Minn. Stat. § 347.22.

LMC information memo: *Animal Regulation in Cities.*

Cities may, by ordinance, prevent animals from running at large. Usually, such a prohibition includes a licensing requirement that finances enforcement. Cities also may impound and destroy animals found running at large if this violates the local animal ordinance. Again, cities should work with city attorneys and consult state law and rules for the detailed procedures and considerations involved in impounding or destroying animals.

E. Peddlers and transient merchants

Minn. Stat. § 412.221, subd. 19.
Minn. Stat. § 329.11.
Minn. Stat. § 329.15.
Minn. Stat. § 437.02.
Reed v. Town of Gilbert, 135 S.Ct. 2218, 2227 (2015).
Working America, Inc. v. City of Bloomington, 142 F.Supp.3d 823 (D. Minn. 2015).

Both statutory cities and counties have the legal authority to license and regulate transient merchants (including hawkers), peddlers, and solicitors, but must do so within the confines of state and federal constitutions. Home rule charter cities also have express authority to regulate such activities and the charters frequently reflect this authority. Because of First Amendment issues, cities should regulate solicitors, peddlers, and transient merchants cautiously and get city attorneys involved in the drafting of ordinances that establish a licensing scheme for peddlers, transient merchants, and solicitors.

RELEVANT LINKS:

LMC information memo, *Regulating Peddlers, Solicitors and Transient Merchants.*

Hynes v. Mayor and Council of Borough of Oradell, 425 U.S. 610 (1976).

Working America, Inc. v. City of Bloomington, 142 F.Supp.3d 823 (D. Minn. 2015).

Watchtower Bible & Tract Society of New York, Inc. v. Village of Stratton, 536 U.S. 150 (2002).

Minn. Stat. 157.15, subd. 9.

See Minnesota Department of Health.

Solicitation represents a form of expression entitled to the same constitutional protections as traditional speech.

A city's ordinance must not treat individuals differently depending on the function or purpose of their speech.

Not only are cities prohibited from regulating charitable and religious solicitors because of First Amendment rights of free speech and freedom of religion, cities must be careful in regulating activities related to the exercise of constitutional rights when peddling, soliciting, and engaging in transient merchant sales.

The test focuses on whether the regulation turns on the message or purpose of the speech from the licensee (often this involves an analysis of whether the message or purpose has a component of advocacy).

If so, then a court likely would see regulation of this activity as regulating speech and would review with strict scrutiny, which means the court would only uphold the ordinance if the court finds the city interest in regulating the activity compelling (not just legitimate) and the court deems the city had no other alternatives.

A U.S. Supreme Court decision prohibits cities from even registering those going from place to place to exercise their constitutional rights of free speech and freedom of religion.

Additionally, courts have invalidated time restrictions or curfews set forth in ordinances when the ordinance or cities, in practice, did not universally apply the same limits to all peddlers, solicitors, and transient merchants.

F. Mobile Food Units (Food Trucks)

A "mobile food unit" is defined as a food and beverage service establishment that is a vehicle mounted unit, either: motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority or operated in conjunction with a permanent business licensed under Minnesota Statute, chapters 157 or 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

There are no uniform rules relating where and when mobile food units may operate. However, all food trucks must be licensed with the Minnesota Department of Health. Cities also have the authority to license mobile food trucks by ordinance. Cities take different approaches to regulating food trucks. If a city wants to regulate food trucks a few things to consider are:

RELEVANT LINKS:

- Effects on brick-and-mortar establishments.
- Locations where food trucks will be allowed.
- Public safety.
- Hours of operation.
- Access to utilities.
- Trash and signage.

G. Utilities and telecommunications providers

Minn. Stat. § 237.162.
Minn. Stat. § 237.163.
Minn. Stat. § 216B.36 (public utilities).

Cities do not have the right to franchise telephone companies, although cities do have the right to franchise gas and electric franchises.

