



A Review of Federal and Minnesota Laws on Pedestrian, Bicycle, and Non-motorized Transportation

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EXECUTIVE SUMMARY*

Transportation is fundamental to our everyday life. The creation and maintenance of a strong transportation system is critical to ensuring our ability to travel and exercise our basic rights. As a result, we all have a stake in ensuring that there is a transportation system to support our movement. Every trip we take uses a road, a bridge, a rail line, airport runways, a bicycle lane, sidewalk, or a waterway to connect us to our destinations. We need to be mobile to participate in our communities and our government. An effective transportation system is essential to our ability to connect to our families and friends, access employment, food, medical care, education, and other necessities of life.

Travel a Fundamental Right

The nation's founders recognized the necessity of building and maintaining strong transportation systems in order to encourage prosperity within our growing and developing nation.¹ The nation's first transportation systems were a by-product of the Constitution, which empowered Congress to establish the postal roads that connected the towns and colonies and provided a means for travel, trade, and the spread of information.² Further, the Supreme Court recognized that the right to travel is one of the fundamental rights guaranteed by the Fourteenth Amendment to the U.S. Constitution.³ To this day, the transportation systems continue to reflect the values of the nation's Constitution and laws by promoting general welfare, prosperity, and liberty.

Multimodal System for Everyone

The transportation system is the mechanism through which travel is possible. Minnesota's transportation system is multimodal - integrating all modes, or types of transportation, including motorized and non-motorized vehicles. This system serves and benefits people of all ages, backgrounds, and abilities to satisfy the vision and requirements of federal and Minnesota law. Motorized vehicles are motor- or engine-powered vehicles, such as cars, buses, transit vehicles, and motorcycles. In contrast, non-motorized modes of transportation are those that are human-powered or animal-driven. Non-motorized transportation can range from pedestrian transportation to driving bicycles and horse-drawn vehicles.

While the transportation system is designed to include both motorized and non-motorized transportation, conflicts and confusion can arise in the funding, development, implementation, maintenance, and use of the system. Federal, state, tribal, and local laws address some of these issues, yet ambiguity can exist when different modes of transportation use the same transportation facilities (roads, sidewalks, trails, etc.). This overlap raises questions about whether a hierarchy exists between different modes of transportation, whether one form or mode of transportation "trumps" the rights or access of another. These questions highlight some of the tension underlying a shared transportation system.

Pedestrian, Bicycle, and Non-motorized Use Integral

Pedestrian, bicycle, and other non-motorized transportation is an integral part of the multimodal transpor-

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tation system. We are all pedestrians and we all use the transportation system. However, in the past few decades Minnesota's transportation system has largely focused on motorized vehicle efficiency to move as many cars and other motorized vehicles as quickly as possible. The needs of pedestrians, bicyclists, and other non-motorized transportation users have often been a secondary concern even though they are also entitled to use all parts of Minnesota's transportation system, except where specifically prohibited.⁴ Nonetheless, the uses and needs of Minnesota's transportation system have evolved as approximately 40% of Minnesotans do not drive, Minnesota has an aging population, more individuals have moved into urban areas, and an increased number of Minnesotans are overweight or obese.⁵

Identifying and addressing the needs of these transportation users has received greater attention with the recent Complete Streets movement around the country and in Minnesota. This movement has been fueled by a growing awareness of the public health benefits of active transportation and concerns regarding environmental impacts from air pollution due in part to motor vehicle use, to name a few. In 2008, the Minnesota legislature directed the Commissioner of Transportation and the Metropolitan Council to study the benefits, feasibility, and costs of adopting a statewide Complete Streets policy.⁶ The following year, the Minnesota Department of Transportation submitted its findings, which emphasized the benefits of Complete Streets, including increased health, safety, and accessibility among pedestrians, increased environmental quality, and decreased road congestion, and ultimately recommended the legislature adopt a statewide policy.⁷ These events and trends influenced and encouraged the passage of Minnesota's Complete Streets law in 2010, which supports consideration and incorporation of non-motorized transportation, in addition to other modes of transportation, in all transportation projects.

Multi-faceted Collaboration

The transportation system is designed to include pedestrian, bicycle, and other non-motorized transportation, in addition to motorists, transit, and other motorized vehicles. This system requires a multi-faceted collaboration between and among federal, tribal, state, regional, and local governments. This collaboration includes not only transportation and transit officials and agencies, but also a wide range of other stakeholders involved in areas as far-ranging as health, housing, education, safety, economics, environmental protection, and citizens. Intergovernmental cooperation and public involvement are both critical to ensuring that the transportation system is planned and designed to meet the needs of all users and provides a seamless multimodal system throughout the state.

MnDOT as Principal Agency

The Minnesota Department of Transportation (MnDOT) is the principal governmental agency responsible for developing, implementing, administering, consolidating, and coordinating the state's transportation policies, plans, and programs for pedestrian, bicycle, and other non-motorized transportation in Minnesota.⁸ The Minnesota legislature established MnDOT to provide an integrated transportation system of aeronautics, highways, motor carriers, ports, public transit, railroads, pipelines, and facilities for walking and bicycling.⁹ Both Minnesota and federal laws affirm MnDOT's mandate to provide an integrated and multimodal transportation system.¹⁰ This includes bicycle and pedestrian transportation.

All levels of government, federal, tribal, state, regional, and local, are involved in providing different aspects of Minnesota's transportation system. Authority over a specific component of the transporta-

tion system is generally tied to who controls the land impacted by that portion of the system. MnDOT is responsible for the state highway system, also known as the trunk highway system; tribal, regional, and local governments have responsibility for different aspects of the transportation system under their respective jurisdictions.

As part of their responsibility to provide a multimodal transportation system, all levels of government are required to work together to:

- Plan, design, construct, and fund a system to maximize the long-term benefits of investments in transportation;
- Provide a multimodal transportation system that supports all users, including pedestrians, bicyclists, and other non-motorized transportation users;
- Provide a system that is safe, accessible, and available to all users;
- Provide affordable and cost-effective transportation options;
- Allow local communities to plan local systems and tailor transportation facility designs to meet local needs; and
- Spur economic development and tourism; reduce reliance on energy sources; minimize greenhouse gas emissions; reduce traffic congestion; and protect the quality of Minnesota's air, land, and water.¹¹

Values Beyond Transportation

The transportation system not only functions as a multimodal system that includes motorist, pedestrian, bicycle, and other non-motorized transportation, it is also designed to support fundamental values embedded in other federal, tribal, state, and local laws. Human and civil rights laws prohibit discrimination against individuals with disabilities, racial and ethnic minorities, senior citizens, and others in the public transportation system. Public health laws and policies that seek to reduce chronic health issues are furthered through active transportation. Environmental policies and laws are supported by increasing the use of non-motorized transportation in order to reduce energy consumption and use of fossil fuels by motorized vehicles. Recreational opportunities are also enhanced through a transportation system that supports pedestrian, bicycle, and other non-motorized transportation. For example, the DNR is focused on the provision and management of outdoor recreational opportunities and coordinates with MnDOT and others on facility construction and maintenance. There is an overlap in responsibility to provide recreational opportunities and transportation facilities for pedestrian, bicycle, and other non-motorized transportation.

Key Findings

This report provides a review and analysis of federal and Minnesota state laws and regulations relating to pedestrian, bicycle, and other non-motorized transportation. It is designed to increase the understanding of the Minnesota and federal legal framework regulating and providing a transportation system supporting bicycle, pedestrian, and non-motorized transportation. The report identifies several key findings. They include:

- The transportation system is meant to support the movement of all modes of transportation and all

people.

- Federal and Minnesota laws require coordination between different governmental entities to ensure Minnesota has an integrated and seamless transportation system that meets the needs of all users.
- Pedestrian transportation is an essential component of a transportation system. An individual cannot access any part of the transportation system without being a pedestrian at some point.
- All state transportation facilities can be used by pedestrians, bicyclists, and other non-motorized transportation users unless specifically prohibited by law. Alternative facilities should be provided for bicycle, pedestrian and non-motorized transportation if access to certain transportation facilities is limited, restricted, or removed.
- Roads, streets, highways, bridges, and other transportation facilities are bicycle and pedestrian facilities under Minnesota law, unless this use is specifically prohibited. Accordingly, transportation funding, including that established by the Minnesota Constitution solely for highway purposes, can be used for pedestrian, bicycle, and non-motorized transportation facilities. This includes funding for Minnesota's state trunk highways.
- Laws involving pedestrian, bicycle, and non-motorized transportation are located throughout a wide-range of federal and Minnesota laws and not just found in laws specifically focused on transportation.
- MnDOT is responsible for coordinating a multimodal transportation system that includes bicycles and pedestrians with multiple public and private entities and state agencies.
- MnDOT's responsibility includes establishing a program for the development of bikeways primarily on existing road rights-of-way. This program is required to include a system of bikeways to be established, developed, maintained, and operated by MnDOT primarily on existing road rights-of-way, not only on state trunk highways but throughout the state.
- MnDOT, the DNR, and federal, tribal, and local governments in Minnesota are required to collaborate and provide an integrated system linking recreation and transportation systems.
- Federal and Minnesota laws indicate that a wide range of funding mechanisms can be used to plan, develop, and construct pedestrian, bicycle, and other non-motorized transportation facilities. While not a direct funding source, MnDOT is legally required to provide technical assistance to local units of government in planning and developing bikeways.
- MnDOT's charter includes increasing the use of bicycling and walking and to provide facilities in the interests of public health, safety, and welfare.¹²

- Pedestrian, bicycle, and non-motorized transportation serve broader legal and policy goals that go far beyond transportation. Some of these goals include environmental protection, economic development, public health, education, tourism, recreation, and the protection of civil and human rights.
- Minnesota law requires reporting of accidents involving vehicles that result in bodily injury or death of any individual to a local police department if the accident occurred in a municipality, to the state patrol if it occurs on a state trunk highway, or to the county sheriff.¹³ This requirement may not capture many accidents impacting pedestrians, bicyclists, and other non-motorized transportation users as the law does not require reporting accidents on railroad property involving pedestrians and trains or on other facilities, such as recreational trails, not covered by these traffic regulations.
- Minnesota's Complete Streets law focuses on Minnesota's commitment to develop an integrated and multi-modal transportation system for all people, with a primary focus on the state trunk highway system. While the Complete Streets law reinforces federal and Minnesota laws that require an integrated multi-modal system, it does not include the recognition of other public goals required by state and federal law that impact transportation including environmental protection, public involvement, civil and human rights, or public health.
- Federal and Minnesota laws regarding pedestrian, bicycle, and other non-motorized transportation go far beyond the requirements of or considerations included in Minnesota's Complete Streets law. Pedestrian, bicycle, and non-motorized transportation serve broad public goals that go far beyond transportation. Some of these goals include environmental protection, civil and human rights, economic development, public health, and education.
- Transportation and recreational activities are often very similar and integrally linked. Many facilities supporting the movement of pedestrians and bicycles can be used for both transportation and recreation. The distinction between recreation and transportation is often more important to the funding source as opposed to how a specific individual may decide to use a specific facility.
- Traffic, by state and federal law, is a broad term that includes all users of the transportation system, including both pedestrians and vehicles.¹⁴



Minnesota's Complete Streets Law

The Minnesota Legislature passed a Complete Streets law in 2010. Pedestrian, bicycle, and other non-motorized transportation is an integral part of the Complete Streets law to ensure the state's transportation system supports all modes of transportation for all ages and abilities. Complete Streets is defined in Minnesota law as:

...the planning, scoping, design, implementation, operation, and maintenance of roads in order to reasonably address the safety and accessibility needs of users of all ages and abilities. Complete [S]treets considers the needs of motorists, pedestrians, transit users and vehicles, bicyclists, and commercial and emergency vehicles moving along and across roads, intersections, and crossings in a manner that is sensitive to the local context and recognizes that the needs vary in urban, suburban, and rural settings.¹⁵



The Complete Streets law reflects broad policy goals supporting active transportation and also has some specific requirements. The Complete Streets law requires MnDOT to implement a statewide Complete Streets policy after consulting with stakeholders, state and regional agencies, local governments, and road authorities. This Complete Streets policy is to affect virtually all phases of road activity on trunk highways—from planning to maintenance.¹⁶ Addressing the needs of all transportation users may require attention not only to the streets but also to the sidewalks, bicycle lanes, and other bicycle and pedestrian facilities.

In developing a Complete Streets policy, MnDOT must address protocols, guidance, standards, requirements, and training, and integrate related principles of context-sensitive solutions (CSS).¹⁷ Local governments, or local road authorities on roads other than trunk highways, are encouraged, but not required, to adopt Complete Streets policies. Local governments are also allowed to adopt Complete Streets policies that go beyond the requirements of Minnesota's Complete Streets law.¹⁸

Federal and state laws regarding pedestrian, bicycle, and other non-motorized transportation go far beyond the requirements of or considerations included in Minnesota's Complete Streets law. This report examines federal and Minnesota laws impacting pedestrians, bicyclists, and non-motorized transportation, including human and civil rights; environmental quality and impacts; health, safety, and educa-

tion; and funding, governance, and economic development. Understanding how these other laws impact pedestrians, bicyclists, and non-motorized transportation can help further the implementation of Minnesota's Complete Streets law and support the integration of pedestrian, bicycle, and other non-motorized transportation into the state, federal, tribal, regional, and local transportation systems.

Ambiguities, Conflicts and Barriers

There are ambiguities, conflicts, and potential barriers to bicycle and pedestrian and other non-motorized transportation in federal and Minnesota laws which could also be potential barriers to Complete Streets implementation. Ambiguities, conflicts, and potential barriers discussed in this report include:

- Ensuring effective coordination, consultation, and cooperation between governmental entities providing the transportation system and state bikeway program;
- Ensuring the safety of pedestrians, bicyclists, and other non-motorized transportation users when sharing facilities with motorized vehicles;
- Reporting accidents involving pedestrians, bicyclists, and non-motorized vehicles;
- Linking different transportation facilities for pedestrians, bicycles, and non-motorized transportation; and
- Effectively using funding for both recreation and transportation to support pedestrian, bicycle, and non-motorized activities.

Purpose of this Report

This report will help MnDOT implement Minnesota's 2010 Complete Streets law for the state highway system and help local governments address, accommodate, and focus on the needs of pedestrian, bicycle, and other non-motorized transportation as required by law.

The goals of this report are to:

- Increase understanding of laws relating to pedestrian, bicycle, and other modes of non-motorized transportation.
- Help local governments to implement their transportation and Complete Streets policies.
- Assist the Complete Streets External Advisory Group to provide advice to MnDOT on how to implement its Complete Streets policy.
- Assist MnDOT to prepare a legislative report, as required by Laws of Minnesota 2010, chapter 351, section 72 and Minnesota Statute section 174.75 (2010), identifying statutory barriers and recommendations to Complete Streets implementation relating to pedestrians, bicyclists, and other non-motorized transportation users.

This information can serve as a reference guide and/or background on the legal framework of Minnesota's transportation system – specifically focusing on pedestrian, bicycle, and non-motorized transportation. Key definitions are highlighted throughout the report to provide a better understanding of the legal framework.

Scope and Limitations of this Report

This report focuses on federal and Minnesota laws that create the foundation for planning, funding, constructing, maintaining, governing, and using the transportation system. Because bicycle, pedestrian and non-motorized transportation are a component of the transportation system, bicycle- and pedestrian-specific laws cannot be analyzed in isolation from other laws.

The laws analyzed in this report identify and define a wide range of transportation facilities such as highways, roads, streets, bridges, tunnels and underpasses, traffic signals, sidewalks, intersections, crossings, transit access, paths, bikeways, and other facilities and components of the transportation system. These laws identify maintenance and design standards and requirements, in addition to the different levels of government (including federal, tribal, state, regional, and local governments) responsible for the governance and protection of the transportation system and the laws governing the use of the transportation system.

This report does not include every law that may apply to transportation. For example, the engineering, licensing, or other professional certification requirements for the design, construction, or maintenance of the transportation system are not within the scope of this report. However, individuals involved in these components of the transportation system may find this report useful to better understand the legal implications of their work.

This law review and analysis is broad in scope, but does not analyze specific transportation issues in detail. Different laws may use different terminology to address the same or related parts of the transportation system used by pedestrian, bicycle, and other non-motorized transportation. Therefore it is important to double-check the applicability of certain legal terms and how they apply to a given area of law.

The laws and regulations included in this report were compiled between August 2012 and June 2013. When using this report, readers need to understand that laws change, so legal citations and references need to be checked against federal, Minnesota, and other legal authorities to verify the validity of the information provided. The laws and regulations included in the report were collected from the State of Minnesota Office of the Revisor of Statutes website¹⁹ and the U.S. Government Printing Office website,²⁰ among other authoritative resources as indicated.

This is a living document; therefore it needs to be updated periodically to stay current with new laws and changes in laws.

Chapter 1

The Laws That Create The Transportation System[†]

Minnesota's transportation system supports the movement and travel of people, vehicles, and freight through a wide range of land-, water-, and air-based modes of transportation.²¹ This multimodal transportation system exists within a legal structure that creates and funds a network of highways, roads, streets, sidewalks, paths, and bridges.

This section will focus on the laws that create and regulate the transportation system, the relationship between different laws, and how the laws are implemented. This discussion provides a roadmap to understanding the structure and framework of laws and regulations governing the transportation system used by pedestrians, bicyclists, and other non-motorized transportation users.



Federal and state laws create the general legal framework for the national and state transportation systems. These laws include broad policy statements. They also create transportation programs and

[†] Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

facilities to provide fast, safe, efficient, and convenient transportation to support the general welfare, economic growth and stability, and security of the United States.²² Keeping costs low and using national resources efficiently are central goals in the development of these policies, programs, and facilities.²³

In July 2012, President Obama signed the Moving Ahead for Progress in the 21st Century Act (MAP-21) into law.²⁴ MAP-21 builds on and refines many existing highway, transit, bicycle, and pedestrian programs and policies, including strengthening the National Highway System, establishing a performance-based transportation system, creating jobs and supporting economic growth, and supporting the U.S. Department of Transportation's safety agenda.²⁵

The following Federal-aid highway program's goals are examples of MAP-21's national goals that incorporate pedestrian, bicycle, and other non-motorized transportation:

- **Safety** - To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.
- **Infrastructure Condition** - To maintain the highway infrastructure asset system in a state of good repair.
- **Congestion Reduction** - To achieve a significant reduction in congestion on the National Highway System.
- **System Reliability** - To improve the efficiency of the surface transportation system.
- **Freight Movement and Economic Vitality** - To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.
- **Environmental Sustainability** - To enhance the performance of the transportation system while protecting and enhancing the natural environment.
- **Reduced Project Delivery Delays** - To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.²⁶

Key Definition:

Transportation Facility

Transportation facility is a general term used within this report to describe the physical components of the transportation system that provide and promote travel by any or all transportation modes. Minnesota law does not specifically define transportation facility; however, it is used in federal transportation law. Federal definitions of facility relevant to this report include:

- **Facility:** all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.²⁷
- **Bicycle Transportation Facility:** a new or improved lane, path, or shoulder for use by bicyclists

and a traffic control device, shelter, or parking facility for bicycles.²⁸

The use of the term facility throughout this report is consistent with the federal use of this term.

Federal and state laws also create a “code of behavior” that ensures the harmonious use of the transportation system by all users. Transportation policies and goals supporting pedestrian, bicycle, and other non-motorized transportation include:

- Providing multimodal transportation facilities that increase access for all persons and businesses to ensure economic well-being and quality of life without imposing an undue burden on any community;²⁹
- Ensuring that planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;³⁰
- Promoting and increasing bicycling and walking as energy-efficient, nonpolluting, and healthy forms of transportation;³¹
- Reducing greenhouse gas emissions from the state’s transportation sector;³² and
- Accomplishing these goals with minimal impact on the environment.³³

Federal and Minnesota statutes and regulations support these transportation goals and are designed to:

- Further the development, implementation, and maintenance of the transportation system; and
- Support access to the transportation system by pedestrians, bicyclists, and other non-motorized transportation users.

Some transportation facilities are intended for a specific type of traffic or vehicle. As a result, access to specific transportation facilities by different users may be either restricted or preferred. For example, pedestrians, bicycles, and other non-motorized vehicles are restricted from using Minnesota interstate highways; bicycle lanes are primarily created for bicyclists,³⁴ and pedestrian access routes provide continuous and unobstructed paths for pedestrians with disabilities within or coinciding with pedestrian paths.

³⁵

1.1 How Transportation Laws Are Structured

Federal and state constitutions, statutes, regulations and rules, executive orders, and standards and guidelines govern the transportation system. In case of conflict, federal law usually trumps state law and state law usually trumps local law. A complicated mix of federal, state, and local laws create the transportation system in Minnesota. Understanding the interplay between these legal authorities helps road authorities determine how to accommodate pedestrian, bicycle, and other non-motorized transportation.

Key Definition:

Legal Authority

Legal authority means legally enforceable laws, including the federal and Minnesota constitutions, federal statutes and regulations, and Minnesota statutes and rules.

1.1.1 U.S. AND MINNESOTA STATE CONSTITUTIONS

The United States Constitution provides the legal foundation for federal transportation law. The U.S. Constitution gives Congress power to implement law and the ability to delegate to executive agencies the authority to create regulations that implement specific laws passed by Congress.³⁶ The U.S. Constitution also grants Congress the power to delegate authority to executive agencies to create regulations, such as the authority granted to the U.S. Department of Transportation (DOT) to create federal regulations on specific transportation issues. Federal agencies are responsible for overseeing and regulating crucial areas of federal policy, including transportation. These federal agencies are then housed within and overseen by the executive branch.³⁷

The Minnesota Constitution provides the basic legal foundation for the state's transportation system. The Minnesota Constitution is organized into "articles" that address different components of Minnesota's government.³⁸ Article XIV creates a public highway system and a funding mechanism for its support.³⁹ (See Public Highway System Created by Minnesota's Constitution.)

Key Background:

Preemption

Preemption is a legal concept and refers to the restriction or elimination of a law passed by a lower level of government by a law passed by a higher level of government, such as a state law that is in conflict with federal law or of a local law that is in conflict with state or federal law. Preemption can be express or implied. With express preemption, the federal or state legislature has included phrases or a provision in a law that explicitly states the legislature's intention for the law to preempt a lower authority. With implied preemption, a court finds that a law is preemptive even though there is no explicit statement of preemption based on the legal landscape and/or the legislative history of the law.⁴⁰

The concept of preemption was derived from the Supremacy Clause of the United States Constitution, which states,

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The allocation of authority between federal and state laws over transportation and the possibility of preemption are important features of the U.S. transportation system, often seen in issues regarding railroads and accessibility. Because questions of preemption are frequently decided by courts, it is not always clear in advance whether there is preemption of local authority or to what extent.

Preemption may arise in cases where both federal and state law provide a definition or design standard for the same transportation facility that impacts accessibility for individuals with disabilities. In these cases, state requirements or definitions may complement federal law or provide more protection or broader definitions. This is because federal law sets a minimum standard (or floor) that could be exceeded by state and local requirements and definitions. However, if state or local laws do not provide as much protection as federal law, these laws could be preempted by federal law providing greater protection.

In sum, state transportation laws and definitions are valid and legally enforceable so long as they are not in conflict with federal laws. Determining if a state law is in conflict with a federal law is often determined in court.

1.1.2 FEDERAL AND STATE STATUTES

Federal and state statutes generally apply to people living in the United States and its territories or a specific state. Legislatures, through the authority granted by the federal or state constitutions, create laws, also called statutes. The United States Code (U.S.C.) includes all federal statutes that make up the laws of the United States.⁴¹ It is divided by broad subjects into 51 titles, several of which impact the national, state, and local transportation systems. Those that are of greatest significance to pedestrian, bicycle, and other non-motorized transportation include[‡]:

- Title 23 – Highways.
 - Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141, 126 Stat. 405, § 1503(a)(3) (2012).
- Title 49 – Transportation.
- Title 42 – The Public Health and Welfare:
 - Architectural Barriers Act (42 U.S.C. §§ 4151 et seq.),
 - Americans with Disabilities Act (42 U.S.C. §§ 12131-12165),
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000(d) et seq.),
 - NEPA (42 U.S.C. §§ 4321 et seq.), and
 - Age Discrimination in Federally Assisted Programs (42 U.S.C. §§ 6101 et seq.).

Minnesota Statutes are organized into 104 categories or titles of general themes and areas. These general titles are organized into groups of chapters of related laws. There are a total of 648 chapters of Min-

[‡] While other provisions of the US Code may have some limited relationship to pedestrians, bicycle, and other non-motorized transportation, these titles and specific laws were determined to be the most relevant and have the most significant impact on pedestrian, bicycle, and other non-motorized transportation facilities, including planning, design, and maintenance.

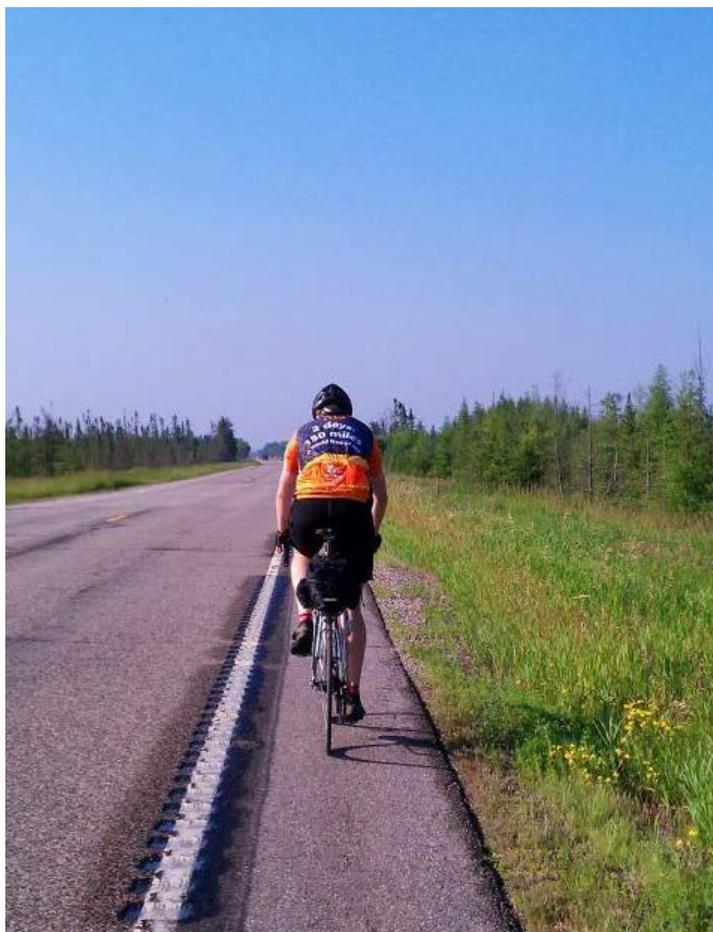
nesota statutes. Each chapter may provide definitions for terms used within that chapter, or may refer to definitions provided in another chapter, typically within the same category. This report identifies numerous general categories and specific statute chapters that impact pedestrian, bicycle, and non-motorized transportation and are discussed in this report.

Appendix E shows the legal categories and chapters identified that are most relevant to pedestrian, bicycle, and non-motorized transportation.

1.1.3 FEDERAL AND STATE RULES AND REGULATIONS

Federal statutes are often implemented, or carried out, through federal regulations while Minnesota statutes are often implemented through Minnesota rules. Rules and regulations are intended to further define and clarify the corresponding statute that the regulation or rule implements. However, not every statute, federal or state, has a corresponding rule or regulation. In addition, local governments, such as counties, cities, and towns, may pass local laws that apply to people and land within their boundaries. These local laws, generally referred to as ordinances, are not covered in this report.

The Code of Federal Regulations (C.F.R.)⁴² contains the federal regulations. Federal agencies are often required to create federal regulations that implement specific components of federal law. Within the C.F.R., governmental agencies may identify certain standards, guidelines, and manuals used to meet the specific requirements found in the regulation.



Minnesota Rules, also called regulations, implement Minnesota statutes. Minnesota rules have the full force and effect of law but must be consistent with the statute the rule implements. Administrative agencies, such as MnDOT, the DNR, and the Pollution Control Agency (PCA), draft the rules as directed by the legislature.⁴³

Minnesota rules are organized by chapter according to the agency (such as MnDOT) that administers the rules.⁴⁴ MnDOT is responsible for multiple chapters of the Minnesota Rules which are relevant to pedestrian, bicycle, and other non-motorized transportation.

Appendix E shows the Minnesota Rules identified that are most relevant to pedestrian, bicycle, and non-motorized transportation.

1.1.4 EXECUTIVE ORDERS

Executive offices of the government, such as the President of the United States or a state governor may issue executive orders.⁴⁵ The primary responsibility of the executive branch is to implement and enforce laws. Executive orders are used as tools to accomplish those purposes. Executive orders have the force of law so long as the executive office has legal authority to take the action within the executive order. Examples include executive orders on Environmental Justice, Limited English Proficiency, and Minnesota Tribal Governments. (See Executive Orders: Environmental Justice, Limited English Proficiency, and Minnesota Indian Tribal Governments.)

1.1.5 FEDERAL AND STATE STANDARDS AND GUIDELINES

Government agencies may be required or allowed by law to develop different standards and guidelines or identify other expert groups to develop standards and guidelines to implement the law. Agencies can sometimes utilize the standards and guidelines created by experts on a specific subject area. The creation of a manual with standards and guidelines is often not required, though it can be helpful when dealing with complex issues of law and science. Minnesota Manual on Uniform Traffic Control Devices is an example of a collection of standards adopted by MnDOT. The legal enforceability of different standards and guidelines depends on how or if the standards and guidelines are incorporated into statutes and regulations. (Depending on the context, the term “agency policy” may sometimes be used interchangeably for “guidelines”.⁴⁶ The U.S. DOT defines an agency policy as how it plans to exercise a discretionary power.⁴⁷ Discretionary acts are public policy and planning decisions that require weighing various factors such as the financial, political, and social effects of that decision.⁴⁸ These types of agency policies are not generally legally enforceable.)



Examples of Federal Standards and Guidelines

ADA Accessibility Guidelines

The United States Access Board publishes the Americans with Disabilities Act Accessibility Guidelines (ADAAG), which contain requirements for accessibility to buildings and facilities by individuals with disabilities under the Americans with Disabilities Act (ADA) of 1990.⁴⁹ These requirements apply to the design, construction, and alteration of buildings and facilities covered under certain sections of the ADA.⁵⁰ The Access Board’s ADA Accessibility Guidelines (ADAAG) serve as the minimum baseline for

the [ADA] standards adopted by the United States Departments of Justice and Transportation and incorporated into federal regulations.

Public right-of-way accessibility guidelines (PROWAG) provide design specifications to ensure that access for persons with disabilities is provided wherever a pedestrian way is newly built or altered, and that the same degree of convenience, connection, and safety afforded the public generally is available to pedestrians with disabilities. PROWAG address various issues, including access for blind pedestrians at street crossings, wheelchair access to on-street parking, and various constraints posed by space limitations, roadway design practices, slope, and terrain. These guidelines were under review in 2013; the new guidelines that will be issued will provide necessary further guidance covering pedestrian access to sidewalks and streets, including crosswalks, curb ramps, street furnishings, pedestrian signals, parking, and other components of public rights-of-way.⁵¹

ADA Standards for Transportation Facilities

The ADA Standards for Transportation Facilities include requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities.²¹ The requirements are to be applied during the design, construction, additions to, and alteration of sites, facilities, buildings, and elements to the extent required by regulations issued by Federal agencies under the Americans with Disabilities Act of 1990 (ADA).²¹ These standards are legally required by their incorporation into federal regulations and as evidenced by the Standards' language that "[a]ll areas of newly designed and newly constructed buildings and facilities and altered portions of existing buildings and facilities shall comply with these requirements."²¹

In general, standards and guidelines are only legally enforceable if specifically incorporated into statutes or regulations, or referenced in law. Otherwise, they are generally provided as recommendations rather than requirements.²¹ In fact, some manuals containing standards and guidelines specifically state that the manual is not a legal standard. Additionally, the Minnesota Supreme Court recognizes that manuals containing standards and guidelines are generally not enforceable when they include qualifying language like "limited budgets may preclude the full implementation of these guidelines" and guidelines "must be considered together with social, environmental, and economic factors."⁵⁷ Minnesota Rules contain legally enforceable standards and guidelines, with rule chapters 8810 and 8820 being particularly relevant to pedestrian, bicycle, and other non-motorized transportation.

