

### 364.3 Limitation of powers.

The following are limitations upon the powers of a city:

1. A city council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance.

2. For a violation of an ordinance a city shall not provide a penalty in excess of the maximum fine and term of imprisonment for a simple misdemeanor under [section 903.1, subsection 1](#), paragraph “a”. An amount equal to ten percent of all fines collected by cities shall be deposited in the account established in [section 602.8108](#). However, one hundred percent of all fines collected by a city pursuant to [section 321.236, subsection 1](#), shall be retained by the city. The criminal penalty surcharge required by [section 911.1](#) shall be added to a city fine and is not a part of the city’s penalty.

3. *a.* A city may not set standards and requirements which are lower or less stringent than those imposed by state law, but may set standards and requirements which are higher or more stringent than those imposed by state law, unless a state law provides otherwise.

*b.* A city shall not impose any fee or charge on any individual or business licensed by the plumbing and mechanical systems board for the right to perform plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems work within the scope of the license. This paragraph does not prohibit a city from charging fees for the issuance of permits for, and inspections of, work performed in its jurisdiction.

*c.* (1) A city shall not adopt an ordinance, motion, resolution, or amendment that sets standards or requirements regarding the sale or marketing of consumer merchandise that are different from, or in addition to, any state law. For purposes of this paragraph:

(a) “*Consumer merchandise*” means merchandise offered for sale or lease, or provided with a sale or lease, primarily but not exclusively for personal, family, or household purposes, and includes any container used for consuming, carrying, or transporting such merchandise.

(b) “*Container*” means a bag, cup, package, container, bottle, or other packaging that is all of the following:

(i) Designed to be either reusable or single-use.

(ii) Made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, or postconsumer recycled or similar material or substrates, including coated, laminated, or multilayer substrates.

(iii) Designed for consuming, transporting, or protecting merchandise, food, or beverages from or at a food service or retail facility.

(2) An ordinance, motion, resolution, or amendment adopted prior to March 30, 2017, that violates this paragraph is void and unenforceable on and after March 30, 2017.

(3) This paragraph “c” shall not apply to city solid waste or recycling collection or city solid waste or recycling programs.

*d.* A city shall not adopt an ordinance, motion, resolution, or amendment, or use any other means, that restricts an owner of real property from refinancing existing debt on, selling, or otherwise transferring title to the property by requiring the owner to take or show compliance with any action with respect to the property or pay any fee before, during, or after refinancing existing debt on, selling, or transferring title to the property.

4. A city may not levy a tax unless specifically authorized by a state law.

5. A city shall not adopt or enforce any ordinance imposing any registration or licensing system or registration or license fees for or relating to owner-occupied manufactured or mobile homes including the lots, lands, or manufactured home community or mobile home park upon or in which they are located. A city shall not adopt or enforce any ordinance imposing any registration or licensing system, or registration or license fees, or safety or sanitary standards for rental manufactured or mobile homes unless a similar registration or licensing system, or registration or license fees, or safety or sanitary standards are required for other rental properties intended for human habitation. [This subsection](#) does not preclude the investigation and abatement of a nuisance or the enforcement of a tiedown system, or the enforcement of any regulations of the state or local board of health if those regulations apply to other rental properties or to owner-occupied housing intended for human habitation.

6. A city shall not provide a civil penalty in excess of seven hundred fifty dollars for the violation of an ordinance which is classified as a municipal infraction or if the infraction is a

repeat offense, a civil penalty not to exceed one thousand dollars for each repeat offense. A municipal infraction is not punishable by imprisonment.

7. A city which operates a cable communications system shall manage the right-of-way on a competitively neutral and nondiscriminatory basis. Additionally, a city-operated cable communications system shall be required to pay the same fees and charges and comply with other requirements as may be imposed by the city by ordinance or by the terms of a franchise granted by the city, or as may otherwise be imposed by the city, upon any other cable provider. [This subsection](#) does not prohibit a city from making an equitable apportionment of franchise requirements between or among cable television providers, in order to eliminate duplication. [This subsection](#) shall not be construed to prohibit a city-operated cable communications system from making transfers of surplus as otherwise allowed or from making in-kind contributions as otherwise allowed.

