



Public Purpose Expenditures

INFORMATION MEMO

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Criteria for valid public expenditures

For an expenditure of public funds to qualify as a lawful expenditure, it must have:

- A public purpose.
- Specific or implied authority for the expenditure must arise out of a statute or from the city's charter. Specific authority usually is clear. In contrast, whether a statute or charter provision implicitly provides authority for an expenditure often becomes subject to interpretation.

The Minnesota Constitution allows taxation to further a public purpose, but generally prohibits local laws to tax for a private purpose ([Minn. Const. art. X, § 1](#)). It also generally prohibits cities from donating money or loaning the credit of the state to aid an individual, association, or corporation ([Minn. Const. art. XI, § 2](#)). This does not mean that a city can never contribute to an association or a corporation, but that in order to do so the expenditure must further a public purpose and must be authorized by a statute or charter ([Minn. Const. art. XII, § 1](#)). Statutory examples are detailed in following sections.

Since a public expenditure must always further a public purpose, analysis of what qualifies as a “public purpose” becomes crucial.

The meaning of “public purpose” is constantly evolving. The Minnesota Supreme Court has followed a liberal approach, generally finding a “public purpose” when the activity in question meets all the following criteria:

- The activity will benefit the community as a body.
- The activity directly relates to functions of government.
- The activity does not have, as its primary objective, the benefit of a private interest ([Visina v. Freeman](#), 89 N.W.2d 635 (Minn. 1958)).

An incidental benefit to a private interest does not, per se, deprive the spending activity of its public nature if the primary purpose of the expenditure is public ([R.E. Short Co. v. City of Minneapolis](#), 269 N.W.2d 331 (Minn. 1978)).

Also, activities that promote the following objectives for the benefit of all the city's residents further a public purpose:

- Public health
- Safety

- General welfare
- Security
- Prosperity
- Contentment (*City of Pipestone v. Madsen*, 178 N.W.2d 594 (Minn. 1970))

These interests represent the foundation of all legitimate council actions. Council members are elected to govern by and for these interests, acting as specialists on what best serves the local population.

Attorney general opinions provide guidance in analyzing the validity of a public expenditure, but they serve only as guideposts with courts making the final decision if an expenditure gets challenged. Judicial review focuses on whether the expenditure benefits the community as a whole and whether the expenditure relates to the functions of government (*Abrahamson v. St. Louis Sch. Dist.*, 802 N.W.2d 393 (Minn. App. 2011)), affirmed in part and reversed in part in *Abrahamson v. St. Louis Cnty. Sch. Dist. 2142*, 819 N.W.2d 129 (Minn. 2012)).

The following issues could arise from an invalid expenditure:

- Taxpayer lawsuits. A council may incur expenses in defending itself. Personal liability for the expenditure also might fall upon individual council members since they have a fiduciary responsibility to spend the public's money for a public purpose (*Walser Auto Sales v. City of Richfield*, 635 N.W.2d 391 (Minn. App. 2001)).
- Non-compliance finding by the state auditor. This could result in future special audits and embarrassment for the city. (See generally, State Auditor's Statements of Position (filter by public purpose category).)
- Public mistrust. The council could lose the trust of the people in the community.
- Changes in law. Substantial violations may prompt the Legislature to adopt more restrictive laws on city expenditures.

Seek legal advice

A city council considering whether a proposed expenditure has a valid public purpose, or how an authority listed below may apply, has many reasons to consult their city attorney.

For example, the brief descriptions that follow do not include procedural requirements that may be required to use the authority, such as issuing capital notes. Some expense authorizations have conflicting interpretations on how they function, such as expenditures to inform voters about a ballot question.

Cities may contact the League for more information on authorities listed, and should consult their attorney for legal advice on interpretation and guidance for complying with statutory requirements.

Common questions on public spending

Many statutes limit the authority to spend money by type of city (statutory or home rule charter), or by class based on population ([Minn. Stat. § 410.01](#)).

The analysis of the expenditures below applies primarily to statutory cities. Charter cities should check their charters for more details. Generally, home rule charter cities may use the

law that provides statutory cities with authority for an expenditure when the following conditions exist:

- The city's charter is silent on the particular matter.
- No general law exists prohibiting a charter city from making the expenditure.
- No general law exists that expressly states a city's charter must prevail over general law on that particular matter ([Minn. Stat. § 410.33](#)).

Advertising

Cities have authority for advertising expenditures. In some instances, this authority may be limited to a certain type of advertising for a specific purpose or also may vary based on the class of the city ([Minn. Stat. §§ 469.187-189](#)).

Council members should carefully review an expenditure to ensure it qualifies as an advertising expenditure anticipated by the statutes. A donation under the guise of advertising is improper (A.G. Op. (Jan. 30, 1930)).

First class cities

Any first class city may levy a tax, not exceeding 0.00080% of the estimated market value, and the council may direct the use of the proceeds for city publicity purposes. The council may establish and provide for a publicity board or bureau to administer the fund, subject to the conditions and limitations that the council prescribes by ordinance ([Minn. Stat. § 469.187](#)).

Second and third class cities

Any second or third class city (whether statutory or home rule charter) may levy a tax to use for advertising:

- Agricultural resources of the community.
- Industrial business of the community.
- All other resources of the community ([Minn. Stat. § 469.188](#)).

Second, third, and fourth class cities

Any second, third, or fourth class statutory or home rule charter city may annually appropriate money to advertise the city, its resources, and advantages. Limitations on the appropriations include using the money:

- To advertise the city; or
- For cooperative programs that involve promotion of the area by more than one municipality and its resources and advantages ([Minn. Stat. § 469.189](#)).

Statutory cities

Any statutory city may spend money to create a bureau of information and publicity to:

- Furnish tourists with information.
- Provide outdoor advertising.
- Prepare, publish, and circulate information and facts concerning community recreational facilities, business resources and industrial resources ([Minn. Stat. § 469.186](#)).

Airports

All cities in Minnesota have the power to acquire, maintain, and operate airports ([Minn. Stat. § 360.032](#)). They may also assist other municipalities in exercising the powers and authority those other municipalities have under the aeronautics code ([Minn. Stat. § 360.043](#)). Assistance may take the form of a gift or lease of real property, a donation or loan of personal property, or the appropriation of money.