Examples of Minnesota Transportation Standards and Guidelines

Manual on Uniform Traffic Control Devices

The Manual on Uniform Traffic Control Devices (federal: MUTCD; Minnesota: MMUTCD) establishes a uniform system of traffic control both throughout the country and within Minnesota.²¹ Federal law identifies the MUTCD, created and approved by the Federal Highway Administration (FHWA), as "a compilation of national standards for all traffic control devices, including road markings, highway signs, and traffic signals."²¹ The MUTCD "defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways and private roads open to public traffic."²¹

"States and other Federal agencies are encouraged to adopt the National MUTCD in its entirety as their

official Manual on Uniform Traffic Control Devices.”²¹ States adopting their own versions are required to draft the state version “in substantial conformance with the National MUTCD.”²¹

Minnesota law requires MnDOT to:

- Adopt a manual and specifications for a uniform system of traffic-control devices for use upon Minnesota highways, and
- Maintain traffic-control devices conforming to the manual and specifications, upon all state trunk highways as necessary to regulate, warn, or guide traffic.²¹

Minnesota’s MUTCD (MMUTCD) specifically notes “[t]hese guidelines shall be used to the maximum extent possible. Professional judgment shall be used to determine the appropriateness of applying guidelines to a particular situation.” Minnesota’s statute on traffic regulations (Minnesota Statutes Chapter 169) also states that the MMUTCD should be consistent with this statute, meaning that the MMUTCD cannot trump, or override, the requirements found in Minnesota’s traffic regulation statute.²¹

Highway Safety Program

Federal law requires all states to have a highway safety program that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.²¹ State highway safety programs are required to:

- “Include provisions for the systematic upgrading of substandard traffic control devices and for the installation of needed devices to achieve conformity with the MUTCD,”²¹ and
- “Comply with uniform guidelines created and approved by the U.S. Secretary of Transportation that, among other things,;
 - Improve pedestrian performance and bicycle safety;
 - Include programs:
 - To reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;
 - To reduce injuries and deaths resulting from accidents involving school buses; and
 - To improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures; and
- Include provisions for
 - An effective record system of accidents (including resulting injuries and deaths); and
 - Accident investigations to determine the probable causes of accidents, injuries, and deaths.²¹

1.2 Defining the Transportation System

The language and applicability of statutes and regulations are context specific; definitions can change from chapter to chapter and rule to rule. For example, statutes and regulations often include definitions for specific words that are used to provide a meaning for a specific section or subsection of a particular statute or regulation or may apply to an entire chapter of statutes. These words may be defined differently than their common meaning or dictionary definition. Words may also be defined differently in different chapters of statutes, individual statutes, or regulations. Therefore, it is important to refer to the “definitions” section of statutes or regulations to understand how a specific term is used. A term’s definition should not be read in isolation, but within the context of how that definition fits in the chapter, category, and area of the law in which it is identified to determine its applicability.

Understanding how legal definitions apply to a specific situation is particularly important when the same term is defined differently in different statutes and/or rules.

This can be seen by the different definitions of roadway, discussed below.

Key Definition:

Roadway

- Roadway means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder. However, during periods when MnDOT allows the use of dynamic shoulder lanes, roadway includes that shoulder (Minnesota Traffic Regulation Statute - MINN. STAT. § 169.011, subd. 68 (2012)).²¹
- Roadway means that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the shoulder (Minnesota Rail Transportation Rule - MINN. R. 8830.0100, subp. 59 (2008)).²¹

Both definitions of roadway indicate that a roadway is “that portion of a highway improved, designed, or ordinarily used for vehicular travel.” Yet, one definition excludes the shoulder from the roadway while the other includes the shoulder as part of the roadway.

As pedestrians and bicyclists often rely on the shoulder for transportation, whether or not a roadway includes the shoulder could raise a significant safety issue. For example, the Rail Transportation rules include additional requirements that railroad advance warning signals be clearly visible from the roadway.⁷⁰ As Minnesota law includes two definitions of a roadway, one that does and one that does not include the shoulder, this raises the question as to whether or not the railroad advance warning signals must

be clearly visible from the shoulder or not. This issue may be complicated by a shoulder being paved or unpaved, which determines how the shoulder can be used for bicycling or walking.

For this reason, it is important for readers of this report and also of the law in general use caution when reviewing, analyzing and understanding statutes and regulations.

Chapter 2

Who Is Responsible For The Transportation System?

This section describes the roles of a wide range of actors involved in the transportation system, focusing primarily on governmental entities identified in federal and Minnesota law.[§] Different governmental entities are responsible for developing, planning, implementing, maintaining, and operating the transportation system. Who has responsibility for what is most often tied to who owns or has authority over the land where the transportation facility exists. The role and responsibility of each governmental entity over a part of the transportation system is defined in law.

2.1 Government Entities Identified by Federal Law

Federal law recognizes different government entities with authority over different aspects of the transportation system. Government entities identified by federal law include:

- United States Department of Transportation which administers:
 - The Federal Railroad Administration,
 - The Federal Highway Administration,
 - The National Highway Traffic Safety Administration, and
 - The Federal Transit Administration;
- Tribal governments;
- Federal land authorities;
- Department of Justice;
- Department of Health and Human Services;
- Environmental Protection Agency;
- State departments of transportation; and
- Metropolitan Planning Organizations.

§ Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

2.1.1 UNITED STATES DEPARTMENT OF TRANSPORTATION

The United States Department of Transportation (U.S. DOT) is the principal federal agency charged with the management of the country's transportation system. U.S. DOT's mission is to "serve the United States by ensuring a fast, safe, efficient, accessible and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people, today and into the future." In achieving this mission, the U.S. DOT's top priorities include keeping the traveling public safe and secure, increasing their mobility, and having the national transportation system contribute to the nation's economic growth. Additionally, the U.S. DOT is responsible for issuing standards that apply to the construction and alteration of transportation facilities covered by the Americans with Disabilities Act (ADA). The U.S. DOT has affirmed the department's commitment to pedestrian and bicycle safety by setting its own bicycle and pedestrian safety and design standards.

The U.S. DOT also works closely with private expert groups, such as the American Association of State Highway and Transportation Officials (AASHTO) to identify and create different standards and guidelines to direct the development and implementation of the transportation system.

Key Background:

The American Association of State Highway and Transportation Officials (AASHTO)

Governmental entities rely heavily on private expert groups to issue standards and guidelines on different transportation topics. The American Association of State Highway and Transportation Officials (AASHTO) is one example. For example, with regard to visibility standards at railroad grade crossings, Minnesota rules require the use of the AASHTO design manual to determine the necessary sight triangle for both a moving vehicle and a vehicle stopped at the crossing.

While AASHTO has historically issued design standards and guidelines related to pedestrian, bicycle, and other non-motorized transportation facilities, DOT recently conveyed its intent to issue its own design standards through the Federal Highway Administration and to incorporate safe and convenient walking and bicycling facilities into transportation projects. Every transportation agency has the responsibility to improve conditions and opportunities for walking and bicycling and to integrate walking and bicycling into their transportation systems. Recommended actions include:

- Considering walking and bicycling as equals with other transportation modes;
- Ensuring that there are transportation choices for people of all ages and abilities, especially children;
- Going beyond minimum design standards;
- Integrating bicycle and pedestrian accommodation on new, rehabilitated, and limited-access bridges;
- Collecting data on walking and bicycling trips;
- Setting mode share targets for walking and bicycling and tracking them over time;
- Removing snow from sidewalks and shared-use paths; and

- Improving non-motorized facilities during maintenance projects.

Federal Highway Administration

The Federal Highway Administration (FHWA) is an agency within the U.S. DOT with significant authority over the national transportation system. FHWA coordinates highway transportation programs to enhance safety, economic vitality, quality of life, and the environment. Specifically, FHWA supports state and local governments in the design, construction, and maintenance of the nation's highway system (Federal Aid Highway Program) and various federally and tribally owned lands (Federal Lands Highway Program). Through financial and technical assistance to state and local governments, FHWA is responsible for ensuring that U.S. roads and highways are the safest and most technologically sound in the world. FHWA also has authority to issue guidelines to assist state and local governments in meeting DOT's transportation standards.

In Minnesota, the FHWA oversees MnDOT's activities regarding interstate and national highways, enforces laws related to MnDOT's responsibilities, ensures MnDOT is adequately administering local federal-aid projects, and provides technical assistance to both MnDOT and local government agencies.

2.1.2 FOREST SERVICE AND NATIONAL PARK SERVICE

Federal land authorities, such as the Forest Service and National Park Service, are responsible for developing, constructing, and maintaining components of the transportation system located on forest service or national park service land, respectively. For example, in Minnesota the National Park Service maintains transportation facilities within Voyageur's National Park, and the Forest Service maintains transportation facilities within Superior National Forest.

2.1.3 REGULATING AGENCIES

Federal regulatory authorities such as the Environmental Protection Agency, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers, also have authority to make decisions that can impact transportation development and operations depending on their authority in certain federal lands.

2.1.4 TRIBAL GOVERNMENTS

Tribal governments are responsible for developing, constructing, and maintaining the transportation systems on tribal lands. These could include Indian reservation roads, Indian reservation road bridges, and other transportation facilities located within or providing access to an Indian reservation or Indian trust land. The state of Minnesota and its agencies are required to consult with tribal governments when formulating or implementing policies that directly affect Indian tribes and their members. (For more information on this requirement, see Executive Orders: Environmental Justice, Limited English Proficiency, and Minnesota Tribal Governments.)

The following federally recognized tribes and tribal governments exist in



Minnesota:

- The Fond du Lac Band of Lake Superior Chippewa;
- The Grand Portage Band of Chippewa;
- The Mille Lacs Band of Ojibwe;
- The White Earth Band of Ojibwe;
- The Bois Forte (Nett Lake) Band;
- The Leech Lake Band of Ojibwe;
- The Red Lake Band of Ojibwe;
- The Upper Sioux Community Pezihutazizi Oyate;
- The Lower Sioux Community;
- The Shakopee-Mdewakanton Sioux (Dakota) Community; and
- The Prairie Island Indian Community.

2.1.5 METROPOLITAN PLANNING ORGANIZATIONS

Metropolitan Planning Organizations (MPOs) are a creation of federal law and are central to transportation planning in several metropolitan areas in Minnesota with urban populations greater than 50,000 persons. There are seven (soon to be eight) MPOs in Minnesota:

- Metropolitan Interstate Council (Duluth/Superior).
- Grand Forks/East Grand Forks MPO.
- Fargo-Moorhead Metropolitan Council of Governments.
- St. Cloud Area Planning Organization.
- Twin Cities Metropolitan Council.
- Rochester/Olmstead Council of Governments.
- La Crosse Area Planning Committee.
- Mankato (currently under development).

2.2 Government Entities Identified by Minnesota Law

Minnesota law identifies different state and local government entities responsible for or involved in aspects of the transportation system.

2.2.1 STATE DEPARTMENTS AND AGENCIES

Minnesota law identifies a number of state agencies that, depending on their roles and responsibilities, have a primary or secondary role in the transportation system. This list provides some of the primary responsibilities of these agencies.

Examples of Minnesota Agencies with Transportation Responsibilities

Department of Transportation (MnDOT)

- Statewide multimodal planning

- Road design standards and guidelines management
- State highway system management
- Federal and state funding management and distribution
- State Bikeway Program
- Bicycle and Pedestrian Coordinator
- Other state agencies coordination and collaboration
- State Trail system development and coordination

Department of Health (MDH)

- Public health
- MnDOT advisement

Department of Public Safety (DPS)

- Traffic law enforcement on State Highway System (State Patrol)
- Traffic data collection and management and publishes “Crash Facts”
- Emergency management oversight
- School transportation safety matters

Pollution Control Agency (PCA)

- Air quality regulations
- Environmental regulations
- MnDOT advisor.
- Greenhouse gas monitoring and management of its sources

Department of Natural Resources (DNR)

- State trail system management
- MnDOT advisor
- Infrastructure, planning, and design coordination with State Highway System
- Outdoor Recreational System

Department of Education (ED)

- School transportation policies
- School curriculum

Department of Economic and Employment Development (DEED)

- Economic Development Program
- Transit Improvement Areas
- Tourism

Department of Human Services (DHS)

- Minnesota Board on Aging
- Transit coordination
- Transportation to access public and private services

Minnesota law generally indicates when a state agency is required to take a certain action by using the terms shall or must. Both shall and must are defined in Minnesota law as actions that are mandatory legal requirements.

Key Definitions:

Shall:

Mandatory action or requirement.

Must:

Mandatory action or requirement.

May:

Permissive or voluntary action.

Minnesota Department of Transportation

MnDOT is the principal state agency responsible for developing, implementing, administering, consolidating, and coordinating Minnesota's state transportation policies, plans, and programs. Created "to provide an integrated transportation system of aeronautics, highways, motor carriers, ports, public transit, railroads, and pipelines, and including facilities for walking and bicycling ...", MnDOT has broad responsibilities for the planning and management of the state's transportation system.

Key Background:

Commissioner of Transportation

Minnesota Statutes and Rules generally refer to the "commissioner of transportation" when identifying specific actions that MnDOT is required to take. This report uses "MnDOT" rather than the "commissioner of transportation."

The state highway system consists of interstates, state highways, roads, and bridges, as well as sidewalks, paths, and trails that are on state highway rights-of-way. MnDOT is responsible for working with other government entities, including tribal governments, federal land authorities, regional planning organizations, and local governments, to ensure an integrated and comprehensive state transportation system. Different governmental entities are responsible for different aspects of the transportation system. This is usually closely related to the land over which each governmental entity has authority. MnDOT has a number of responsibilities to ensure the state transportation system functions appropriately and meets the needs of all users.

Examples of MnDOT's responsibilities

MnDOT's charter of responsibilities is found in various sections of state and federal law. Part of this charter is identified in the Minnesota law creating MnDOT. This law directs MnDOT to:

- provide an integrated transportation system of aeronautics, highways, motor carriers, ports, public transit, railroads, and pipelines, and including facilities for walking and bicycling; and
- serve as the principal state agency for development, implementation, administration, consolidation, and coordination of state transportation policies, plans, and programs.

MnDOT is further directed to:

- minimize fatalities and injuries for transportation users throughout the state;
- provide multimodal and intermodal transportation facilities and services to increase access for all persons and businesses and to ensure economic well-being and quality of life without undue burden placed on any community;
- provide a reasonable travel time for commuters;
- enhance economic development and provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;
- encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists and to enhance the appeal, through transportation investments, of tourist destinations across the state;
- provide transit services to all counties in the state to meet the needs of transit users;
- promote accountability through systematic management of system performance and productivity through the utilization of technological advancements;
- maximize the long-term benefits received for each state transportation investment;
- provide for and prioritize funding of transportation investments that ensures that the state's transportation infrastructure is maintained in a state of good repair;
- ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;
- promote and increase the use of high-occupancy vehicles and low-emission vehicles;
- provide an air transportation system sufficient to encourage economic growth and allow all regions of the state the ability to participate in the global economy;
- increase use of transit as a percentage of all trips statewide by giving highest priority to the transportation modes with the greatest people-moving capacity and lowest long-term economic and environmental cost;
- promote and increase bicycling and walking as a percentage of all trips as energy-efficient, nonpolluting, and healthy forms of transportation;
- reduce greenhouse gas emissions from the state's transportation sector; and
- accomplish these goals with minimal impact on the environment.

MnDOT's specific responsibilities for pedestrian, bicycle, and non-motorized transportation are found in both state and federal law. MnDOT is required to establish a program for the development of bikeways

primarily on existing road rights-of-way. Additionally, MnDOT shall:

- establish, develop, maintain, and operate a system of bikeways and state grants for the development of local bikeways primarily on existing road rights-of-way as part of the bikeway program;
- coordinate the bikeway program with the local park trail grant program, the bicycle trail program established by the DNR, the development of the statewide transportation plan, and with existing and proposed local bikeways;
- develop the bikeway program in the metropolitan area in accordance with plans and priorities established by the Metropolitan Council and after consultation with the State Trail Council, local units of government, and bicyclist organizations;
- administer the program in accordance with Minnesota state law regarding bicycle transportation and standards; and
- compile and maintain a current registry of bikeways in the state, and publish and distribute the information contained in the registry in a form and manner suitable to assist persons wishing to use the bikeways.

In addition, the Metropolitan Council, the commissioner of natural resources, the commissioner of employment and economic development, the Minnesota Historical Society, and local units of government shall cooperate with and assist MnDOT in preparing the bikeway registry. MnDOT shall have all powers necessary and convenient to establish the bikeway program under the bikeway program statute including but not limited to the authority to adopt rules.

MnDOT shall:

- provide technical assistance to local units of government in planning and developing bikeways; and
- make grants to units of government for the betterment of public land and improvements needed for local bikeways. (In making grants MnDOT shall consider, among other factors, the number of bicycles in the localities. A grant shall not exceed 75 percent of the costs of the betterment of the bikeway. To be eligible for a grant, a unit of government must provide at least 25 percent of the costs of the betterment of the bikeway.)

Additionally, MnDOT shall:

- replace a destroyed bikeway, pedestrian way, or roadway used by bicycles or pedestrians or the sole access to such with a comparable facility or access whenever one of these existing facilities is destroyed by any new, reconstructed, or relocated federal, state, or local highway. (Replacement is not required where it would be unsafe for the public or when other factors indicate no need for such facility or access.)

According to federal law, MnDOT shall maintain a bicycle and pedestrian coordinator position for promoting and facilitating the increased use of non-motorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

To assist MnDOT in carrying out its responsibilities, the Non-motorized Transportation Committee was established. This Committee advises MnDOT on items related to non-motorized transportation, including safety, education, and development programs. The Committee is required to review and analyze issues relating to operating non-motorized transportation on public rights-of-way and identify solutions and goals for addressing identified issues and needs.

MnDOT's responsibilities relating to the state bikeway program are an example of a non-motorized transportation program in Minnesota law. Both this program and a similar bikeway program under the control of the DNR are discussed below in Coordination Between Government Entities.

Minnesota Department of Public Safety (DPS)

The Department of Public Safety (DPS) is “dedicated to prevention, preparedness, response, recovery, enforcement and education” in several areas, including law enforcement, traffic safety, and public safety education.

Traffic safety responsibilities of DPS include:

- Ensuring that the Minnesota Driver's Manual includes information about bicycle, pedestrian, and pupil transportation safety.
- Collecting, preparing, and publishing statewide accident data and analysis.
- Providing information through public service announcements on radio and television to educate the public about traffic regulations that are frequently violated, including the requirement for a vehicle driver to stop to yield the right of way to a pedestrian in a crosswalk.
- Enforcing traffic regulations through the State Highway Patrol.

In particular, DPS has primary responsibility for school transportation safety. The Office of Pupil Transportation Safety, a section under the Division of State Patrol, is responsible for:

- Overseeing all department activities related to school bus safety;
- Assisting in the development, interpretation, and implementation of laws and policies relating to school bus safety; and
- Assisting school districts in developing and implementing comprehensive transportation policies and establishing best practices for private contracts.

Minnesota Department of Natural Resources (DNR)

The primary mission of the Minnesota Department of Natural Resources (DNR) is to work with citizens to conserve and manage the state's natural resources, provide outdoor recreation opportunities, and provide for commercial uses of natural resources in a way that creates a sustainable quality of life. The DNR is focused on the provision and management of the outdoor recreation system and coordinates with MnDOT on facility construction and maintenance. There is an overlap in responsibility to provide recreational opportunities and transportation facilities for pedestrian, bicycle, and other non-motorized trans-

portation. These recreational opportunities may include riding horses, skating and rollerblading, riding non-motorized scooters, and many other modes of non-motorized transportation. Some recreational facilities, such as trails, may be used for both recreational and transportation purposes.

Specifically, the DNR shall:

- Establish a program for the development of bicycle trails utilizing the state trails, other state parks and recreation land, and state forests. (This bicycle trail program is discussed below in Coordination Between Government Entities.)
- Compile and maintain a current registry of cross-country skiing, hiking, horseback riding, and snowmobiling trails in the state and publish and distribute the information.
- The Metropolitan Council, the Department of Employment and Economic Development, the Minnesota Historical Society, and local units of government shall cooperate with and assist the DNR in preparing the registry.
- Establish a state trail to provide a recreational travel route which connects units of the outdoor recreation system or the national trail system; provides access to or passage through other areas which have significant scenic, historic, scientific, or recreational qualities; or reestablishes or permits travel along a historically prominent travel route or which provides commuter transportation.
- Manage state trails to provide a travel route through an area with a minimum disturbance of the natural environment and recognizing other multiple land use activities.
- Establish, develop, maintain, and operate specific state trails defined in the State Trails statute.
- Not prohibit or otherwise restrict operation of an electric-assisted bicycle on any trail for which bicycle use is permitted, with certain limitations.
- Issue and sell horse passes.
- Establish a state park to protect and perpetuate areas of the state that include Minnesota's natural phenomena and to provide for the use, enjoyment, and understanding of these resources without hindering the enjoyment and recreation of future generations.
- Administer state parks in a manner to preserve, perpetuate, and interpret natural features that existed in the area of the park prior to settlement and other significant natural, scenic, scientific, or historic features that are present.
- Establish a state recreation area to provide a broad selection of outdoor recreation opportunities in a natural setting which may be used by large numbers of people.
- Additionally, the DNR may:
 - Sell certain land to a county, city, town, or other state or local governmental entity for public use, including recreational or natural resource purposes.
 - Establish, develop, maintain, and operate recreational areas, including but not limited to trails and state water trails, for the use and enjoyment of the public on any state-owned or leased land under the DNR's jurisdiction.
 - Acquire land for trails, and recreational uses related to trails, where necessary to complete trails in state forests, state parks, or other public land under the jurisdiction of the DNR, when railroad rights-of-way are abandoned, when the use of township roads is used for vehicular travel, or when needed to complete trails established by the legislature.

(See discussions regarding Recreation and Transportation Funding for more information on Minnesota's Outdoor Recreation System)

Key Definition:

Other Power-Driven Mobility Device

Any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section.

The DNR must comply with ADA rules and regulations because of its creation and function as a body of the State government. The DNR may establish policies for the use and operation of other power-driven mobility devices on lands and in facilities administered by the DNR for the purposes of implementing the Americans with Disabilities Act (ADA). Under this authority, the DNR has developed a policy to facilitate access for the use of wheelchairs and other power-driven mobility devices as required by the ADA. This policy is intended to implement the 2010 U. S. Department of Justice (DOJ) Amendment to the American with Disabilities Act (ADA) Regulations Regarding the Use of Wheelchairs and Other Power Driven Mobility Devices. At the time of the amendment, the DNR already permitted wheelchairs and manual-powered mobility aids such as walkers, crutches, canes, braces, or other similar devices on all DNR-administered areas open to pedestrian use. The amendment has prompted the DNR to assess potential classes of other power-driven mobility devices for use on DNR facilities and lands. These other devices can include Segways, electric-assisted bicycles, off-highway vehicles, and others.

Different devices are allowed on different DNR facilities and lands. For example, power-driven mobility devices are not allowed in scientific and natural areas except in defined parking lots and specifically designated paved or aggregate surfaced trails because of the risk of harm to natural resources. They are, however, allowed in other areas such as paved and aggregate trails on DNR lands, designated off-highway vehicle areas and trails, and DNR buildings, with certain limitations. Further, the DNR allows only persons with mobility disabilities to use these other power-driven mobility devices on DNR facilities land where the device would not normally be allowed under state law.

Other State Agencies and Public Entities Involved in the Transportation System

Other state agencies and entities have a secondary, or auxiliary, role in the state's transportation system. These include, among others:

- Department of Economic and Employment Development (DEED)
- Department of Health (MDH)
- Pollution Control Agency (PCA)

- Department of Human Services (DHS)
- Department of Education
- Department of Agriculture
- Minnesota Board on Aging
- Minnesota Historical Society
- Department of Administration
- University of Minnesota
- Minnesota State Colleges and Universities system (MnSCU)
- Minnesota Housing Finance Agency
- Minnesota Environmental Quality Board

These public entities are required to cooperate and coordinate to address transportation, including pedestrian, bicycle, and other non-motorized transportation. For example, DEED and the Minnesota Historical Society, along with the Twin Cities Metropolitan Council, the DNR, and local units of government, are required to assist MnDOT develop a registry of bikeways in the state as part of MnDOT's bikeway program.

Other state agencies, councils, commissions and public entities, and their involvement in Minnesota's transportation system, are discussed throughout this report.

2.2.2 LOCAL AUTHORITIES

Local authorities, including local governments, have important roles in providing and maintaining the transportation system. Depending on the statute or state rule, local governmental units in Minnesota can include counties, cities, towns, school districts, the Historical Society, regional park boards and commissions, and others. The terms town and township are interchangeable in Minnesota law; towns in unincorporated areas are called organized towns or townships, whereas urban towns or townships are those that have been granted some of the same powers as cities. Municipality is a general term used for local governments. Municipality can mean city or town and may also include counties or school districts. These definitions vary based on the statute chapter and section. For example, under the Municipal Planning section of Minnesota's Planning and Zoning statute chapter, municipalities only include cities and towns. For this reason, it is important to consult the specific definition section for each statutory provision.

Key Definition:

Local Authorities

Every county, municipal, and other local board or body having authority to adopt local police regulations under the Constitution and laws of the state, and the Regents of the University of Minnesota, with reference to property owned, leased, or occupied by the Regents of the University of Minnesota or the University of Minnesota.

Broadly speaking, local governments often have authority over numerous components of the transpor-

tation system within their jurisdiction. However, this authority is not absolute. For example, local units of government generally have authority over the transportation facilities located on property they govern, including the streets, sidewalks, and trails under their authority. (For more information regarding limitations on local government control over speed limits, see discussion of Speed Limits.) In addition, different local governmental units may have more involvement with pedestrian, bicycle, and other non-motorized transportation facilities depending on how the local government is organized. For instance, some local communities have independent park boards with a role in the planning, development, implementation, and maintenance of trail systems and sidewalks.

Local governments involved in the transportation system include county and municipal governments (cities and townships), school districts, Regents of the University of Minnesota, and park boards.

County and Municipal Governments

Counties, cities, and townships are involved in developing, constructing, and maintaining different components of the transportation system.

- County boards have authority over county state aid highways and county highways;
- Town boards have responsibility over town roads; and
- Governing bodies of cities have authority over city streets.

Local governments are granted broad discretion for the transportation facilities within their jurisdiction. The power of these local governments includes, but is not limited to:

- Regulating traffic through police officers or traffic-control signals;
- Designating particular highways as one-way roadways or through highways;
- Restricting the use of highways pursuant to other specified statutes; and
- Establishing school speed limits within a school zone of a public or nonpublic school upon the basis of an engineering and traffic investigation as prescribed by MnDOT (the establishment of a school speed limit on any trunk highway can only be done with MnDOT consent).

School Districts

School districts are involved in Minnesota's transportation system through their responsibility to oversee and provide transportation for school children within their respective district. School districts develop and implement comprehensive, written policies governing pupil transportation safety. School districts must provide transportation within the district when it is deemed necessary because of distance or traffic conditions. The school board also has authority over particular aspects of school transportation when transportation is provided, including the scheduling of routes, manner and method of transportation, and control and discipline of school children.

School districts have been largely focused on providing student transportation through bussing. However, districts are becoming increasingly involved in active transportation issues by supporting programs, activities, and the construction of facilities that promote walking and biking to school through the State Health

Improvement Program, Active Living, and Safe Routes to School projects.

Park Boards

In some communities, a park board could be part of a decision-making process for developing and incorporating trails, sidewalks, or other facilities into the larger transportation system. Statutory cities over 1,000 in population can establish an independent park board. Charter cities of any size can create an independent park board through their charter. Park boards exist to “establish, improve, ornament, maintain, and manage parks, parkways, and recreational facilities and by ordinance protect and regulate their use.” In carrying out this authority, park boards construct roadways, paths, buildings, fountains, docks, boathouses, and other structures and improvements in parks.

The Minneapolis Park and Recreation Board (Board) is an example of a park board in Minnesota. Created by the Minnesota legislature in 1883, the Board’s mission is to “permanently preserve, protect, maintain, improve, and enhance its natural resources, parkland, and recreational opportunities for current and future generations.” It manages the Minneapolis Park System, which consists of 197 park properties “including local and regional parks, playgrounds, golf courses, gardens, picnic areas, biking and walking paths, nature sanctuaries, and the 55-mile Grand Rounds National Scenic Byway. Together, these properties total nearly 6,732 acres of land and water.” The Board holds significant authority and decision-making power over facilities on a large amount of public land.



Park Districts

Park districts acquire, develop, and maintain large parks, wildlife sanctuaries, forest and other reservations, and provide public access to historic sites, lakes, rivers, streams, and other natural phenomena. They are considered political subdivisions of the state and are created by approval of the county or counties within which they operate. Park districts generally have the same authority and responsibilities over

park district property as other local authorities have over land within their jurisdiction. For example, park districts may:

- Acquire and establish parks;
- Operate, maintain, protect, improve, and preserve park systems;
- Conduct recreational programs;
- Assume control of all or a portion of any existing parks or park lands owned by any county government or municipal corporation in the park district, upon request; and
- Enact and enforce ordinances.

The Three Rivers Park District (Three Rivers) is a park system in the west suburban Minneapolis/St. Paul metro area and is situated within the watersheds that flow into three significant rivers to the region: the Mississippi, the Minnesota, and the Crow. Three Rivers manages almost 27,000 acres of park reserves, regional parks, regional trails, and special-use facilities. Its mission is to promote environmental stewardship through recreation and education in a natural resources-based park system.

University of Minnesota

The University of Minnesota owns and manages roadways on its campuses and provides transportation between campuses. While the state traffic regulations generally apply to all highways, streets, roads, and roadways, the University has authority to establish its own, more specific traffic and parking rules for properties owned, leased or occupied by the University of Minnesota. Specific provisions regarding pedestrian, bicycle, and other non-motorized transportation include:

- Prohibiting vehicles from stopping on or in any crosswalk or driveway in a way that interferes with the passage of pedestrians.
- Providing bicycles with the same rights and duties applicable to other vehicles.
- Prohibitions on the operation of bicycles on sidewalks, crosswalks, or pedestrian areas except:
 - In compliance with all posted signs; and
 - Where bicycle lanes are designated by lane markings and signs or pavement markings.
- Prohibitions against riding skateboards on University properties.
- Requirements that roller skates be operated in a prudent and careful manner, with reasonable regard for the safety of both the operator and others.

Minnesota State Colleges and Universities System

The Minnesota State Colleges and Universities system (MnSCU) is comprised of 31 institutions, including 24 two-year colleges and seven state universities operating 54 campuses in 47 Minnesota communities and serving about 277,000 students in credit-based courses.

Similar to the University of Minnesota, MnSCU has authority to regulate traffic and parking on property owned, leased, occupied, or operated by these state universities. The broad expanse of MnSCU property and the high enrollment means that MnSCU's traffic rules apply to hundreds of thousands of people.

As one example, Southwest Minnesota State University's traffic regulations provide that:

- No vehicle, except for authorized service and maintenance vehicles, shall at any time be parked on sidewalks, on the grass, in crosswalks, landscaped areas, driveways, fire lanes, within 15 feet of fire hydrants, along yellow painted curbs, in front of any removable barricade, in a space which obstructs vehicle or pedestrian traffic, or in any other space where signs indicate No Parking.
- Drivers of vehicles on campus property must yield the right of way to pedestrians.

2.2.3 METROPOLITAN PLANNING ORGANIZATIONS

Metropolitan Planning Organizations (MPOs) play a role in the long-range planning for the state transportation system. While much of the focus of Minnesota law is centered on the role of the Twin Cities Metropolitan Council in Minnesota's transportation system, other MPOs are involved with commuter rail (which is outside the scope of this project.)

Twin Cities Metropolitan Council

The Twin Cities Metropolitan Council (Met Council) was created by the Minnesota Legislature to coordinate the growth of the seven-county metro area and address issues that may be too big for any one community to address individually. The Met Council is responsible for adopting a long-range comprehensive policy plan for transportation and effectively managing the transportation needs of the area. The Met Council is required to coordinate these efforts with state and federal transportation goals and policies. This authority is intended to ensure compatibility and conformity within metropolitan area. The Met Council has authority to review, comment on, and require modification of municipal plans for transportation and land use.

The Met Council supports the region's non-motorized transportation system through:

- Long-range comprehensive planning including multimodal transportation planning;
- Administering federal funding for regional transportation;
- Partnering with communities and the public in planning for future growth;
- Planning, funding, and coordinating the acquisition and development of a regional parks and trails system;
- Cooperating with and assisting MnDOT on the state bikeway system in preparing and maintaining a current registry of bikeways;
- Coordinating plans and priorities with the DNR for the bicycle trail program;
- Strategic investment in a growing network of bus and rail transit ways and transit-oriented development;
- Administering regional transit funding;
- Operating the Metro Transit system, which includes public transportation such as bus and light rail; and
- Coordinating transportation planning with appropriate state, regional, and other agencies, counties, and municipalities through the Transportation Advisory Board.

(See additional discussion of Transit. See Minnesota Recreational Facilities for additional discussion of the role of the regional trail system in pedestrian, bicycle, and other non-motorized transportation.)

Coordination Between Counties and Municipalities

Local governments are encouraged to work together to establish an integrated transportation system that spans the boundaries of different localities. The Joint Powers Act gives different local governments the legal authority to share resources, contracts, and other responsibilities. Two or more counties, cities, or towns may enter into an agreement for regional planning activities. For example, two or more counties may, with the consent of MnDOT, establish and locate a county state aid highway along or near the common boundary line of the counties. This provision encourages collaboration between local governmental entities to establish highways that support the state highway system as a whole.

