



TOWN BOARD LICENSING AUTHORITY

The role of town boards in issuing licenses has shifted over the years. In the past, towns played a major role in licensing local activities. While some significant licensing authority remains, many of the activities subject to local licenses are rather obscure. To help explain how a town boards licensing authority has changed, the following will briefly discuss those activities town boards may, may not, and may no longer license. Keep in mind that this list is not exhaustive. Furthermore, because licensing involves a variety of issues, a town board should not attempt to impose a license requirement without seeking the advice of its town attorney.

AUTHORITY TO LICENSE

The town board has the authority to require licenses for several different areas. Here we will discuss some common and not-so common areas where a town utilizes their authority and what the scope of the authority is. Some of this authority is restricted by statute, the amount which they are and the recommendation on how to handle such is also discussed.

Animals:

Town electors, at an annual or special town meeting, may authorize the board to pass an ordinance for licensing dogs and cats.¹ A town board may also, without elector authorization, license and regulate the presence or keeping of dogs or domestic animal pets in platted residential areas of the town.² Urban town boards may license riding academies.³

Cigarettes:

Towns have the authority to license tobacco sales, but administrating a licensing program is quite difficult.⁴ As a result, many towns have turned tobacco licensing over to the county. For those

¹ Minn. Stat. § 365.10, subd. 13.

² Minn. Stat. § 366.01, subd. 2.

³ Minn. Stat. § 368.01, subd. 13.

⁴ Minn. Stat. § 461.12.

towns continuing to license tobacco, they should have an ordinance in place establishing the licensing program and must conduct unannounced compliance checks annually on the licensed business.⁵ Fees imposed by a town for their licensing program are for the benefit of the town.⁶ An applicant who furnishes a doctor's certificate indicating that the applicant is blind cannot be charged a license fee.⁷

Shows & Games of Amusement:

A town board may by ordinance prohibit or license and regulate the keeping of billiard, pool, and pigeonhole tables, games of amusement, games of skill, jukeboxes, roller skating rinks, bowling alleys, circuses, shows, and theatrical performances.⁸ The board may fix the price and duration of licenses. A person who exhibits such shows or keeps such amusement tables without first obtaining a license, if one is required is guilty of a misdemeanor.⁹

A separate set of statutes prohibits carrying on any 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 first obtaining a license or permit.¹⁰ Furthermore, a town board may not issue a permit for such activities within one mile of a city of the fourth class without first obtaining written consent from the city council.¹¹ Some itinerant carnivals are completely prohibited as public nuisances.¹² Although town boards are expressly included in this restriction, nothing in chapter 437 expressly authorized town boards to license such activities. It does appear that the restrictions would apply to boards exercising their licensing authority under Minn. Stat. § 366.01, subd. 2.

Benches:

Benches and shelters for the convenience of those waiting for buses may be placed in right-of-way if a license, permit, or franchise is obtained from the road authority.¹³

Tear-Gas Vendors:

Towns have the authority to license the business of vendors of tear gas, tear gas compounds,

⁵ Minn. Stat. § 461.12, subd. 5.

⁶ Minn. Stat. § 461.13.

⁷ Minn. Stat. § 461.15.

⁸ Minn. Stat. § 366.01, subd. 2.

⁹ Minn. Stat. § 366.19.

¹⁰ Minn. Stat. § 437.09.

¹¹ Minn. Stat. § 437.07.

¹² Minn. Stat. § 624.65.

¹³ Minn. Stat. § 160.27, subd. 2.

authorized tear gas compounds, or electronic incapacitation devices located in the town.¹⁴

Currency Exchanges:

Sometimes the commissioner of commerce may refer a license application for a currency exchange business to the local unit of government. If the local unit of government does not approve the license, it will not be issued.¹⁵

Solid Waste Collection:

A town may issue license for persons to collect mixed municipal solid waste for hire within the town. The license must include a requirement that the license impose a charge for collection based on volume or weight.¹⁶

Board of Health:

It is possible for a community board of health to authorize a town board to establish a town board of health. Part of the authorization to establish a local board of health is a delegation of duties, which may include licensing authority.¹⁷

NO AUTHORITY TO LICENSE

There are certain statutes that expressly limit the town's power. These powers are expressed to limit the town's ability to attempt to enforce licenses for activities that are commonly needed or commonly thought to be licensable. However, even though towns may not license in these areas, it may have some authority to limit or regulate.