Bridges

All statutory cities and fourth class home rule charter cities may spend money to assist in the improvement and maintenance of roads and bridges outside the city limits, so long as the roads lead into the city ([Minn. Stat. § 441.26](#); [Minn. Stat. § 410.01](#)).

All cities may acquire, purchase, construct, maintain, and operate bridges and the bridges' approaches. To use this authority, however, a city must pass an ordinance determining to exercise powers granted by certain state statutes ([Minn. Stat. § 441.48](#); [Minn. Stat. §§ 441.47-55](#)).

Ports and docks

All cities with a population from 4,000 to 50,000 may acquire land on a navigable stream in the city by purchase or condemnation ([Minn. Stat. § 458.02](#)). There they may construct, erect, and maintain:

- Docks, quays, levees, wharves, landing places, railroads, and other transportation loading and unloading places.
- Water freight and passenger stations.
- Terminals and terminal buildings for carriers.
- Necessary equipment and appurtenances ([Minn. Stat. § 458.02](#)).

Businesses and economic development

Several statutes empower cities to provide money or real property for economic development purposes under various programs.

Cities may “appropriate not more than \$50,000 annually to any incorporated development society or organization of the state for promoting, advertising, improving, or developing the economic and agricultural resources of the city” ([Minn. Stat. § 469.191](#)). While this authority allows a city to contribute to a chamber of commerce, it does not allow a city to become a member, or to pay dues to it (A.G. Op. (June 27, 1997) informal letter opinion to Staples).

The following list provides a broad summary of some of the more common tools available for encouraging development:

- Conveyance of city-owned land for a nominal amount to encourage business and industry, under certain conditions ([Minn. Stat. § 469.185](#)).
- “Business subsidies,” including contributions of personal property, real property and/or infrastructure ([Minn. Stat. §§ 116J.993-995](#)).
- Grants to certain economic development organizations ([Minn. Stat. § 469.191](#)).
- Creation of development districts ([Minn. Stat. §§ 469.124-134](#)).

- Economic Development Authority programs ([Minn. Stat. §§ 469.090-.1082](#)).
- Economic development loans ([Minn. Stat. § 469.192](#)).
- Tax abatement ([Minn. Stat. §§ 469.1812-.1816](#)).

Cities should consult with their city attorney or city bond counsel when using any of these business or economic development tools.

[Get more information about economic development programs from the Minnesota Department of Employment and Economic Development \(DEED\)](#) at 332 Minnesota Street, Suite E-200, St. Paul, MN 55101; (651) 259-7114 or (800) 657-3858.

[Read about *Community Development and Redevelopment* in the Handbook for Minnesota Cities](#)

Cemeteries

Statutory cities may acquire, hold, and manage cemetery grounds. They may acquire cemeteries by purchase, gift, devise, condemnation, or otherwise ([Minn. Stat. § 412.221, subd. 2](#)).

Any statutory city, town, or fourth class home rule charter city may appropriate up to \$10,000 per year to any public or privately owned cemetery located within or outside the city's boundaries ([Minn. Stat. § 471.84](#); [Minn. Stat. § 410.01](#)). The cemetery must be used for burial of the dead without restriction. The statute does not specify a particular use of the money by the cemetery.

Alternatively, a city may enter a joint powers agreement with another governmental entity for the operation of a cemetery. In addition to the joint powers agreement, neighboring cities and towns may jointly agree to maintain a cemetery, with the same \$10,000-per-year restriction for each.

Community celebrations

Although no general authorization exists for festival expenditures, some statutory authority supports these types of expenditures in limited circumstances.

[View the Minnesota Office of the State Auditor's Statement of Position on *Public Expenditures: Donations and Dues* \(pdf\)](#)

County fairs

Any city or town hosting the fairs of county and district agricultural societies or associations may appropriate money to the agricultural society or association if both:

- The society or association is a member of the Minnesota State Agricultural Society; and
- The fair is held within the city's or town's corporate limits, or within close-proximity to the corporate limits ([Minn. Stat. § 38.12](#)).

Memorial Day observances

All cities have the authority to spend money for Memorial Day observances in commemoration of the noble and valiant deeds of the nation's dead soldiers. Cities may spend up to \$300 annually for each 75,000 of population ([Minn. Stat. § 465.50](#)).

Centennial and historical celebrations

All statutory cities and second, third, or fourth class home rule charter cities may appropriate money to commemorate the anniversary of any important and outstanding event in the city's history (Minn. Stat. § 471.93; Minn. Stat. § 410.01). This authority allows cities to spend money on:

- Collecting data and material about the history of the city.
- Preserving, storing, and housing data and material about the history of the city.
- Printing, publishing, distributing, and exhibiting data and material about the history of the city.
- Preserving historic data for future generations.

While this statute does not specifically authorize city centennial celebrations, they might be considered a commemoration of the anniversary of an important event in the city's history.

Any city may annually appropriate, from its general fund, an amount not to exceed .02418% of estimated market value, derived from ad valorem taxes on property or other revenues, to the historical society of its respective city, town, or county to further the promotion of historical work and to aid in defraying the expenses of carrying on the society's historical work. However, the city may only appropriate these funds to a historical society affiliated with and approved by the Minnesota Historical Society (Minn. Stat. § 138.053).

Community centers

Any city may appropriate money to support the facilities, programs, and services of a public or private nonprofit senior citizen or youth center (Minn. Stat. § 471.935). No specific authority expressly allows cities to finance other community centers, but many cities have done so through the state recreation statutes (Minn. Stat. §§ 471.15-.191).

[View the Office of the State Auditor letter on *Expenditure of Public Funds to Schools and Senior Programs* \(pdf\).](#)

Decorations

Statutory cities may spend money on decorations, signs, plaques, and attached accessories for public streets, buildings, and parks (Minn. Stat. § 412.221, subd. 34). Cities should use caution to ensure that decorations, such as those for the Christmas holidays, are not primarily religious in nature.

Donations

To appropriate or give away public funds as donations to any person, corporation, or private institution the expenditure must further a public purpose and must be authorized by a statute or charter. There is no broad authority for donations, but some statutes allow specific support for certain organizations and causes. For example, the law permitting donations to an incorporated developmental society and various statutory economic development tools permitting contributions toward development and redevelopment.