2.3 Private Entities

While the transportation system is primarily developed, built, and maintained by public governmental agencies and entities, some private entities, such as railroads, also play an important role in the transportation system. Other private entities that may be involved in aspects of the transportation system include commercial businesses providing public access. While public access to private property provides an important component to the broader transportation system, this report primarily limits its focus to public, not private, entities.

Railroads, as well as the land owned by railroads, have a significant impact on the state transportation system. Freight, commuter, or passenger rail lines intersect with the transportation network in a variety of ways. As a consequence, numerous laws regulate railroad facilities and numerous federal and state agencies are involved in managing the interplay between railroads and the rest of the transportation system. The regulation and management of this relationship is very complex and involves a level of detail that cannot be fully covered in this report. At the same time, key federal and Minnesota laws address:

- Safety issues associated with railroad crossings and signals;
- Utilizing railroad land for non-motorized trails;
- Facilitation of transportation around rail facilities through bridges and underpasses; and
- The overlap between rail transit and pedestrian, bicycle, and other non-motorized transportation.

2.4 Coordination Between Government Entities

Different levels of government (federal, tribal, state, regional, and local) and different government entities must work together to ensure a coordinated and uniform transportation system. Coordination is integral to ensuring that the transportation system meets the state's broad transportation goals and the needs of all transportation users.

Coordination between and among governmental entities is a common theme for developing and maintaining pedestrian, bicycle, and other non-motorized transportation facilities and programs. The devel-

opment and implementation of Minnesota's bikeway program and bicycle trail program are examples of coordination between different state agencies (MnDOT and the DNR) and other governmental authorities.

Key Background:

Minnesota's Bikeway Program

MnDOT shall develop a system of bikeways primarily on existing road rights-of-way. This mandatory program includes a system of bikeways established, developed, maintained, and operated by MnDOT and a system of state grants. The bikeway program must be coordinated with other programs, including the local park trail grant program and the bicycle trail program, the statewide transportation plan, and existing and proposed local bikeways.

The bikeway program shall be developed in accordance with plans and priorities established by the Met Council for bikeways in the Twin Cities Metro Area and requires consultation with the State Trail Council, local units of government, and bicyclist organizations.

The Met Council, DNR, DEED, the Minnesota Historical Society, and local units of government are required to cooperate with and assist MnDOT in preparing the registry of bikeways for the state.

The Mississippi River Trail is a specific bikeway created by Minnesota law that requires the collaboration and coordination between different state agencies. The creation and management of this trail involves the cooperation of road and trail authorities, including the DNR, MnDOT, and other local authorities in areas through which the trail runs. MnDOT, in cooperation with these other state and local authorities, shall identify existing bikeways of regional significance that are in reasonable proximity but not connected to the Mississippi River Trail bikeway and support development of linkages between these bikeways. MnDOT is further authorized to contract and enter into agreements with federal agencies, other state agencies, local governments, and private entities to establish, develop, maintain, and operate the bikeway along the Mississippi River Trail.

MnDOT must also provide technical assistance to local units of government planning and developing bikeways. MnDOT also must provide financial assistance to units of government through the recreational grants program. In making grants, MnDOT considers, among other factors, the number of bicycles in the localities. A local governmental unit must provide at least 25 percent of the costs of bikeway improvement.

MnDOT is the primary governmental entity responsible for managing the state's transportation system and is a common player in coordinating the transportation efforts between different levels of government and different governmental entities.

Key Background:

Minnesota's Bicycle Trail Program

The DNR is required to establish a program for developing a system of bicycle trails on state trails, and in state parks, recreation land, and state forests. The program must be coordinated with the local park trail grant program established by the DNR, with the bikeway program established by MnDOT, and with existing and proposed local bikeways.

In the Twin Cities, the program is developed in accordance with plans and priorities established by the Met Council. The DNR provides technical assistance to local units of government planning and developing bicycle trails in local parks. The program must describe the location, design, construction, maintenance, and land acquisition needs of each component trail and give due consideration to the model standards for recreational vehicle lanes promulgated by MnDOT.

The program is developed in consultation with the state trail council and regional and local units of government and bicyclist organizations.

Chapter 3

Transportation Use, Users And Modes

Legal definitions are important because they create rights and responsibilities that different types of transportation users, such as pedestrians or motorists, have when using different components of the transportation system. Likewise, laws identify and define different modes of transportation. A mode of transportation is the way in which an individual moves through the transportation system – such as by foot, on a bicycle, or in a motorized vehicle.[¶]

In general, Minnesota law:

- Makes distinctions between different types of users of the transportation system;
- Identifies rights and obligations of drivers (of both motorized and non-motorized vehicles) and pedestrians, and
- Classifies and defines modes of transportation, types of traffic, and types of transportation facilities.

The transportation system supports the movement of a wide range of transportation users and different modes of transportation. The types of transportation users and modes of transportation are closely related. For instance, a driver is in control of a particular type of transportation mode. The category of driver includes numerous subcategories based on the type of vehicle that is operated. A bicyclist is one form of a driver for a specific type of vehicle, a bicycle. (See Table 7: Transportation Users and Table 8: Transportation Modes for specific definitions.)

Key Definitions:

Driver

Every person who drives or is in actual physical control of a vehicle.

Vehicle

Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

¶ Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

Minnesota law creates a distinction between a driver of a vehicle and a pedestrian. A driver is a person in actual physical control of a vehicle, while a pedestrian is a person on foot or using a wheelchair. The legal definition of pedestrian does not indicate whether individuals using skateboards, skis, or skates are pedestrians or vehicle drivers. This distinction is important as the law creates different rights and responsibilities for pedestrians and different types of vehicle drivers on different transportation facilities. (See Safety and Rights and Responsibilities for additional discussion of rights and responsibilities of pedestrians and different vehicle drivers.)

3.1 Types of Transportation Use and Users

Individuals use the transportation system through different modes of transportation. Minnesota law defines different types of transportation users. These definitions are important because they determine the rights and responsibilities of different transportation users and their access to different transportation facilities. For example, the legal definitions of driver and pedestrian determine what access these users have to the transportation system. Pedestrian, bicycle, and other non-motorized transportation access to a transportation facility may be contingent on whether the transportation user is a driver or a pedestrian.

Transportation Users

Driver

Every person who drives or is in actual physical control of a vehicle.

Every person who drives or is in actual physical control of a vehicle or other device upon which a person or property may be transported.

Pedestrian

Any person afoot or in a wheelchair.

Any person traveling by foot and any mobility-impaired person using a wheelchair.

Wheelchair is defined to include any manual or motorized wheelchair, scooter, tricycle, or similar device used by a disabled person as a substitute for walking.

Wheelchair means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.

Bicyclist

Minnesota law does not specifically define bicyclist but does refer to “bicyclists” and persons and individuals “operating a bicycle.”

Person riding or driving an animal

Every person riding an animal or driving any animal drawing a vehicle upon a roadway shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions which by their nature can have no application.

The distinction between drivers and pedestrians is evident from not only their definitions but other definitions within law pertaining to modes of transportation and types of transportation facilities. For example, while some laws do not explicitly use the terms pedestrian and driver, the relevance can be assumed. Both federal and state laws broadly define the term vehicle. Federal law defines vehicles as “all means of land transportation.” Minnesota law defines a vehicle to include “every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.” Neither definition is limited to motorized vehicles.

Pedestrians and vehicles are further differentiated through the definitions of traffic. Traffic is a broad term that includes all users of the transportation system, including both pedestrians and vehicles.

Key Definition:

Traffic

Pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, either singly or together, while using any highway for purposes of travel.

Key Background:

Definition of Pedestrian

Both Minnesota and federal law define pedestrian broadly, to include individuals traveling on foot or individuals using a wheelchair. A wheelchair includes numerous types of mobility aids used by individuals with disabilities as a substitute for walking. A wheelchair can include a wheelchair, scooter, tricycle, or similar device used by an individual with a disability with mobility impairments. These devices include those operated both manually or operated by a motor.

3.2 Transportation Modes

Minnesota’s transportation system is a multimodal system supporting different ways to travel from one place to another. These different ways to travel are referred to in this report as modes of transportation. Minnesota’s statewide transportation plan is required to incorporate and coordinate different modes of

transportation. While Minnesota law does not specifically define mode of transportation, discussions of different modes of transportation indicate that a mode of transportation is the mechanism through which an individual travels through the transportation system. Accordingly, land-based modes of transportation can be both motorized and non-motorized and include motor vehicles, scooters, bicycles, skateboards, slow-moving vehicles, and pedestrians on foot or using wheelchairs. Different modes of transportation make up traffic. Traffic encompasses all forms of travel and a wide range of different modes of transportation.

Transportation facilities are the physical components of the transportation system. They provide the physical structure used by the different modes of transportation. The transportation system includes highways, roads, streets, sidewalks, bikeways, trails, and other facilities used by pedestrians, bicyclists, and other non-motorized transportation users. Broadly speaking, highways, roads, and streets can be used by all modes of transportation, unless specifically restricted by law. This means that highways, roads, and streets are for the use of people to walk, bicycle, and transport themselves by other non-motorized vehicles.

Key Definitions:

Road or Highway

The several kinds of highways as defined in this section, including roads designated as minimum-maintenance roads, and also cartways, together with all bridges or other structures thereon which form a part of the same.

Specific transportation facilities used by pedestrians, bicyclists, and other non-motorized transportation users, are discussed later in this report.

TRANSPORTATION MODES

Key Definitions in Federal and Minnesota Transportation Law**

Vehicle

All means of land transportation. This includes “every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.”

Pedestrian

Any person afoot or in a wheelchair.

** This review of legal definitions focuses on those statutes and definitions most relevant to the transportation context discussed in this report. However, both federal and Minnesota laws may include additional definitions for these terms that go beyond the transportation context. This section highlights the key definitions relevant to this report.

Any person traveling by foot and any mobility-impaired person using a wheelchair.

Bicycle

Every device capable of being propelled solely by human power upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or rear wheels. Bicycle includes an electric-assisted bicycle but does not include scooters, motorized foot scooters, or similar devices.

A device propelled by human power upon which a person or persons may ride, having two tandem wheels either of which is over 16 inches in diameter, and including any device generally recognized as a bicycle though equipped with two front or rear wheels.

Motor Vehicle

All vehicles propelled otherwise than by muscular power, excepting such vehicles run only upon rails or tracks.

Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires. Motor vehicle does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

Every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

Any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles.

Non-Motorized Vehicle

Minnesota law does not define non-motorized vehicles. However, any vehicle or mode of transportation that is not within the “motorized vehicle” definition would be included as a non-motorized vehicle. This could include bicycles, coasters, in-line skates, horses, cross-country skis, skateboards, etc. (Note that the category of non-motorized vehicle could also include some slow moving vehicles, such as animal-drawn vehicles, defined below.)

Slow Moving Vehicle

All animal-drawn vehicles, motorized golf carts (when operated on designated roadways), implements of husbandry, and other machinery (including all road construction machinery) which are designed for operation at a speed of 30 miles per hour or less.

Wheelchair

Any manual or motorized wheelchair, scooter, tricycle, or similar device used by a disabled person

as a substitute for walking.

Recreational Vehicle

A special purpose mobile and motive equipment or device not qualifying for purposes of taxation, and includes but is not limited to all-terrain vehicles (ATV) and snowmobiles.

Off-road Recreational Vehicle

An off-highway motorcycle; off-road vehicle including motor-driven recreational vehicles capable of cross-country travel on natural terrain without benefit of a road or trail; snowmobile; and all-terrain vehicles.

Off-road Vehicle

A motor-driven recreational vehicle capable of cross-country travel on natural terrain without benefit of a road or trail. Off-road vehicle does not include a snowmobile; an all-terrain vehicle; a motorcycle; a watercraft; a farm vehicle being used for farming; a vehicle used for military, fire, emergency, or law enforcement purposes; a construction or logging vehicle used in the performance of its common function; a motor vehicle owned by or operated under contract with a utility, whether publicly or privately owned, when used for work on utilities; a commercial vehicle being used for its intended purpose; snow-grooming equipment when used for its intended purpose; or an aircraft.

Electric Vehicle

A motor vehicle that is able to be powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and meets or exceeds applicable federal regulations and legal requirements.

Electric vehicle includes:

- (1) A neighborhood electric vehicle;
- (2) A medium-speed electric vehicle; and
- (3) A plug-in hybrid electric vehicle.

Electric-assisted Bicycle

A bicycle with two or three wheels that has a saddle and fully operable pedals for human propulsion and meets other requirements as required by law.

Assistive Device

Any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

An item, piece of equipment, or product system that is designed and used to increase, maintain,

or improve functional capabilities of individuals with disabilities in the areas of seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, or working.

Snowmobile

A self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

Chapter 4

Transportation Safety And Users' Rights And Responsibilities

Transportation laws address a wide range of safety considerations to protect transportation users from accidents and injuries and to protect property from damage through accident prevention and problem identification and resolution. While laws exist to promote safety in the transportation system, the legal system itself also supports safety by holding individuals and government agencies responsible for injuries and accidents caused by negligence.^{††}

Laws address the safety of pedestrian, bicycle, and other non-motorized transportation through:

- Developing plans to prevent and resolve safety issues;
- Establishing qualifications and examinations for motor vehicle operators to ensure that drivers have an understanding of the rules and laws that govern interactions with non-motorized transportation users;
- Establishing rights and responsibilities of those using the transportation system;
- Law Enforcement;
- Signs and signals directing the movement of traffic;
- Restricting access to certain traffic facilities;
- Design, construction, and maintenance requirements and standards;
- Safety programs to reduce traffic accidents and deaths, injuries and property damage, including the improvement of driver and pedestrian performance and bicycle safety; and
- Reporting requirements for traffic accidents.

Federal transportation law protects non-motorized traffic; the U.S. DOT (DOT) is not allowed to approve projects or create regulations that have a significant adverse impact on non-motorized transportation routes unless a reasonable alternative route is created. State and metropolitan transportation planning processes are also required to take into account the safety and security of non-motorized transportation.

DOT may give grants to states to implement safety education programs, such as to work with a state public health education agency to educate the public about motorcycle and passenger vehicle safety.

^{††} Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

The federal Highway Safety Program encourages states to develop highway safety programs designed to reduce traffic accidents, deaths, injuries, and property damage. The Uniform Guidelines for State Highway Safety Programs provides federal guidelines that state highway safety programs should follow to improve driver and pedestrian performance and bicycle safety. The use of “should” indicates that state programs are not required to follow these federal guidelines even though it is strongly recommended. The DOT may, however, refuse to approve a state highway safety program unless there is adequate and reasonable access for the safe and convenient movement of individuals with disabilities (See discussion of shall and must in Government Entities Identified by Minnesota Law).



Minnesota also recognizes the role of the state transportation system in minimizing fatalities and injuries for transportation users throughout the state. Safety of the transportation system is one of Minnesota’s transportation goals and is furthered by providing for and prioritizing funding of transportation investments that ensures the state’s transportation infrastructure is maintained in a state of good repair.

While MnDOT is ultimately responsible for the safety of the state highway system, this responsibility overlaps with other agencies and their role with transportation safety. The Minnesota Department of Public Safety (DPS) is a state agency dedicated to implementing safety programs in law enforcement and traffic safety. DPS collects information about traffic accidents and develops traffic accident statistics to develop measures to address ongoing safety issues. Additionally, DPS is responsible for state patrol and enforcement and school transportation safety. The Commissioner of Public Safety chooses the director of school pupil transportation.

Minnesota law requires school patrol members to follow specific procedures in assisting school children crossing streets and other facilities. For example:

- Patrol members must stand on the road shoulder or curb (not in the roadway) where they can observe traffic approaching from all directions.
- Patrol members must instruct children to wait for a break or lull in traffic is seen.
- When a lull occurs in traffic, patrol members must raise their flag vertically for four seconds to alert any oncoming traffic.
- When the lanes of the roadway are clear of traffic, patrol members must extend their flags into the traffic lane at an angle of approximately 45 degrees upward to signal children to start crossing the street.

Other laws address actions to be taken to prevent accidents. Preventive actions relating directly to the safety of pedestrians, bicyclists, and other non-motorized transportation users include:

- Reducing exposure to motorized vehicular traffic;
- Education and enforcement that improve safety awareness and behavior;
- Requiring slow-moving vehicles (such as animal-drawn vehicles) to use devices identifying the vehicle as slow-moving; and
- Improving existing facilities for non-motorized transportation users, such as improving signaling at signalized intersections.

4.1 Rights and Responsibilities of Transportation Users

The responsibilities or duties certain transportation users must follow tend to create the rights for the transportation users which benefit from that duty. For example, the duty of a bicyclist to yield to a pedestrian on a sidewalk equates to a right of way for pedestrians on sidewalks. It is important for public entities, including road authorities, to understand these rights and responsibilities because they help direct how to design, construct, operate, and maintain facilities to protect those rights and help promote responsible behavior.

Tables 9-13 list various rights and responsibilities relevant to pedestrian, bicyclist, and other non-motorized use of the transportation system.^{‡‡} They specify the duties users have to each other on different transportation facilities and what kind of conduct is legally required to keep all users safe. (For rights and responsibilities specific to interactions between motor vehicle drivers and bicyclists (and other non-motorized vehicle drivers) at intersections, see the Intersection discussion under Crossings.)

The rights and responsibilities in the tables below are only examples of behavior required of transportation users. Additional rights and responsibilities can be found primarily in the Traffic Regulations chapter of Minnesota Statutes (Chapter 169) and in other areas throughout Minnesota law. Laws and requirements regarding only motorized vehicles are not covered here.

^{‡‡} There may be other rights and responsibilities involving pedestrian, bicycle, and other non-motorized transportation in Minnesota law that are not included in this discussion.

Table 6 – Examples of Pedestrian Rights and Responsibilities

Right and/or Responsibility	Action Allowed and/or Required
Right	Where traffic-control signals are not in place or operation, pedestrians have the right of way at all marked crosswalks and all intersections with unmarked crosswalks. A pedestrian cannot be assumed negligent for crossing a roadway where no crosswalks are available, despite any negligence on the part of a pedestrian in doing so where the pedestrian has a duty to yield to the right of way of approaching motor vehicles.
Right	Any person operating a motor vehicle must bring the vehicle to a stop and give the right of way at any intersection of any street, avenue, alley, or other public highway to a blind pedestrian who is carrying a cane predominantly white or metallic in color, with or without red tip, or using a guide dog.
Right and Responsibility	Despite a pedestrian’s right of way within a crosswalk, the pedestrian has a duty to exercise ordinary care for his or her own safety.
Responsibility	Pedestrians must follow traffic control signals at all intersections.
Responsibility	Pedestrians who cross a roadway at any other location other than within a marked crosswalk or at an intersection with no marked crosswalk must yield to traffic in the roadway.
Responsibility	Pedestrians who cross between adjacent intersections with working signals must use the crosswalk.
Responsibility	Pedestrians must use sidewalks when available.
Responsibility	Pedestrians have a duty to maintain a proper lookout and walk on the left side of the road.
Responsibility	Pedestrians shall not pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed or is being opened or closed, or enter, remain upon, or traverse over a railroad track, grade crossing, or pedestrian walkway crossing a railroad track when an audible bell or clearly visible electric or mechanical signal device is operational and warning of the presence, approach, passage, or departure of a railroad train.
Responsibility	Pedestrians are prohibited from trespassing on a railroad track, yard, or bridge. Any pedestrian who intentionally trespasses on this railroad property is guilty of a misdemeanor.
Responsibility	Pedestrians are prohibited from soliciting rides, money, employment, or other business from motor vehicle drivers.

Table 7 – Examples of Motorized and Non-Motorized Vehicle Drivers’ Rights and Responsibilities

Right and/or Responsibility	Action Allowed and/or Required
Responsibility	Every driver of a vehicle shall: <ul style="list-style-type: none"> • Exercise due care to avoid colliding with any bicycle or pedestrian upon any roadway, and • Give an audible signal when necessary and exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.
Responsibility	A high degree of driver vigilance is required where children are known or may reasonably be expected to be present.
Responsibility	A driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area and shall yield the right of way to any pedestrian and all other traffic on the sidewalk.
Responsibility	The driver of a vehicle approaching a totally or partially blind pedestrian carrying a cane predominantly white or metallic in color, with or without a red tip, or using a service dog, or totally or partially deaf person with a service dog identified with a burnt orange collar or leash, shall bring such vehicle to a stop and give the right-of-way to such blind or deaf pedestrian.
Responsibility	Drivers approaching a railroad grade crossing, must stop the vehicle not less than ten feet from the nearest railroad track and should not proceed until safe to do so and until the roadway is clear of traffic so that the vehicle can proceed without stopping until the rear of the vehicle is at least ten feet past the farthest railroad track.

Table 8 – Examples of Bicyclists’ Rights and Responsibilities

Right and/or Responsibility	Action Allowed and/or Required
Right and Responsibility	Bicyclists have the same general rights and duties as other vehicle drivers and must obey all traffic control signals and signs.
Right and Responsibility	A person lawfully operating a bicycle on a sidewalk, or across a roadway or shoulder on a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances.
Responsibility	Bicyclists must ride in the same direction as traffic.
Responsibility	Bicyclists must ride as close as possible to the right-hand edge of the roadway.
Responsibility	Bicyclists are generally prohibited from riding on sidewalks in business districts and other marked areas.
Responsibility	Bicyclists must yield to pedestrians [on a sidewalk, or across a roadway or shoulder on a crosswalk] and give an audible signal when approaching or passing.
Responsibility	An individual operating a bicycle must leave a safe distance when overtaking a bicycle or individual proceeding in the same direction, and maintain clearance until safely past.
Responsibility	Bicyclists on state recreational trails must yield to a motor vehicle using the trail for easement access to the main road.

Right and/or Responsibility	Action Allowed and/or Required
Responsibility	Only one bicyclist is allowed on a single bicycle at a time, with the exception of a baby in a baby seat attached to the bicycle or in a seat attached to the bicyclist themselves.
Responsibility	Bicyclists cannot attach themselves or their bicycle to a vehicle or street car to be towed along.
Responsibility	Bicyclists are prohibited from trespassing on a railroad track, yard, or bridge. Any bicyclist who intentionally trespasses on this railroad property is guilty of a misdemeanor.
Responsibility	A bicyclist cannot carry a package or bundle that prevents them from keeping at least one hand on the handlebars to steer and brake.

Table 9 – Examples of Motor Vehicle Drivers’ and Passengers’ Rights and Responsibilities

Right and/or Responsibility	Action Allowed and/or Required
Responsibility	Motor vehicle drivers must stop to give right of way to a blind person who is carrying a cane predominantly white or metallic in color or using a guide dog.
Responsibility	Motor vehicle drivers have a duty to drive with care and reduce speed when approaching intersections.
Responsibility	Motor vehicle drivers cannot pull a toboggan, hand sled, bicycle, or other similar device while driving on a highway.
Responsibility	Where traffic-control signals are not in place or in operation, the driver of a vehicle shall stop to yield the right-of-way to a pedestrian crossing the roadway within a marked crosswalk or at an intersection with no marked crosswalk. The driver must remain stopped until the pedestrian has passed the lane in which the vehicle is stopped.
Responsibility	No person shall open any door on a motor vehicle unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic. No person shall allow any door on the side of a vehicle adjacent to moving traffic to remain open for a period of time longer than necessary to load or unload passengers.

Table 10 – Rights and Responsibilities of Railroad Companies

Right and/or Responsibility	Action Allowed and/or Required
Responsibility	A railway company shall provide a crossing guard at a grade crossing if MnDOT: <ul style="list-style-type: none"> • Finds in an investigation and after opportunity for hearing, that a crossing guard is necessary to protect life and property at a grade crossing, and • Orders the railway company operating the railroad to do so.
Responsibility	It is the primary responsibility of the owner or lessee of railroad tracks to keep grade-crossing surfaces over public highways safe and passable for vehicular traffic in a manner consistent with appropriate federal track safety standards.
Responsibility	A railroad company must maintain, wherever its lines cross a public road, a proper and conspicuous crossing sign.

Right and/or Responsibility	Action Allowed and/or Required
Responsibility	When a railroad company changes or raises the grade of its tracks at a crossing, it must also grade the approaches on each side to make the approach and crossing safe for vehicles.
Responsibility	A company operating a railroad shall have all trains on the railroad come to a full stop not less than ten nor more than 60 rods before reaching a railroad junction or crossing at grade, unless stoppage is rendered unnecessary by an interlocking plant or other device approved by the written order of MnDOT or by the court upon appeal.
Responsibility	Every railroad company shall build and maintain good and substantial fences on each side of all lines of its railroad, and good and sufficient cattle guards at all road and street crossings and other openings, except at station and depot grounds, and other places which the necessary business of the road or public convenience requires to be open.

4.2 Signs and Signals

Traffic signs and signals exist to physically regulate, warn, or guide traffic flow when the potential exists for two or more transportation users to come into contact with one another. This usually happens at intersections, such as when two roads, a sidewalk and street, or a road and a railroad intersect.

Signs and signals indicate when and how transportation users should proceed when different transportation facilities intersect. Signs and signals are often specifically designed to address the safety of pedestrians, bicyclists, and other non-motorized transportation users. For example:



- Pedestrians facing any green signal (except when the sole green signal is a turn arrow) may proceed across the roadway within any marked or unmarked crosswalk. Every driver of a vehicle shall yield the right of way to such pedestrian (except that the pedestrian shall yield to vehicles lawfully within the intersection at the time that the green signal indication is first shown).
- Pedestrians facing a circular yellow signal are advised that there is insufficient time to cross the roadway.
- Drivers are prohibited from driving a vehicle over a bridge or other elevated structure at a speed which is greater than the maximum speed signposted.

4.3 Regulating Speed Limits

Motor vehicle speed is one of the primary factors that determine the degree of safety and the design of a particular roadway. Speed limits on all roads within Minnesota are set in statute. Beyond this, MnDOT may establish different speed limits and speed zones if MnDOT determines that a different speed is more reasonable or safer on a portion of a road. MnDOT is the ultimate authority in determining the safe and reasonable speed limit and speed zones, with certain limited exceptions. Local authorities can, by resolution, change speed limits on urbanized city streets and municipal state aid roads as long as speed limit signs are posted and a copy of the resolution is provided to MnDOT. Local authorities can also designate safe, slower speed limits than is set in statute in school zones, so long as the speed limit is not lower than 15 miles per hour. Road authorities can designate safe, slower speed limits on roads with bicycle lanes under their authority without an engineering or traffic investigation provided that such safe speed shall not be lower than 25 miles per hour.



4.4 Restricting Access to Transportation Facilities

In some situations, federal and state laws protect the safety of pedestrians, bicyclists, and other non-motorized transportation users by restricting access to certain transportation facilities. Some of these laws:

- Restrict bicycle access to high occupancy vehicle facilities on federal highways if bicycle access is certified a safety hazard.
- Prohibit pedestrian, bicycle, or other non-motorized transportation use from main roadways, or entrance and exit ramps to roadways, on the national system of interstate highways in Minnesota for the safety and convenience of public travel.
- Restrict access on Minnesota controlled access highways in certain situations.

4.5 Design, Construction, and Maintenance

Laws often establish design, construction, and maintenance requirements for the efficient operation of transportation modes and to prevent accidents or correct problems after an accident occurs. These requirements often address safety concerns of pedestrian, bicycle, and other non-motorized transportation.

For example, MnDOT creates minimum design standards for on-road bicycle facilities for trunk high-

ways and local state aid routes. For state-aid routes, these standards specify requirements for design speed, lane width, and proposed structural design strength, among others. For local state aid routes, standards to consider include “safety, speed, population/land use, benefit/cost analysis, traffic mix, peak hourly traffic, farm equipment, environmental impacts, terrain limitations, bicycle traffic, pedestrian traffic, on-street parking, intersection and driveway spacing, rights-of-way constraints, vehicle turn lane configuration, sight distance, sight lines, bus routes, other non-motorized uses, functional classification, or other factors.”

Federal law specifically indicates that no federal aid highway project can be approved if it has a significant adverse impact on the safety of non-motorized transportation unless a reasonable alternate route is identified or available.

Government entities are generally responsible for maintaining roads, highways, and other transportation facilities under their authority. MnDOT has broad responsibility to maintain the trunk highway system and to ensure that reasonable standards of maintenance are met on other roads throughout the state. For example, MnDOT’s trunk highway maintenance duties include snow and ice control, debris removal, paint striping, and mowing. While MnDOT is not directly responsible for the maintenance of other publicly funded state-aid roads and highways, it is required to ensure that there is a reasonable standard of maintenance on state aid routes within the county or urban municipality consistent with available funds, the existing street or road condition, and the traffic being served.

A local road authority may spend what it believes is necessary for the improvement and maintenance of roads, bridges, or ferries lying beyond the boundary of and leading into their jurisdiction. These maintenance duties seek to prevent hazardous travel conditions that may lead to accidents by ensuring that transportation facilities are kept in safe conditions. If the maintenance of a county or municipal state aid route is unsatisfactory, MnDOT can withhold up to ten percent of the maintenance funds apportioned until the unsatisfactory condition has been corrected and a reasonable standard of maintenance is provided.

Minnesota law specifically requires maintenance on state aid roads to include:

- Road surfaces and shoulders;
- Regulatory and direction signs, markers, traffic control devices, and protective structures in conformance with the current Manual on Uniform Traffic Control Devices; and
- Inspection of bridges.

Maintenance required specifically on state trunk highways shall include maintenance of drainage, debris removal, sweeping of lane surfaces, mowing and brush removal, surface maintenance, surface grading, snowplowing, and painting of stripes and stencils.

While state law generally addresses local government responsibility over municipal state aid streets, town roads, and city streets, local municipal laws generally govern local sidewalks and other locally-created transportation facilities that are not discussed in state law. While local laws may govern these facilities, local governments are still required to ensure that federal and state human and civil rights laws are

met when these facilities are provided for public transportation. Accordingly, ensuring these facilities are maintained in accordance with these laws is the responsibility of local governments, even when local governments may delegate that authority to private citizens.

For example, the Minneapolis Code of Ordinances indicates:

The owners, occupants or persons having the care, custody and control of any building that is a one- or two-family home shall:

- Remove the snow and/or ice from the public sidewalk abutting or adjoining the lot where the home is located, within the first twenty-four (24) hours after snow has stopped falling, and
- Sprinkle sand on the sidewalk where there is snow or ice that cannot be removed.

Any person who violates, disobeys, neglects, or refuses to comply with this requirement is in violation of this Code and guilty of a petty misdemeanor, and each and every hour after the expiration of the twenty-four-hour period that the snow and/or ice is not removed is considered a separate violation of this Code.

The city engineer is authorized to remove any snow or ice remaining on the public sidewalks of the city more than twenty-four (24) hours after the snow stops falling. The city engineer shall determine the cost of such snow removal, and the owner of the lot abutting the sidewalk from which the city has removed snow shall be charged for the removal cost. If these charges are not paid within ninety (90) days after a bill has been mailed to the owner, the city council shall collect the amount of the charges as a special assessment upon the lands and buildings involved.

Even though a local municipality, like Minneapolis, may create local requirements regarding the removal of snow or ice from public sidewalks, a local government cannot delegate away its responsibility for compliance with these federal and state laws to private citizens any more than MnDOT can delegate away its responsibility for maintaining trunk highways to local governments. (See the “Intersections” section of Chapter 8 for further discussion on this topic).

(Please note, this report does not review or analyze local laws. This information is provided as background information on this issue and is not meant to provide an exhaustive or in-depth analysis of this issue or legal concerns that may develop regarding these laws.)

(For related discussion of maintenance responsibility for bicycle and recreational facilities, see Ambiguities, Conflicts, and Statutory Barriers.)

4.6 Reporting Traffic Accidents

Minnesota law requires reporting of accidents involving vehicles that result in bodily injury or death of any individual to a local police department if the accident occurred in a municipality, to the state patrol if it occurs on a state trunk highway, or to the county sheriff.

DPS is required to tabulate and publish statistical information regarding the number and circumstances of traffic accidents to inform the public and better address potential traffic hazards; Minnesota Crash Facts is the title of the formal report. As discussed earlier, the term traffic includes all forms of motorized and non-motorized traffic. Minnesota Crash Facts does not publish crash information in Minnesota Crash Facts for pedestrian/rail, pedestrian/bicycle, and bicycle crashes if a motor vehicle is not involved. Additionally, Minnesota Crash Facts only publishes information of traffic accidents that occur on roadways.

(For related discussion of the reporting of traffic accidents for bicycle and recreational facilities, see Ambiguities, Conflicts, and Statutory Barriers.)

Chapter 5

How Non-Motorized Transportation Supports Other Public Priorities

Laws create links between transportation, housing, public health, the environment, recreation, and education. This requires collaboration between departments of education, health, public safety and transportation, as well as with local government authorities, such as school districts.^{§§}

5.1 Public Health

From chronic diseases associated with inactivity and obesity to environmental health issues associated with air quality, transportation impacts a wide range of health issues.