U.S. West Communications Inc. v. City of Redwood Falls, 558 N.W. 2d 512 (Minn. Ct. App. 1997).
See LMC information memo, *Cell Towers, Small Cells and Distributed Antenna Systems*.
See LMC information memo, *Regulating City Rights of Way.*

Under state law, cities also have the right to manage and recover actual expenses for the excavation, disruption, degradation, and management of the use of local rights-of-way by telecommunications service providers. However, federal regulations may limit this authority. Because of the complexity of this issue, cities wanting to regulate users of the public rights-of-way, should consult League publications and work with their city attorney to develop the appropriate ordinance provisions and cost recovery systems.

H. Wireless telecommunication towers and antennas

See LMC information memo, *Cell Towers, Small Cells and Distributed Antenna Systems.*

Within the confines of applicable federal and state law, cities also have some authority to regulate the siting of wireless telecommunications towers, antennas, and small cell equipment/distributed antenna systems (DAS). Implicit in the cities' rights to manage rights of way and exercise local land use authority, many cities adopt specific telecommunications ordinances or amend their rights-of-way ordinance to address the siting of telecommunication/personal communication structures and equipment.

However, state law specifically regulates the siting of small wireless facilities on city-owned structures in the rights-of-way ("collocating"), including limiting the amount cities can charge for rent and setting forth specific collocation permitting criteria. In addition, the Federal Communications Commission has place additional regulations on wireless telecommunication citing regulations.

Again, because of the complexity of this issue, cities wanting to regulate wireless companies or other users of the public rights of way should consult League publications and work with their city attorney to develop the appropriate ordinance provisions, agreements, and cost recovery systems.

RELEVANT LINKS:

I. Entertainments

Minn. Stat. § 412.221, subd. 27.

State law no longer requires a license and police protection for public dances. Cities still have the authority, however, to regulate public dances. Cities also may regulate other types of entertainment not otherwise subject to state licensing, such as bowling alleys, recreational rides, shooting ranges, and sliding hills.

J. Carnival, circus, or fair

Minn. Stat. § 28A.065.

Minn. Stat. § 437.07.

No person who obtains a state food handling license for a carnival, circus, or fair shall be required to obtain any additional license or permit from a city to engage in any aspect of food handling or to operate a restaurant. However, a city may require a carnival, circus, or fair to comply with any sanitation, public health, or zoning ordinance, or privilege license requirements when held within the city's jurisdiction.

No city council may permit or allow an itinerant carnival, street show, street fair, sideshow, circus, or any similar enterprise within one mile of the corporate limits of any city of the fourth class without having first obtained in writing the consent thereto from the council of that city of the fourth class.

K. Tobacco and related products

Minn. Stat. § 461.12, subd. 1.
Public Health Law Center at Mitchell Hamline School of Law Model Ordinance.

Cities may license and regulate all retailers that sell tobacco products, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products. If a city does not adopt its own tobacco licensing ordinance, then the county must do so.

1. Tobacco

Minn. Stat. § 297F.01, subd. 19.
Minn. Stat. § 461.12, subd. 1-2, 4-5.
Minn. Stat. § 461.18, subd. 1.
Minn. Stat. § 609.685, subd. 1.

See also, Public Health Law Center at Mitchell Hamline School of Law, Minnesota's Tobacco Modernization and Compliance Act of 2010 - Information Sheet.

State law specifically defines and lists out products that constitute "tobacco", tobacco related products, electronic delivery devices and nicotine and lobelia delivery products. Consult the statutory resources cited on the left when determining regulation of specific products.

The definition of tobacco excludes any tobacco product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and marketed and sold solely for such an approved purpose.

RELEVANT LINKS:

2. Promotional products

Minn. Stat. § 325F.77, subd. 4.

No person shall distribute smokeless tobacco products or cigarettes, cigars, pipe tobacco, or other tobacco products suitable for smoking as defined, except that tobacco stores may distribute single serving samples in the store.

