

Joint Public Safety Advisory and City Council Meeting Agenda
Tuesday, July 28, 2026
6:00 p.m.
City Council Chambers

Desired Outcomes

By the conclusion of the meeting, participants should have:

- A clear understanding and agreement on how the two can support each other.
- Understanding of the implications of the recent court orders and how that may affect the decisions about our ordinance discussion.
- A plan for continued communication and collaboration.

1. Welcome and Introductions

2. Overview of Public Safety Committee's History and Current Focus

3. Understanding Roles and Responsibilities

Facilitated discussion:

- How do the Committee and Council complement one another? Do they overlap? Are there gaps?
- Are there responsibilities that are commonly misunderstood?
- What areas can each support the other?

4. Focus Topic: Should we make the current temporary ordinance permanent?

Discussion prompts:

What is the current situation? Review the recent court decision and City Attorney guidance.

5. Identify Next Steps/Follow Up Meetings

Are there any remaining questions?

- What are the opportunities for improved collaboration?

6. Closing

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MEMORANDUM

To: City Council & Public Safety Commission

From: Pamela Whitmore, City Attorney

Date: July 21, 2026

Re: Emergency Ordinance Discussion

Background

At the January 26, 2026 meeting, the Mankato City Council passed a motion directing staff to draft an emergency ordinance regulating law enforcement activity by other agencies in Mankato, including requiring (i) wearing body cameras during enforcement activities in Mankato (if those entities normally wear body cameras), (ii) unmasking while engaging in law enforcement activities, and (iii) providing identification during enforcements. On February 23, 2026, the City Council adopted an emergency ordinance¹.

At the April 13, 2026 meeting, the City Council considered and adopted an updated emergency ordinance to continue these regulations. The effective date for that updated emergency ordinance was April 24, 2026, with an expiration date of June 25, 2026. The updated ordinance mirrored the original emergency ordinance but included a clarifying definition of “law enforcement activity”. At the June 8, 2026 City Council meeting, the Council again discussed the status of the emergency ordinance. Following that discussion, the Council effectively extended the ordinance by adopting a new ordinance that was substantially the same in form and structure. The Council also, at that time, requested a joint meeting with the Public Safety Advisory Committee to discuss a more permanent ordinance. That meeting is scheduled for Tuesday, July 28, 2026.

¹ [Mankato emergency ordinance](#)

February 2026 Discussion of Relevant Law

In February 2026, the City Attorney had provided the Council with a legal memorandum which outlined the federal law related to immigration enforcement activities in local jurisdictions. That memorandum explained that federal law controls immigration enforcement and protects federal officers from interference, while also clarifying that federal law does not require states or local governments to collect immigration information or enforce federal immigration laws. It further expounded on how, under the Supremacy Clause, intergovernmental immunity, and the Tenth Amendment, federal law prevails where valid, while states retain independence and cannot be commandeered into carrying out federal programs.

Additionally, around that same time, courts across the country were beginning to adjudicate cases involving local regulation of law enforcement activities. In those cases, local jurisdictions relied on arguments that state law allows cities to use their police powers to adopt ordinances that protect health, safety, and welfare as long as those adopted local regulations do not conflict with or are not preempted by state or federal law. At that time, the only case addressing a local ordinance requiring federal agents to identify themselves and refrain from masking was a California case. The court struck down the ordinance but indicated that it likely would have been upheld had its notice and identification requirements applied uniformly to all law enforcement officers. Based on the dicta in that case, and in light of Minnesota law generally prohibiting the concealment of one's identity through masking², the Council had a reasonable basis to adopt the emergency ordinance as drafted during a period of heightened immigration enforcement activity. Notably, the ordinance applied uniformly to all law enforcement officers and did not single out federal agents or any particular law enforcement agency.

Recent Updates to Law

Since the February 2026 discussion, however, additional decisions have provided further guidance on the extent of local regulatory authority and the interplay between the Supremacy Clause and state sovereignty under the Tenth Amendment. The most significant case has arisen out of the Third Circuit (Minnesota sits in the Eighth Circuit), and so does not create authoritative law in Minnesota, however, it does represent the first federal court case where an ordinance similar to Mankato's emergency ordinance has undergone judicial review. In *United States v. Philadelphia*, a federal district court granted a preliminary injunction preventing enforcement of Philadelphia's ordinance requiring law enforcement officers to identify themselves and not wear masks while performing official duties. The violations of the ordinance included possible civil and criminal penalties.

In that case, the U.S. Department of Justice ("DOJ") sued the City of Philadelphia to block Bill 260060³, which, as stated above, banned law enforcement from wearing face

² Minn. Stat. 609.735 states "A person whose identity is concealed by the person in a public place by means of a robe, mask, or other disguise, unless based on religious beliefs, or incidental to amusement, entertainment, protection from weather, or medical treatment, is guilty of a misdemeanor."