Minnesota law recognizes the relationship between health and non-motorized transportation. The goals of Minnesota's transportation system include promoting and increasing bicycling and walking as a percentage of all trips as energy-efficient, nonpolluting, and healthy forms of transportation. Likewise, including bicycle and recreational vehicle lanes along proposed and existing public highways is required by the Minnesota legislature "in the interests of the public health, safety and welfare."³⁹⁰



§§ Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

The overlap between transportation and health can also be found in the different governmental agencies involved in the transportation system. The Minnesota Department of Health (MDH) is responsible for developing and maintaining an organized system of programs and services for protecting, maintaining, and improving the health of the citizens of Minnesota as well as coordinating activities with other governmental agencies, such as MnDOT. These responsibilities include:

- Identifying and describing health problems;
- Planning, facilitating, coordinating, providing, and supporting the prevention and control of illness and disease and the limitation of resulting disabilities;
- Promoting personal health through general health education programs and disseminating health information;
- Coordinating and integrating local, state, and federal programs and services affecting the public's health; and
- Continually assessing and evaluating the effectiveness and efficiency of health service systems and public health programming efforts in the state.

Transportation has a significant impact on public health. Active transportation initiatives can have a role in preventing chronic health diseases associated with inactivity and obesity. Through the Statewide Health Improvement Program (SHIP), MDH supports active transportation through grants to local communities for Complete Streets and Safe Routes to School (SRTS) activities and programs.

MDH is a member of the Minnesota Council on Transportation Access. This council studies, evaluates, oversees, and makes recommendations to improve transportation services for individuals using public transit and those who, because of mental or physical disability, income status, or age, are unable to transport themselves and are dependent upon others for transportation services.

The Advisory Committee on Non-Motorized Transportation includes representatives from MDH, the Minnesota Department of Education, and the Minnesota Pollution Control Agency. This committee makes recommendations to MnDOT on items related to non-motorized transportation, including safety, and identifies solutions and goals for addressing identified issues and needs.

5.2 Environment

Minimizing environmental impacts from the transportation system is a fundamental goal of federal and state transportation policies, systems, and facilities.

Federal and state transportation and environmental laws require the environmental impacts from transportation-related activities be identified, considered, and mitigated when possible. The overlap between environmental law and transportation law is large and complicated. This discussion provides a brief overview of ways in which pedestrian, bicycle, and other modes of non-motorized transportation intersect with environmental and transportation laws. A comprehensive discussion of the impact of transportation on

the environment is beyond the scope of this document.

From air quality to water, land, and habitat impacts to social impacts from noise and congestion, transportation activities impact the environment. Laws associate transportation systems, planning, operations, and maintenance with environmental goals, measurements, and impacts in various ways. For example, increasing pedestrian, bicycle, and other non-motorized transportation fosters broad environmental goals and transportation policy primarily by decreasing motorized vehicle use and related pollution and environmental impacts, particularly in urban and metro areas.



Federal law recognizes that national transportation goals should play a significant role in improving the environment. Federal programs, such as the Congestion Mitigation and Air Quality Improvement Program (CMAQ), provide flexible funding to state and local governments for transportation projects and programs to help meet the requirements of the Clean Air Act. This funding can be used to reduce congestion and help communities meet the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter. Increasing the prevalence of pedestrian, bicycle, and other non-motorized transportation can help reduce emissions of carbon dioxide that contribute to climate change, improve air quality by reducing the number of motor vehicles emitting air pollutants, and reduce the impact of transportation facilities on land and air resources.

Likewise, Minnesota law requires MnDOT to ensure that the transportation system goals are consistent with federal law and the environmental and energy goals of the state, and accomplished with minimal impact on the environment. For example, as specifically listed in the state transportation system goals, MnDOT is to promote and increase bicycling and walking as a percentage of all trips helps to meet Minnesota's environmental goals as energy efficient, nonpolluting, and healthy forms of transportation.

5.2.1 ENVIRONMENTAL REVIEW

Any transportation project that will have a significant environmental impact is required to undergo fed-

eral and state environmental review. Both federal environmental review under the National Environmental Policy Act (NEPA) and state environmental review under the Minnesota Environmental Policy Act (MEPA) provide the public with an opportunity to provide feedback and comments on the impacts from the specific project under consideration. This public process can be an important tool for identifying and addressing unique concerns and unintended impacts from a transportation project on pedestrian, bicycle, and other non-motorized transportation.

As part of the environmental review process, reasonable alternatives are examined and evaluated to determine whether they can address the project needs while eliminating environmental impacts. The environmental impacts associated with those alternatives are assessed and refined in an effort to avoid environmental impacts, address issues, provide the best solution, and minimize overall project costs. Mitigation is considered when impacts are unavoidable.

Throughout the process, input should be obtained from all stakeholders, including resource agencies and the public. After documenting and disclosing the study efforts, a decision is made as to which alternative best satisfies the project needs while considering all impacts (social, economic, and environmental) and complying with applicable federal and state regulations.

NEPA creates a formal process for environmental review of federally funded projects that have the potential to significantly impact the environment. NEPA applies to all federal agencies and is carried out by the Council of Environmental Quality (CEQ) within the Office of the President. Federal transportation agencies involved in environmental review and oversight of federal transportation projects include the FHWA and Federal Transit Administration (FTA).

The Minnesota Environmental Policy Act (MEPA) of 1973 established a formal process for reviewing the environmental impacts of major development projects within the state. The process operates according to rules adopted by the Minnesota Environmental Quality Board (EQB), but it is carried out by a local governmental unit or state agency (termed the Responsible Governmental Unit, or RGU). The EQB advises local units and state agencies on the proper procedures for environmental review and monitors the effectiveness of the process.

5.2.2 CATEGORICAL EXCLUSIONS FROM ENVIRONMENTAL REVIEW

Federal and Minnesota laws recognize that human activity has had a profound and often adverse impact on the environment. Therefore, those laws have sought to encourage government bodies to consider the environmental impacts and effects of future actions by requiring the government bodies to conduct an environmental review of a proposed project prior to taking action. At the same time, federal and Minnesota laws have identified some government actions and projects as being unlikely to cause an environmental effect and therefore have exempted certain actions from requiring an environmental review. These exemptions are referred to as Categorical Exclusions.

For example, under NEPA, the construction of bicycle and pedestrian lanes, paths, and facilities by a federal agency are excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Federal law determined that these types of projects do not require environmental review because environmental authorities have determined that they do not:

- Induce significant impacts to planned growth or land use for the area;
- Require the relocation of significant numbers of people;
- Have a significant impact on any natural, cultural, recreational, historic or other resource;
- Involve significant air, noise, or water quality impacts;
- Have significant impacts on travel patterns; or
- Have significant environmental impacts either individually or cumulatively.

As a result of these categorical exclusions from environmental review, federal law indicates that the construction of these bicycle and pedestrian facilities will generally only require additional environmental studies under unusual circumstances. This includes if the projects are found to have:

- (1) Significant environmental impacts;
- (2) Substantial controversy on environmental grounds;
- (3) Significant impact on properties protected by federal law; or
- (4) Inconsistencies with any federal, state, or local law, requirement, or administrative determination relating to the environmental aspects of the project.

Minnesota's environmental review law, MEPA, creates similar categorical exclusions to those found in federal law and additionally excludes certain recreational trail projects conducted by state governmental bodies from submitting environmental review documents.

Categorical exclusions have been established in order to allow agencies actions with no environmental impacts to move forward speedily without unnecessary review and oversight.

5.2.3 ENVIRONMENTAL REVIEW & THE DEPARTMENT OF TRANSPORTATION ACT

The Department of Transportation Act (DOT Act) of 1966 was passed, in part, as a special effort to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and historic sites. It provides, “[t]he Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.”

Specifically, the DOT Act included a special provision – Section 4(f) – which prohibits the Federal Highway Administration (FHWA) and other DOT agencies from approving the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites unless:

- There is no feasible and prudent alternative to the use of land and
- The action includes all possible planning to minimize harm to the property resulting from use.

In August 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users

(SAFETEA-LU), made the first substantive revision to Section 4(f) since its drafting. It simplified the process and approval of projects that have only “de minimis impacts” on lands impacted by use of public parks, recreational areas, and other lands under Section 4(f).

Key Definition:

De Minimis Impact

For historic sites, de minimis impact means that the Federal Highway Administration or the Federal Transit Administration has determined that no historic property is affected by the project or that the project will have “no adverse effect” on the historic property in question.

For parks, recreation areas, and wildlife and waterfowl refuges, a de minimis impact is one that will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

Under the new provisions, once the USDOT determines that a transportation use of Section 4(f) property results in a de minimis impact, analysis of avoidance alternatives are not required and the Section 4(f) evaluation process is complete. The change also required the USDOT to issue regulations that clarify the factors to be considered and the standards to be applied when determining if an alternative for avoiding the use of a Section 4(f) property is feasible and prudent.

The law also has specific requirements, depending on the type of property impacted as follows.

Parks, recreation areas, and wildlife and waterfowl refuges:

The USDOT may make a finding of de minimis impact only if—

- It has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and
- The finding of the USDOT has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

Historical Sites:

The USDOT may make a finding of de minimis impact only if—

- The USDOT has determined, in accordance with the consultation process required under the National Historic Preservation Act, that—
 - The transportation program or project will have no adverse effect on the historic site; or
 - There will be no historic properties affected by the transportation program or project;
- The finding of the USDOT has received written concurrence from the applicable State historic

preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

- The finding of the USDOT has been developed in consultation with parties consulting as part of the process required under the National Historic Preservation Act

5.3 Education

Minnesota law recognizes the overlap between transportation and the education system, particularly in regard to how children get to and from school.

Minnesota schools can partner with MnDOT in Safe Routes to School initiatives geared towards increasing the number of children who bike and walk to school. School districts wanting to construct an educational facility are required to submit to the Minnesota Department of Education a proposal that includes a description of the pedestrian, bicycle, and transit connections between the school and nearby residential areas that make it easier for children, teachers, and parents to get to the school by walking, bicycling, and taking transit. School districts are authorized to organize and supervise school safety patrols to assist students crossing roads and highways in a safe manner while walking or biking to school. Minnesota Rules provide safety procedures for patrols to assist children in crossing the street, and standards for flags, belts, and badges worn by patrols. The rules also identify procedures for assisting school buses in safely crossing railroad tracks. The Minnesota Manual on Uniform Traffic Control Devices (MMUTCD) provides specifications on signing and marking for traffic control in school zones, including lower speed limits. The Minnesota Department of Education is represented on the State's Advisory Committee on Non-Motorized Transportation which is coordinated by MnDOT.



The majority of school transportation laws tend to focus on bus transportation, with school buses discussed throughout. While many provisions require school districts to provide transportation generally, motorized transportation via school buses is emphasized. This emphasis on bus transportation may act as a statutory barrier to the expansion of non-motorized transportation in school transportation systems.

5.4 Recreation

Recreation is closely linked with transportation – particularly non-motorized transportation – since walking, biking, rollerblading, horseback riding, and other non-motorized activities can be done for both fun and leisure and to get from one place to another.

Minnesota's Outdoor Recreation System (the System) was created, in part, to support these purposes. The DNR is responsible for Minnesota's state recreation areas. The state outdoor recreation system includes, among other things, state parks, recreation areas, and trails. These lands are relevant to pedestrian, bicycle, and other non-motorized transportation as they were created to support walking, bicycling, and other non-motorized activities. Depending on the type of the facility or program and the body responsible for its operation, federal regulations concerning accessibility will apply. Specific regulations and rules will be discussed in applicable sections below.

Key Definition:

Outdoor Recreation

Any voluntary activity, including hunting, fishing, trapping, boating, hiking, camping, and engaging in winter sports, which is conducted primarily for the purposes of pleasure, rest, or relaxation and is dependent upon or derives its principal benefit from natural surroundings.

Specifically, the System was established because of the growing demand for outdoor recreational facilities and the spread of development and urbanization in the state, making these facilities important to Minnesotans' health, welfare, and prosperity. The System is meant to provide abundant opportunities for outdoor recreation and education and serve the needs of Minnesotans by:

- (1) preserving an accurate representation of Minnesota's natural and historical heritage for public understanding and enjoyment, and
- (2) providing an adequate supply of scenic, accessible, and usable lands and waters to accommodate the outdoor recreational needs of Minnesota's citizens.

To help accomplish these goals, the System is required to include a state trail that:

- Provides a recreational travel route which connects units of the outdoor recreation system or the national trail system;
- Provides access to or passage through other areas with significant scenic, historic, scientific, or recreational qualities; or
- Reestablishes or permits travel along a historically prominent travel route or provides commuter transportation.
- Specifically, a state trail within the System must:
 - Permit travel along a route which provides at least one of the following recreational opportunities:
 - connects areas or points of natural, scientific, cultural, and historic interest;
 - possesses outstanding scenic beauty;
 - enhances and utilizes the unique qualities of a particular manner of travel in harmony with the natural environment;
 - is historically significant as a route of migration, commerce, or communication;
 - allows travel between units of the state outdoor recreation system or the national trail system; and

- Utilize public lands, rights-of-way, and similar areas; and
- Provide maximum potential for the appreciation, conservation, and enjoyment of significant scenic, historical, natural, or cultural qualities of the areas through which the trail may pass; and
- Take into consideration public demand and future use.

A master plan is typically required for the construction or development of each component or “unit” of the outdoor recreation system. The DNR is required to review these plans and carry out an approval process. The master plans are available for review and comment by the public and other state agencies.

The Department of Natural Resources and the Bicycle Trail Program

Additionally, the DNR shall establish a program for the development of bicycle trails utilizing certain state trails, other state parks and recreation land, and state forests. (For more information on the bicycle trail program, see Coordination Between Government Entities. For more information on the DNR’s responsibilities, see State Departments and Agencies.)

Chapter 6

Individuals And Their Rights To Access The Transportation System

The transportation system is an important part of everyday life, providing access to employment, food, medical care, entertainment, and other essential functions of life. Laws identify certain classes of individuals against whom discrimination in the provision of public services, such as the transportation system, is specifically prohibited. To that end, the law prohibits discrimination to ensure that protected classes of individuals are able to utilize transportation facilities and services.^{¶¶}

State and local governments (such as MnDOT and local road authorities) and private entities providing transportation facilities and services funded by public funds must ensure that protected classes of individuals are not discriminated against within the transportation system. These protections must be factored into the planning, development, construction, and maintenance of these services and facilities.

Federal and state laws prohibit discrimination in providing publicly funded transportation services, programs, or activities and in places of public accommodation based on:

- Disability.
- Age.
- Race, color, or national origin.
- Religion.
- Socioeconomic status.
- Marital status or sex.
- Sexual orientation.

(See Appendix D for further definitions of transportation users and their civil and human rights.)

Failure to protect these classes of individuals from discrimination in the transportation system could lead to project suspension or the loss of financial assistance which makes many transportation projects possible.

¶¶ Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

6.1 Individuals with Disabilities

6.1.1 FEDERAL LAW

Federal law prohibits discrimination against individuals with disabilities. The Architectural Barriers Act of 1968 (ABA), Rehabilitation Act of 1973 (Rehab Act), and the Americans with Disabilities Act of 1990 (ADA) outline prohibited behavior impacting individuals with disabilities and provide standards for ensuring access for those individuals to private accommodations and public services and programs. These standards apply to transportation facilities used by pedestrians, bicyclists, and other non-motorized transportation users.***

The main distinction among these statutes is the jurisdictional coverage. The ADA establishes the regulatory structure regarding activities and actions taken by state and local governments, as well as businesses, nonprofit service providers that provide public accommodations, and privately operated transportation, etc.; whereas the ABA and Rehab Act establish the regulatory structure covering Federal agencies. Fortunately, the language utilized in all three statutes is extremely similar. Further, the Architectural and Transportation Barriers Compliance Board (Access Board) is the independent federal agency created to draft and establish rules and regulations under all three statutes in order to promote equality for people with disabilities through leadership in accessible design and the development of guidelines and standards.

The ABA was one of the first attempts by the U.S. legislature to ensure access of individuals with disabilities to certain buildings and facilities by requiring identified buildings and facilities designed, built, altered, or leased with federal funds to be accessible to all members of the public. The Rehab Act prohibits discrimination of individuals with disabilities by any federally funded or operated program. The Rehab Act and the ADA include similar language and are often discussed together.

The ADA is the primary and most comprehensive federal law ensuring that individuals with disabilities have access to public services and programs, including public transportation. The ADA is a broad law, organized into many sections; most relevant to this report is ADA Title II which applies to public entities and has two subtitles: subtitle A and B. Subtitle B applies to transportation. Unlike the Rehab Act, the ADA prohibits discrimination of individuals with disabilities in all public programs and services whether or not federal funds are involved and applies to private entities providing services on behalf of public entities.

The ADA sets requirements for state and local facilities, which apply to all local governments, school districts, and other local instrumentalities and all the programs, services, and activities located within those facilities. The ADA has noted areas of flexibility in compliance for small jurisdictions, allowing alterations to buildings designated as historic under state or local law to comply with the ADA to the maximum extent feasible. For example, in order for a small town to achieve compliance under the ADA, it need not make every facility accessible. The small town could relocate programs to accessible facilities or modify exist-

*** Other federal laws, including the Rehabilitation Act (29 USC 794(a)), and Architectural Barriers Act (42 USC 4152), include additional prohibitions against discrimination against individuals with disabilities.

ing facilities. The Civil Rights Division of the Department of Justice has produced numerous guides to assist local governments with compliance. These publications are intended to be used as technical assistance and do not constitute legal interpretation of the ADA.

In large part, the Rehab Act and the ADA are broader than the ABA and now serve as the key federal laws on disability access.

Key Definitions:

Disability

A physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.

Discrimination

Exclusion from participation in or denial of the benefits of the services, programs, or activities of a public entity, or being subjected to discrimination by any such entity.



Individual with a Disability

An individual who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

The ADA and its regulations identify different standards and guidelines facilities must meet to ensure that individuals with disabilities have the legally required access to publicly funded transportation facilities. (See Accessibility Standards for Individuals with Disabilities for additional discussion of access requirements for individuals with disabilities.)

6.1.2 MINNESOTA LAW

Minnesota law protects individuals with disabilities from discrimination in the provision of public accommodations and public services, including the transportation system, through the Minnesota Human Rights Act and statutes that specifically address the rights of disabled persons. These laws provide the framework for protecting individuals with disabilities from discrimination and ensuring that these individuals have equal access to Minnesota's transportation system.

The Minnesota Human Rights Act (MHRA) protects, among others, qualified disabled persons from discrimination in public accommodations and public services because of disability. An individual must meet the legal definition of a qualified disabled person to receive protection. Minnesota's definitions of disability and qualified disabled person are broader than the federal definitions of disability and individual with a disability. The definition of disability in Minnesota's Human Rights Act includes not only individuals with physical and mental impairments recognized by federal law, but also individuals with sensory impairments. In addition, the federal definition requires that the disability "substantially" limit a disabled person's major life activities, whereas under the Minnesota Human Rights Act the disability must only "materially" limit one or more major life activities. This lesser standard under Minnesota law makes it easier for individuals to demonstrate that they have a disability.

Key Definitions:

Disability

Any condition or characteristic that renders a person disabled. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Qualified Disabled Person

A person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

Place of Public Accommodation

A transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

Public Service

Any public facility, department, agency, board, or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.



Minnesota's Human Rights Act provides that it is the public policy of the state to secure for persons in Minnesota freedom from discrimination in public accommodations because of disability. Minnesota's law not only protects individuals with disabilities from discrimination but also states that the blind, visually disabled, and those otherwise physically disabled have the same right as the able-bodied to the full and free use of public accommodations including "streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places." Individuals with disabilities are entitled to full and equal accommodations in all modes of transportation subject only to the conditions and limitations established by law and applicable to all persons. These laws impact all public accommodations and public services in the state, not just those using federal funds.

6.2 Protecting Older Transportation Users

Laws protect older transportation users from discrimination because of their age. Closely related to accessibility for individuals with disabilities, it is the responsibility of federal, state, and local agencies who utilize federal financial assistance to ensure access for older Americans who may have trouble accessing transportation facilities.

These federal laws prohibit any program or activity receiving federal funds, including private organizations, from discriminating against an individual based on his or her age. Further, federal, state, and local agencies may not utilize federal funds to design transportation programs that discriminate against individuals because of their age. In many cases, older Americans and individuals with disabilities face the same or similar types of physical limitations and barriers when it comes to publicly funded transportation facilities, which make their use of transportation facilities more challenging.

The Board of Aging (created by the Minnesota Department of Human Services) is tasked with identifying issues, advising decision-makers, and coordinating plans and activities of state departments and citizens' groups as they pertain to aging. The Board of Aging has a "communities for a lifetime" initiative which involves partnerships of cities, counties, municipalities, and towns, whose citizens seek to extend to persons age 65 and older the opportunities, support, and services that will enable them to continue to be contributing, civically engaged residents. The "communities for a lifetime" initiative recognizes the importance of improving mobility through various forms of transportation, including safe and age-friendly roadways, accessible public transit, and pedestrian- and wheelchair-friendly streets. In addition, MnDOT's Complete Streets law specifically recognizes the need to "address the safety and accessibility needs of users of all ages and abilities."

6.3 Race, Color, or National Origin

6.3.1 FEDERAL LAW

Exclusion from participation in and denial of benefits of federally assisted programs based on race, color, or national origin is prohibited. These prohibitions extend to private entities receiving federal financial assistance. As a result of these prohibitions, the transportation needs of all, including these minority populations, must be addressed when planning, constructing, and expanding transportation projects.

Transportation authorities are required to ensure that the adverse effects of public transportation expansion are not unequally felt by minority neighborhoods and communities. As a result, public and private authorities providing transportation facilities and services must ensure that minority populations are not excluded from or denied the benefits of transportation facilities or discriminated against in the planning, construction, or maintenance of these facilities.

Considering the needs of minority community members in transportation planning and design includes an assessment during the planning and design process to determine how changes could affect the sur-

rounding neighborhoods and communities, especially those communities with a predominately minority population.

Courts have addressed transportation issues regarding the needs of minority populations, including:

- Failure to meet the transportation needs of racial minority communities; and
- Negative effects of transportation projects on minority neighborhoods.

In one federal case, the court found that minorities account for a large percentage of individuals that rely heavily on publicly funded transportation services to commute in urban areas. As a result, the federal government adopted a policy that attempts to ensure that individuals of racial minorities have opportunities that are comparable to other racial groups. These protections make it easier for minority populations to gain access to employment opportunities and other programs and assistance that these individuals may want to utilize but have trouble accessing because of limited transportation options.

Including the needs of all races, colors, and ethnic backgrounds in federally assisted programs affects transportation entities in two major ways. First, when planning, constructing, or maintaining new transportation facilities or alterations to old facilities the entity must ensure that all potential users are not discriminated against. Second, the agency must also ensure that the development will not adversely impact minority populations. Adverse impacts occur when minority neighborhoods bear the brunt of the negative environmental, economic, and social impacts of these projects but receive little to none of the benefits. If the transportation agencies fail to demonstrate that they made these considerations, they face the possibility of violating the law.

6.3.2 MINNESOTA LAW

The Minnesota Human Rights Act specifies that it is the public policy of Minnesota to secure freedom from discrimination in public accommodations because of race, color, creed, and national origin. While race, color, and creed are not defined, national origin is defined as the place of birth of an individual or of any of the individual's lineal ancestors. With respect to the development of transportation facilities and services, all transportation services provided with public funds must be provided in a way so as not to discriminate against individuals based on their race, color, creed, or national origin.

6.4 Religion

Both the United States and Minnesota Constitutions prohibit government limitations on the free exercise of religion. As a result, discrimination in access to public transportation facilities based on religion would be unconstitutional under federal and Minnesota law. The Minnesota Human Rights Act also prohibits discrimination in public accommodations and public services because of religion. The Minnesota Human Rights Act does not, however, explicitly define religion or go into detail about what accommodations must be made to different religious classes. The issue of freedom of religion has come up in regards to non-motorized transportation where legal requirements for specific types of signs on non-motorized vehi-

cles conflicted with certain religious beliefs.

6.5 Socioeconomic Status

The federal executive branch issued an executive order titled “Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations” (Executive Order on Environmental Justice). This executive order requires federal agencies to decrease the negative environmental impacts of certain projects on lower socioeconomic status communities. It does not, however, apply to private organizations and entities. The Executive Order on Environmental Justice requires that:

“[E]ach Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on . . . low-income populations.”

Environmental justice efforts seek to protect ethnically and economically disadvantaged individuals and communities from unfair environmental impacts associated with industrial, governmental, or commercial operations or policies. Fair treatment ensures that no group bears a disproportionate share of the negative environmental consequences from these activities. Protecting disadvantaged individuals and communities in the development, implementation, and enforcement of environmental laws, regulations, and policies includes:

- Ensuring that the public, and disadvantaged individuals and communities have an opportunity to participate in and influence decisions that may affect their environment and/or health;
- Considering the concerns of impacted individuals and communities in the decision-making process; and
- Seeking out and facilitating the involvement of individuals and communities potentially affected.

6.6 Additional Classes Protected Under Minnesota Law

Discrimination in public accommodations because of race, color, creed, religion, disability, national origin, marital status, sexual orientation, or sex is prohibited.

6.6.1 MARITAL STATUS, SEX, AND SEXUAL ORIENTATION

Transportation services provided by a state department, agency, board, or commission, including pedestrian, bicycle, and other non-motorized transportation services, must be provided in a way so as not to discriminate against individuals based on their marital status, sex, or sexual orientation. Sex is defined as including, but not limited to, “pregnancy, childbirth, and disabilities related to pregnancy or childbirth.” Sexual orientation is defined as “having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as

having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness.”

6.7 Executive Orders: Environmental Justice, Limited English Proficiency, and Minnesota Indian Tribal Governments

Both Presidents of the United States and Minnesota Governors have created executive orders regarding many topics, including topics that affect transportation planning and processes. A few examples of executive orders that may affect transportation by protecting and defining government relationships with specific groups are provided below.

6.7.1 ENVIRONMENTAL JUSTICE

In response to the Executive Order on Environmental Justice, the U.S. Department of Transportation (USDOT) developed an Environmental Justice Strategy laying out key components to promote the principles of environmental justice in all departmental programs, policies, and activities. DOT recognizes that the Executive Order on Environmental Justice applies to all DOT policies, programs, and activities that involve human health or environmental matters, or interrelated social and economic impacts. DOT has indicated that its activities will be administered so as to identify early in the development of a program, policy, or activity, the risk of discrimination and disproportionately high and adverse effects so positive corrective actions can be taken.

The Executive Order on Environmental Justice also applies to all federal agencies, including environmental review of transportation projects under the National Environmental Policy Act (NEPA). Transportation agencies conduct an environmental review for projects that have the potential to have a significant environmental impact. The Executive Order on Environmental Justice requires government agencies to analyze the extent to which these environmental impacts could affect minority and low-income neighborhoods and communities and mitigate these adverse impacts to the extent possible.

While agencies such as MnDOT or the Met Council are not required to implement transportation programs based on their effect on lower socioeconomic classes, the Executive Order on Environmental Justice requires those agencies to consider such effects in their planning process. This may mean evaluating the effect of constructing transportation facilities and planned public transportation projects on minority or low-income neighborhoods and communities to ensure that these communities do not bear a disproportionately adverse impact. Accordingly, the construction of lanes, paths, and other facilities for pedestrian, bicycle, or other non-motorized transportation that will have an adverse effect on certain communities could be required to undergo environmental review through NEPA even though these projects are categorically excluded from environmental review.

6.7.2 LIMITED ENGLISH PROFICIENCY

Under the Executive Order on Limited English Proficiency (LEP), federal agencies are required to exam-

ine the services they provide and create a system that allows individuals with LEP to meaningfully access those services. Federal agencies are also required to take steps to ensure that recipients of federal financial assistance are providing meaningful access to services for individuals with LEP.

Key Definitions:

Federal Financial Assistance

Includes grants, training, and the use of equipment. Recipients can include state departments of transportation, state motor vehicle administrations, state highway safety programs, and metropolitan planning organizations.

Information about projects and planning, kiosks, maps, public safety education, and signage in multiple languages can help transportation users with LEP more easily use the transportation system.

6.7.3 MINNESOTA INDIAN TRIBAL GOVERNMENTS

In April 2011, Minnesota Governor Mark Dayton reaffirmed^{†††} the Executive Order on Affirming the Government-to-Government Relationship Between the State of Minnesota and Indian Tribal Governments Located Within the State of Minnesota (Order) signed by Minnesota Governor Tim Pawlenty in April 2003. This Order formally recognizes:

- The unique status of Indian tribes and their right to existence, self-government, and self-determination;
- State regulations and other policy statements or actions often have an effect on Indian tribes;
- State and tribal governments play key roles in serving all of the citizens of the State of Minnesota and collaboration between tribes and state agencies will ensure that services are efficiently provided to all citizens, minimize overlap, preserve natural resources, and encourage sustainable economic development; and
- In order to advance both state and tribal concerns, it is necessary to maintain and foster a government-to-government relationship that is built on mutual respect for the sovereignty of both state and tribal governments.

As a result, the Order requires State of Minnesota departments, agencies, and their employees to accord tribal governments the same respect accorded to other governments; consider the unique needs of Indian tribes in administering formerly federal programs; and consult with Indian tribes whenever feasible in formulating and implementing policies or programs that directly affect Indian tribes and their members.

^{†††} Minnesota executive orders expire 90 days after the date that the governor who issued the order leaves office (unless an earlier date is specified by statute or executive order). (See MINN. STAT. 4.035, subd. 3 (2007).)

Chapter 7

Planning And Funding The Transportation System

An efficient and comprehensive statewide transportation system depends on the collaborative planning and funding efforts of federal, state, regional, and local entities. This fosters a transportation system that can serve all types of transportation users and modes of transportation that move people efficiently and safely throughout their communities and the state. Federal, state, regional, and local authorities oversee the transportation planning and development process and coordinate this effort. To make this happen, local communities should coordinate their land use and transportation plans as developments in one community may affect or be inconsistent with the broader plans for that region of the state, or the state as a whole.†††

7.1 Transportation Planning

7.1.1 TRANSPORTATION PLANNING DEFINED BY FEDERAL LAW

Federal law lays out a planning framework for the national transportation system that envisions coordination between different levels of government to ensure a comprehensive, uniform, and integrated system. This federal framework is coordinated through the U.S. Department of Transportation (DOT) and agencies under the authority of the DOT, including the Federal Highway Administration (FHWA). In addition, the DOT works with other federal agencies and state transportation departments to ensure that the national transportation system responds to other national policy priorities, including accessibility for individuals with disabilities and other equal access issues.

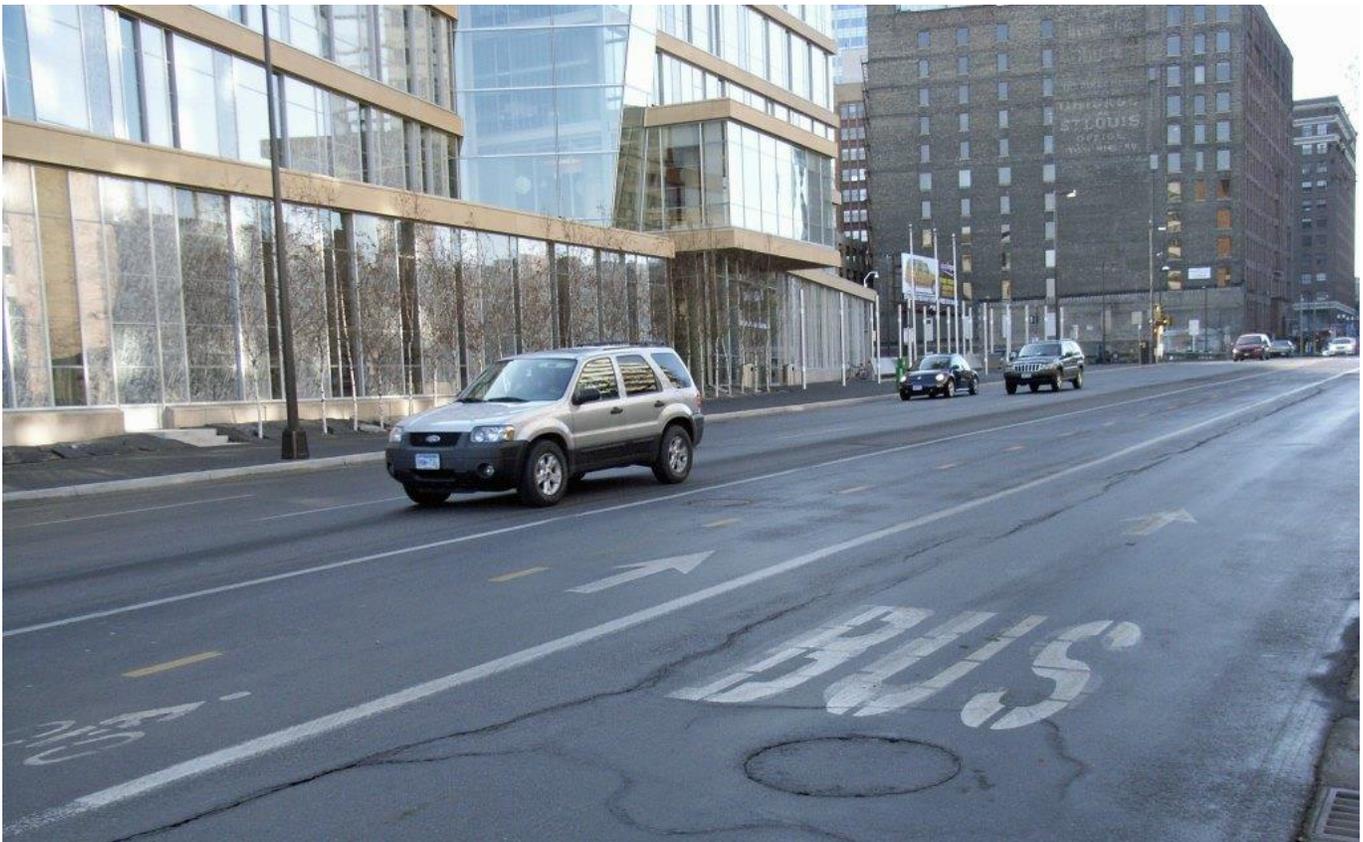
MnDOT has broad responsibilities for the planning and management of Minnesota's transportation system, including state compliance with federal requirements. (See State Departments and Agencies). In addition, state and local transportation authorities, such as Metropolitan Planning Organizations (MPOs), counties and cities, are responsible for implementing national transportation system planning as a condition of federal funding.