8. a. A city may adopt and enforce an ordinance requiring the construction of a storm shelter at a manufactured home community or mobile home park which is constructed after July 1, 1999. In lieu of requiring construction of a storm shelter, a city may require a community or park owner to provide a plan for the evacuation of community or park residents to a safe place of shelter in times of severe weather including tornadoes and high winds if the city determines that a safe place of shelter is available within a reasonable distance of the manufactured home community or mobile home park for use by community or park residents. Each evacuation plan prepared pursuant to [this subsection](#) shall be filed with, and approved by, the local emergency management agency. If construction of a storm shelter is required, an ordinance adopted or enforced pursuant to [this subsection](#) shall not include any of the following requirements:

(1) That the size of the storm shelter be larger than the equivalent of seven square feet for each manufactured or mobile home space in the manufactured home community or mobile home park.

(2) That the storm shelter include a restroom if the shelter is used exclusively as a storm shelter.

(3) That the storm shelter exceed the construction specifications approved by a licensed professional engineer and presented by the owner of the manufactured home community or mobile home park.

(4) That the shelter be located any closer than one thousand three hundred twenty feet from any manufactured or mobile home in the community. However, this restriction shall not prohibit the adoption or enforcement of an ordinance that requires a minimum of one shelter to be located in a manufactured home community or mobile home park.

b. For the purposes of [this subsection](#):

(1) “*Manufactured home community*” means the same as land-leased community defined in [sections 335.30A and 414.28A](#).

(2) “*Mobile home park*” means a mobile home park as defined in [section 562B.7](#).

(3) “*Storm shelter*” means a single structure or multiple structures designed to provide persons with temporary protection from a storm.

9. A city shall not adopt or enforce any ordinance imposing any limitation on the amount of rent that can be charged for leasing private residential or commercial property. [This subsection](#) does not prevent the right of a city to manage and control residential property in which the city has a property interest.

10. A city which operates a utility that furnishes gas or electricity shall manage the right-of-way on a competitively neutral and nondiscriminatory basis. Such city utility shall be required to pay the fees and charges computed in the same manner as those fees and charges which are imposed by the city upon any other provider of a similar service within the corporate boundaries of the city. Such city utility shall also comply with the terms of the franchise granted by the city to the provider of a similar service. [This subsection](#) shall not be construed to prohibit the city utility from making transfers of surplus as otherwise allowed or from making in-kind contributions as otherwise allowed. However, a city shall not require that transfers from the city utility be in excess of the franchise fee amount imposed upon the provider of a similar service unless otherwise agreed.

11. A city shall not adopt or enforce any ordinance or regulation in violation of [section 562A.27B](#) or [562B.25B](#).

12. *a.* A city shall not adopt, enforce, or otherwise administer an ordinance, motion, resolution, or amendment providing for any terms or conditions of employment that exceed or conflict with the requirements of federal or state law relating to a minimum or living wage rate, any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms or conditions of employment.

*b.* An ordinance, motion, resolution, or amendment adopted prior to March 30, 2017, that violates [this subsection](#) is void and unenforceable on and after March 30, 2017.

[R60, §1071 – 1073, 1095; C73, §482, 524; C97, §668, 680, 947; S13, §668; C24, 27, 31, 35, 39, §5663, 5714, 6720; C46, 50, §363.36, 366.1, 420.31; C54, 58, 62, §366.1, 368A.1(10), 420.31; C66, 71, 73, §366.1, 368.2, 368A.1(10), 420.31; C75, 77, 79, 81, §364.3]

83 Acts, ch 123, §171, 209; 84 Acts, ch 1219, §31; 85 Acts, ch 195, §44; 86 Acts, ch 1202, §1; 86 Acts, ch 1245, §1118; 94 Acts, ch 1074, §4; 98 Acts, ch 1144, §3; 99 Acts, ch 33, §1; 99 Acts, ch 153, §9; 99 Acts, ch 186, §2; 2000 Acts, ch 1083, §2; 2000 Acts, ch 1203, §20; 2001 Acts, ch 153, §10; 2003 Acts, ch 178, §23; 2004 Acts, ch 1111, §2; 2008 Acts, ch 1191, §61; 2009 Acts, ch 21, §5; 2009 Acts, ch 179, §229, 231; 2011 Acts, ch 100, §14, 15; 2013 Acts, ch 77, §34, 36; 2014 Acts, ch 1092, §87; 2016 Acts, ch 1120, §2; 2017 Acts, ch 20, §3 – 5; 2018 Acts, ch 1013, §2; 2018 Acts, ch 1172, §75

Referred to in §331.427, 364.22, 388.10, 455B.192

Subsection 3, paragraph c, subparagraph (1), unnumbered paragraph 1 amended

Subsection 3, NEW paragraph d