3. Tobacco-related devices

Minn. Stat. § 609.685, subd. 1(b).

State law defines tobacco-related device to include cigarette papers or pipes for smoking or other devices intentionally designed or intended for use in a manner that enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. State law prohibits the sale or furnishing of pipes, cigarette papers, tobacco related devices, and tobacco to minors. Cities can provide for more stringent regulation of these types of sales.

4. Electronic delivery device

Minn. Stat. § 609.685, subd. 1(c).

An electronic delivery device means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that a person can use to simulate smoking through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately.

Electronic delivery device does not include any product approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and marketed and sold for such an approved purpose. Selling "nicotine delivery products" to a minor constitutes a crime.

Minn. Stat. § 609.6855.

Nicotine delivery products include any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined by state law.

5. City ordinances licensing sale of tobacco and tobacco-related products

Minn. Stat. § 461.19.
Public Health Law Center at Mitchell Hamline School of Law Model Ordinance.

Cities may regulate the sale of these new forms of tobacco the same way they have always regulated traditional cigarettes, cigars, snuff, and chew via a local licensing ordinance. A city wishing to adopt an ordinance licensing the sale of tobacco and tobacco-related devices must give general notice of the intent to adopt or amend a tobacco ordinance and must give retailers 30 days' written notice of the time, place, and subject matter of the meeting where the proposed ordinance or amendments are to be considered.

RELEVANT LINKS:

A tobacco licensing ordinance, whether adopted by the county or a city, must contain at least the following provisions:

Minn. Stat. § 461.12.

- Establish an administrative hearing system where an alleged violator has the right to be heard before a designated hearing officer or panel (which could be the city council) and where a fine, instead of a criminal penalty, could be imposed for violating the ordinance. State law establishes a schedule of fines.

Minn. Stat. § 461.18.

- Provide for and conduct at least one unannounced compliance check each year.
- Prohibit self-service (vending machines) sales of individual cigarette packages, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products, except in establishments that prohibit minors, and in establishments that derive at least 90 percent of their revenue from the sale of tobacco.

Public Health Law Center at Mitchell Hamline School of Law, Tobacco Control.

In addition to the required regulations noted above, cities may also regulate other aspects of tobacco retail sales. Some of these restrictions may include:

- Limiting the sale of flavored tobacco products.
- Raising minimum age of tobacco sales.
- Limiting the use of coupons or other discounts for tobacco products.
- Regulating the location, density, and type of tobacco retailers.
- Setting a minimum price and package size for tobacco products.
- Limit the use of samples.

More information on these optional restrictions can be found through the Public Health Law Center at Mitchell Hamline School.

Minn. Stat. § 461.12, subd. 1.

The ordinance may establish a licensing fee sufficient to cover the costs of enforcing the above provisions.

6. Hookah

Minn. Stat. § 461.19.

A hookah, also known as shisha and nargile, is a waterpipe used for smoking flavored tobacco. Shredded tobacco leaf flavored with molasses, honey or dried fruit commonly is used in the hookah waterpipe. It is unclear if the Clean Indoor Air Act covers hookah; however, many communities have chosen to regulate hookah under their tobacco regulations.

A city ordinance regulating sales of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia products may be more restrictive than state law.

RELEVANT LINKS:

2023 Minn. Laws ch. 63, art. 1.

See LMC FAQ: *Adult-Use Cannabis: What Cities Need to Know.*

Office of Cannabis Management webpage.

Minn. Stat. 342.13(f).

Minn. Stat. 342.13(g).

Minn. Stat. 342.22.

Minn. Stat. 342.22, subd. 2.

L. Adult-Use Cannabis

In 2023, the Minnesota legislature passed a new law that legalized adult-use cannabis and established a regulatory framework for the cannabis industry. Since the enactment of the law, the League of Minnesota Cities has been researching and collecting information from state agencies and stakeholders to answer questions pertaining to the new law and its implication on municipalities.