National transportation system planning requirements can be found in many places. For instance, a highway must be designed and constructed (or reconstructed) so that it adequately serves existing and

††† Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

planned future traffic in a safe and durable way. A design for construction or reconstruction of a highway that is part of the National Highway System (NHS) can also consider the environmental, community, and aesthetic impacts of the activity, as well as access for various modes of transportation.

MnDOT manages most of the NHS in Minnesota, which includes obtaining approval from the Federal Highway Administrator for design standards. As an example of these federal requirements, MnDOT is required to undertake a Value Engineering (VE) analysis for NHS projects receiving federal assistance with an estimated total cost of \$50 million or more and NHS bridge projects receiving federal assistance with an estimated total cost of \$40 million or more. VE is a systematic process of review and analysis conducted during the concept and design phases by a multi-disciplined team of persons not involved in the project. This team provides recommendations for providing the needed functions safely, reliably, and at the lowest overall cost; improving the value and quality of the project; and reducing the time needed to complete the project. Pedestrian, bicycle, and other non-motorized transportation should be included in a VE analysis.



MPOs are required to develop performance-driven, outcome-based long-range transportation plans and transportation improvement programs for urban areas. States and MPOs are required to coordinate their transportation planning activities to support nationwide economic vitality, increase the accessibility and mobility of people and freight, and increase the safety and security of the transportation system for motorized and non-motorized users.

As a condition of federal funding, Minnesota is required to create a state bicycle and pedestrian coordi-

nator position. The bicycle and pedestrian coordinator is responsible for promoting and facilitating the increased use of non-motorized modes of transportation at the state level. The bicycle and pedestrian coordinator may recommend the development of pedestrian and bicyclist facilities as well as educational, promotional, and safety programs for the use of those facilities. The coordinator typically acts as an advocate within the state department of transportation (MnDOT) for bicycle and pedestrian issues, a vital technical resource, and an important point of contact for local agencies and user groups seeking to improve conditions for pedestrians and bicyclists.

Bicycle and Pedestrian Planning in Federal Law

Federal law recognizes that pedestrian and bicycle transportation is an integral part of the ongoing transportation planning process. Projects and programs identified in the planning process are to be developed and implemented, in part, with the following mandated considerations:

- Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by metropolitan planning organizations and the State.
- Bicycle transportation facilities and pedestrian walkways shall be considered with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted or their use is not appropriate.
- Transportation plans and projects shall consider safety and contiguous routes for bicyclists and pedestrians.

Paralleling the above, most federal transportation funds can be used for bicycle and pedestrian transportation.

Federal law includes specific planning requirements for non-motorized transportation. The Americans with Disabilities Act (ADA) requires public agencies with more than 50 employees to make an ADA transition plan. Public agencies with less than 50 employees are required to comply with the ADA but are not required to develop a transition plan. This plan must include a schedule for providing access features for disabled pedestrians, such as curb ramps for walkways. The schedule must first provide for pedestrian access upgrades to state and local government offices and facilities, transportation, and often places of public accommodation, followed by walkways serving other areas. In addition, an ADA transition plan must:

1. Identify physical obstacles in the public agency's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
2. Describe in detail the methods that will be used to make the facilities accessible;
3. Specify the schedule for taking the steps necessary to upgrade pedestrian access to meet ADA and Section 504 requirements in each year following the transition plan; and
4. Indicate the official responsible for implementation of the plan.

The ADA transition plan is intended to identify system needs and integrate them in the state's planning process. FHWA guidance indicates that the transition plan should be fully integrated into the public agen-

cy's Statewide Transportation Improvement Program (STIP) and metropolitan Transportation Improvement Program (TIP). FHWA guidance further indicates that agencies should incorporate accessibility improvements into the transportation program on an ongoing basis in a variety of ways, including:

- Addressing accessibility requirements when facilities are built.
- Accessibility improvements that are identified in the transition plan but are not within the scope of a project should be incorporated into the overall transportation planning process. This can be accomplished through the development of stand-alone, accessible facilities.
- Identify ADA accessibility needs and incorporate them into the overall transportation planning process during scheduled maintenance activities.

FHWA guidance further states that ADA transition plan should be updated periodically to address the ongoing needs of the community. Any changes to the ADA Transition must be made available for public comment. The public agency should solicit comments from community groups representing persons with disabilities to ensure that the agency is meeting the needs of persons with disabilities. The FHWA monitors the compliance of the self-evaluation and transition plans of federal aid recipients.

The Department of Justice issued guidance on accessibility improvements required for different project types that may be helpful for public entities to consult in their transportation plans. Specifically, the guidance addresses the requirement to provide curb ramps when streets, roads, or highways are altered through resurfacing. The guidance answers questions such as “where must curb ramps be provided?” and “when is resurfacing considered to be an alteration?” This guidance is entitled, “Department of Justice/Department of Transportation Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing” and can be found online at ada.gov.

7.1.2 TRANSPORTATION PLANNING DEFINED BY MINNESOTA LAW

Planning for Minnesota's transportation system involves multiple governmental entities responsible for state, regional, and local transportation planning. Specific authorities in charge of statewide and regional transportation planning in Minnesota include MnDOT and several Metropolitan Planning Organizations (MPOs). Each of these authorities has different roles and responsibilities.

7.1.3 STATEWIDE TRANSPORTATION PLANS

MnDOT is the principal state agency for developing, implementing, administering, consolidating, and coordinating state transportation policies, plans, and programs. One significant responsibility involves the development and implementation of the statewide multimodal transportation plan. This plan is intended to ensure that the state's transportation system:

- Supports a strong state economy,
- Efficiently uses public and private funds,
- Lessens adverse environmental impacts, and
- Promotes more efficient use of energy and other resources.

The statewide transportation plan must incorporate and provide for the interconnection and coordination of different modes of transportation.

Key Definition:

Transportation Plan

A compilation of policy statements, goals, standards, maps, and action programs for guiding the future development of the various modes of transportation, such as streets and highways, mass transit, railroads, air transportation, trucking and water transportation, and major thoroughfares.

The statewide transportation plan must recognize established national transportation policies and include matters of local or regional concern to ensure a comprehensive, statewide perspective on transportation policies and priorities. While MnDOT should accommodate local and regional plans, the statewide transportation plan supersedes local and regional plans if there are inconsistencies on matters of statewide concern. Starting January 15, 2013, MnDOT must revise and update the statewide transportation plan by January 15 every fourth year.

The plan includes an analysis of rail lines in the state for the purpose of determining the: (1) eligibility of rail lines for assistance under federal and state rail assistance programs, (2) eligibility of rail lines for inclusion in the state rail bank, and (3) actions required by the state to ensure the continuation of rail service that meets essential state needs and objectives. As part of the statewide transportation planning process, MnDOT is also responsible for developing, revising, and monitoring the statewide rail transportation plan.

In conjunction with each revision of the state transportation plan, MnDOT shall prepare a 20-year statewide highway capital investment plan to carry out the goals of the statewide transportation plan that:

- Incorporates performance measures and targets for assessing progress and achievement of the state's transportation goals, objectives, and policies for the state trunk highway system and in the statewide transportation plan. (Performance targets must be based on objectively verifiable measures, and address, at a minimum, the preservation and maintenance of the structural condition of state highway bridges and pavements for safety and mobility);
- Summarizes trends and impacts for each performance target over the previous five years;
- Summarizes the amount and analyzes the impact of capital investments and priorities over the previous five years on each performance target, including a comparison of projected and actual costs; and
- Identifies the investments required to meet the established performance targets over the next 20-year period.



Additionally, MnDOT shall:

- Evaluate all transportation programs and facilities proposed for inclusion in the statewide transportation plan in terms of economic costs and benefits, safety aspects, impact on present and planned land uses, environmental effects, energy efficiency, national transportation policies and priorities, and the availability of federal and other financial assistance;
- Prioritize funding for trunk highway projects in the metropolitan area that are consistent with the Met Council's development guide, transportation policy plan, and regional development framework, as well as those that have been awarded funding through the federal Surface Transportation Program;
- Hold public hearings on the preliminary draft of the revised statewide transportation plan; and
- Consider and incorporate, when appropriate, the suggestions and information submitted at public hearings into the revised statewide transportation plan.

Each revised statewide transportation plan must:

- Incorporate the goals of the state transportation system, including promoting and increasing bicycling, walking, and the use of transit in the state;
- Establish objectives, policies, and strategies for achieving those goals;
- Identify performance targets for measuring progress and achievement of these goals, objectives, or policies; and

- Incorporate all modes of transportation, including bicycle commutation and recreation, and provide for the interconnection and coordination of different modes of transportation.

State Transportation Improvement Program

The State Transportation Improvement Program (STIP) is Minnesota's four-year transportation improvement program. MnDOT, local governments, and community and business groups work together in eight District Area Transportation Partnerships (ATPs) to discuss regional priorities and reach agreement on important transportation investments, which are then included in the STIP. The STIP identifies the schedule and funding of transportation projects by state fiscal year (July 1 through June 30). It includes all state and local transportation projects with federal highway and/or federal transit funding along with transportation projects that are fully state funded. It also describes how regional agencies will carry out plans for a multimodal transportation system. Rail, port, and aeronautic projects are included for information purposes. The STIP is developed and/or updated on an annual basis.

Bikeway System Planning

MnDOT has sole jurisdiction to establish, design, and construct bicycle or recreational vehicle lanes on state trunk highway rights-of-way. MnDOT is required to:

- Consider bicycle or recreational vehicle lanes during the construction, reconstruction, or improvement of any trunk highway, or
- Construct such facilities within state trunk highway rights-of-way if:
 - There is a current lack of pedestrian, bicyclist, and other non-motorized transportation user access;
 - An existing lane is being destroyed by the project; or
 - The facility is part of a comprehensive trail planning process.

Planning and Implementing Complete Streets for Minnesota and Local Governments

The Minnesota Complete Streets law encompasses

...the planning, scoping, design, implementation, operation, and maintenance of roads in order to reasonably address the safety and accessibility needs of users of all ages and abilities. Complete [S]treets considers the needs of motorists, pedestrians, transit users and vehicles, bicyclists, and commercial and emergency vehicles moving along and across roads, intersections, and crossings in a manner that is sensitive to the local context and recognizes that the needs vary in urban, suburban, and rural settings.

To achieve this, any local government that seeks to implement a Complete Streets project may request a formal variance from Minnesota statutory roadway rules and engineering standards. MnDOT is required to evaluate all variance requests regarding Complete Streets principles using specific Complete Streets guidance publications. If MnDOT denies a variance, it is required to provide a written explanation of why the variance was denied.

MnDOT and the state aid variance committee must consider the latest edition of A Policy on Geometric Design of Highways and Streets, published by the American Association of State Highway and Transportation Officials. For urban area projects, MnDOT must consider the latest edition of Context Sensitive Solutions in Designing Major Urban Thoroughfares for Walkable Communities, published by the Institute of Transportation Engineers.

Minnesota's Complete Streets law requires MnDOT to identify any statutory barriers to Complete Streets implementation and report to the Minnesota legislature on the status of the development of Complete Streets performance indicators. MnDOT is also required to report to the legislature by January 15 in the years of 2011, 2012, and 2014 on its implementation of the Complete Streets policy. MnDOT is to include the following components in the report submitted for January 2014:

- An overview of MnDOT's implementation of Complete Streets policy;
- Information on updates made to protocols, guidance, standards, or requirements;
- Recommendations for supporting local Complete Streets implementation under the state aid standards variance process; and
- Statutory recommendations to facilitate Complete Streets policy implementation.

In addition, MnDOT is to submit a report on the implementation of the Complete Streets policy in its biennial budget submission.

7.1.3.1 Regional and Metropolitan Planning

Metropolitan Planning Organizations (MPOs) are entities created by federal and state law primarily responsible for developing a metropolitan area's transportation plans and coordinating the transportation planning process. All urban areas with a population over 50,000 are required to have an MPO by federal law.

There are seven (soon to be eight) MPOs in Minnesota. Their responsibilities include:

- Developing and maintaining a regional long-range transportation plan in cooperation with MnDOT and local units of government;
- Developing a Transportation Improvement Program and Unified Planning Work Program; and
- Reviewing and amending the MPO's respective regional policy plan to ensure it does not conflict with the statewide transportation plan.

7.1.3.2 Local Governments

Local units of government, municipalities, counties, and other political subdivisions, are also involved in transportation planning. Local governments are responsible for transportation facilities within their jurisdiction, including streets, sidewalks, and traffic signals. The involvement of local units of government in the local and regional transportation planning process can include pedestrian, bicycle, and other non-motorized transportation facilities.

Key Definitions:

Land Use Plan

A compilation of policy statements, goals, standards, maps, and action programs that guide the future development of private and public property. The term includes a plan designating types of uses for the entire municipality as well as specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may include the proposed densities for development.

Road Authority

MnDOT, as to trunk highways; the county board, as to county state aid highways and county highways; the town board, as to town roads; and city councils for city streets.

It is not always obvious which local governmental unit has authority over a particular transportation facility. For example, a street within a city may also be a county or state highway. In these types of circumstances, the authority responsible for that roadway, not the city or county where the road is located, has ultimate authority over the road. However, municipalities do have a role regarding trunk highway projects within their jurisdiction. Before any construction, reconstruction, or improvement of these trunk highways, MnDOT is required to submit to the municipality a final layout and project report. Following a public hearing, municipality approval of the plan allows the project to proceed. This approval process could act as a barrier to the development of pedestrian, bicycle, and other non-motorized transportation facilities if the municipality disapproves of the highway project.

There are different mechanisms through which local governmental units can exercise their planning authority over the transportation system, some based on their location. For example, communities within the seven-county metropolitan area are required to engage in planning activities, while communities outside of this metropolitan area are encouraged to engage in municipal planning activities but may do so at their discretion.

If a municipality either decides to or is required to engage in municipal planning, it must do so according to the Municipal Planning Act, regional planning statutes, or the Regional Development Act. These laws provide planning tools for community-based planning and the authority for planning to be developed through regional development boards or commissions.

7.1.3.3 Community-Based Comprehensive Municipal Plans

Municipalities (cities and towns) have the authority to engage in and fund comprehensive planning activities. Municipalities within the seven-county metropolitan area are required to create a comprehensive plan, while municipalities outside of the seven-county metropolitan area are encouraged to prepare and implement a community-based comprehensive plan. Metropolitan area municipalities are also required to submit their plans to the Met Council for review of the plan's compatibility and conformity with the Met Council's regional plans. The Met Council may require a local government to modify its comprehensive plan if it determines that the plan may have a substantial impact on or contains a substantial departure

from metropolitan system plans. A local government may challenge the determination administratively and in court.

The comprehensive plan represents the municipality's expectations for future community development and may include a transportation plan and land use plan. If a municipality develops a comprehensive plan, it is required to coordinate its comprehensive plan with the plans of neighboring communities. This is required in order to complement the plans of neighboring communities and avoid adverse impacts. Municipality plans are also incorporated into their respective county's comprehensive plan. Before a plan is incorporated into the county plan, a municipality must provide a draft to neighboring communities and the county to give them an opportunity to review and comment on the plan.



Regional Development Boards and Commissions

Communities may join together to establish a regional planning board or regional development commission. Regional planning boards are created and governed through agreements of the participating communities. The participating communities choose members for a regional planning board and prepare a regional development plan. The regional development plan is adopted after participating communities have an opportunity to review it and provide recommendations.

In contrast, regional development commissions are created by participating communities' agreement and formal resolution which is submitted to and approved by the Governor. Once approved, the Governor establishes the commission which then operates according to statute. Regional development commissions are made up of neighboring cities, towns, or counties and work with and on behalf of those units of government to develop plans or implement programs to address economic, social, physical, and governmental concerns. The commissions may assist with, develop, or implement plans or programs for individual units of government.

7.1.4 PUBLIC INVOLVEMENT IN THE PLANNING PROCESS

States and MPOs must provide the public an opportunity to participate in the development of transportation plans. Continuous public involvement must be established early and includes providing timely information and time for public review and comment when decisions are considered and made. In Minnesota, the public has access to government meetings and records, with some limited exceptions.

7.2 Transportation Funding

Transportation funding is critical for developing the transportation system and addressing challenges. The transportation system is funded through numerous federal, state, tribal, local, and private mechanisms. The funding source often determines what types of standards must be met; responsibility for planning, construction, and maintenance; and the facility's key purpose. Federal funding is available for a number of federal, state, and local transportation facilities and projects. Transportation funding is often connected with planning, system development, public safety, and responding to demand and need. The range of federal, state and local funding shows the variety and opportunity of funding available for non-motorized transportation facilities, plans and programs.

7.2.1 FEDERAL FUNDING FOR TRANSPORTATION FACILITIES

Most federal transportation funding can be used for pedestrian, bicycle, and other non-motorized transportation facilities and programs through different federal programs. States receive funding for different transportation initiatives. Federal funding programs and opportunities are continually changing based on congressional priorities and funding authorization. Many programs have specific and limited time periods. Federal funding programs for transportation can apply broadly to a wide range of transportation facilities, as the Highway Safety Improvement Program illustrates.

The Federal-aid Highway Program, authorized for fiscal years 2013-2014 under Moving Ahead for Progress in the 21st Century Act (MAP-21), includes:

- National Highway Performance Program
- Surface Transportation Program
- Highway Safety Improvement Program
- Railway-Highway Crossings
- Congestion Mitigation & Air Quality Improvement Program
- Metropolitan Transportation Planning
- Transportation Alternatives
- Transportation Infrastructure Finance and Innovation Program
- Tribal Transportation Program
- Federal Lands Transportation Program
- Federal Lands Access Program
- Projects of National and Regional Significance
- Tribal High Priority Projects Program

A few of these programs are discussed below.

7.2.1.1 National Highway Performance Program

The National Highway Performance Program was created as a dedicated source of federal funding for projects undertaken to support the National Highway System and to improve highway facilities. This program encompasses all of the facilities that are located on the National Highway System, including adjacent non-motorized transportation facilities used for recreational purposes. The “enhanced” National Highway System includes all principal arterials (roads providing relatively high



speed travel) - about 230,000 total miles of roadway. In Minnesota, rural arterials provide statewide and interstate travel with limited local access; arterials within the seven urban areas (Duluth/Superior, Fargo/Moorhead, Grand Forks/East Grand Forks, La Crosse/La Crescent, Minneapolis/St. Paul, Rochester, and St. Cloud) provide access to rural arterials and also act as conduits between major centers within each urban area.

7.2.1.2 Surface Transportation Program

The Surface Transportation Program (STP) provides flexible funding that may be used by MnDOT and local governments for projects to preserve and improve the conditions and performance on any federal-aid highway, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, transit capital projects, and intercity bus terminals. Funding may also be used for projects that may be categorized as recreational, including transportation alternatives, the Recreational Trails Program, and bicycle and pedestrian facilities.

7.2.2.3 Highway Safety Improvement Program

The Highway Safety Improvement Program was established to reduce traffic fatalities and serious injuries on all public roads. Transportation projects eligible to receive funding under the Highway Safety Improvement Program include publicly owned bicycle and pedestrian facilities. These funds are intended for use with other federal transportation funds to ensure that the full scope of safety needs is addressed in the transportation planning process. The safety planning process for transportation facilities includes railway-highway crossings. As Minnesota law does not require the data collection of pedestrian and bicycle accidents with rail, this could serve as a barrier to applying for funding to address safety issues relating to pedestrians, bicycles, and other non-motorized transportation at railway crossings.

7.2.2.4 Congestion Mitigation and Air Quality Improvement Program

The Congestion Mitigation and Air Quality Improvement Program funds initiatives to lower traffic conges-

tion and improve air quality in areas that have not reached national achievement levels under the Clean Air Act. Non-recreational bicycle and pedestrian transportation facilities are eligible for funding under this program because of their potential to reduce single-occupant vehicle transportation.

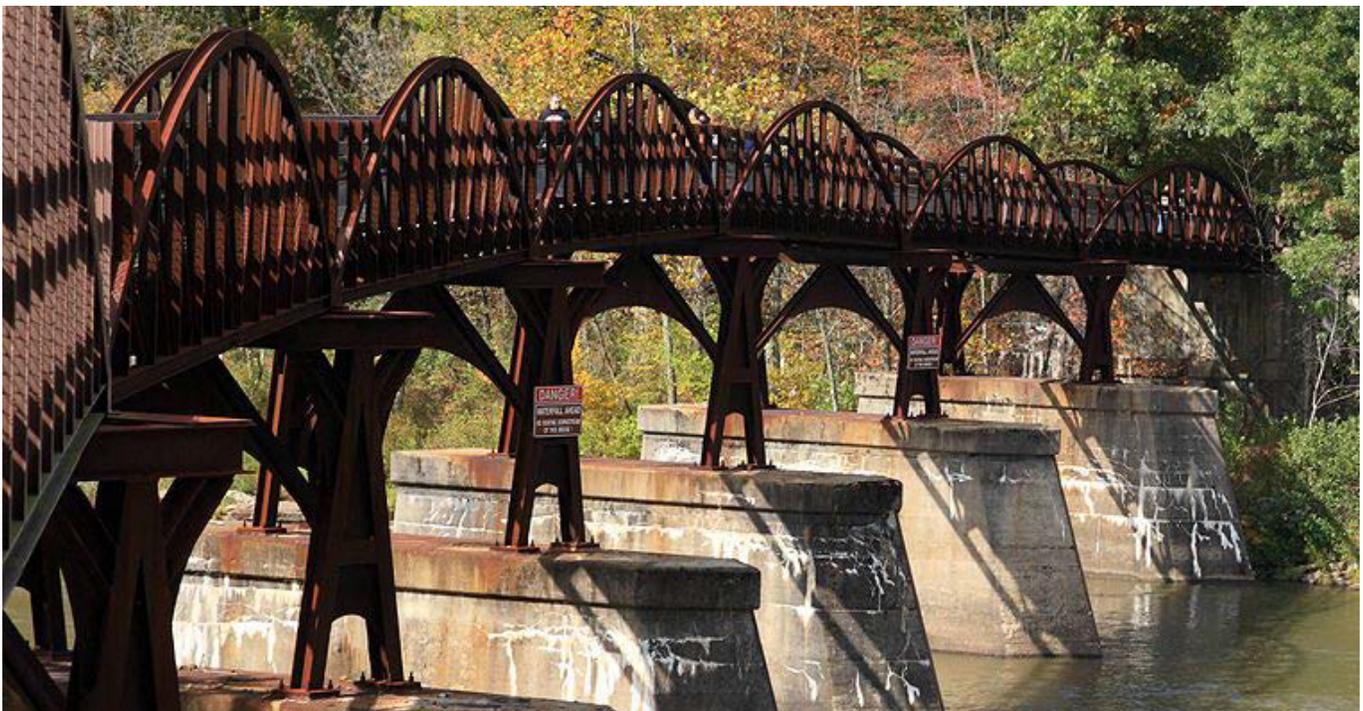
7.2.2.5 Transportation Alternatives Program

The Transportation Alternatives Program (TAP) provides funding for programs and projects defined as transportation alternatives. These can include on- and off-road pedestrian and bicycle facilities, infrastructure improvements for non-driver access to public transportation and enhanced mobility, community improvement activities, environmental mitigation, recreational trail program projects, and Complete Streets and Safe Routes to School projects. TAP can fund the planning, design, or construction of boulevards and other roadways specified in federal law. The TAP is a combination of three former federal programs: the Transportation Enhancements Program, federal Safe Routes to Schools Program, and the Recreational Trails Program. Eligible recipients for TAP funding include local governments, regional transportation authorities, transit agencies, natural resource or public land agencies, school districts and agencies, and other local or regional governmental entities.

Key Definitions:

Recreational Trail

A thoroughfare or track across land or snow, used for recreational purposes.



7.2.2.6 Federal Lands Transportation Program

The Federal Lands Transportation Program (FLTP) funds the costs of program administration, transpor-

tation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of federal land transportation facilities. This can include pedestrian, bicycle, and other non-motorized transportation facilities, as well as environmental mitigation and congestion mitigation, in or adjacent to federal land that is open to the public.

The FLTP includes limitations on bicycle access to some roads, based on speed limit. Specifically, bicycles are prohibited on federally owned roads with a speed limit of 30 miles per hour or greater and on adjacent paved paths within 100 yards of these roads unless the path meets a required rating.

7.2.2.7 Tribal Transportation Program

The Tribal Transportation Program (TTP) was created to provide access to basic community services to enhance the quality of life in Indian country. The TTP replaces the former Indian Reservation Roads (IRR) program. TTP funds may be used to pay the costs of transportation activities on tribal land, including transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities.

7.2.3 FUNDING FOR TRANSPORTATION FACILITIES VERSUS RECREATION FACILITIES

Pedestrian, bicycle, and other non-motorized transportation involve a wide spectrum of facilities for different activities, both for transportation and recreation. The distinction between “transportation” and “recreational” facilities can be blurry. Federal and state funding streams generally specify if the funding can be used to support transportation or recreation. While transportation facilities may be used for recreational purposes and vice versa, the intended purpose of a facility must generally be identified as one or another to receive funding from federal or state programs. Different resources than those available for transportation facilities fund recreational facilities and these funds generally cannot be mixed. For example, federal law regarding funding for bicycle transportation and pedestrian walkways provides that no bicycle project may be carried out unless the Secretary of Transportation has determined that the project will be principally used for transportation, not recreation, purposes.

Both courts and the Federal Highway Administration (FHWA) have provided some direction regarding the distinction between facilities with a transportation purpose and those with a recreational purpose. To assist in defining transportation purpose, FHWA issued the Bicycle and Pedestrian Provisions of Federal Transportation Legislation Guidance, which indicates:

To meet the “transportation purpose” requirement, a bicycle facility must be more than a closed loop trail within a park that can only be used for recreational purposes - users must be able to get somewhere other than back to their starting point. Beyond this, any bicycle facility providing access from one point to another can and will be used for transportation purposes and is therefore eligible for Federal aid funding.

The FHWA created a table identifying federal funding that is available for pedestrian and bicycle transportation projects. (This table is titled “Bicycle/Pedestrian Funding Opportunities” and is located at: http://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/bp-guid.cfm#bp4.)

Courts have deferred to the FHWA’s distinction between recreation and transportation. In one opinion



the court stated that, “[a]lthough the agency’s interpretation is substantively slight, merely indicating that a circular track within a park is not principally for transportation, the court finds that this limited guidance is reasonable and entitled to deference.” Another court noted that FHWA’s guidance indicates, “[w]here Federal-aid highway funds are used, these projects should indeed serve a transportation function. A circular recreation path within a park, for example, would not be eligible. However, any type of facility which does serve a valid transportation need while also fulfilling recreation purposes would be eligible.” This suggests that a transportation facility does not transform into a recreational facility by virtue of recreational use.

Projects carried out under the federal bicycle transportation law must be principally for transportation rather than recreation. The FHWA Bicycle and Pedestrian Provisions of Federal Transportation Legislation Guidance indicates that the requirement that a project be principally for transportation (rather than recreation) purposes applies only to bicycle projects and not to projects to accommodate pedestrians, equestrians, or other users. As a result, this restriction applies only to bicycle facilities, not pedestrian facilities such as trails and pathways. FHWA’s guidance further states, “[a] trail serves a valid transportation purpose if it serves as a connection between origins and destinations.” FHWA’s definition of “transportation purpose” may be applicable in other situations when a distinction is made between transportation and recreation.

The distinction between transportation and recreation and the consequent funding structure can help identify the governmental authority responsible for a specific facility. These definitions help determine whether a pedestrian, bicycle, or other non-motorized transportation project is eligible for transportation funding, recreation funding, or both.

7.2.4 MINNESOTA FUNDING FOR STATE TRANSPORTATION

The Minnesota Constitution, Minnesota statutes, and other sources (including gas taxes, vehicle tabs, and motor vehicle registration) create a system for funding the state transportation system.

Funding defined by the Minnesota Constitution

The Highway User Tax Distribution Fund (Fund) supports the state public highway system of trunk highways, county state aid highways, and municipal state aid streets. Financed through a system of taxes designated by the Minnesota Constitution, the fund may only be used for state public highway system purposes.

The Minnesota Constitution allocates the net proceeds of these taxes to each segment of the public highway system as follows:

- Sixty-two percent to the trunk highway fund;
- Twenty-nine percent to the county state aid highway fund; and
- Nine percent to the municipal state aid street fund.

While the Minnesota Constitution specifies that the Fund must be used “solely for highway purposes,” it does not define highway purposes. Other Minnesota laws, however, provide some guidance on what is not a highway purpose. Specific restrictions are listed, but generally, a highway purpose includes something that aids in the construction, improvement, or maintenance of the highway system. This suggests that money from the Fund may be used for non-motorized transportation since pedestrians, bicyclists, and other non-motorized transportation users are allowed on all state highways and roads, except where specifically prohibited. Further, bicycle transportation is identified in Minnesota law as a trunk highway purpose.



Funding defined by Minnesota Statutes

Minnesota statutes create additional transportation funding sources and clarify that money from the Minnesota Constitution’s Highway User Tax Distribution Fund may not be transferred to funds created by Minnesota statutes. The Mississippi River Trail

Minnesota State Transportation Fund

The Minnesota legislature created the Minnesota State Transportation Fund (MSTF) to fund capital improvements to preserve and develop a balanced transportation system throughout the state. The MSTF was created to fund transportation falling outside the public highway system created by the Minne-

sota Constitution. The MSTF holds funding from both state and federal sources but may not receive funding from the highway user tax distribution fund or any other fund created by the Minnesota Constitution.

Additional funding is necessary to harmonize state and local highway systems with the federal interstate highway system, to avoid harmful environmental impacts of arterial highways and to provide auxiliary facilities for the convenience and safety of persons crossing highways and persons living and working adjacent to them. Finally, the MSTF designates as a funding goal the acquisition and betterment of rail lines and rights-of-way for preservation in the state rail bank that provides optimal land for trails, a vital non-motorized transportation facility.

Wheelage Tax

Minnesota law allows all Minnesota counties to levy annual taxes (currently \$5 and going up to \$10 in 2014) on each motor vehicle “kept” in the county. Where a car is “kept” is determined by where it is stored during non-business hours or when not in use. This wheelage tax is deposited in county road and bridge funds and can be used to finance transportation such as highway preservation projects, expansion projects, and transit improvement, which could include the construction or expansion of pedestrian, bicycle, and other non-motorized transportation facilities.

Metropolitan Transportation Area Sales Tax

The Metropolitan Transportation Area Sales Tax is a voluntary program. Counties may impose a small tax on retail sales and retail motor vehicle sales. Participating counties are then eligible to submit transportation projects to a grant application process which allocates funds collected from the taxes. Grant funds are awarded primarily for transit purposes and must be consistent with the most recent version of the transportation policy plan adopted by the Met Council. While up to “1.25 percent of the total awards may be annually allocated for planning, studies, design, construction, maintenance, and operation of pedestrian programs and bicycle programs and pathways,” specific appropriation language determines how these funds can be used.

Minnesota State Transportation Bonds

Funding is also available through Minnesota State Transportation Bonds. Bonds are sold to provide money for the acquisition and betterment of public land, buildings, and capital improvements to develop the state transportation system. These bonds are held in the Minnesota State Transportation Bond Account and are sold and issued by the Commissioner of Management and Budget. Similar to the Minnesota State Transportation Fund, the Bond Account may not receive funds from the highway user tax distribution fund or any other fund created by the Minnesota Constitution. The broad purpose of the Bond Account does not restrict the bonds to any particular use. This suggests that they may be used for non-motorized transportation purposes as part of the greater state transportation system.



Local Road Improvement Fund

The Local Road Improvement Fund (LRIF) was created to hold money obtained through appropriation, gift, or grant that is to be allocated to cities, towns, and counties for local transportation projects. These local transportation projects are funded through designated accounts within the LRIF: the trunk highway corridor projects accounts, the local road account for routes of regional significance, and the rural road safety account.