Cities may also accept gifts of real or personal property, including money, and use them in accordance with the terms prescribed by the donor (Minn. Stat. § 465.03; Minn. Stat. § 465.04). However, a city may not accept or use gifts for religious or sectarian purposes.

A resolution accepting the gift and the donor's terms must receive an affirmative vote of two-thirds of the members of the council.

[View *Accepting Donations* model resolution \(doc\).](#)

Nonprofit organizations in general

The attorney general and the state auditor, over the years, have considered the question of whether cities can donate public funds to various groups. Public expenditures to the following groups or organizations do not have statutory authority and are invalid:

- Supporting the Boy Scouts (A.G. Op. 59-a-3 (May 21, 1948)).
- Sponsoring a local bowling team (A.G. Op. 218-r (Aug. 15, 1951)).
- Sponsoring a local kittenball team (like softball) (A.G. Op. 59-a-22 (Aug. 7, 1951)).
- Helping the American Legion build a Legion Hall (A.G. Op. 476-b-2 (Apr. 20, 1944)).
- Supporting the Red Cross (A.G. Op. 218-r (Feb. 10, 1942)).
- Supporting a campaign to stop expansion of a neighboring city airport (A.G. Op. 476-b-2 (Apr. 29, 1954)).
- Supporting schools ([Office of the State Auditor letter on *Expenditure of Public Funds to Schools and Senior Programs* \(pdf\)](#)).

Cities have other options to support nonprofits. For example, the city could use its contracting power to indirectly support nonprofits, such as contracting with a club to spend a Saturday cleaning up public grounds in exchange for money. Also, if a city maintains a fund created from gambling proceeds, those proceeds may be used for many types of charitable contributions that further a lawful purpose ([Minn. Stat. § 349.213 \(f\)\(2\)](#)).

Artistic organizations

Cities may appropriate money to support artistic organizations. The governing body may divide the appropriation among multiple artistic organizations in proportions determined by the governing body ([Minn. Stat. § 471.941](#)).

An association, corporation, or other group that provides an opportunity for people to participate in the creation, performance, or appreciation of artistic activities qualifies as an “artistic organization.” The statute provides examples of “artistic activities” that cities can support, but this is not an exclusive list.

Community food shelves

Any city may appropriate an amount to provide grants to nonprofit organizations that operate community food shelves and provide food to the needy without charge ([Minn. Stat. § 465.039](#)).

Prevention of cruelty to animals

If a city has a society for the prevention of cruelty to animals (SPCA), it may appropriate monies, not otherwise appropriated, for the maintenance and support of that SPCA “in the transaction of the work for which they are organized” ([Minn. Stat. § 343.11](#)).

However, no part of such an appropriation may go to pay the salary of any officer of the society.

Solicitation of donations by firefighters

Any city may, by resolution, allow full-time firefighters employed by the city and while on duty, or volunteer firefighters serving the city while not on duty, to solicit charitable contributions from motorists ([Minn. Stat. § 465.90](#)).

A city must follow certain strict requirements set forth in the statute, including restrictions on type of charitable organization, frequency and time frame of solicitations, and proof of insurance.

Surplus city equipment

A “local government,” including statutory and home rule charter cities, may donate “surplus equipment” to a “nonprofit organization.” This includes equipment used by a local government public works department, and cellular phones, emergency medical and firefighting equipment no longer needed by the local government. Before donating, a city must adopt a policy on how it will determine what qualifies as surplus eligible for donation and how it will select nonprofit organizations eligible to receive donations. The policy “must address the obligations of the local government to disclose to the nonprofit that the surplus equipment may be defective and cannot be relied upon for safety purposes” ([Minn. Stat. § 471.3459](#)).

[View *Donation of Surplus City Equipment to a Nonprofit Organization* model policy \(doc\)](#)

Dues

Cities cannot join or become members of “private” organizations, absent specific statutory authority – even if there is specific authority to contribute to the organization. Without authorization for membership, cities do not have authority to pay for membership (A.G. Op. (June 27, 1997) (informal letter opinion to Staples); [Office of the State Auditor, Statement of Position Public Expenditure: Donations and Dues \(pdf\)](#)).

All cities, counties, and towns may appropriate money for membership in county, regional, state, and national associations of a civic, educational, or governmental nature. The associations must have, as their purpose, the betterment and improvement of municipal governmental operations. These public entities may participate in the meetings and activities of such associations ([Minn. Stat. § 471.96](#)).

All cities and urban towns in Minnesota may appropriate money to pay dues to become members of the League of Minnesota Cities ([Minn. Stat. § 465.58](#)).

Elections

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

Special elections/advisory elections

Special elections, whether authorized by statutes or by charter provisions, are a valid public expenditure.

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

Elections on questions that the public has no authority to answer, either by statute or charter provision, constitute advisory elections. Advisory elections are prohibited and expenditures on

them are not valid. A.G. Op. 472-o (July 31, 1959). A.G. Op. 185-b-2 (June 28, 1962). A.G. Op. 185-b-2 (Apr. 6, 1962).

[Read more on this topic in *City Special Elections*](#)

Advocating/educating on a ballot question

Questions often arise around whether a city can spend money:

- For advertisements encouraging voters to support the city's position on a local ballot question, such as a "yes" vote for a special election to issue bonds or a "no" vote on a city charter issue.
- To either to support or oppose a state constitutional amendment ballot initiative.

Local ballot initiatives

Traditionally, case law and the attorney general have allowed local subdivisions to publish and distribute publications intended merely to inform the public of financial conditions and the potential effects of the passage or failure of a ballot question.

Cities generally have *not* been allowed to expend funds to promote or defeat passage of a local ballot question by presenting one-sided information on the issue. Elected officials may appear before citizens to orally advocate for a position, so long as no expenditure of public funds has occurred (A.G. Op. 159-a-3 (May 24, 1966); [Office of the State Auditor, Statement of Position: Expenditure of Public Funds on Ballot Issue Advocacy \(pdf\)](#), Apr. 2014).