³ [Philadelphia Ordinance 260060](#)

coverings, required them to display identification and to use marked vehicles. The DOJ claimed the ordinance caused unconstitutional interference with federal agents and the court agreed, enjoining Philadelphia from enforcing Bill 260060 (which was to go into effect on July 7, 2026) against federal law enforcement officers. The court specifically found that because of the Supremacy Clause, local and state governments do not have authority to dictate, or interfere with how federal officers conduct official operations and that the ordinance's restrictions on face masks, vehicle markings, and badge identification unlawfully breached the principles of federal immunity. Because of this decision, the DOJ is actively leveraging the Philadelphia decision to target similar identity and mask bans across the country, including in ongoing lawsuits in Connecticut, Maryland, New York, and New Jersey. The court, in the Philadelphia case, specifically stated that “[d]efendants seek to directly regulate federal agents and law enforcement officers in the performance of their federal functions” and that allowing the City of Philadelphia to “do that would ‘chang[e] totally the character of’ our federal system by ‘transfer[ring] the supremacy, in fact, to” a municipality.

However, on July 20, 2026, U.S. District Judge Eric Tostrud of the District of Minnesota issued a decision that limited the broader implications of the Philadelphia case and dealt a setback to the Department of Justice. Judge Tostrud concluded that the state and local policies in Minnesota related to immigration enforcement, labeled as “sanctuary policies” by the DOJ, do not violate the Constitution as written because they regulate the conduct of state and local officials, rather than imposing any restrictions on the federal government's ability to enforce immigration laws (hereinafter “Minnesota Case”).⁴ The court in the Minnesota Case further explained the constitutional interplay between federal preemption of the Supremacy Clause and state rights protected by the Tenth Amendment. The challenged code provisions in the Minnesota Case restricted the disclosure of driver’s license information and other specified data to federal immigration authorities, while also limiting the type and scope of information that local law enforcement agencies could share with federal immigration officials. The lawyers in that case argued that “Minnesota is not impeding immigration law, it is just not assisting.” In his order, Judge Tostrud agreed and stated that forcing Minnesota or cities to assist with civil federal immigration policies would violate the anticommandeering doctrine under the 10th Amendment and could also cause budgetary concerns by shifting resources toward enforcing federal law.

Viewed collectively, the two cases delineate the boundaries of local authority and clarify the extent to which local governments may adopt and enforce immigration-related policies. Judge Tostrud used the 10th Amendment/Anticommandeering Doctrine, to allow local jurisdiction to “say no” to actively assisting the federal government. Judge Tostrud recognized that the federal government is a separate sovereign entity and cannot compel local law enforcement officers to serve as unpaid federal immigration agents. He further concluded that the challenged sanctuary policies do not violate the doctrine of intergovernmental immunity because they neither regulate nor control the manner in which federal agents perform their duties. The

⁴ Department of Justice lawsuit aimed to invalidate state and local “sanctuary” policies, which limit information-sharing and cooperation between local law enforcement agencies and immigration enforcement. *United States of America, Plaintiff, v. State of Minnesota; City of Minneapolis, Minnesota; City of St. Paul, Minnesota; Hennepin County, Minnesota; Keith Ellison, Attorney General of Minnesota, in his official capacity; and Dawanna S. Witt, Hennepin County Sheriff, in her official capacity.*

opinion also found the local regulations not discriminatory against the federal government since the data-sharing restrictions apply broadly to private entities and other state governments as well. Similarly, in the Philadelphia case, the court there also found that the local jurisdiction had the right to withhold its own police help, but determined that the Philadelphia ordinance went too far by actively restricting or directing the behavior of the federal agents in the execution of their job enforcing immigration laws. In essence, the Philadelphia ordinance said that “if you come here to do your job, you must follow our rules, unmask, and drive marked cars, or we will prosecute you”, and the court, in that instance, ruled that doing so represented a direct, illegal assault on federal sovereignty.

Conclusion

In light of the city's existing policies and the lack of any complaints, enforcement requests, or other evidence demonstrating a need for the ordinance, I recommend allowing the emergency ordinance to expire and not considering it for permanent adoption. The city currently has policy in place to not assist any agencies with immigration enforcement, including not sharing data or not holding anyone detained in city jail cells past release dates. If the City Council and the Public Safety Committee wish to formally codify the city's existing practices, legislation reflecting the current policy framework would represent a more appropriate approach under the current legal landscape. For reference, Chapter 19 of the Minneapolis City Code (Sections 19.10–19.90) was one of the ordinances challenged in Minnesota and upheld, and establishes limitations on the use of city resources for federal immigration enforcement.

[Minneapolis City Code Sections 19.10-19.90](#)