The new law established the Office of Cannabis Management (OCM) which is charged with enforcing an organized system of regulation, including licensing, for the cannabis industry and the hemp consumer industry. OCM licensing for the sale of cannabis is not expected until 2025.

A city may not require additional licenses other than the cannabis licenses issued by the OCM. However, the OCM will forward applications to cities for them to certify whether the proposed cannabis business complies with local zoning ordinance, and if applicable whether the proposed business complies with the state fire and building code. The OCM may not issue a license to a cannabis business that does not meet local zoning and land use laws.

In addition, upon receipt of an application for a cannabis license, the OCM will contact the city in which the business would be located and provide the city with 30 days in which to provide input on the application. This is the city's opportunity to provide the OCM with any additional information it believes is relevant to the OCM's decision on whether to issue a license, including but not limited to identifying concerns about the proposed location of a cannabis business, or sharing public information about the applicant.

Before a cannabis business begins making retail sales, it will be required to register with the city in which it is located. The city must issue a retail registration to a cannabis business when it has a valid license issued by the OCM, has paid the registration fee, is found to be in compliance with the requirements of the applicable state laws through a preliminary compliance check performed by the city, and is current on all property taxes and assessments at the location where the retail establishment is located.

The city may impose an initial retail fee of $500 or up to half of the amount of the applicable initial license fee charged by the OCM, whichever is less.

RELEVANT LINKS:

Minn. Stat. 342.22, subd. 2.

The city may also charge a renewal retail registration fee of $1,000 or up to half the amount of the applicable renewal license fee charged by the OCM, whichever is less.

Minn. Stat. 342.13(i).

Minn. Stat. 342.13(j).

A city that issues cannabis retailer registrations may, by ordinance, limit the number of licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement to no fewer than one registration for every 12,500 residents. In addition, if a county has one active registration for every 12,500 residents, a city within the county is not obligated to register any additional cannabis businesses.

M. Edible Cannabinoid Products

2022 Minn. Laws ch. 98, art. 13, § 3-9 amending Minn. Stat. § 151.72.

See LMC FAQ: *Adult-Use Cannabis: What Cities Need to Know*.

Prior to the new Cannabis law, the Minnesota legislature passed a law that allows for the sale of certain edible and beverage products infused with tetrahydrocannabinol (THC). Cities may continue to license edible cannabinoid products until the OCM begins issuing licenses. Those businesses that sell edible cannabinoid products to consumers must register with OCM before selling products.

2024 Minn. Laws ch. 121 art. 2 § 9, subd. 5b.

Once the OCM begins issuing lower-potency hemp edible retailer licenses, cities are likely preempted from continuing to issue their own licenses and would begin registering retailers through the city's cannabis retailer registration process.

2024 Minn. Laws ch. 121 art. 2 § 9, subd. 5b.

Further, until the OCM begins issuing licenses, the on-site consumption of edible cannabinoid products is limited to those businesses with an on-sale liquor license issued under Minnesota Statutes, Chapter 340A. Once OCM is set up, it will issue on-site consumption for cannabis license holders. In addition, the following conditions must be met:

- Products, other than those intended to be consumed as a beverage, must be served in original.
- Products may not be sold to an intoxicated customer.
- Products must not be permitted to be mixed with alcoholic beverages.
- Products removed from packaging must remain on premises.
- Products that are intended to be consumed as a beverage may be served outside of the products' packaging if the information that is required to be contained on the label of an edible cannabinoid product is posted or otherwise displayed by the retailer.

After the OCM is set up, it will issue on-site consumption endorsements for cannabis license holders.

RELEVANT LINKS:

A city's authority to license comes from either a specific grant of authority from the Legislature or from its authority to provide for its general health, safety, and welfare. A city that chooses to license edible cannabinoid sellers should do so separately from tobacco regulations, as the products and the authority to regulate them are quite different. City regulations for cannabinoid products should include language that follows the unique requirements of the new law.