The Minnesota Supreme Court has questioned the extent to which a city either can inform its residents of a ballot measure or warn its citizens of the direct financial consequences that may occur should a ballot measure succeed or fail (*Abrahamson v. St. Louis Cnty. Sch. Dist.* 2142, 819 N.W.2d 129 (Minn. 2012)). While the court did not rule on whether a city could legally spend money to promote a position on a ballot measure, the court cautioned that any such expenditures would subject the city to campaign finance laws. The court also said any statement made by a city "with reckless disregard of whether it is false" could be punishable as a misdemeanor.

State constitutional ballot initiatives

Historically, the attorney general also has frowned upon expenditures made to support a position on a state constitutional ballot initiative. The attorney general found a town expenditure to advocate the adoption of a constitutional amendment illegal. He stressed that use of taxpayer money to support one political position was improper since taxpayers can have differing opinions about almost any political question (A.G. Op. 442-a-20 (July 10, 1952)).

A later opinion recognized that, in limited circumstances, spending money to advocate a position could be proper (A.G. Op. (June 30, 2006) (informal letter opinion)).

The attorney general and the state auditor both have stated that, where a state action or proposal could have a "direct and substantial effect" on the interests of a local governmental entity, that entity could spend public funds to protect or promote its interests — even by financially supporting one side of a ballot issue ([Office of the State Auditor, Statement of Position: Expenditure of Public Funds on Ballot Issue Advocacy \(pdf\)](#), Apr. 2014).

However, both offices point out that a city cannot spend public funds for advocacy of a position where the proposed measures' effect would be "only indirect and in common with the public at large."

The city council has the discretion to make findings as to whether a measure has a “direct and substantial effect.” Therefore, cities that wish to spend money to encourage a particular vote on a local ballot initiative should first consult with their city attorneys.

Cities that spend any money to promote a position on a state constitutional amendment must do so in compliance with campaign finance and fair campaign practice laws (*Abrahamson v. St. Louis Cnty. Sch. Dist. 2142*, 819 N.W.2d 129 (Minn. 2012)).

Local sales tax

State statutes ban cities from expending funds to promote or otherwise advertise a referendum to support special legislation imposing a local option sales tax (Minn. Stat. § 297A.99, subd. 1(d),(e)). Cities can, however, expend money to:

- Conduct the referendum.
- Disseminate information included in the resolution and indicating the city council’s approval of the local sales tax if it includes a list of specific projects and the cost of each individual project.
- Provide notice of and conduct public forums at which both proponents and opponents of the referendum have equal time to express their opinions on the merits of the referendum.
- Provide facts and data on the impact of the proposed local sales tax on consumer purchases.
- Provide facts and data related to the individual programs and projects to be funded with the local sales tax.

Employees/staff/public officials

Cities often ask about various employee costs. These include:

- Pay, expenses, and benefits.
- Miscellaneous items such as bonds, recognition events, and flowers.

Pay, expenses, and benefits

Statutory cities may create departments and advisory boards and appoint officers, employees, and agents they deem necessary for the proper management and operation of city affairs. In doing so, the council may define the duties of its officers, employees, and other staff and fix the compensation for those positions (Minn. Stat. § 412.111).

Bonuses

A bonus for past services is void as a gratuity, in the absence of some type of agreement or understanding (A.G. Op. 270-d (Aug. 12, 1977); A.G. Op. 107-a-3 (Jan. 22, 1980)).

However “an agreed monetary bonus might be provided as part of a salary plan to employees who meet performance or longevity standards” (A.G. Op. (Feb. 6, 1998) (informal letter opinion to Champlin)).

Based on this AG opinion, it seems reasonable to assume if a bonus arose from a prior agreement or understanding of how or when payment of the bonus would occur, then the bonus may be valid.

Discounted or free items or services from city-owned business

No specific authority permits offering discounts to city employees on merchandise sold by city-owned businesses because of their status as city employees. Discounts on merchandise to nonemployees or employees for reasons other than status of employees (like any season pass holder) may pass muster so long as the city's council has approved a policy outlining the discounting practice ([Office of the State Auditor, Petition Report: City of Becker \(pdf\)](#)).

Gift cards as compensation for board or commission service

State law permits city councils to set compensation for advisory boards unless it is otherwise set by law ([Minn. Stat. § 412.111](#)). Other statutes specifically prohibit or limit compensation for service on a board or commission.

The state auditor has determined where there is a prohibition on compensation or a limitation, then using a gift card beyond the statutory prohibition or limitation would run the risk of being considered an unauthorized expenditure of public funds. Where a statute does authorize compensation, the use of gift cards to provide that compensation still might raise concerns about an improper method or manner of making the expenditure.

The state auditor recommends handling compensation payments through the city payroll or claim processes, with tax withholding as appropriate, not with cash or gift cards.

[View the Minnesota Office of the State Auditor's Statement of Position on Use of Gift Cards by Local Government Entities \(pdf\)](#)

Insurance benefits

Municipalities may insure or protect their officers and employees and their dependents under group health insurance, life insurance, and accident insurance. The city may pay all or any part of the premium or charges on the insurance or protection. Such a payment represents additional compensation paid to the officer or employee, but is not income for purposes of determining contributions or benefits under a public pension or retirement system.

Any city or town may insure or protect its retired officers and employees and their dependents under a group life, health, accident, medical and surgical benefits, or hospitalization insurance or benefits.

A city also may contract with an insurance company for the voluntary purchase of long-term care insurance by employees and their dependents ([Minn. Stat. § 471.61, subs. 1, 2a, 5](#)).

Mileage reimbursement

Cities may pay a mileage reimbursement for staff who travel for city business and use their own vehicles:

- The city council sets the maximum amount to be reimbursed ([Minn. Stat. § 471.665](#)).
- The Internal Revenue Service (IRS) sets the rate considered tax deductible for business use.
- If a city sets its rate higher than the IRS rate, any additional amounts is income to the employee.

In lieu of the mileage allowance, the council may pay a monthly or periodic allowance to its officers or employees for using their personal vehicles for city business. No mileage allowance may be paid to council members unless provided by special law or the city's charter.