The trunk highway corridor projects account holds money to assist in paying the local share of trunk highway projects that have local costs directly or partially related to the trunk highway improvement and that are not funded or are only partially funded with other state and federal funds. MnDOT determines the amount eligible for assistance from the account with assistance from an advisory committee created by MnDOT to provide recommendations regarding expenditures from the account.

The local road account for routes of regional significance must be used as grants or loans to assist with the costs of constructing or reconstructing city streets, county highways, or town roads with statewide or regional significance that have not been fully funded through other sources.

Rural road safety account funds are used for grants to counties to assist in paying the costs of capital improvement projects on county state aid highways to reduce traffic crashes, deaths, injuries, and property damage. Money is allocated by MnDOT to counties according to specified criteria.

While the purpose of each account varies, none prohibit funding non-motorized transportation purposes.

To the extent that a non-motorized transportation purpose is connected to trunk highways, city streets, town roads, and county state aid highways, funds are often available for such purposes.

Local Bikeway Grants

MnDOT is responsible for making grants to local units of government for improvements needed for local bikeways. In making grants, MnDOT is required to consider the number of bicycles in the locality. A grant may not exceed 75 percent of the costs of the bikeway; a qualified unit of government must provide (or “match”) at least 25 percent of the costs of the bikeway to be eligible for a grant.

Minnesota Safe Routes to School Program

The Minnesota Safe Routes to School (SRTS) Program provides financial assistance for capital investments for safe and appealing non-motorized transportation to and from a school. This assistance from Minnesota’s SRTS Program is intended to supplement or replace aid for infrastructure projects funded through the federal program. MnDOT is required to establish general program requirements and a competitive process for financial assistance, including eligibility requirements for grant recipients and projects; procedures for solicitation of grants; application requirements; procedures for payment of financial assistance awards; and a schedule for application, evaluation, and award of financial assistance. While this program is established in law, the Minnesota legislature has to appropriate money to it separately. As a result, this program does not always have funding available to provide grants.



State Park Road Account

The State Park Road Account is a separate funding source that shall be used for:

- The establishment, location, relocation, construction, reconstruction, and improvement of roads included in the county state-aid highway system which:
- Border and provide substantial access to an outdoor recreation unit, or
- Provide access to the headquarters of or the principal parking lot located within such a unit, and
- The reconstruction, improvement, repair, and maintenance of county roads, city streets, and town roads that provide access to public lakes, rivers, state parks, and state campgrounds.

The outdoor recreation system includes, among other things, state parks, recreation areas, and trails. These lands are relevant to pedestrian, bicycle, and other non-motorized transportation as they provide transportation options for bicycle and pedestrian transportation. The State Park Road Account helps

county, township and city governments improve access to public recreation facilities. Financial assistance is available to improve county state-aid, county, township, and city roads which provide access to state parks and other outdoor recreation units as defined by state law.

Other Sources

While the main state transportation funding sources come from the Minnesota Constitution and Minnesota statutes, there are other transportation funding sources potentially available for pedestrian, bicycle, and other non-motorized transportation facilities. In addition, other state statutes that are not specifically designated as “funding” statutes include funding provisions. For example, the Mississippi River Trail statute provides for the identification of a bikeway that runs along the Mississippi River. Paths included within the bikeway but not administered by the DNR are eligible for funding from the environment and natural resources trust fund, the parks and trails grant program, the local recreation grants program, and other sources.

While not a direct funding source, MnDOT is legally required to provide technical assistance to local units of government in planning and developing bikeways.

Key Definition:

Cost Participation Agreement

A document signed by MnDOT and the governing body of a municipality that states the costs of a highway construction project that will be paid by the municipality.

7.2.5 LOCAL GOVERNMENT FUNDING OF TRANSPORTATION SYSTEM

Many funding sources are available to local governments’ non-motorized transportation facilities. For example, a municipality may use money from any fund not dedicated to other purposes to finance its planning activities. A municipality may receive and expend grants and gifts for planning purposes and may enter into contracts with the federal and state governments or with other public or private agencies for planning activities authorized by state law.

Local governments often have the ability to levy and collect assessments for local improvement projects. “The cost of any improvement (or any part thereof) may be assessed upon property benefited by the improvement, based upon the benefits received, whether or not the property abuts on the improvement and whether or not any part of the cost of the improvement is paid from the county state aid highway fund, the municipal state aid street fund, or the trunk highway fund.” Specifically, municipalities may:

- Acquire, open, and widen any street, and construct, reconstruct, or maintain sidewalks, pavement, curbs, and vehicle parking strips;
- Acquire, improve and equip parks, open space areas, playgrounds, and recreational facilities;
- Acquire, construct, reconstruct, improve, alter, extend, operate, maintain, and promote a pedestrian

skyway system;

- Acquire, construct, reconstruct, extend, operate, maintain, and promote underground pedestrian concourses;
- Acquire, construct, improve, alter, extend, operate, maintain, and promote public malls, plazas or courtyards; and
- Acquire, construct, reconstruct, improve, alter, extend, and maintain highway sound barriers.

For example, a municipality may collect from a property owner a portion of the cost of improving a pedestrian mall or skyway on the street where the property is located as long as an assessment reflects how the improvement increased the market value of the property.

Through state aid, local governments may fund non-motorized transportation facilities that involve a state trunk highway, county state aid highway, or municipal state aid street. For example:

- Payment for a bicycle path or sidewalk for urban municipalities must be made if the bicycle path or sidewalk is located within the permanent right-of-way of a state aid-eligible route or an easement generally parallel with a state aid route.
- County state aid funds may be spent on bicycle paths or sidewalks as a match to federal aid funds or on bicycle paths or sidewalks that are both a part of an adopted plan and are located within the permanent right-of-way of a state aid route or an easement generally parallel with a state aid route.
- County municipal state aid funds may be spent on bicycle paths or sidewalks located within the permanent right-of-way of a state aid route or an easement generally parallel with a state aid route.

These provisions and examples represent only a portion of the funding mechanisms available to local governments in the transportation planning process.



Chapter 8

Non-Motorized Transportation Facilities

Understanding how state and federal laws define the different types of transportation facilities and identify who is responsible for what is important to ensure these facilities are accessible to pedestrian, bicycle, and other non-motorized transportation. Minnesota law refers to the range of transportation facilities used by different modes of transportation as public rights-of-way. While this document focuses on pedestrians, bicyclists, and other non-motorized transportation users, other users also utilize public rights-of-way. As a result, laws or policies that affect public rights-of-way used by pedestrians, bicyclists, and other non-motorized transportation users will generally impact other users as well.^{§§§}

State, county, and city road authorities (as well as transit agencies) develop and manage the transportation system. Their role in planning, designing, constructing, operating, and maintenance is based in part on the legal definitions of the specific transportation facility. These definitions are also helpful for those who use the transportation system. Individuals need to know the law to effectively and safely navigate the transportation system whether driving a car, riding a bus, using a bicycle, or walking.

Many of the transportation system's facilities have multiple definitions from state and federal statutes and regulations and support a wide range of motorized and non-motorized transportation. Laws specify who is responsible for funding, designing, planning, constructing, and maintaining these facilities. Facilities used for pedestrian, bicycle, and other non-motorized transportation can include facilities designed for transportation or recreation and often include facilities that are shared with other modes of transportation.

State and federal laws identify a number of facilities that are within the scope of the transportation system. The analysis below:



- Defines, summarizes, and examines the different transportation facilities created by federal and Minnesota laws;
- Identifies the responsible governmental authorities over these facilities; and
- Discusses how these facilities involve pedestrian, bicycle, and other non-motorized transportation use.

^{§§§} Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

8.1 Facilities Used by Motorized and Non-Motorized Transportation

Minnesota's transportation system encompasses numerous kinds of facilities used by pedestrians and vehicle drivers (as a vehicle can be both motorized and non-motorized⁷¹¹), also called shared-use facilities. These shared-use facilities can include state highways, city and county roads, bridges, and shared use paths and trails. Even sidewalks can be shared-use with bicycle and pedestrian traffic (although bicyclists are required to yield to pedestrians).

Key Definitions:

Shared Lanes

Roadways or travel lanes on which both bicycles and motorized vehicles travel without a separate lane designated for bicycles.⁷¹²

Shared Use Paths

Travel lanes for bicycles that are separated from motorized vehicles, but are also used by other users such as walkers, runners, skaters, and wheelchair users.⁷¹³

Road or Highway

Several kinds of highways, including roads designated as minimum-maintenance roads, cartways, and all bridges or other structures that form a part of those highways.⁷¹⁴

While federal and state laws define different transportation facilities and indicate what modes of transportation can use these facilities, different laws may define the same type of facility in different ways. This can create conflict and ambiguity when considering which types of transportation users may use a particular facility. The following discussion examines how different shared-use facilities used for pedestrian, bicycle, and other non-motorized transportation are defined and identified by federal and Minnesota law to help understand how the law discusses these specific transportation facilities, as well as identify ambiguity or conflict between different parts of the law.

8.1.1 HIGHWAY AND ROAD SYSTEM

Laws identify and define different types of highways and roads and indicate the road authority responsible for funding, planning, design, construction, and maintenance of individual components of the system. Some components may have both a federal and state definition. The road authority for a specific highway or road can include federal, tribal, state, county, city, or other governmental entities.

Minnesota's federal and state highway and road system is comprised of different types of highways and roadways that support all types of traffic. Minnesota's road statutes apply to trunk highways, county state aid highways, municipal state aid streets, county highways, and town roads.⁷¹⁵ Streets established by or under the exclusive jurisdiction of cities are excluded from many of the general road laws of the state.⁷¹⁶

Except when specifically prohibited by law, roads and highways are shared-use facilities and can be used

for pedestrian, bicycle, and other non-motorized transportation. However, it is important to note that the highway and road system is generally intended to support transportation, not recreation.⁷¹⁷

8.1.1.1 Federal Highway System in Minnesota

Federal law creates a system of federal highways and interstates that form the backbone of the national transportation system, facilitating travel within and between states. The federal highway system includes federal aid highways,⁷¹⁸ roads, streets, and parkways.⁷¹⁹ The USDOT classifies these facilities based on function. Federal functional classifications include arterial roads, collector roads, and local roads. The way a road is designed to meet land use and transportation goals is determined, in part, by its functional classification.⁷²⁰

Key Background: Functional Classifications of Roads

Arterial Roads

These roads (such as highways) provide the greatest uninterrupted route over long distances, but the lowest access to other roads along the way.⁷²¹

Local Roads

These roads provide low mobility but high access to land and communities along the route.⁷²²

Collector Roads

These roads connect arterial roads with local roads, and are balanced in terms of mobility and access.⁷²³

The federal transportation system also includes facilities that link roads, highways, and interstates or traverse natural barriers such as bridges, intersections, medians, roundabouts, and splitter islands.⁷²⁴ Federal law allows states to determine if or how pedestrian, bicycle, and other non-motorized transportation are allowed on some facilities, such as interstate highways. The use of interstates by pedestrians and non-motorized vehicles is specifically prohibited in Minnesota for safety reasons.⁷²⁵

Key Definitions:

Highway

(A) A road, street, and parkway; (B) A right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure including public roads on dams, sign, guardrail, and protective structure, in connection with a highway; and (C) A portion of any interstate or international bridge or tunnel and the approaches thereto.⁷²⁶

National Highway System

The Federal-aid highway system is described in the federal highway law. The National Highway

System consists of the highway routes and connections to transportation facilities that:

(A) Serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; (B) Meet national defense requirements; and (C) Serve interstate and interregional travel and commerce.⁷²⁷

Interstate System

The Dwight D. Eisenhower National System of Interstate and Defense Highways.⁷²⁸

Public Road

Any road or street under the jurisdiction of and maintained by a public authority and open to public travel.⁷²⁹

8.1.1.2 Public Highway System Created by Minnesota's Constitution

Article XIV of the Minnesota Constitution provides the foundation of Minnesota's highway and road system, a system that includes state trunk highways, county state aid highways, and municipal state aid streets. Article XIV specifies who is responsible for the public highway system and creates a funding system to support these highways.⁷³⁰ (See Transportation Funding discussion for information regarding the funding structure for these facilities.)

Key Definition:

Trunk highway system

Public highways that are constructed, improved, and maintained by the state. By law, the trunk highway system may not exceed 12,200 miles.

County state aid highway system

Public highways constructed, improved, and maintained by the counties in the manner provided by law. The system includes streets in municipalities with less than 5,000 residents if necessary to provide an integrated and coordinated highway system and may include similar streets in larger municipalities.

Municipal state aid street system

Public highways constructed, improved, and maintained by municipalities having a population of 5,000 or more in the manner provided by law.

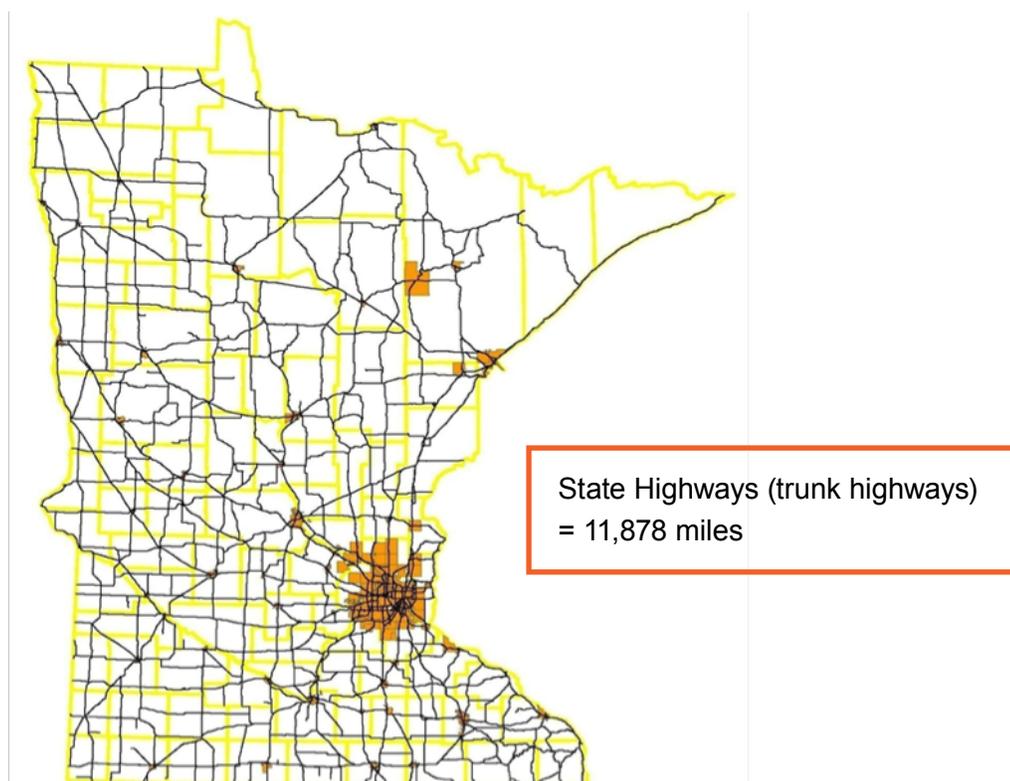
MnDOT is the designated road authority for the state trunk highway system. County boards are the road authority for county state aid highways and county highways. Town boards are the road authority for town roads. City councils are usually the road authority for city streets.⁷³¹

Key Definition:

Trunk Highways

Minnesota's trunk highway system, also described as the state highway system, is a roughly 12,000-mile network of key roads – or highways - connecting communities throughout Minnesota. MnDOT is the designated road authority for the trunk highway system and is responsible for its maintenance.⁷³² Minnesota's trunk highway system includes the U.S. interstate and highway systems as well as other state highways. Funding primarily comes from transportation-related taxes and federal aid.⁷³³

Figure 1 – Minnesota's Trunk Highway System.



Local governmental authorities may regulate traffic on or maintain aspects of trunk highways, but only with the approval of MnDOT.⁷³⁴ While MnDOT may reach an agreement with a local government to maintain or regulate traffic on certain portions of a trunk highway, it remains responsible and cannot delegate away its legal responsibility to maintain state trunk highways.⁷³⁵ All members of the travelling public, including pedestrians, bicyclists, and other non-motorized transportation users can use trunk highways, except where specifically prohibited by law (the interstate system is one example).⁷³⁶

The Design, Construction, and Maintenance of Bicycle and Pedestrian Facilities: MnDOT's role

The design of roads, streets, bridges, and other transportation facilities takes into account many factors to provide safe, convenient, and accessible transportation to a variety of users.

- Design standards and guidelines exist to manage and integrate different types of transportation modes and uses on state highway facilities.
- MnDOT is required to establish, develop, maintain, and operate a bikeway system, and coordinate it with other various agencies and programs.⁷³⁷
- MnDOT evaluates and provides for pedestrian, bicycle, and recreational vehicle transportation on state highways and in state highway projects.⁷³⁸ Specifically, MnDOT is required to establish a program for the development of a bikeway system.⁷³⁹ This responsibility requires coordination with various entities and programs.⁷⁴⁰
- MnDOT must consider bicycle or recreational vehicle lane facilities during the construction, reconstruction, or improvement of any trunk highway or permit these facilities within the state trunk highway right-of-way.⁷⁴¹ In providing pedestrian, bicycle, and non-motorized transportation facilities on state highways, MnDOT must also address other legal requirements discussed throughout this report, such as ADA transition plan requirements.
- MnDOT has sole jurisdiction over bicycle or recreational vehicle lanes on the right-of-way of any state trunk highway.⁷⁴² MnDOT is also responsible for all designs and construction on all lane facility projects within the right-of-way of any state trunk highway.⁷⁴³ MnDOT may provide these services for other agencies and local units of government upon request and pursuant to such terms as may be mutually agreed upon.⁷⁴⁴ Services provided to other state agencies or local governmental units are performed on a reimbursable basis.⁷⁴⁵



Minnesota rules for state highways and local state aid roads provide traffic volume criteria to determine what type of facility may be constructed on a particular road. A bicycle lane, with or without barrier, or a path is allowed on state highways with controlled access.⁷⁴⁶ Minnesota law includes additional traffic criteria for evaluating the appropriateness of bicycle or recreational vehicle lanes on state highways and local

state aid roads.⁷⁴⁷ These criteria consider differences based on urban and rural road design; whether the highway is two- or multiple-lane; whether the highway has partial or fully controlled access; and the average daily traffic (ADT).⁷⁴⁸ Exceptions may be made if good cause can be shown and with approval from MnDOT.⁷⁴⁹ The expectation is that as motor vehicle traffic volumes increase, the form that a bicycle or recreational vehicle lane may take and traffic control measures (or other physical safety precautions built into the facility) will include an increase in physical design and safety standards.⁷⁵⁰

Minnesota law addresses specific contexts where bicycle and recreational vehicle facilities (which includes pedestrian facilities) should be considered:⁷⁵¹

MnDOT will consider building bicycle or recreational vehicle lane facilities during the construction, reconstruction, or improvement of any trunk highway or permit the establishment of such facilities within state trunk highway right-of-way when:

- (a) a proposed highway project will destroy an existing lane of demonstrated or potential use and no desirable alternative is available.
- (b) there is no pedestrian or nonmotorized access along or across an existing or proposed trunk highway or intersection in an urban area (example: access to the four quadrants created by two intersecting freeways).
- (c) there are fringe development areas not meeting the urban district definition along trunk highways that lack nonmotorized access (example: residential or commercial development along trunk highways on the outskirts of town).
- (d) the facility is part of a comprehensive trail planning process on a local, regional, or statewide basis, and the facility must materially benefit the safety of the traveling public; such as, the elimination of a potential safety hazard caused by anticipated bicycle or recreational vehicle traffic on or near the roadways of a trunk highway (example: heavy bicycle travel along a trunk highway between a town and an outlying school);
- (e) the highway right-of-way can safely accommodate the facility.
- (f) there is sufficient projected bicycle or recreational vehicle traffic.
- (g) the facility cannot be safely and feasibly constructed and utilized outside of the right-of-way (example: no suitable network of adjacent residential streets or existing parallel facilities exist).
- (h) the facility use will not conflict with existing utilities located on highway right-of-way or adjacent land use.
- (i) the facility provides commuter transportation; or connects existing or proposed facilities; or connects areas or points of natural, scientific, cultural, historical, educational, or economic interest.
- (j) multiuse facilities do not conflict with each other or use during more than one season is feasible.

Maintenance of Pedestrian and Bike Facilities

Maintenance responsibility for pedestrian and bicycle facilities varies depending on location. For example, MnDOT must maintain bicycle and recreational vehicle lanes within the limits of trunk highway rights-of-way when the facility is located immediately adjacent to the roadway (highway shoulder). A local (or other) governmental unit is responsible when the facility is separate from the roadway.⁷⁵²

Key Definitions:

Clearway

A clear recovery area extending 30 feet outward from the edge of the outside through lane of the roadway where all physical obstacles to out-of-control motor vehicles are eliminated.⁷⁵³

Maintenance activities required within trunk highway rights of way must include, when applicable, maintenance of drainage; debris removal; sweeping of lane surfaces; mowing and brush removal; surface maintenance; grading; snowplowing; and painting of stripes and stencils.⁷⁵⁴

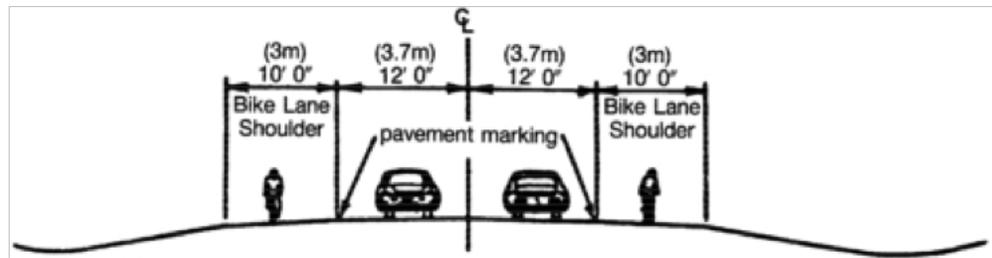
Bicycle Facility Placement on State Highways

Minnesota law also provides for the design, placement, and classification of bicycle facilities, which may also include pedestrian use. If bicycle or recreational vehicle lanes are built on controlled-access state trunk highways, a clearway must separate motor vehicle lanes from the bicycle or recreational vehicle lane.⁷⁵⁵ Exceptions are allowed where providing a clearway would be difficult, such as over a bridge.⁷⁵⁶

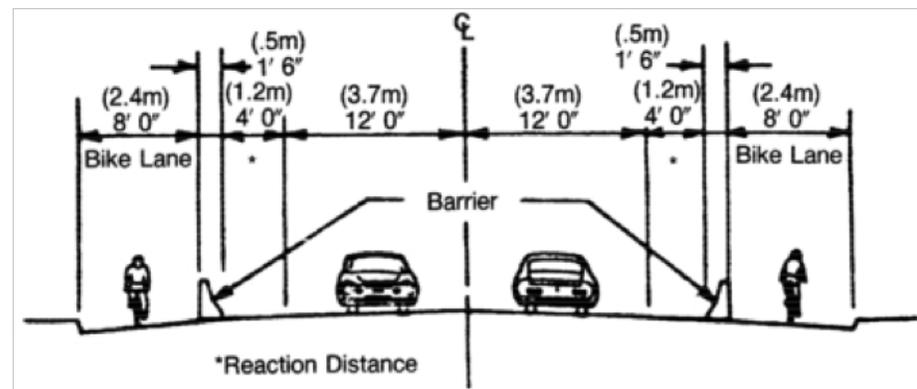
Bicycle facilities built on state trunk highways can include bicycle lanes (with or without barriers separating the lane from the rest of the roadway) and bicycle paths.⁷⁵⁷ Trunk highway rules allow for bicycle traffic near trunk highways as long as there is proper placement, the use of barriers, and physical separation from highway.⁷⁵⁸ The diagrams in Figure 2 demonstrate desirable bicycle facility configurations when located within the right-of-way of any state trunk highway.⁷⁵⁹

Figure 2 – Trunk Highway Desired Bike Lane Configurations

Bike Lane with No Barrier



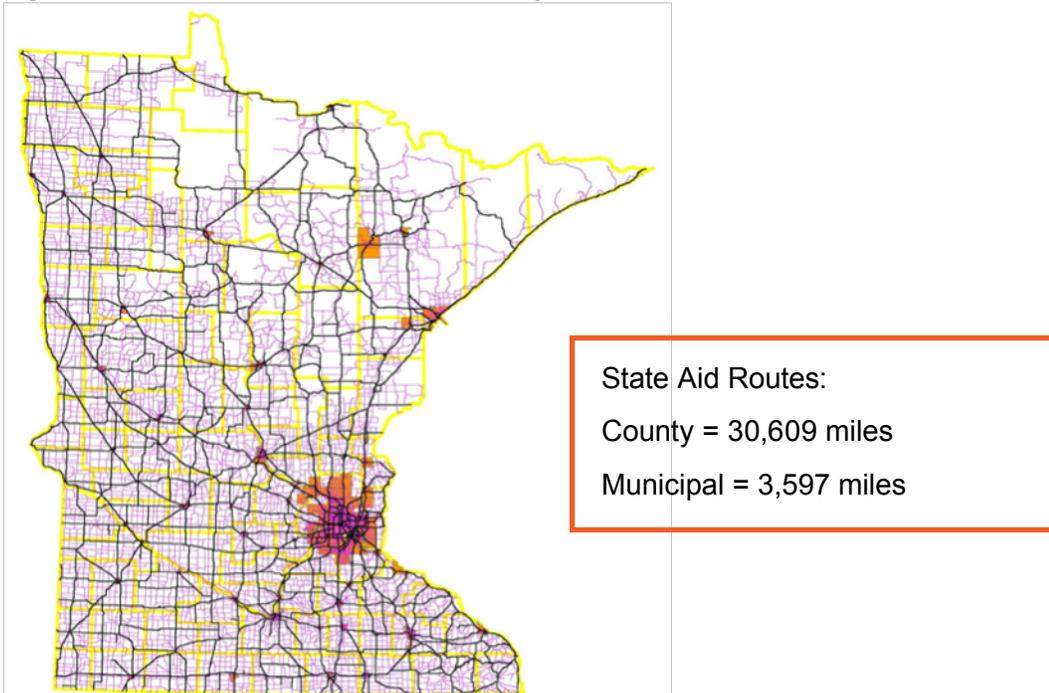
Bike Lane with Barrier



County State Aid Highways

County State Aid Highways (CSAHs) are highways under the responsibility of counties, including sections that go through cities.⁷⁶⁰ These highways ensure that there is an integrated state public highway system in Minnesota that connects smaller communities that may not have the resources to construct, improve, and maintain these facilities on their own. State aid administrative rules apply to CSAHs.⁷⁶¹

Figure 3 – Minnesota’s State Aid Route System



Municipal State Aid Streets

Municipalities having a population of 5,000 or more are responsible for the Municipal State Aid Streets (MSAS) within their respective jurisdictions. MSAS are created and funded through the mechanisms established in the Minnesota Constitution. MSAS often overlap with the statutorily created “streets” discussed below. State aid administrative rules apply to MSAS routes.⁷⁶²

8.1.1.3 Road and Highway System Created by Minnesota Statutes

Statutes play a critical role in the state transportation system. Statutes also create additional types of roads and highways that go beyond those identified in the Constitution.⁷⁶³ Statutes help govern the constitutionally created public highway system and other highways and roads created by Minnesota statute.⁷⁶⁴ The applicability of a specific statute to a particular road or highway is dependent on the language and scope of the law. For example, statutory chapters that apply to trunk highways, county state-aid highways, municipal state-aid streets, county highways, and town roads are generally not applicable to highways or streets established by, or under the complete jurisdiction of cities.⁷⁶⁵

The different types of highways identified in statute are intended for both pedestrian and vehicular traffic,

including bicycles and other non-motorized vehicles, unless specifically prohibited.⁷⁶⁶

Types of roads, streets, and highway classifications identified by Minnesota Statutes include:⁷⁶⁷

- Controlled-access highways
- County highways
- Expressways
- Freeways
- Streets
- City Streets
- Town Roads
- Trunk Highways
- Highways
- Roadways

Controlled-access Highways

A controlled-access highway is a specific designation of highway on which direct physical access to the land abutting the highway is restricted or limited.⁷⁶⁸ For example, transportation users travelling on a controlled-access highway may only exit that road and enter adjacent land indirectly by way of a ramp or other connecting transportation facility. This differs from a non-controlled-access highway where transportation users may turn from the road directly into a connecting area of land, such as a gas station or store parking lot.

Controlled-access highways can raise obstacles to pedestrian, bicycle, and other non-motorized transportation. Minnesota law allows MnDOT and other public authorities to regulate or prohibit the use of controlled-access highways by pedestrians, bicycles, or other non-motorized traffic if they are found to be incompatible with the safe and normal flow of traffic.⁷⁶⁹ Minnesota law does not indicate what types of pedestrian, bicycle, or other non-motorized activities would be incompatible with the safe and normal flow of traffic (and warrant restricting access to these highways). This determination appears to be left up to the discretion of MnDOT and other public authorities authorized to restrict access.

Protection of Bicycle and Pedestrian Access

While pedestrian, bicyclist, and other non-motorized transportation access may be restricted in certain circumstances, federal and state laws require the responsible road authority provide a comparable facility in these circumstances. For example, under federal highway law, the U.S. DOT may not approve any project or take any regulatory action that will result in the severance of an existing major route or have a significant adverse impact on the safety of non-motorized transportation traffic unless a reasonable alternate route is provided or such a route exists.⁷⁷⁰ When a roadway is converted to a controlled access highway, bicycle and pedestrian crossings may be eliminated. If a reasonable alternative route does not exist, the bicycle and pedestrian facilities may need to be replaced with a bridge, underpass, or other facility.

Minnesota law provides similar protections. Whenever an existing bikeway, pedestrian way, or roadway used by bicycles or pedestrians or the sole access to such is destroyed by new, reconstructed, or relocated federal, state, or local highways, the road authority responsible must replace the destroyed facility with a comparable facility or access.⁷⁷¹ However, replacement is not required where it would be contrary to public safety or otherwise is not needed.⁷⁷² Minnesota law does not indicate what types of replacement facilities would be contrary to public safety or what level of population or other factors negate the need for replacement. Accordingly, these determinations are left to the discretion of the responsible road authority.

Other laws also protect bicycle and pedestrian access to transportation facilities. For example, pedestrian facilities may be protected under the ADA or as part of the Historic Preservation Act.⁷⁷³

Roadways

Road and roadway are general terms used to refer to a street, highway, or other similar transportation facility. Minnesota law provides three different definitions of roadway that apply to different governmental authorities and classifications of roads.

Key Definitions:

Roadway

Traffic Regulation Statute (applies to roadways under the state highway (trunk highway) system): that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder. During periods when MnDOT allows the use of dynamic shoulder lanes, roadway includes that shoulder. In the event a highway includes two or more separate roadways, the term “roadway” as used herein shall refer to any such roadway separately but not to all such roadways collectively.⁷⁷⁴

Railroad Rules (applies to roadways acquired by railroad companies): that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the shoulder.⁷⁷⁵

Trunk Highway Rules regarding Bicycle, Pedestrian, and Recreational Vehicle Use (applies on and along proposed and existing public roadways and governs state trunk highways): that portion of a highway improved, designed, or ordinarily used for motor vehicular travel. In the event a highway includes two or more separate roadways the term “roadway” as used herein shall refer to any such roadway separately but not to all such roadways collectively.⁷⁷⁶

While these definitions apply to different types of roadways, practically speaking, the distinction between roadways is not always evident. For example, roadway is both defined as (1) “that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder”⁷⁷⁷ and (2) “that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the shoulder” (emphasis added).⁷⁷⁸ This distinction may be important, as shoulders are often used by pedes-

trians, bicyclists, and other non-motorized transportation users in the absence of sidewalks. Where sidewalks are present, bicyclists may be restricted from using sidewalks and required to use the roadway, shoulder, or other on-road facility.



Natural Preservation Route

Natural preservation routes are a type of roadway that is part of the county state aid road system. County road authorities generally have jurisdiction over natural preservation routes. However, MnDOT may establish a natural preservation routes category within the county state aid highway system and adopt rules establishing minimum construction and reconstruction standards that address public safety and reflect the function, lower traffic volume, and slower speed of these roadways.⁷⁷⁹

Key Definition:

Natural Preservation Route

Those routes that possess particular scenic, environmental, or historical characteristics, such as routes along lakes or through forests, wetlands, or flood plains, that would be harmed by construction or reconstruction that meets the engineering standards.⁷⁸⁰

An existing or proposed roadway that has been designated as a natural preservation route by MnDOT upon petition by a county board and possesses sensitive or unique scenic, environmental, pastoral, or historical characteristics. Examples may include, but are not limited to, roads along lakes, rivers, wetlands, or floodplains or through forests or hilly, rocky, or bluff terrain.⁷⁸¹

Due to their scenic, environmental, and historic characteristics, natural preservation routes are attractive for non-motorized transportation use. While these routes are generally intended for vehicular use, nothing specifically prohibits their use for pedestrian, bicycle, or other non-motorized transportation.