N. Tear gas and electronic incapacitation devices

Minn. Stat. § 624.731, subd. 3.

Generally, those over 16 years of age may possess and use an authorized tear gas compound from an aerosol container to defend themselves or their property. A person over 18 years of age may possess and use an electronic incapacitation device to defend themselves or their property only if the electronic incapacitation device is labeled with or accompanied by clearly written instructions as to its use and the dangers involved in its use.

Minn. Stat. § 624.731, subd. 9.

Cities have the authority to license vendors of tear gas, tear gas compounds, authorized tear gas compounds, or electronic incapacitation devices within their respective jurisdictions; to impose a license fee therefor; to impose qualifications for obtaining a license or the duration of licenses; and to restrict the number of licenses the governing body will issue. The local governing body may establish the grounds, notice, and hearing procedures for revocation of licenses issued. The local governing body also may establish penalties for sale of tear gas, tear gas compounds, authorized tear gas compounds, or electronic incapacitation devices in violation of its licensing requirements.

O. Pawnbrokers

Minn. Stat. § 325J.02.
Minn. Stat. § 325J.13.

Cities may regulate pawn transactions and license pawnbrokers, but state law establishes minimum standards any ordinance or regulation must include. Municipalities may provide for more restrictive regulation on pawnbrokers or pawn transactions except that a city ordinance must mirror state law regarding:

- Requiring a pawnbroker to return pledged goods or pay for them upon payment in full, unless more than 60 days after the redemption date has passed or law enforcement has taken the goods into custody.
- Permitting a pawnshop to remove unredeemed pawned items from the pawnshop or approved storage place without selling the items, so long as the redemption period has expired.

Minn. Stat. § 325J.13.
Minn. Stat. § 325J.08 subds. 7, 10.

Additionally, local ordinances must allow pawnbrokers to:

RELEVANT LINKS:

- Return pawned goods to the borrower during the redemption period.
- Sell pledged goods or remove them from the pawnshop or other storage after the redemption period ends.
- Sell or remove purchased goods from the pawnshop or other storage 31 days after the purchase date if the pawnbroker buys goods other than through a pawn transaction.

Pawnbrokers in business when a municipality adopts an ordinance must apply for a license and pay the required fee within six months of adoption of the ordinance.

P. Secondhand goods dealers

Minn. Stat. § 412.221, subd. 32.
Minn. Stat. § 471.927.

Cities may, by ordinance, regulate and license dealers of secondhand goods for the general welfare of city residents. Counties also have the authority to regulate dealers of secondhand goods but may work in concert with cities on this subject.

Q. Amusement machines

Minn. Stat. § 449.15.

A home rule charter or statutory city may impose, by ordinance, a license fee on pinball and video (known as "amusement machines" in state law) machines. The license fee, however, may not exceed the demonstrated and verifiable actual cost of issuing the license, or $15 per location plus $15 per machine.

R. Tattoos or body art establishments

Minn. Stat. §§ 146B.01-146B.10.

State law governs establishments practicing tattooing or body art. All body art establishments (and body art technicians) must be licensed in each licensed area by the state department of public health.

As discussed below, if an establishment is licensed by a city it may qualify for an exemption from the state requirement and must apply for a waiver. The law defines tattooing and body art as follows:

Minn. Stat. § 146B.01, subd. 30.

"Tattooing means any method of placing indelible ink or other pigments into or under the skin or mucosa with needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa." Tattooing includes "micropigmentation" or "cosmetic tattooing" (the use of tattoos for permanent makeup or to hide or neutralize skin discolorations). Body art or body art procedures means physical body adornment using, but not limited to, tattooing and body piercing. Body art does not include practices and procedures performed by a licensed medical or dental professional if the procedure falls within the professional's scope of practice.

Minn. Stat. § 146B.01, subd. 18.

Minn. Stat. § 146B.01, subd. 4.