Preventive health and employee recognition (plaques, dinners, parties)

State law allows a statutory or home rule charter city to:

- Establish and operate a program of preventive health and employee recognition services for its employees.
- Provide necessary staff, equipment, and facilities.
- Expend funds, as necessary, to achieve the objectives of the program ([Minn. Stat. § 15.46](#)).

A state auditor's statement of position narrowly interprets this statute, requiring the programs to be in writing and to state clear wellness and recognition objections. The city council must approve the program and determine the amount necessary to achieve the objectives of the program ([Office of the State Auditor, Statement of Position: Employee Recognition Programs and Events \(pdf\)](#), Feb. 2014).

The state auditor also cautions that "in-kind" benefits to employees of statutory cities must have express authorizations by statute. Cities should consult with their city attorneys before offering in-kind benefits, such as employee privileges (like free rounds of golf) or discounts on items (like season passes) as part of wellness programs ([Office of the State Auditor, Petition Report: City of Becker \(pdf\)](#)).

Public officials' expenses

Statutory cities may pay the expenses incurred by council members for their official duties relating to their city's bureau of information and tourism. This does not include trips for lobbying purposes or for meetings and conventions not connected with specific municipal projects pending before the official making the trip ([Minn. Stat. § 465.54](#)). This also does not include paying for employees to participate in events, such as playing in golf tournaments.

Severance pay

Cities may pay severance pay to their employees and adopt rules for the payment of severance pay to employees who leave employment. Severance pay cannot exceed the equivalent of one year of pay.

Severance pay does not include compensation for accumulated sick leave or other payments in the form of contributions by an employer toward premiums for group insurance policies for former employees.

The city must pay severance pay in a manner mutually agreeable to the employee and the employer, and must pay it over a period of not more than five years from retirement or termination ([Minn. Stat. § 465.72](#)).

Vacation leave

Any city council may grant paid or unpaid vacations to its regularly employed employees and officers. The city council may adopt vacation policies by ordinance or resolution, including determining the terms and conditions of vacations. No elected official may receive monetary compensation for unused vacation or sick leave accruals ([Minn. Stat. § 471.66](#)).

Miscellaneous items

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

Official performance bonds

City councils may pay to provide fidelity or faithful performance bonds for city officers and employees who, by statute, must furnish them ([Minn. Stat. § 415.18](#); [Minn. Stat. § 412.111](#)).

Flowers

No specific authority exists for purchasing flowers for a staff member or city official who is ill or has lost a family member.

Even if employees contribute their own money towards flowers, potential problems could arise under the state's gift law if purchased for a supervisor. The gift law prohibits a person from giving a gift to an elected or appointed official if the official has the power to make a decision that could impact a financial interest of the person giving the gift ([Minn. Stat. § 471.895](#)).

Since many city supervisors qualify as "appointed" officials and, those supervisors often give feedback that directly affects salary raises for the staff they manage, a potential violation of the gift law may result when staff members give the supervisor any gift beyond those authorized by law.

[View Official Conflict of Interest for more details on the gift law](#)

Entertainment (musical)

Statutory city councils may spend money to provide free musical entertainment ([Minn. Stat. § 412.221, subd. 15](#)). Many home rule charter cities contain similar authority in their charters or rely on [Minn. Stat. § 410.33](#).

Fourth class home rule charter cities may levy a tax for providing musical entertainment to the public in public buildings or on public grounds. The maximum amount that may be spent in any year is \$3,500 ([Minn. Stat. § 449.06](#); [Minn. Stat. § 410.01](#)).

Any third class city may levy a tax to pay for free musical entertainment for the public. The annual expenditure is limited to \$3,000 ([Minn. Stat. § 449.08](#); [Minn. Stat. § 410.01](#)).

A more general law permits statutory cities and home rule charter cities of the second, third, and fourth class to levy a tax for funding a band, orchestra, or chorus. To use this authority, the council must get permission from the city's voters ([Minn. Stat. § 449.09](#); [Minn. Stat. § 410.01](#); A.G. Op. No. 107, p. 188 (1949)).

To put the question on the ballot, the city must first receive a petition signed by 10% of the voters proposing the funding. The statute provides the language of the ballot question. Once received, the council must put the question to the voters at the next general municipal election ([Minn. Stat. § 449.10](#); [Minn. Stat. § 449.11](#)).

If a majority of voters who vote on the question approve it, the city levies the tax, and the money must be kept in a special fund. The money may be used for maintenance, transportation, and employment of a band, orchestra, or chorus for municipal purposes. If the musical group is discontinued, or the city decides by vote not to employ a band, orchestra, or chorus, the governing body may transfer the sums already levied and collected to the general fund ([Minn. Stat. § 449.09](#)).

Furniture, office supplies

Statutory cities may purchase office supplies, such as furniture, equipment, and stationery supplies, necessary for city purposes ([Minn. Stat. § 412.221, subd. 1](#)). Charters of home rule

charter cities usually have similar authority.

All statutory cities and charter cities may, by resolution, issue capital notes subject to the city debt limit to purchase capital equipment. This includes computer hardware and software, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer hardware and software ([Minn. Stat. § 410.32](#); [Minn. Stat. § 412.301](#)).

Garbage

Statutory cities may adopt ordinances to regulate or provide for the disposal of sewage, garbage, and other refuse ([Minn. Stat. § 412.221, subd. 22](#)).

Home rule charter cities often have similar authority in their charters, or if not, they may rely upon [Minn. Stat. § 410.33](#).

Hospitals and EMS

All statutory cities may spend money to provide hospitals ([Minn. Stat. § 412.221, subd. 16](#)). Third and fourth class home rule charter cities may establish, acquire, and operate hospitals. These cities may also acquire property by gift, purchase, or condemnation for the location of a municipal hospital ([Minn. Stat. §§ 447.05-.06](#)).

Cities with municipal liquor stores may spend money from the liquor dispensary fund to construct a community hospital. The dollar amounts vary depending upon the class and type of city and the type of liquor store. In some cases, a city must get voter approval before proceeding ([Minn. Stat. § 447.045](#)).

Any city or town may make grants for the use of a private, nonprofit, or public hospital or to an emergency medical services agency that serves the city or town. The city council or town board must authorize the grant after an affirmative vote of the town electors at the annual or special town meeting ([Minn. Stat. § 465.037](#)).