Streets

All forms of traffic typically use streets. Streets connect transportation facilities used by pedestrians, bicyclists, and other non-motorized transportation users such as sidewalks, trails, and crosswalks.

Key Definitions:

Street or Highway

The entire width between boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic.⁷⁸²

When bicyclists and other non-motorized transportation users share city streets with motor vehicle traffic, rights and duties of each can overlap. On Minnesota highways, streets, and private roads bicyclists have all of the rights and duties applicable to the driver of any other vehicle.⁷⁸³

8.1.1.4 Shoulders

Shoulders run alongside and are connected to other transportation facilities, such as highways and sidewalks (discussed later). While connected to other transportation facilities, a shoulder is a transportation facility in and of itself with an independent definition and set of rules. The use of shoulders is limited to certain situations. Shoulders are not meant for motorized traffic use. However, transit buses⁷⁸⁴ and emergency and maintenance vehicles⁷⁸⁵ can use the shoulder in limited circumstances.

Motor vehicles must generally drive within a road's lane boundaries.⁷⁸⁶ Shoulders are often not wide enough to be used for safe passing. Crossing the white line and driving on the shoulder creates an unsafe condition for other road users, especially pedestrians and bicyclists.⁷⁸⁷ Minnesota law defines different types of shoulders based on the use of pavement. However, the law does not specify different uses for a paved or unpaved shoulder.

Key Definitions:

Shoulder

That part of a highway which is contiguous to the regularly traveled portion of the highway and is on the same level as the highway. The shoulder may be pavement, gravel, or earth.⁷⁸⁸

Paved Shoulder

A part of a highway which is contiguous to the regularly traveled portion of the highway and is on the same level as the highway.⁷⁸⁹

In contrast, pedestrian, bicycle, and other non-motorized transportation use are generally permitted on the shoulder. However, non-motorized use of a shoulder on interstate highways is prohibited.⁷⁹⁰ Non-motorized uses are not prohibited, however, from state highway shoulders.

Minnesota law gives some direction regarding bicycle use of shoulders:

- A person lawfully operating a bicycle on a sidewalk, or across a roadway or shoulder on a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.
- Bicycles using a shoulder must travel in the same direction as adjacent vehicular traffic.⁷⁹¹
- Bicyclists are prohibited from riding more than two abreast or impeding the normal and reasonable movement of traffic. On a laned roadway, bicyclists must ride within a single lane.⁷⁹²
- Electric-assisted bicycles may be operated on shoulders of a roadway.⁷⁹³
- Bicycles using a sidewalk, or crossing a roadway or shoulder on a crosswalk, must yield the right of way to any pedestrian and give an audible signal when necessary before passing any pedestrian.⁷⁹⁴

Minnesota law also addresses the use of shoulders by pedestrians:

- When walking or moving in a wheelchair along a roadway pedestrians shall, when practicable, walk or move on the left side of the roadway or its shoulder giving way to oncoming traffic. Where sidewalks are provided, accessible, and usable pedestrians are prohibited from walking or moving in a wheelchair along and upon an adjacent roadway.⁷⁹⁵

Pedestrian, bicycle, and other non-motorized use of a shoulder may be impacted by whether the shoulder is pavement, gravel, or earth. Certain bicycle facility design standards for local state aid roads apply when the roadway will be specifically designed to include an on-road bicycle facility and only if the roadway surface is paved.⁷⁹⁶ This indicates that bicycle facilities on a roadway with an unpaved shoulder require different design standards or are potentially not allowed.

8.1.2 FACILITIES USED FOR BOTH RECREATION AND TRANSPORTATION

As discussed earlier, laws distinguish between recreational and transportation facilities. For example, trail systems are categorized as recreational facilities.⁷⁹⁷ Further, while federal trail systems must comply with ABA rules and regulations; state and local trails systems must comply with ADA rules and regulations. Therefore, it is necessary to understand whether a certain facility is categorized as a recreational facility (such as a trail system) or a transportation facility (such as a shoulder) and which laws, rules, and regulations apply to that facility.

Facilities used primarily for recreation may also provide transportation. Pedestrians, bicyclists, and other non-motorized transportation users often engage in both recreation and transportation activities on different types of facilities. The following discussion examines facilities that are primarily intended for recreational purposes, but may also serve transportation purposes.

Key Definitions:

Recreational Trail

A thoroughfare or track across land or snow, used for recreational purposes such as -- (A) pedestrian activities, including wheelchair use; (B) skating or skateboarding; (C) equestrian activities, including carriage driving; (D) non-motorized snow trail activities, including skiing; (E) bicycling or use of other human-powered vehicles; (F) aquatic or water activities; and (G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.⁷⁹⁸

Federal Lands Transportation Facility

A public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title and maintenance responsibility is vested in the Federal Government.⁷⁹⁹

8.1.2.1 Federal Recreational Trails

Federal law creates trails primarily for recreational purposes. These trails can be used for a wide range of activities, including pedestrian activities, skating or skateboarding, equestrian activities, non-motorized snow trail activities, and bicycling, as well as motorized activities such as all-terrain vehicle (ATV) riding, motorcycling, and other off-road motorized vehicles. While primarily designed for recreational purposes, these trails can provide “a thoroughfare or track across land or snow” and allow users to go from one point to another. The Architectural Barriers Act (ABA) requires facilities constructed or altered by federal agencies to be readily accessible to individuals with disabilities.⁸⁰⁰ The Architectural and Transportation Barriers Compliance Board issued a final rule in September 2013 amending the ABA Accessibility Guidelines by adding new technical requirements for trails constructed or altered by federal agencies.⁸⁰¹ For example, these guidelines mandate certain trails (e.g., trails connecting directly to a trailhead) to meet slope, segment length, and signage specifications.⁸⁰² However, this final rule does not apply to developed outdoor areas administered by state and local governments, as these areas are covered by the ADA.⁸⁰³

8.1.2.2 Minnesota Recreational Facilities

Minnesota law also creates different facilities that are primarily intended for recreational purposes. These facilities include trails,⁸⁰⁴ paths,⁸⁰⁵ and roadways⁸⁰⁶ and are used by pedestrians and drivers of both motorized and non-motorized recreational use vehicles.

Recreational Vehicle Lanes

The recreational vehicle lanes statute provides for the construction of bridges for bicycle paths, bicycle trails, bicycle lanes and ways, and pedestrian facilities.⁸⁰⁷ Various laws refer to “bicycle and recreational vehicle lanes,”⁸⁰⁸ suggesting that these facilities are distinct, yet related, and governed similarly. Given the differing definitions of recreational vehicle, the link between bicycle lanes and recreational vehicle lanes becomes more confusing.

Key Definition:

Recreational Vehicle Lane

That portion of a street or highway or road or way outside of the roadway, improved, designed, or ordinarily used for recreational vehicular travel by the public and placed and maintained by state or local authorities in their respective jurisdictions.⁸⁰⁹

The definition of recreational vehicle is important in understanding what a recreational vehicle lane is. Two different definitions for recreational vehicles exist:

1. Travel trailers including those that telescope or fold down, chassis-mounted campers, motor homes, tent trailers, and converted buses that provide temporary human living quarters. (b) “Recreational vehicle” is a vehicle that: (1) is not used as the residence of the owner or occupant; (2) is used while engaged in recreational or vacation activities; and (3) is either self-propelled or towed on the highways incidental to the recreational or vacation activities.⁸¹⁰ (From the Vehicle Registration, Taxation, Sale Chapter of the Transportation Category in Minnesota Statutes.)
2. A special purpose mobile and motive equipment or device not qualifying under the provisions of Minnesota Statutes, chapter 168 for the purposes of taxation in the state of Minnesota, and includes but is not limited to all-terrain vehicles (ATV) and snowmobiles. (From the Trunk Highway System Chapter of the Department of Transportation Category in the Minnesota Rules.)

Neither definition explicitly refers to bicycles or pedestrians as the recreational vehicles lanes statute does. Thus, it is unclear whether recreational vehicle lanes are meant to support motor homes, ATVs, and snowmobiles and non-motorized vehicles or exclude pedestrians, bicycles, and other non-motorized vehicles. These differing definitions and implied purposes create ambiguities in how recreational vehicle lanes may or should be used.

Construction, improvement, and maintenance of these facilities can be the responsibility of a number of different public authorities including MnDOT, the Department of Natural Resources (DNR), a city or county, the Department of Parks and Recreation, or the Metropolitan Council.⁸¹¹ For instance, MnDOT is specifically responsible for developing recreational facilities and bicycle lanes on or adjacent to public highways.⁸¹² Similar to recreational facilities defined by federal law, recreational facilities defined by state law often serve both recreation and transportation needs. For example, a bikeway is defined as “a bicycle lane, bicycle path, or bicycle route, regardless of whether it is designed for the exclusive use of bicycles or is to be shared with other transportation modes.”⁸¹³

MnDOT is responsible for adopting model standards for the establishment of recreational vehicle lanes on and along proposed and existing public highways.⁸¹⁴ These model standards shall apply to state trunk highways; however, counties and municipalities are not required to adapt these standards to local circumstances.⁸¹⁵ The standards must include:

- (a) Criteria for determining the desirability of a lane in any given location,
- (b) Maintenance of the lanes, and

(c) The placement of the lanes in relation to roads.⁸¹⁶

Certain local authorities are able to adopt the model standards to govern their facilities and adapt them to local circumstances.⁸¹⁷ Local regulations are still subject to MnDOT approval.⁸¹⁸ Local recreational vehicle lane projects may be eligible for state-approved funding.⁸¹⁹

Trails

Minnesota law identifies different types of trails. While primarily geared toward recreational activities, trails may also be used for pedestrian, bicycle, and other non-motorized transportation purposes.

State Trails

There are different categories of state trails, some administered by MnDOT, others by the Minnesota DNR. Regardless of whether the state trails are administered by MnDOT or by the Minnesota DNR, the trails must comply with ADA rules and regulations to ensure individuals with disabilities are not denied the benefits of these public systems.⁸²⁰

The Minnesota Outdoor Recreation System is intended to combine transportation and recreation by providing a recreational travel route that: connects units of the outdoor recreation system or the national trail system; provides access to or passage through areas with significant scenic, historic, scientific, or recreational qualities; or reestablishes or permits travel along historically prominent travel routes or provide commuter transportation.⁸²¹

State trail corridors are units of the outdoor recreation system units established by state law.⁸²² These trail corridors are administered by MnDOT and the DNR.⁸²³ Trails established by the DNR must recognize other land use activities and be managed to provide travel routes that causes minimum disturbance of the natural environment.⁸²⁴ However, trails typically associated with scenic, environmental characteristics can be associated with both recreation and transportation. Different purposes require overlapping authority between MnDOT and the DNR, depending on the trail type and location and which governmental authority is legally responsible for the land on which the facility is located.

Trails created under Minnesota's Parks and Recreation statute involve a discrete group of trails named in this statute.⁸²⁵ Each named trail has a specific purpose and is established, developed, maintained, and operated by the Minnesota DNR. In some cases, the DNR may be required to work with local governments to develop, maintain, and operate these trails.

Bicycle Trails

Bicycle trails are another example of where transportation and recreation purposes overlap. The Bicycle Trail Program is coordinated with the DNR's local park trail grant program and MnDOT's bikeway program.⁸²⁶ The DNR, in developing the bicycle trail program, is required to consider the model standards for



recreational vehicle lanes developed by MnDOT.⁸²⁷ In the Twin Cities metropolitan area, the bicycle trail program must be developed according to the plans and priorities established by the Met Council.⁸²⁸

Key Definitions:

Bicycle Trail

A bicycle route or bicycle path developed by the DNR.⁸²⁹

The DNR's bicycle trail program is a good example of an effort that:

- Combines transportation and recreational uses, and
- Requires collaboration between governmental entities.⁸³⁰

Forest Trails

Forest trails are more limited than state trails and only include trails located on forest land meant for recreational activity. The DNR and Forest Service are specifically responsible for forest trails as they are located on land under their jurisdiction.⁸³¹

Key Definitions:

Forest Trail

A trail that is either constructed, maintained, or located on forest lands administered by the DNR for recreational activities on forest lands.⁸³²



Forest Development Roads and Trails

Forest roads and trails under the jurisdiction of the Forest Service.⁸³³

Forest Road or Trail

A road or trail wholly or partly within, or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.⁸³⁴

8.1.3 SIGNS AND SIGNALS

Signs and signals are physical objects that inform or warn users about aspects of travel on a particular transportation facility. Pedestrians, bicyclists, and other non-motorized transportation users regularly use these signs and signals. Understanding the laws governing these signs and signals and who is responsible for them helps in managing and developing a robust sign and signal system to ensure the safety, accessibility, and conveniences of pedestrian, bicyclists, and other non-motorized transportation users.

Key Definitions:

Traffic-Control Signal

Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.⁸³⁵

Railroad Sign or Signal

Any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.⁸³⁶

Active Warning Device

A device with alternating flashing red lights. The device may have additional features, including but not limited to a bell, cantilever arm, or movable gate arm.⁸³⁷

Minnesota Manual on Uniform Traffic Control Devices

MnDOT is responsible for the Minnesota Manual on Uniform Traffic Control Devices (MMUTCD) and specifications for a uniform system of traffic-control devices for use on highways within Minnesota.⁸³⁸ The MMUTCD applies to all public roads, and private roads open to public travel. MnDOT is also responsible for placing and maintaining these signs and signals on all state trunk highways as necessary to regulate, warn, or guide traffic.⁸³⁹ MnDOT may construct and maintain signs at the entrance of each city, indicating the city's name and population. No other road authority is allowed to place or maintain traffic-control signs and signals on any highway under MnDOT's jurisdiction without MnDOT's permission.⁸⁴⁰

Local authorities are responsible for traffic-control devices on highways and other roads within their jurisdiction.⁸⁴¹ For example, a city council is authorized to adopt ordinances to regulate traffic on pedestrian malls and provide “No Turn” signs to keep out motor vehicle traffic.⁸⁴² Despite this authority, the traffic-control devices must conform to the MMUTCD specifications and regulations that ensure uniform application of traffic regulations throughout the state will trump any municipal ordinance in conflict.⁸⁴³

8.1.4 CROSSINGS

Crossings generally refer to an area between two points which is used to travel from the first point to the second. This can include a midblock crossing or an intersection that directly crosses a path, trail, road, street or highway; or indirectly crosses over or under another transportation facility (such as a road, railway, or waterway) or body of water by means such as a bridge, underpass, or tunnel. (This use of crossing as a transportation facility should be distinguished from the act of crossing a street.)

Laws describe different types of physical structures that constitute crossings, including bridge, railroad, and road crossings, in addition to marked points on a road or highway for pedestrian crossings. The definitions of these facilities are relevant to understanding the laws applicable to a crossing. Further, these definitions can impact pedestrian and bicyclist rights and responsibilities. They are important for all transportation users to understand, as crossings are often the location where conflicts between modes of transportation occur.

Minnesota’s transportation system includes many different types of crossings used by pedestrians, bicyclists, and other non-motorized transportation users, including:⁸⁴⁴

- Intersections, which include points at which different transportation facilities meet;
- Railroad grade crossings, which include points at which a railroad track crosses a road, trail, or other transportation facility; and
- Other crossings identified by law, including pedestrian safety crossings and crossings for seniors and individuals with disabilities.

Federal law also provides for pedestrian and bicycle crossings across highways in safety improvement projects⁸⁴⁵ and for audible traffic signals and signs enabling visually impaired pedestrian crossings at road intersections.⁸⁴⁶

Key Definition:

Crosswalk

(1) That portion of a roadway ordinarily included with the prolongation or connection of the lateral lines of sidewalks at intersections; or (2) any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.⁸⁴⁷

Some crossings are specifically designated as marked intersections or crosswalks. Others are places where pedestrians and bicyclists cross that are not specifically designated or marked, such as in the middle of a street or at any point outside a marked crosswalk or at an intersection with no marked crosswalk.⁸⁴⁸



8.1.4.1 Intersections

Intersections involve a broad category of crossings that include points where different types of transportation facilities (such as roads, highways, and sidewalks) meet. Intersections are also places where different modes of transportation meet. A crosswalk is an intersection that is physically marked to assist with pedestrian crossing.⁸⁴⁹ Intersections can further be characterized as controlled or uncontrolled, depending on the existence of traffic-control signals.⁸⁵⁰

Key Definitions:

Intersection^{११११}

The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.⁸⁵¹

^{११११} No federal definition of “intersection” was identified as part of this law review.

Issues of authority can come up where roads under different governmental authority, such as a state trunk highway and a city street, meet at an intersection. For this reason, there can be confusion regarding which authority is responsible for the planning, design, construction, and maintenance of this intersection, or for any issues or accidents that result from a failure to execute these duties.

One such issue examined by Minnesota courts is whether a municipality is responsible to a pedestrian injured as a result of a defect in the surface of a state trunk highway at a crosswalk maintained and policed by the municipality. Courts have found that MnDOT cannot delegate away its duty to maintain state trunk highways (or trunk highway crossings located in a municipality) to local governments.⁸⁵² “The exclusive authority and responsibility of [MnDOT] for the maintenance of its entire trunk highway system as implemented by statute is embedded in [the] state constitution. This exclusive authority and consequent responsibility of the state is not diminished by the legislative delegation to municipalities of police power to regulate traffic upon highways within the municipality.”⁸⁵³

Traffic-control signals or crosswalks can also be the focus of disputes between motor vehicle drivers and pedestrians. When accidents in crosswalks occur, statutory language must be carefully interpreted to determine right of way and responsibility. When a pedestrian enters a “controlled intersection” with a crosswalk and a green traffic-control signal light in the pedestrian’s favor, the pedestrian is entitled to the right of way across the entire intersection.⁸⁵⁴

Yet, despite the fact that a driver of a motor vehicle is legally required to yield the right of way to a pedestrian in a crosswalk even when the traffic signal authorized the driver to proceed,⁸⁵⁵ the driver is not automatically negligent if an accident occurs.⁸⁵⁶ A pedestrian may be found to be more negligent, or there may be a reasonable explanation that could excuse the failure to yield to the pedestrian’s right of way.⁸⁵⁷ A reasonable explanation, however, would only negate a presumption of negligence.⁸⁵⁸ While a pedestrian has the right to assume that a motor vehicle driver will respect the pedestrian’s right of way within a crosswalk, the pedestrian still has a duty to exercise ordinary care for his own safety.⁸⁵⁹

Regulating Traffic at Intersections

Minnesota law requires transportation users to behave in certain ways at intersections.⁸⁶⁰ In general, laws regarding interactions between vehicle drivers (motor and non-motorized) and pedestrians are covered by crosswalk and other intersection laws (See discussion of Rights & Responsibilities of Transportation Users). Requirements regarding interactions between motor vehicle drivers and bicyclists (and other non-motorized vehicle drivers) include:

- When two vehicles enter an uncontrolled intersection from different highways at approximately the same time, the driver of the vehicle on the left must allow the vehicle on the right to cross the intersection first before proceeding.
- When two vehicles enter an intersection controlled by stop signs or by blinking red traffic signals requiring drivers or vehicles from any direction to stop before proceeding, the driver of the vehicle on the left must allow the vehicle on the right to cross the intersection first before proceeding.
- The driver of a vehicle intending to turn to the left within an intersection or into an alley, private

road, or driveway must allow any vehicle approaching from the opposite direction within the intersection to pass first before turning into the intersection.

- The driver of a vehicle about to enter or cross a roadway from any place other than a roadway must allow all vehicles approaching on the roadway to pass first before entering or crossing the roadway.⁸⁶¹

8.1.4.2 Railroad Grade Crossings

Railroad crossings, also called grade crossings, are transportation facilities that make it possible for pedestrians and both non-motorized and motorized vehicles to cross railroad tracks. As railroad property is subject to both federal and state government authorities and regulations, numerous legal issues can arise at these crossings.

Both federal and Minnesota laws define grade crossings in various ways.

Key Definitions:

Pedestrian Grade Crossing

A separate designed sidewalk or pathway where pedestrians, but not vehicles, cross railroad tracks. Sidewalk crossings contiguous with, or separate but adjacent to, public highway-rail grade crossings are presumed to be part of the public highway-rail grade crossing and are not considered pedestrian grade crossings.⁸⁶²

Public Highway-Rail Crossing

A location where a public highway, road, or street, including associated sidewalks or pathways, crosses one or more railroad tracks at grade. If a public authority maintains the roadway on both sides of the crossing, the crossing is considered a public crossing for purposes of this part.⁸⁶³

Grade Crossing

- The intersection of a public highway and the tracks of a railroad, however operated, on the same plane or level, except street railways within city limits.⁸⁶⁴
- The at-grade intersection of one or more railroad tracks with a public way.⁸⁶⁵

Depending on location and the intended user, the crossing must meet certain requirements. For example, neither a city nor the State of Minnesota can be held liable under state law for failing to maintain adequate warning devices at grade crossings if the devices were installed with federal funds and approved by the Federal Highway Administration.⁸⁶⁶ This demonstrates how federal law and funding can affect state law and liability at railroad grade crossings. Similarly, warning devices or improvements installed or maintained under state law and approved by MnDOT are deemed to be an adequate and appropriate warning for the crossing.⁸⁶⁷ Understanding the interplay between federal laws or between federal and state law is important if and when grade crossings are improved or developed to impact non-motorized transportation.



MnDOT is responsible for approving new grade crossings, including a pedestrian or bicycle crossing.⁸⁶⁸ MnDOT must also determine how costs for the crossing, including the costs for the type of warning devices required, will be divided between the railroad company and the government authority involved.⁸⁶⁹

Key Definitions:

Grade Separation

The use of a bridge, trestle, tunnel, culvert, or other structure to enable one or more railroad tracks and a public way to cross at different elevations.⁸⁷⁰

Safety is a major, unifying focus of many laws regarding railroad grade crossings. These laws involve traffic regulations and design requirements. (See Table 10: Rights and Responsibilities of Railroad Companies for examples of specific responsibilities associated with railroad crossings.)

Examples of design requirements at railroad grade crossings include:

- When a trail or bicycle path must cross railroad tracks, the grade crossing must be designed to enhance the safety of the trail or bicycle path user.
 - The grade crossing must not be located on the trail or bicycle path curves or track curves, and the trail or bicycle path must cross the tracks at a right angle when possible.
 - When it is not possible for the trail or bicycle path to cross the tracks at a right angle, the trail or bicycle path must be widened to allow the trail or bicycle path user to cross the tracks at as close to a right angle as possible.⁸⁷¹
- Active warning devices, signs, and pavement markings used at grade crossings on trails and bicycle paths must comply with the MMUTCD standards for bicycle facilities. Stop signs must be

installed at grade crossings on trails and bicycle paths.⁸⁷²

- Pavement markings must be used in advance of grade crossings on paved bicycle paths and, to the extent practicable, on trails.⁸⁷³
- Installation, maintenance, and costs of signs and pavement markings used at grade crossings on trails and bicycle paths are the responsibilities of the governmental entity having jurisdiction over the trail or bicycle path.⁸⁷⁴

A grade crossing must meet certain criteria to be a candidate for grade separation.⁸⁷⁵ Some qualifying criteria may include:

- There has been a vehicle-train accident at the grade crossing with active device warning involving a fatality or two property damage or personal injury accidents within the last five years.⁸⁷⁶
- Construction of the grade separation would eliminate another safety problem area (such as an accident-prone roadway intersection), and increase public safety.⁸⁷⁷



8.1.4.3 Crossings for Pedestrians, Senior Citizens, and Disabled Persons

Minnesota law creates specific types of crossings. Local road authorities are authorized to establish pedestrian safety crossings within their respective jurisdictions by ordinance.⁸⁷⁸ This can include changing signal timing to benefit pedestrians crossing the roadway.⁸⁷⁹ In addition, local authorities may designate a crossing for senior citizens or disabled persons on any street or highway in the vicinity of a senior citizen housing project, senior citizen nursing home, or residential care facility for disabled persons.⁸⁸⁰ These crossings must follow MMUTCD specifications and be approved by MnDOT.⁸⁸¹

Crossings for seniors or disabled persons must include crosswalk markings.⁸⁸² Further, a city is required to install ramps at crosswalks in both business and residential areas when:

- Installing new sidewalks, curbs, or gutters; or
- Improving or replacing existing sidewalks, curbs, or gutters.⁸⁸³

This requirement seeks to make the transition from street to sidewalk easier for individuals with disabilities and for others who may have difficulty making the required step up or down from curb level to street level.⁸⁸⁴

8.1.4.4 Bridges, Tunnels, and Underpasses

Bridges, tunnels, and underpasses are vital facilities providing access to the larger transportation system for all forms of traffic. They provide flow, efficiency, and accessibility to the transportation system by connecting facilities such as roads and trails that might otherwise be difficult to access because of water-

ways, railroads, interstate highways, and other obstacles. (Additional discussion regarding bridges, tunnels, and underpasses is also included in Facilities Designed Primarily for Pedestrians).

Key Definition:

Bridge

A structure, including supports erected over a depression or an obstruction, such as water, a highway, or a railway, having a track or passageway for carrying traffic or other moving loads, and having an opening measured horizontally along the center of the roadway of ten feet or more. This definition of a bridge includes only those railroad and pedestrian bridges over or under a public highway or street.⁸⁸⁵

Federal Laws Regarding Bridges

The U.S. DOT encourages pedestrian, bicycle, and other non-motorized transportation accommodations on new, rehabilitated, and limited-access bridges. For example, when a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted, and the DOT determines that bicycle accommodations can be provided at reasonable cost as part of such replacement or rehabilitation, then the bridge shall be replaced or rehabilitated in a way to provide such safe accommodations.⁸⁸⁶

The governmental authority responsible for a particular bridge varies and may occasionally overlap depending on the location of the bridge, the action being performed to the bridge, and the transportation facilities that the bridge connects.⁸⁸⁷

Minnesota Laws Regarding Bridges

MnDOT is responsible for prioritizing bridge construction or reconstruction projects based on information collected from local governments in the statewide bridge inventory. Priority is based on the relative seriousness of each bridge's deficiencies, determined from the inventory and appraisal after considering specific criteria established by Minnesota law, including:

- Effectiveness of the project in eliminating a deficiency in the transportation system;
- Number of persons affected by the deficiency;
- Economic feasibility;



- Effect on optimum land use and other concerns of state and regional planning;
- Availability of other financing capability; and
- Adequacy of provision for proper operation and maintenance after construction.⁸⁸⁸

After the required documentation has been completed, construction plans are completed, and priorities have been established, MnDOT notifies local governmental entities about funding available from the Minnesota state transportation fund or federal funding sources.

Minnesota law also requires that all trunk highway bridge improvement projects funded by the trunk highway bridge improvement program in fiscal year 2012 or later include pedestrian and bicycle accommodations if both sides of the bridge are located in a city or the bridge links a pedestrian way, shared-use path, or scenic bikeway. However, bicycle and pedestrian accommodations are not required if:

- (1) A comprehensive assessment demonstrates that there is no need for bicycle and pedestrian accommodations for the life of the bridge; or
- (2) There is a reasonable alternative bicycle and pedestrian crossing within one-quarter mile of the bridge project.⁸⁸⁹

Bicycle and pedestrian accommodations should connect to any existing bicycle and pedestrian infrastructure in close proximity to the bridge.⁸⁹⁰ In addition, all pedestrian facilities must meet or exceed federal accessibility requirements required by the ADA and Rehabilitation Act.



Other statutes may apply to bridge, tunnel, or underpass projects. There may have been Met Council planning, state highway planning, or other processes or plans that may have already determined that a pedestrian and bicycle connection is needed. Or, laws may prevent the loss of the bridge.⁸⁹¹ Bridges classified as historically significant may require preserving certain features of the bridge.⁸⁹² Pedestrian access may be part of an ADA transition plan or otherwise identified by MnDOT for construction on the state trunk highway system.⁸⁹³

Minnesota law also allows for the use of the design-build process for bridge projects for non-motorized vehicles on streets and highways.⁸⁹⁴ Eligible projects are:

- (1) Designed and used primarily for non-motorized transportation, but may allow for motorized wheelchairs, golf carts, necessary maintenance vehicles and snowmobiles where permitted; and
- (2) Located apart from any road or highway or protected by barriers.⁸⁹⁵

Crossings over Public Waters

Additional actions or considerations may be required before the addition, restructuring, or removal of crossings over public waters to ensure proper and adequate incorporation into the transportation system.

A low-water ford type crossing is a stream crossing which conforms to the natural cross-section of the stream and utilizes the placement of a suitable substrate to allow vehicular passage without confining the stream flow within culverts or other hydraulic enclosures.⁸⁹⁶ This is an example of how the natural environment may restrict how crossings are designed and constructed. The DNR's responsibility to protect the public's health, safety, and welfare will prohibit some crossings over public waters.⁸⁹⁷ Minnesota rules specify when permits are and are not required to construct crossings over public waters.⁸⁹⁸ Permits and/or approval from MnDOT or the DNR are required for a road or railroad crossing over public waters.⁸⁹⁹ A crossing is allowed only when less detrimental alternatives are unavailable or unreasonable, and where such facilities will adequately protect public health, safety, and welfare.⁹⁰⁰

Tunnels Under Highways

Minnesota law specifies situations in which tunnels can be constructed under highways. Road authorities may issue a permit to any owner or lessee of land abutting both sides of a highway to tunnel under the highway to allow for use of the land so long as the construction and maintenance of the tunnel do not endanger or unduly inconvenience the use of the highway.⁹⁰¹ The road authority with jurisdiction over the highway must maintain any tunnel constructed under a highway through this process.⁹⁰² The costs of maintaining the tunnel can be charged to the users of the tunnel by a town board, with agreement between the users and the board.⁹⁰³ The road authority may determine on its own that the construction of a tunnel under a highway is necessary for the safety and convenience of public travel. In these situations, the road authority may construct and maintain the tunnel or enter into agreements with the abutting landowners to divide the costs of the construction equitably.⁹⁰⁴

8.1.5 FACILITIES DESIGNED PRIMARILY FOR PEDESTRIANS

Laws identify and define transportation facilities designed primarily for the use of pedestrians and place restrictions on their use by motorized vehicles. Facilities that are designed primarily for pedestrians are designed to meet their unique travel needs and seek to facilitate safe, accessible, and efficient travel. Although facilities for pedestrians can reduce the risk of pedestrian collisions, crash reduction is only one reason for providing such facilities. Other benefits include improved access to destinations by walking, better air quality due to less dependence on driving, and improved personal health.⁹⁰⁵ These facilities must be physically accessible for individuals with disabilities and comply with ADA requirements.

8.1.5.1 Sidewalks, Pedestrian Walkways, and Shoulders

In general, Minnesota law provides for a comprehensive multimodal transportation system dedicated to providing efficient and safe travel. To achieve this, some transportation facilities are primarily designed and developed for pedestrians and other non-motorized transportation users, such as sidewalks, pedestrian walkways, and some limited use of shoulders. Understanding the differing laws governing these facilities is vital to safe and efficient pedestrian travel.

Key Definitions:

Sidewalk

That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Pedestrian Walkway

That portion of the street or highway between curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.⁹⁰⁶

An alternate term that may be used is “sidewalk,” as defined in Minnesota Statutes, chapter 169 [Traffic Regulations]. For purposes of these rules a pedestrian walkway may be construed to be a bicycle or recreational vehicle lane but is controlled as to the forms of traffic it may carry other than pedestrians.⁹⁰⁷

Shoulder

That part of a highway which is contiguous to the regularly traveled portion of the highway and is on the same level as the highway. The shoulder may be pavement, gravel, or earth.⁹⁰⁸

Sidewalks

The maintenance of sidewalks can be the responsibility of MnDOT, the local government, or adjacent property owners depending on where the sidewalk is located.⁹⁰⁹ Because sidewalks are an important facility used by individuals with disabilities, the responsible governmental authority must ensure sidewalks meet ADA accessibility standards. (See Accessibility Standards for Individuals with Disabilities for additional discussion of accessibility requirements for individuals with disabilities.)

Local governments have the authority to set up sidewalk improvement districts (with the exception of sidewalks on trunk highways, for which MnDOT is responsible).⁹¹⁰

Any municipality may, by ordinance, establish sidewalk improvement districts within a municipality, and have authority to defray all or part of the total costs of sidewalk construction and repair by district benefits and apportioning the district's cost to all of the parcels located in the district on a direct or indirect benefit basis.