RELEVANT LINKS:

In addition, the law regulates:

- "Tongue bifurcation," meaning the cutting of the tongue from the tip to the base, forking at the end.
- "Branding," meaning an indelible mark burned into the skin using instruments.

Cities should consult the statutes for detailed provisions on procedures and health standards. Some key items, however, include the following:

Establishments must meet all local and state health and safety codes for buildings and not constitute a public health nuisance. Establishments must maintain records on the licensure and training of employees and on clients serviced at the establishment. Establishments in private homes must be completely separate from living, eating, and bathroom areas in the home.

Minn. Stat. § 146B.08.

The law also contains extensive procedures for the revocation of establishment licenses where violations have occurred. In addition, violations may be punished by a civil penalty not exceeding $10,000 that includes costs for investigation and prosecution of the violation.

1. Body art technicians

Minn. Stat. § 146B.03.

The state Department of Health exclusively licenses body art technicians. As such, cities are not allowed to license these activities. "Technician" or "body art technician" means any individual who is licensed under state law as a tattoo technician, body-piercing technician, or both. State law requires that no person may use the title of "tattooist," "tattoo artist," "tattoo technician," "body art practitioner," "body art technician," or other letters, words, or titles in connection with that person's name which in any way represents that the individual either engages in the practice of tattooing or has authorization to do so, unless the person is licensed and authorized to perform tattooing under state law or qualifies for one of the statutory exceptions.

2. City regulation of body art establishments

Minnesota Department of Public Health: Minnesota Body Art Regulation Brochure.

Cities that previously regulated body art establishments before 2011 may continue to do so, but local ordinances must be as strict as the state requirements. These requirements include inspections to ensure health and safety for the establishment and the equipment.

Minn. Stat. § 146B.09.

Body art establishments subject to city ordinances and that meet or exceed Department of Health requirements do not have to have a state license, but owners or operators of each establishment must apply for exemption from state licensure.

RELEVANT LINKS:

Additionally, state law on body art expressly states it does not preempt or supersede any municipal ordinance relating to land use, building and construction requirements, nuisance control, or the licensing of commercial enterprises in general.

Minn. Stat. § 146B.02, subd. 9.

Previously enacted city ordinances may contain stricter standards than the state law. In addition, those cities who has maintained its city ordinance may "limit the types of body art procedures that may be performed in body art establishments located within its jurisdiction."

S. Massage Parlors

State law does not license massage parlors. A city may regulate them by ordinance and require a license for health and safety reasons.

Hearn v. City of Woodbury, No. A12-1714 (Minn. Ct. App. May 20, 2013) (unpublished decision).

In re Kim Yi's, LLC, No. A15-1672 (Minn. Ct. App. June 13, 2016)(unpublished decision).

A number of cities currently regulate massage parlors to address concerns related to sterile and sanitary conditions in these businesses. Generally, the license fees cover the costs of inspection and regulation. Although not published, the Minnesota Court of Appeals affirmed a denial of massage parlor licenses when based on other code violations, such as a citation for nudity and sexual contact, failure to conduct a background check on the new employee, and failure to comply with the business-records request.

1. Massage therapists in medical settings

Minn. Stat. § 471.709.

A city may not require a massage therapist to obtain a license or permit when the therapist works for, or is an employee of, a licensed medical professional or a licensed dental professional. A massage therapist is not limited to providing treatment to patients of the medical or dental professional.

T. Adult uses

Cities often use either licensing and/or zoning to regulate adult uses. Cities seek to regulate adult uses to minimize the negative secondary effects these businesses may cause. However, because of First Amendment concerns, the regulation of adult use businesses, such as strip clubs, can get legally complex.

See Handbook, *Comprehensive Planning Land Use and City Owned Land.*

City of Morrison v. Wheeler, 722 N.W.2d 329 (Minn. Ct. App. 2006).

Generally, cities adopt new ordinances or amend existing ordinances regulating adult uses to promote the health, human services, police protection, or public safety of their community. The U.S. Supreme Court frequently has recognized nude dancing as protected by the First Amendment.