Cities may issue revenue bonds to finance the acquisition and betterment of nursing homes and related facilities. Cities may jointly create hospital districts with the power to own and operate hospitals, nursing homes, and similar facilities ([Minn. Stat. § 447.45](#)).

Housing

Cities may adopt and develop municipal housing programs that can do the following ([Minn. Stat. Ch. 462C](#)):

- Make or purchase mortgage or rehabilitation loans to finance the acquisition or rehabilitation of single-family housing for low- and moderate-income individuals and families.
- Make or purchase loans to finance multifamily housing developments or the rehabilitation of multifamily housing developments if the program is submitted for review.
- Establish, by ordinance, a local housing trust fund or participate in a joint powers agreement to establish a regional housing trust fund.

Cities and participants in these programs must meet various criteria to qualify. Contact the League for more information. Housing and Redevelopment Authorities (HRAs) also have special authority to encourage the recovery and rehabilitation of blighted housing ([Minn. Stat. §§ 469.001-.047](#)).

A nonprofit organization may administer the local housing trust fund, which then can encourage private charitable donations to the fund. Money in the local or regional housing trust fund may pay not more than 10% of the balance of the fund for administrative expenses.

The money in this fund may also fund grants, loans, and loan guarantees for the development, rehabilitation, or financing of housing; match other funds from federal, state, or private resources for housing projects; or provide down payment assistance, rental assistance, and homebuyer counseling services ([Minn. Stat. § 462C.16](#)).

Individuals and public entities

The basic principle of valid public expenditures requires spending public money to further a public purpose. As a result, public money may not generally be used for the benefit of an individual. Some limited exceptions exist, listed below:

Forgiving property taxes and special assessments

Cities generally lack authority to forgive taxes or special assessments that have been levied to properties. However, state statutes allow for hardship assessment deferral in certain situations and permit cities to defer special assessments on property owned by persons 65 years of age or older, persons retired because of permanent or total disability, or, in some instances, members of the National Guard or other military reserves called to active duty. To do so, the city must adopt an ordinance or resolution establishing standards and guidelines for determining the existence of a hardship and for determining the existence of a disability ([Minn. Stat. § 435.193](#)).

[View the *Special Assessment Toolkit* for details of hardship deferrals and the special assessment process](#)

Property tax abatement is an economic development tool available to cities, counties, and school districts. Each taxing authority may abate its portion of taxes against a property identified for development for a limited number of years. Several criteria must be met to use this tool ([Minn. Stat. §§ 469.1812-.1815](#)). For further information about property tax abatement, contact the League.

Aid to remedy emergency situations

No specific statutory authority permits cities to spend money to help individuals who suffer losses due to a natural disaster. A city cannot donate money directly to the Red Cross or to similar organizations A.G. Op. 218-r (Feb. 10, 1942); A.G. Op. 476-b-2 (Oct. 11, 1946).

Statutes do allow cities to assist other cities recovering from natural disasters. Emergency management statutes:

- Provide for rendering of mutual aid among political subdivisions of the state ([Minn. Stat. § 12.02, subd. 1\(3\)](#)).
- Allow a political subdivision to enter contracts and incur obligations to combat disaster and provide emergency assistance to victims of disasters. Political subdivisions can provide this assistance without complying with the normal formalities, including those pertaining to the appropriation and expenditure of public funds ([Minn. Stat. § 12.37](#)).
- Permit cities to provide personnel, equipment and supplies to another political subdivision that requests assistance because of an emergency ([Minn. Stat. § 12.331](#)). “Emergency” is an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring. “Disaster” is: (1) a situation that creates an actual or

imminent serious threat to the health and safety of persons; or (2) a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss (Minn. Stat. § 12.03, subds. 2, 3).

Public entities

The council of any city may spend money on “county extension work” (Minn. Stat. § 38.345). This work is “educational programs and services provided by extension educators in the areas of agriculture; agricultural finance; economic development; nutrition; youth leadership development (including 4-H programs); leadership; and environment and natural resources” (Minn. Stat. § 38.331, subd. 2).

Any public corporation may lease or convey its land for nominal consideration to the:

- State of Minnesota or any government subdivision.
- S. government or any agency of the federal government.
- Another public corporation or to the Minnesota State Armory Building Commission.

This authority also allows public land to be similarly conveyed without consideration or for an agreed upon amount (Minn. Stat. § 465.035).

Any city, town, county, or school district may transfer its personal property to another public corporation for public use. This transfer may occur without consideration or for a nominal amount, but the governing body must authorize it first (Minn. Stat. § 471.85).

The attorney general concluded that this statute did not authorize the transfer of money between a county and a city (A.G. Op. 904 (June 27, 1963)).

In a later opinion, the attorney general modified this position, saying one public entity could donate money to another public entity as long as the transferring entity did so in compliance with other legal limitations and in furtherance of the purposes for which the money originally was obtained (A.G. Op. 1011 (Dec. 27, 1968)). The opinion cautioned against broadening the definition of “public purpose,” stressing that the planned use for the donated property must directly relate to the public purposes of the transferring governing body.

Insurance

A governing body of any municipality may purchase liability insurance that protects the municipality and its officers, employees, and agents for damages. Municipalities may insure in amounts above the liability limits imposed by statute. (Minn. Stat. § 466.06).

Municipalities also may insure or protect its officers and employees, and their dependents, or any class or classes of officers, employees, or dependents, under a policy or contract of group insurance or benefits covering life, health, and accident for employees and medical and surgical benefits and hospitalization insurance or benefits for both employees and dependents (including dependents of an employee whose death was due to causes arising out of and in the course of employment) (Minn. Stat. § 471.61, subd. 1).

Legal

All cities have general authority to spend money on legal costs, including hiring attorneys, defending or prosecuting lawsuits, and paying court judgments or settlements (Minn. Stat. § 412.221, subd. 5; Minn. Stat. § 465.13; Minn. Stat. § 466.08; Minn. Stat. § 466.09).

All cities must pay to defend and indemnify their officers and employees for damages claimed or levied against them if:

- The damages resulted while the officer or employee acted in performance of the duties of his or her position; and
- The officer or employee did not act with malfeasance, willful neglect, or bad faith ([Minn. Stat. § 466.07](#)).