Manufactured Home Parks & Camping Areas:

Towns are **prohibited** from imposing a license on a licensed manufactured home park or complying recreational camping area, or upon an occupant of a licensed manufactured home park.¹⁸ A township may issue occupancy licenses or set other regulations for a camping or recreation area that it owns.

¹⁴ Minn. Stat. § 624.731, subd. 9.

¹⁵ Minn. Stat. § 53A.04.

¹⁶ Minn. Stat. §§ 115A.93-.9301.

¹⁷ Minn. Stat. § 145A.07.

¹⁸ Minn. Stat. § 327.26, subd. 1.

Liquor:

Although town boards **cannot** issue liquor licenses, a county must first seek the consent of a town board before issuing a retail license to sell any alcoholic beverage within the town.¹⁹ A county is also prohibited from issuing a Sunday sales intoxicating liquor license unless the town electors, at the town election, had voted to allow the issuance of such license.²⁰

Snowmobiles:

Towns are **prohibited** from requiring snowmobiles to be licensed or registered.²¹

County Fair Grounds:

Land owned by a county and used for agricultural fair purposes are exempt from town zoning, building, and other ordinances that may apply. It also appears that no license or permit fee need be paid.²²

Watercraft:

Towns are **prohibited** from requiring watercraft to be licensed.²³

Auctioneers:

A town may not require a person licensed as an auctioneer by a county to obtain an additional license to act as an auctioneer in the town.²⁴ However, a town can require an auctioneer to submit proof of licensure.²⁵

URBAN TOWNS

The term ‘urban town’ is something of a misnomer as the term does not refer to towns located in urban areas. Urban towns are those operating with the powers and duties provided in Minnesota Statutes Chapter 368. Some urban towns are in or near urban areas, but others are not. Much of the licensing authority granted to towns that have adopted urban town powers is provided in Minn.

¹⁹ Minn. Stat. § 340.410, subd. 1; *see also* Minn. Stat. § 340A.405, subd. 2(b) & (c).

²⁰ Minn. Stat. § 340A.504, subd. 3(d).

²¹ Minn. Stat. § 84.85.

²² Minn. Stat. § 38.16.

²³ Minn. Stat. § 86B.421.

²⁴ Minn. Stat. § 330.025.

²⁵ *Id.*

Stat. § 368.01.

Transient Dealers - Urban Towns:

The board of an urban town may by ordinance restrain or license and regulate auctioneers, transient merchants and dealers, hawkers, peddlers, solicitors, and canvassers.²⁶ If an auctioneer is licensed by a county and is bonded, a town may require proof of license but may not require an additional license or bond.²⁷ A veteran who is a bona fide resident of the county is exempt from the license fee for having or peddling goods and merchandise.²⁸

Taxicabs & Baggage Wagons - Urban Towns:

The board of an urban town may by ordinance license and regulate baggage wagons, dray drivers, taxicabs, and automobile rental agencies and liveryes.²⁹

NO LONGER LICENSABLE

Public Dances:

The statutes requiring a permit to conduct a public dance and authorizing town boards to issue such licenses were repealed in 1989.³⁰

Telephone Booths:

Outdoor telephone booths were formerly able to be placed in a right-of-way if a license, permit, or franchise is obtained from the road authority. This authority was repealed in 2014.³¹

Boxing Exhibitions:

A license to conduct any boxing or sparring exhibition in a town was not allowed to be issued unless the county board and the town board have authorized, by resolution, the holding of such exhibitions. This statute was repealed in 1999.³²

²⁶ Minn. Stat. § 368.01, subd. 11.

²⁷ Minn. Stat. § 330.025.

²⁸ Minn. Stat. § 197.59.

²⁹ Minn. Stat. § 368.01, subd. 12.

³⁰ Minn. Stat. § 624.44 (1988).

³¹ Minn. Stat. § 160.27, subd. 3 (2013).

³² Minn. Stat. § 341.08 (1998).