RELEVANT LINKS:

City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986).

Young v. American Mini Theatres, Inc., 427 U.S. 50 (1976).

Minn. Stat. § 617.242.
Northshor Experience, Inc. v. City of Duluth, 442 F. Supp. 2d 713 (D. Minn. 2006).

Nevertheless, the U.S. Supreme Court has recognized that local governments can use their zoning powers to limit the location of adult establishments so long as the motivation behind passing the ordinance was not regulation of the content itself; but rather, for example, the secondary effects. In these instances, the ordinance should promote a substantial governmental interest and allow reasonable alternative avenues for communication.

A state law, enacted in 2006, requires that anyone intending to open an adult use business provide 60 days advance-notice to the city where the business will locate. The law includes numerous other provisions focused on regulation of adult uses businesses. In 2006, the federal district court in Minnesota granted a preliminary injunction prohibiting the City of Duluth from enforcing the new law since the court found a strong likelihood of success on the licensee's claim that the state law violates the First Amendment.

To date, neither a court nor the Legislature has resolved the constitutional questions regarding the state law on adult uses. As a result, cities probably should not rely on it as the sole mechanism for regulating adult entertainment establishments and, instead, should consider taking proactive measures by adopting local adult use regulations. Because of the common legal challenges to regulations on these types of businesses, a city should consult its city attorney when drafting any adult use ordinances.

U. Taxis & small vehicle passenger services

Minn. Stat. § 221.091, subd. 2. Minn. Stat. § 412.221, subd. 20.
Minn. Stat. § 221.021.
Minn. Stat. § 174.30, subd. 6(a). Minn. Stat. § 169.011, subd. 27(3).

If a city licenses small vehicle passenger service (seven or fewer persons, including the driver, e.g., taxicabs, rideshares, pedicabs, or rickshaws) it must do so by ordinance and the ordinance must, at a minimum, provide for driver qualifications, insurance, vehicle safety, and periodic vehicle inspections. A city may enforce the registration requirements in state law.

A statutory or home rule charter city that regulates, by ordinance, pedicabs, rickshaws, or other similar vehicles used for passenger service may permit authorized vehicles to be equipped with an electric motor that meets the requirements for an electric-assisted bicycle. However, a city cannot prohibit or deny the use of the public highways within its territorial boundaries by a carrier for transporting within its boundaries to destinations beyond a city's boundaries, or for transporting passengers from points beyond a city's boundaries to destinations within a city's boundaries, or for transporting passengers from points beyond a city's boundaries through a city to points beyond a city's boundaries when the carrier is operating pursuant to a certificate of registration issued under state law (or under a permit issued by the commissioner).

RELEVANT LINKS:

Minn. Stat. § 326B.835.

V. On-site sewage systems

A city may pass an ordinance requiring a license or certification from people who install on-site sewage treatment systems.

W. Mobile Salons

Minn. Stat. § 155A.29. Minn. Stat. § 155A.23. Minn. R. 2105.0395.

Although cities do not license mobile salons, mobile salons must comply with city ordinances that may otherwise apply to these mobile salons operating in a city. The Board of Cosmetologist Examiners has adopted rules governing the licensure, operation, and inspection of "Mobile Salons" which are operated in a mobile vehicle or mobile structure for exclusive use to offer personal services.

The rules prohibit mobile salons from violating reasonable municipal restrictions on time and place of operation of a mobile salon within its jurisdiction, and also establish penalties, up to and including revocation of a license, for repeated violations of municipal laws.

The rules provide that mobile salons must comply with all city ordinances that may apply to mobile salons, including those ordinances that specifically regulate wastewater disposal, commercial motor vehicles, vehicle insurance, noise, signage, parking, commerce, and businesses generally.

IV. How this chapter applies to home rule charter cities

This chapter, except as otherwise noted or as the cited statutes may limit, generally applies to charter cities.