All cities may reimburse their officers and employees for legal costs incurred to defend them against criminal charges that arise out of the reasonable and lawful performance of their duties, including reasonable attorney's fees ([Minn. Stat. § 465.76](#)). Certain conditions must be met before such costs may be paid (*Douglas v. City of Minneapolis*, 230 N.W.2d 577 (Minn. 1975)).

Libraries

Any city or county may establish and maintain a library. The city may pass an ordinance or resolution setting aside public property for a library. All statutory cities and second, third, or fourth class home rule charter cities may levy an annual tax on all taxable property to establish a library fund ([Minn. Stat. § 134.07](#)).

Local improvements

Municipalities may spend money to make local improvements ([Minn. Stat. § 429.021](#)). Certain procedures must be followed, such as notice and public hearings, if funding the project with special assessments.

[View the *Special Assessment Toolkit* for details on local improvement procedures](#)

Nuisance abatement

Municipalities may spend money to abate public nuisances or to drain or fill swamps, marshes, and ponds ([Minn. Stat. § 429.021, subd. 1\(8\)](#)). They also may recover the costs through special assessments to the property in question.

[View *Public Nuisances* model ordinance \(doc\)](#)

Memorials

All city councils may adopt an ordinance to spend money to erect buildings, monuments, and parks in recognition of those who served in the military. If necessary, council may acquire a site within the city for this purpose ([Minn. Stat. §§ 416.01-.06](#)).

All cities may spend money to observe Memorial Day; see the “Community Celebrations” section above.

Park and recreation

Statutory cities may spend money to establish, improve, ornament, maintain, and manage parks, parkways, and recreational facilities ([Minn. Stat. § 412.491](#)).

All cities, towns, counties, and school districts may spend money to operate public recreational facilities and programs of public recreation and playgrounds. The statutes also permit all cities to spend funds available to it for awards and trophies as part of these programs.

Cities, towns, counties, and school districts may jointly operate public recreational facilities and programs with other government entities, American Legions, incorporated veterans' organizations, or nonprofit organizations. The city may issue bonds to operate these recreational facilities ([Minn. Stat. §§ 471.15-.191](#)).

The authority to operate public recreational facilities with nonprofit organizations does not permit a city to sponsor local sports teams, including bowling teams or kittenball teams (like softball) ((A.G. Op. 218-r (Aug. 15, 1951); A.G. Op. 59-a-22 (Aug. 7, 1951)) or to make donations to the Boy Scouts to assist with their private recreational programs (A.G. Op. 59-a-3 (July 12, 1948)).

View additional discussion of Boy Scouts donations in the [Office of the State Auditor, Statement of Position on Public Expenditure: Donations and Dues \(pdf\)](#).

Parking

All statutory cities and home rule charter cities of the second, third, and fourth class may spend money to acquire or build automobile parking facilities. Such facilities may be located inside or outside the city's corporate limits. Minneapolis and St. Paul have similar authority, but their facilities must lie within their corporate limits ([Minn. Stat. § 459.14](#)).

All statutory cities may improve and operate those facilities, as well as tourist camps ([Minn. Stat. § 412.221, subd. 14](#)). Publicly owned parking facilities can be financed with tax increment revenues ([Minn. Stat. § 469.176, subd. 4g\(b\)](#)). The city also may acquire, by purchase or lease, parking meters or other parking or traffic-control devices ([Minn. Stat. § 459.14](#)).

Public safety

All statutory cities have the power to provide for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, and the protection of public and private property ([Minn. Stat. § 412.221, subd. 32](#)).

Statutory cities may expend public funds to acquire or lease residential property for the housing of volunteer firefighters or ambulance personnel or otherwise provide housing assistance in the city for them.

- The expenditure may only be made to attract and retain the qualified personnel necessary to ensure a city has timely public safety and related services.
- A city may approve the expenditure only after the need for the expenditure has been established and approved at a public hearing ([Minn. Stat. § 412.153](#)).

Statutory cities also may create officers and employment positions they find necessary for proper management and operation of the city ([Minn. Stat. § 412.111](#)).

Home rule charter cities may have similar authority in their charters, or, if not, they may rely on [Minn. Stat. § 410.33](#).

Police

Any city, town, or county may contract for police services with another city, town, or county ([Minn. Stat. § 436.05](#)). Adjacent cities may establish, equip, and operate joint municipal police departments, unless located within a county that contains a first-class city ([Minn. Stat. § 436.06](#)).

Fire

All statutory cities may create fire departments and provide equipment and apparatus needed to prevent, control, or extinguish fires (Minn. Stat. § 412.221, subd. 17).

All cities may appropriate reasonable sums of money to defray the expenses of members of the city's fire department for attending (Minn. Stat. § 438.11):

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

Ambulance

All cities, towns, hospital districts, and counties (except for Hennepin County) have the authority to provide ambulance services, either singly or jointly, by agreement. Service may be provided both inside and outside the boundaries of the city and to nonresidents as well as residents. In providing such service, the city may:

- Purchase, rent, or lease ambulances and related equipment and supplies.
- Contract for such service with any person, firm, corporation, or other political subdivision upon such terms and conditions as may be agreed upon.
- Employ and train personnel for such service (Minn. Stat. § 471.476).

Animal pounds

All statutory cities have the authority to establish animal pounds (Minn. Stat. § 412.221, subd. 21).

School patrols

Statutory cities may pay for the cost of training school patrol members, including attendance at any authorized school patrol camp within Minnesota (Minn. Stat. § 465.69).

Capital equipment

All statutory and charter cities may, by resolution and without public referendum, issue capital notes subject to the city debt limit to purchase capital equipment, identified as public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment (Minn. Stat. § 410.32; Minn. Stat. § 412.301).

Cities should work with their city attorney or bond counsel to make sure these capital notes comply with the specific statutory requirements, including the required two-thirds vote of the governing body.

National Night Out

Any home rule charter or statutory city may spend money for National Night Out events held within the city's boundaries.

Any home rule charter or statutory city also may spend money for any event or purpose that the governing body finds will foster positive relationships between law enforcement and the community. Any city, town, county, or school district may, by resolution, authorize officials and staff to solicit contributions for these events (Minn. Stat. § 471.198).

[View *Authorizing Solicitation of Contributions* model ordinance \(doc\)](#)

Real property

All statutory cities have the power to buy or lease land and buildings ([Minn. Stat. § 412.221, subd. 3](#)). Charter cities usually have similar powers in their city charters.

State statute permits all cities, towns, and counties to spend money to acquire hazardous buildings and real estate using eminent domain. The statute specifically declares this action “a public purpose” ([Minn. Stat. § 463.152](#)).

Any city may acquire private property using eminent domain, whether located inside or outside the city limits, so long as the city acquires that property for the same purposes that the law otherwise would have allowed the city to either purchase it or receive it as a gift. The city also may use eminent domain to acquire a right-of-way for sewer or drainage, whether inside or outside the city limits.

The procedure for condemnation must follow the process prescribed by [Minn. Stat. ch. 117](#), or that prescribed by the city’s charter ([Minn. Stat. § 465.01](#)).

Any city may acquire building line easements by purchase, grant, or condemnation ([Minn. Stat. § 463.02](#)).

Rewards

Any city may offer a reward for information leading to the apprehension, charging, or conviction of an individual who has committed a felony crime within the city’s limits. A city may fund the payment of a reward offered by a nonprofit organization for the same information ([Minn. Stat. § 471.631](#)). The statute does not set a dollar amount, giving the council the discretion to establish an appropriate amount.

A city has the authority to offer a reward for information leading to the arrest and conviction of the person who shot at animals in the city’s zoo where the general welfare clause in the city’s charter permitted the city to take reasonable measures of self-protection to preserve its property due to threats (A.G. Op. 355-a (Aug. 23, 1972)).

The language of the city’s charter provision was similar to the general welfare clause in the statutory city code ([Minn. Stat. § 412.221, subd. 32](#)), arguably making the opinion applicable to statutory cities.

Incentives or “Thank you”

City officials often ask whether the city may use gift cards to thank individuals for participating or incentivize them to participate in city programs. It is unlikely this type of payment is authorized. To the extent the person receiving a gift certificate has no claim or right to payment, then payment to them as a “gift” may raise a public purpose expenditure issue.

If an individual has a claim or right to payment, the state auditor encourages cities to handle payment like any other claim, through the payroll or claim process. ([Minn. Stat. § 471.38](#); [Minn. Stat. § 412.271](#)).

[View additional discussion of gift cards as a “Thank You” for program participation in the Office of the State Auditor, Statement of Position on Use of Gift Cards by Local Government Entities \(pdf\)](#)

Streets and sidewalks

Statutory cities have broad authority to establish, construct, alter, and maintain city streets, sidewalks, and sewers ([Minn. Stat. § 412.221, subd. 6](#)). Charter cities usually have similar authority in their charters.

This authority includes providing for lighting on streets, buildings, or grounds by gas, electricity, or other means, and contracting with anyone engaged in the business of furnishing gas or electric service for the supply of such service to the city ([Minn. Stat. 412.221, Subd. 7](#)).

Statutory cities and fourth class home rule charter cities have the power to appropriate and spend reasonable sums of money to assist in improving or maintaining roads outside city limits that lead into the city ([Minn. Stat. § 441.26](#)).

The local improvement code also authorizes municipalities to undertake a variety of local improvements, including street and sidewalk improvements ([Minn. Stat. § 429.021](#)). Although municipalities may choose to pay for the cost of these improvements, they also may assess benefited properties for these costs. The assessment may not be more than the increase in market value of the benefited property due to the improvement.

[View the *Special Assessment Toolkit* for details on the local improvement code](#)

Tourism

Any statutory city council may establish and maintain a bureau of information and publicity to ([Minn. Stat. § 469.186](#)):

- Provide information for tourists.
- Provide outdoor advertising of tourist and city information.
- Prepare, publish, and circulate information and facts concerning recreational facilities and business and industrial conditions of the community.

All cities may establish and maintain public tourist campgrounds. The city may acquire land for these campgrounds either by lease, purchase, or gift, and the campgrounds may lie inside or outside the city or town's corporate limits. The amount of money a city may spend per year for maintenance, improvement, or operation may not exceed 0.00806% of estimated market value ([Minn. Stat. § 450.19](#)).

Any city may impose a lodging tax of up to 3% on the gross receipts from staying at a hotel, motel, rooming house, tourist court, or resort to fund a local convention or visitor's bureau. The tax cannot apply to renting or leasing for a continuous period of 30 days or more. Any city, by ordinance, may also impose this tax on the camping site receipts of a municipal campground ([Minn. Stat. § 469.190](#)).

The city must use at least 95% of the gross proceeds to fund a local convention or tourism bureau for the purpose of marketing and promoting the city or town as a tourist or convention center.

Also, statutory cities may spend money to acquire, improve, and operate parking facilities and tourist camps ([Minn. Stat. § 412.221, subd. 14](#)).

Utilities

Any statutory city may own and operate any utility, including waterworks, district heating system, or gas, light, power, or heat plant (Minn. Stat. § 412.321; Minn. Stat. § 465.74).

Specific statutory authority allows city operation of district heating systems under certain conditions and subject to certain restrictions based upon classification of the city, and, in one instance, number of inhabitants.

All towns and cities may build, construct, reconstruct, repair, enlarge, improve, or obtain the following types of water or sewer systems:

- This includes mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a waterworks system. In addition, statutory cities may also provide wells, cisterns, reservoirs, waterworks, and other means of water supplies (Minn. Stat. § 444.075; Minn. Stat. § 412.221, subd. 11).
- Sewer systems. This includes sewage treatment works, disposal systems, and other facilities for disposing of sewage, industrial waste, and other wastes (Minn. Stat. § 444.075).
- Storm sewer systems. This includes mains, holding areas and ponds, and other appurtenances and related facilities for the collection and disposal of storm water (Minn. Stat. § 444.075).

Conclusion

Cities have broad authority to make a wide variety of expenditures. For these expenditures to qualify as lawful expenditures, they must further or promote a public purpose and have specific or implied statutory or charter authority.

A city with questions about the validity of a specific public expenditure may contact the League for further information and should seek a legal opinion from its city attorney or from the attorney general.

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