The governing body of any municipality may establish sidewalk districts on the basis that all areas within each district have safe pedestrian walkways to and from schools and school bus stops, public transportation facilities, and other services to the neighborhood and community.⁹¹¹

Sidewalks can also be part of local public improvement development.⁹¹² Communities may develop a sidewalk program to protect pedestrians from vehicle traffic and inclement weather.⁹¹³ Cities may designate a development authority to oversee the maintenance and operation of pedestrian systems (including streets) within these local development plans.⁹¹⁴

There are multiple references to "sidewalk" under Minnesota law. Generally, a sidewalk is intended for the use of pedestrians.⁹¹⁵ Local authorities have the authority to prohibit the operation of bicycles on any sidewalk or crosswalk under their jurisdiction.⁹¹⁶ Therefore, while bicyclists are typically allowed to use sidewalks, local authorities can limit this use to benefit the primary intended user of sidewalks, pedestrians.⁹¹⁷ Bicycling on sidewalks in business districts is prohibited unless the local government passes an ordinance allowing it. A business district is the territory contiguous to and including a highway when 50 percent or more of the frontage for a distance of 300 feet or more is occupied by businesses.⁹¹⁸

On July 26, 2011, the Architectural and Transportation Barriers Compliance Board published its notice of proposed rulemaking which included guidelines for the design, construction, and alteration of pedestrian facilities in the public right-of-way.⁹¹⁹ The Access Board published a supplemental notice addressing shared use paths in 2011.⁹²⁰ When completed, these federal regulations will apply to these facilities at the state and local level.



Pedestrian Walkways

A pedestrian walkway generally refers to an area dedicated to pedestrian traffic.⁹²¹ Other pedestrian walkways, such as a skyway system or underground pedestrian concourse, can be located in buildings, through private property, or other public places.⁹²² They essentially provide an indoor or sheltered pathway for more convenient pedestrian travel.

These facilities are expressly intended to enhance the movement, safety, security, convenience, and enjoyment of pedestrians and to benefit the city and adjoining properties.⁹²³ Pedestrian skyway systems are designed and implemented as needed by the governing body of the city.⁹²⁴ Thus, a city council or similar committee would have significant authority over these kinds of facilities.

Related to pedestrian walkways are public malls, plazas, or courtyards. They are primarily for passive recreation and leisure.⁹²⁵ However, one might walk from a sidewalk through a courtyard to get to a crosswalk, with the courtyard or plaza serving as a connection between transportation facilities. ADA rules and regulations apply to these pedestrian facilities.⁹²⁶ Currently, the Access Board has proposed guidelines regarding public right-of-ways and shared paths. When these guidelines are adopted, compliance with the accessibility guidelines for the design, construction, and alteration of sidewalks, pedestrian street crossings and signals, and other facilities for pedestrian use maintained by State and local governments will be mandated.⁹²⁷

Key Definition:

Pedestrian Skyway System

Any system of providing for pedestrian traffic circulation, mechanical or otherwise, elevated aboveground, within and without the public right-of-way, and through or above private property and buildings, and includes overpasses, bridges, passageways, walkways, concourses, hallways, corridors, arcades, courts, plazas, malls, elevators, escalators, heated canopies and accesses and all fixtures, furniture, signs, equipment, facilities, services, and appurtenances which in the judgment of the governing body of the city will enhance the movement, safety, security, convenience, and enjoyment of pedestrians and benefit the city and adjoining properties. The use of a public street or public right-of-way for pedestrian skyway travel only constitutes a public use and shall not require a vacation of the street or right-of-way.⁹²⁸

Pedestrian Mall

Pedestrian malls were created by the Minnesota legislature to respond to a growing population and traffic congestion that was endangering pedestrians and impeding the movement of police and fire equipment, ambulances, and other emergency vehicles.⁹²⁹ In central business districts streets were already improved to their maximum width for sidewalk and roadway purposes and could not be further widened without taking valuable buildings and improvements.⁹³⁰ A city council may establish a pedestrian mall to enhance

the movement, safety, convenience, or enjoyment of pedestrians.⁹³¹ This can include the installation of seating, sidewalk cafes, telephone booths, transit, bus shelters, plantings, sculptures, protection against the elements, and other uses or activities permitted by law.⁹³² The broad definition and grant of authority over pedestrian malls allows for substantial discretion in development and design.

Key Definitions:

Pedestrian Mall Improvement

An improvement designed and to be used primarily for the movement, safety, convenience, and enjoyment of pedestrians, whether or not a part of a street is set apart for roadway for emergency vehicles, transit vehicles, or private vehicles.⁹³³

Pedestrian Mall

An area, usually a street, that motorized vehicles (other than emergency and maintenance) are prohibited from entering.⁹³⁴

The city council of any city of the first class (St. Paul, St. Cloud, Duluth, Rochester, and Minneapolis) may adopt pedestrian mall ordinances, in part, to protect the public welfare and the interests of the public in the safe and effective movement of persons.⁹³⁵

Key Definitions - City Classifications in Minnesota⁹³⁶:

First class

Cities with more than 100,000 inhabitants. Once a city is in the first class, it is not reclassified unless its population decreases by 25 percent from the census figures that last qualified the city as first class.

Second class

Cities with a population between 20,001 and 100,000

Third class

Cities with a population between 10,001 and 20,000

Fourth class

Cities with not more than 10,000 inhabitants

A city council or park commission may direct the development or improvement of pedestrian malls, along with streets, parks, or parkways.⁹³⁷ This can include street lighting, curbing, building sidewalks, and structures for parks and playgrounds.⁹³⁸ In developing or improving pedestrian malls, a city may:

- Narrow a roadway,
- Have street vaults reconstructed or removed,
- Construct crosswalks at any point within a block and at the ends of blocks, and
- Design the roadway to curve and meander within the limits of the street to enhance the usefulness and appearance of a pedestrian mall.⁹³⁹

There are several options in developing and improving land for pedestrian purposes.

Key Definition:

Shared Use Path

A path that is physically separated from a roadway or shoulder by the use of an open space buffer or physical barrier; the path can be used by a variety of non-motorized users such as bicyclists, pedestrians, joggers, skaters, and wheelchair users.⁹⁴⁰



8.1.6 FACILITIES DESIGNED PRIMARILY FOR BICYCLES

Laws create transportation facilities primarily designed for bicyclists such as bicycle lanes and paths, or shoulders.⁹⁴¹ These facilities are designed to address the specific needs of bicyclists and facilitate their safe, accessible, and efficient travel. In doing so, direct interactions between bicyclists and motorized vehicles are limited.

Bikeways include a wide variety of facilities used for both recreation and transportation purposes and are often located on a portion of a roadway.⁹⁴² Examples include bicycle trails, bicycle paths, bicycle routes, and bicycle lanes.⁹⁴³

Key Definition:

Bicycle Transportation Facilities

New or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.⁹⁴⁴

The governing body of any political subdivision has broad authority to develop and designate bicycle

lanes and regulate their use, as it deems necessary.⁹⁴⁵ Specifically, political subdivisions may designate any roadway or shoulder as a bicycle lane or bicycle route; or any sidewalk as a bicycle path as long as it does not destroy a pedestrian way or access.⁹⁴⁶

Key Definition:

Bicycle Lane

A portion of a roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.⁹⁴⁷

Bicycle Path

A bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way.⁹⁴⁸

Bicycle Route

A segment of a system of bikeways designated by the jurisdiction having authority with appropriate directional and informational markers, with or without a specific bicycle route number.⁹⁴⁹

Bikeway

Any road, path, or way which in some manner is specifically designed as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.⁹⁵⁰

Table 14 – Bicycle and Recreational Vehicle Facilities Defined by Minnesota Law

Defined Facility	Minnesota Statutes: Traffic Regulation Chapter Minn. Stat. § 169.011 Scope: Applies to highways.	Minnesota Rules: Trunk Highway System Chapter Minn. R. 8810.6000 Scope: Applies to trunk highways.	Minnesota Rules: Local State Aid Route Standards, Financing Chapter Minn. R. 8820.0200 Scope: Applies to county state aid highways and municipal state aid streets.
Bicycle Lane	A portion of a roadway or shoulder designed for exclusive or preferential use by persons using bicycles. Bicycle lanes are to be distinguished from the portion of the roadway or shoulder used for motor vehicle traffic by physical barrier, striping, marking, or other similar device. ⁹⁵¹	A portion of a roadway designed for preferential use by persons using bicycles. Bicycle lanes may be designed with or without physical barriers to separate or channel bicycle traffic from motor vehicles or pedestrian traffic. ⁹⁵²	A portion of a roadway or shoulder designed for exclusive or preferential use by persons using bicycles. Bicycle lanes are to be distinguished from the portion of the roadway or shoulder used for motor vehicle traffic by physical barrier, striping, marking, or other similar device. ⁹⁵³

Defined Facility	Minnesota Statutes: Traffic Regulation Chapter Minn. Stat. § 169.011 Scope: Applies to highways.	Minnesota Rules: Trunk Highway System Chapter Minn. R. 8810.6000 Scope: Applies to trunk highways.	Minnesota Rules: Local State Aid Route Standards, Financing Chapter Minn. R. 8820.0200 Scope: Applies to county state aid highways and municipal state aid streets.
Bicycle Lane With Barrier	No Definition.	A portion of a roadway which has been designated for preferential or exclusive use by bicycles, separated from but a part of that portion of the roadway designed for motor vehicle traffic by a physical barrier such as a curb or a guardrail. ⁹⁵⁴	No Definition.
Bicycle Lane Without Barrier	No Definition.	A portion of a roadway which has been designated for preferential use by bicycles through pavement markings or other traffic control measures. ⁹⁵⁵	No Definition.
Bicycle Path	A bicycle facility designed for exclusive or preferential use by persons using bicycles and constructed or developed separately from the roadway or shoulder. ⁹⁵⁶	A bicycle facility designed for exclusive use by persons using bicycles and constructed or developed separately from the roadway. ⁹⁵⁷	No Definition.
Bicycle Route	A roadway or shoulder signed to encourage bicycle use. ⁹⁵⁸	A roadway signed to encourage bicycle use when no preferential lane is provided. Signing shall be in accordance with the Minnesota Manual of Uniform Traffic Control Devices. Such signing also indicates that safety precautions must be taken by all forms of traffic. ⁹⁵⁹	No Definition.
Bicycle Trail	A bicycle route or bicycle path developed by the Minnesota DNR under section 85.016. ⁹⁶⁰	No Definition.	No Definition.
Bikeway	A bicycle lane, bicycle path, or bicycle route, regardless of whether it is designed for the exclusive use of bicycles or is to be shared with other transportation modes. ⁹⁶¹	No Definition.	No Definition.

Defined Facility	Minnesota Statutes: Traffic Regulation Chapter Minn. Stat. § 169.011 Scope: Applies to highways.	Minnesota Rules: Trunk Highway System Chapter Minn. R. 8810.6000 Scope: Applies to trunk highways.	Minnesota Rules: Local State Aid Route Standards, Financing Chapter Minn. R. 8820.0200 Scope: Applies to county state aid highways and municipal state aid streets.
Recreational Vehicle Lane	No Definition.	That portion of a street or highway or road or way outside of the roadway, improved, designed, or ordinarily used for recreational vehicular travel by the public and placed and maintained by state or local authorities in their respective jurisdictions. ⁹⁶²	No Definition.

Understanding Definitions of Bicycle Facilities

Both Minnesota Statutes and Minnesota Rules define different types of bicycle facilities. Different chapters of Minnesota statutes generally identify the facilities to which their provisions and definitions apply. Definitions found in the Trunk Highways System chapter of Minnesota rules apply to trunk highways. Similarly, definitions located in the Local State Aid Route Standards, Financing chapter apply to local state aid routes (county state aid highways and municipal state aid streets).⁹⁶³ Finally, definitions of bicycle facilities located in the Traffic Regulations chapter apply to highways,⁹⁶⁴ defined as the entire width between boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic.⁹⁶⁵ This broad definition of highway indicates that these provisions generally apply to any road within the state.

As discussed throughout this report, applicability of the definition for a particular facility is generally limited to the specific chapter in which it is defined, unless stated otherwise. The same facility's definition may vary depending on the law in which it is discussed. However, a particular statute or rule that discusses a bicycle facility may not include its specific definition. If a statute or rule refers to a facility but fails to define it, finding the appropriate definition to use can be complicated. For example, the Minnesota Rules' Local State Aid Route Standards, Financing chapter uses the term bicycle path but does not define it.⁹⁶⁶ When this happens, the rule's statutory authority may provide the definition for that rule.

In this case, the rule provisions that use the term bicycle path⁹⁶⁷ implement statutes in the Trunk Highways and State Aid Road Systems chapters.⁹⁶⁸ These definitions come from the Roads, General Provisions chapter.⁹⁶⁹ The definitions in this chapter apply to five chapters within the Transportation category of Minnesota Statutes.⁹⁷⁰ While this chapter provides several definitions, the chapter's definition of bicycle path comes from a different chapter, Traffic Regulations.⁹⁷¹ Therefore, when the Local State Aid Route chapter of the rules uses the term bicycle path, it is referring to the definition found in the Traffic Regulations chapter definition section: "a bicycle facility designed for exclusive or preferential use by persons

using bicycles and constructed or developed separately from the roadway or shoulder.⁹⁷² This is especially relevant for design standards because they depend on and apply to specific definitions.⁹⁷³

The governmental authority responsible for maintenance on a bikeway depends on location. For example, MnDOT is solely responsible for bikeways located on a state trunk highway or adjacent to the roadway. A local authority is responsible when a bikeway is separate from the roadway.⁹⁷⁴

8.1.7 VEHICLE PARKING

Minnesota law provides specific provisions regarding how vehicles, including bicycles and other non-motorized vehicles, should be parked on public roadways, city and county roads, and shoulders.

Key Definitions:

Vehicle Parking

Vehicle drivers may park on highways, streets, roads or shoulders in space that may also be used by bicycle and pedestrian traffic.⁹⁷⁵

Bicycle Parking

Bicyclists may park a bicycle on a sidewalk unless prohibited or restricted by local authorities.

A bicycle parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.⁹⁷⁶

A bicycle may be parked on a roadway at any location where parking is allowed if it is parked in such a manner that it does not obstruct the movement of a legally parked motor vehicle.⁹⁷⁷

On-street parking and bicycle facilities sometimes compete for space, and can be especially challenging for bicycle or pedestrian traffic if parking is allowed on paved shoulders, as these areas can be used by bicyclists or pedestrians on any given road, street or highway.

Except when necessary to avoid conflict with other traffic or when complying with the directions of a police officer or traffic-control device, Minnesota law prohibits an individual from stopping, standing, or parking a vehicle, including bicycles and other non-motorized vehicles, in any of the following locations:⁹⁷⁸

- On a sidewalk (but see exception for bicycles below);
- In front of a public or private driveway;
- Within an intersection;
- Within ten feet of a fire hydrant;
- On a crosswalk;
- Within 20 feet of a crosswalk at an intersection;
- Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;

- Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone (unless a different length is indicated by signs or markings);
- Within 50 feet of the nearest rail of a railroad crossing;
- Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;
- Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
- On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- Upon any bridge or other elevated structure upon a highway or within a highway tunnel, except as otherwise provided by ordinance; or
- At any place where official signs prohibit stopping.
- Minnesota law also prohibits individuals from obstructing access to:
 - A parking space or access aisle designated and reserved for the physically disabled on either private or public property, or
 - An area designated by a local governmental unit as a transfer zone for individuals with disabilities.

Minnesota law also specifies parking requirements for vehicles, including non-motorized vehicles, stopped on roadways. Except where angle parking is permitted, vehicles stopped or parked on a two-way roadway with a curb are required to be stopped or parked with the right-hand wheels of the vehicle parallel with and within 12 inches of the right-hand curb. MnDOT must approve any exceptions on state trunk highways. On two-way streets and highways without a curb, each vehicle stopped or parked must be stopped or parked parallel with and to the right of the paved or improved or main-traveled part of the street or highway.

On one-way roadways, local authorities may permit parking of vehicles with the left hand wheels adjacent to and within 12 inches of the left hand curb on streets and highways under the local government's jurisdiction (and with the consent of MnDOT for state trunk highways within the local jurisdiction).

Individuals riding bicycles or driving other non-motorized vehicles may not stop, park, or leave the bicycle or other non-motorized vehicle, whether attended or unattended, upon the paved or improved or main-traveled part of a highway outside of a business or residence district when it is practical to stop, park, or leave the bicycle or other vehicle off of the highway. In the event it is necessary to leave a bicycle or other non-motorized vehicle on the highway, a clear and unobstructed width of at least 20 feet of the highway opposite the bicycle or non-motorized vehicle must be left for the free passage of other vehicles and a clear view of such stopped vehicle be available from a distance of 200 feet in each direction upon the highway. This does not apply to any vehicle which is disabled while on the paved or improved or main-traveled portion of a highway in such a manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position. Police officers are authorized to move vehicles, including bicycles and other non-motorized vehicles, left standing on highways or require the individual in charge of the vehicle to move it off of the highway.

Bicycle parking is allowed on sidewalks unless specifically prohibited or restricted by local authorities. However, a bicycle parked on a sidewalk must not impede the normal and reasonable movement of pedestrians or other traffic. Likewise, a bicycle may be parked on a roadway at any location where parking is allowed so long as it does not obstruct the movement of a legally parked motor vehicle.

Accessible Parking

There are state and federal laws regarding accessible parking to ensure motorized vehicle parking is designed for and allows people with disabilities to access motor vehicle parking facilities on streets, roads and in parking lots. While this topic is not covered in depth in this report, it is a factor that needs to be recognized in the planning, designing, and maintaining of transportation facilities and ensuring the needs of people with disabilities are addressed. Parking is directly tied to pedestrian activities as vehicle drivers become pedestrians once they park and exit their vehicle.

In places where parking is available for the public, such as at a restaurant, library, or state trailhead, federal and state laws have established requirements for providing accessible parking spaces for people with disabilities.⁹⁷⁹ Federal law has set various rules and regulations governing accessible parking,⁹⁸⁰ including the mandate to each State to establish, design, construct, and designate standards for parking spaces reserved for people with disability.⁹⁸¹ Thus, the state of Minnesota has implemented supplemental rules and regulations to ensure accessible parking is available. For example, Minnesota law requires all parking spaces designated for accessible parking to be identified with proper signage and meet specific space size requirements.⁹⁸²

Bicycle Parking at State Capitol Mall

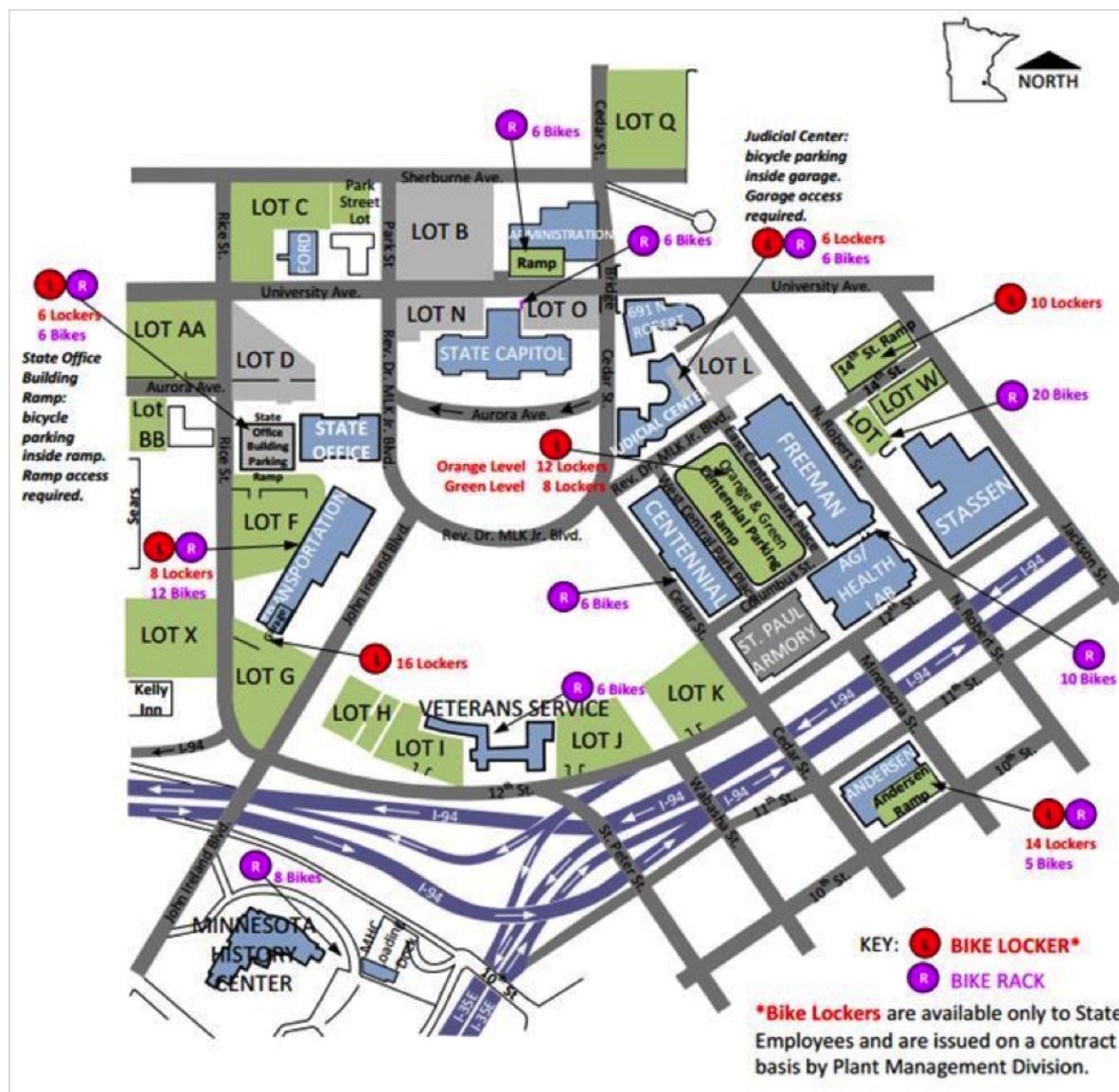
At the State Capitol Mall, the Capitol Area Architectural and Planning Board must follow these guidelines:⁹⁸³

- Off-street parking facilities must include one secure bicycle parking space for every 20 motor vehicle parking spaces, with a minimum of two bicycle parking spaces. (Each inverted U-shaped bicycle rack counts as two bicycle parking spaces.)
- Off-site bicycle parking facilities may be provided for state offices and other state facilities.
- Off-site parking facilities must have the same degree of monitoring and weather protection as off-site automobile facilities.
- On-site bicycle parking facilities must be at least as close to the main entrance of the primary use as the most convenient one-third of the automobile parking.
- On-site outdoor bicycle parking must be visible from the public right-of-way or within the building. With permission of the city engineer, bicycle parking may be located in the public right-of-way.
- Bicycle parking may be provided within a building, provided that the location is easily accessible and proper signage is utilized.
- Where motor vehicle parking spaces are monitored, covered, or weather-protected, bicycle parking spaces must be provided the same accommodations.
- A secure bicycle parking space must include a bicycle rack that permits locking the bicycle frame

and one wheel to the rack, and supports the bicycle in a stable position without damage to the wheels, frame, or components.

- Bicycle parking facilities must be anchored to prevent easy removal.⁹⁸⁴

Figure 4 – Minnesota State Capitol bicycle parking and storage.



8.2 Non-Motorized Use of Unused Railroad Property

A “rail” facility refers to property currently or previously owned by a railroad and used for rail transportation and rights-of-way. Railroad facilities impact pedestrian, bicycle, and other non-motorized transportation, in part, by providing optimal land for use and conversion into non-motorized transportation and recreation trails. The laws relating to railroad facilities are very involved and complicated. This discussion highlights some of the ways in which railroad facilities interact with pedestrian, bicycle, and other non-motorized transportation, but does not provide a comprehensive discussion of railroad law.

Different railroad facilities defined in Minnesota law include a railroad right-of-way, rail line, and state rail bank.

Key Definitions:

Right-of-Way

Any real property, including any interest in the real property that is or has been owned by a railroad company as the site, or is adjacent to the site, of an existing or former rail line.⁹⁸⁶

Rail Line

Railroad roadbeds, track, track structure, and other appurtenances of railroad right-of-way.⁹⁸⁷

State Rail Bank

Abandoned rail lines and right-of-way acquired by MnDOT pursuant to this section.⁹⁸⁸

Abandoned rail lines provide opportunities for the development of non-motorized transportation trails.⁹⁸⁹ An abandoned rail line is one to which the Surface Transportation Board or other responsible federal regulatory agency has permitted discontinuance of rail service.⁹⁹⁰

Rail property can be repurposed to meet the current needs of the community by being acquired by the state or private parties, and converted into trails for use by non-motorized transportation users. A change in the use of a right-of-way from railroad bed to public recreational trail is consistent with the purpose for which the easement was originally acquired, public travel.⁹⁹¹

The term abandoned, however, can be ambiguous.⁹⁹² In Minnesota law, it includes railroad rights-of-way which have been abandoned only for railroad purposes (as opposed to all public use purposes).⁹⁹³ The Minnesota DNR has the authority to acquire railroad rights-of-way even though they might not be entirely “abandoned.”

Acquiring abandoned rail property can be a complicated process with extensive federal regulations over railroads and multiple governmental entities (both state and federal) having some form of authority over railroad facilities. There are different ways rail property can be converted for trail purposes depending on the current use of the rail by the railroad, i.e., the railroad’s status as either active or abandoned. Each of these different kinds of trail use is discussed below.

8.2.1 RAILS-WITH-TRAILS

Rails-with-trails refers to the use of rail property for recreational trails while trains are still using the rail line.⁹⁹⁴ This provides an additional option for communities seeking to expand trails for non-motorized transportation users and enhances the value of the rail property by doubling its use. Rails-with-trails can provide enhanced access for transit riders to stations, supporting a multimodal transportation system.

Key Definition:

Rails-with-Trails

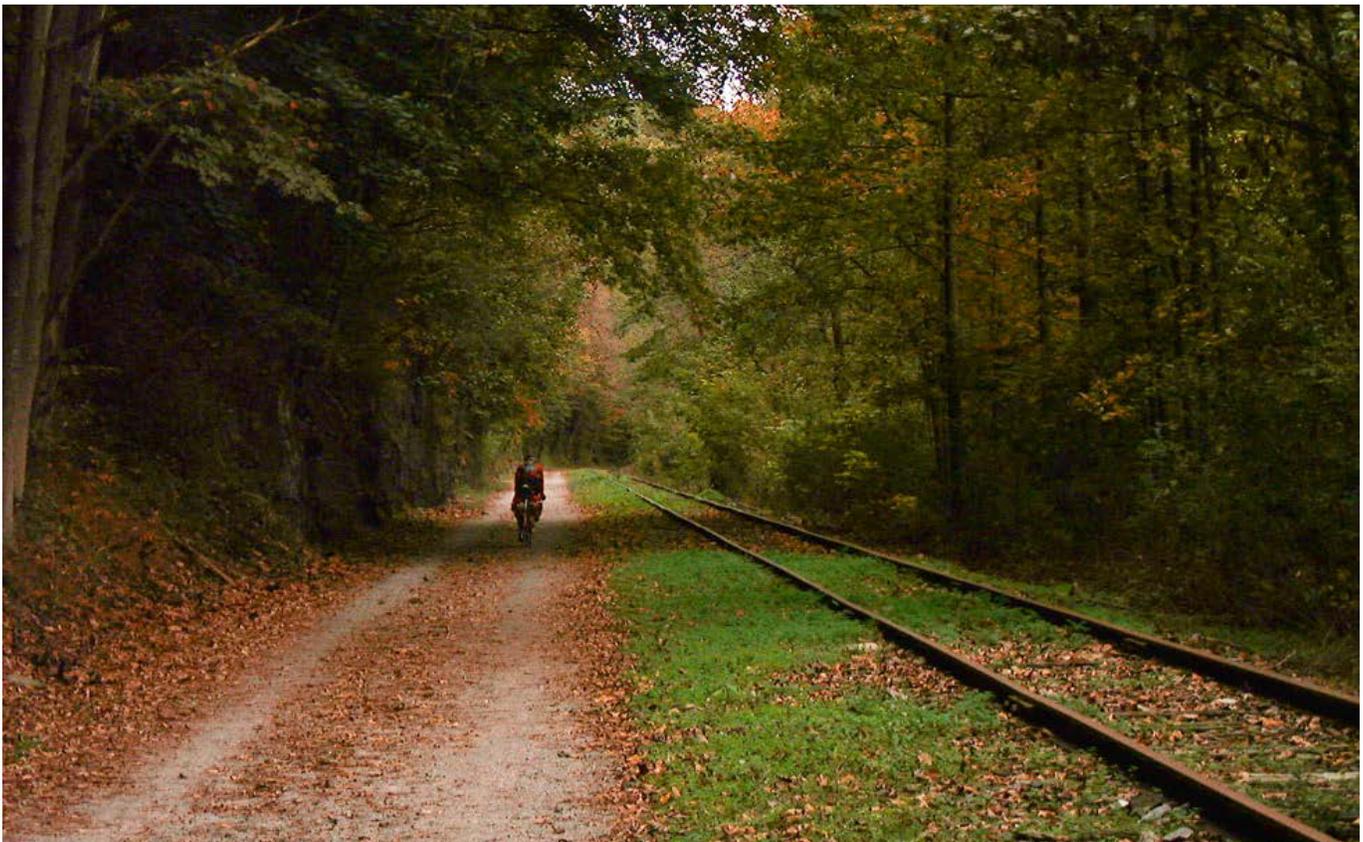
Any shared-use path that is located on or directly adjacent to an active railroad or light-rail corridor.⁹⁹⁵

8.2.2 RAILBANKING

Railbanking is a way to use rail property as a recreational trail if the railroad is out of service, rarely used due to unprofitability, or is undergoing abandonment proceedings with the Surface Transportation Board (STB).⁹⁹⁶ Railbanking involves a voluntary agreement between the railroad and trail agency to use an out-of-service rail corridor as a trail until the corridor is needed again for rail service.⁹⁹⁷ Railbanking may be an option for rail lines that are not currently in operation but may resume in the future. When a trail is rail-banked, federal law provides that interim trail use of railbanked corridors shall not be treated as an abandonment of the rights-of-way for railroad purposes.⁹⁹⁸

8.2.3 RAILS-TO-TRAILS

Rails-to-trails is used to describe the process of converting an abandoned rail line into a recreational trail. As noted above, while the definition can be ambiguous abandonment of a rail line generally means that the railroad has applied to the Surface Transportation Board (STB) for abandonment authorization, STB has issued an order authorizing abandonment of the line, and the railroad has notified STB that it has consummated the abandonment authorization.⁹⁹⁹ This allows land that might ordinarily be underutilized to expand non-motorized transportation and recreation opportunities.



Many legal and administrative issues exist with each option. For example, when the rail line is considered abandoned, jurisdiction, ownership, financial, environmental, and preemption issues can arise. These options can help develop a multimodal infrastructure by expanding trails for non-motorized transportation use. But, they must also be carefully and thoroughly researched to mitigate pitfalls during conversion.

8.3 Transit

Transit consists of facilities, service, and routes. Transit facilities are buses, street cars, subways, commuter rail, and light rail. These transit vehicles serve as common modes of transportation for pedestrians, bicyclists, and other non-motorized transportation users. Thus, these transit vehicles are equipped with bicycle racks and wheelchair accessibility and safety features to accommodate non-motorized transportation users who use transit within the greater transportation system.

Key Definitions:

Public Transit (or Transit)

General or specific transportation service provided to the public on a regular and continuing basis. “Public transit” or “transit” includes paratransit and regular route transit.¹⁰⁰⁰

Transit Public

Those persons who utilize public transit and those who, because of mental or physical disability, income status, or age are unable to transport themselves and are dependent upon others for transportation services.¹⁰⁰¹

Transit Facility

A physical structure, the primary function of which is to facilitate access to and from a transportation system which has scheduled stops at the structure. The term does not include an open structure or a physical structure the primary purpose of which is other than providing transportation services.¹⁰⁰²

Transit facilities are regularly utilized by pedestrians, bicyclists, and other non-motorized transportation users as a transition or access point between transit vehicle stop points and sidewalks, bicycle lanes, and roads. Each transit facility has a variety of features designed to provide pedestrian (and other) access. These access features include cross slopes, running slopes, curb lines, blended transitions, public ways, splitter islands, intersections, medians, public rights-of-way, and vertical surface discontinuities.¹⁰⁰³ For example, a blended transition is raised pedestrian street crossings, depressed corners, or similar connections between the pedestrian access route at the level of the sidewalk and the level of the pedestrian street crossing that had a grade of 5 percent or less.¹⁰⁰⁴ These features make it possible for pedestrians,

bicyclists, and other non-motorized transportation users (especially those with disabilities) to access transit facilities.

MnDOT is responsible for many aspects of the state's transportation system, including working with local agencies and officials to service all the state's transportation users.¹⁰⁰⁵

As part of this responsibility, MnDOT is required to ensure that the state transit system meets the needs of the transit public and includes special provisions for pedestrians and bicycles using the transit system.¹⁰⁰⁶

MnDOT must ensure that transit facility transition and access points exist. Specifically,

MnDOT is required to develop, adopt, revise, and monitor a statewide transportation plan, which shall incorporate all modes of transportation (including bicycle commutation and recreation) and provide for the interconnection and coordination of different modes of transportation.¹⁰⁰⁷



Pedestrians, bicyclists, and other non-motorized transportation users regularly use stops and shelters while waiting for transit vehicles to arrive.¹⁰⁰⁸ Although "transit facility" does not include open structures or physical structures where the primary purpose is other than providing transportation services,¹⁰⁰⁹ bus shelters and the like are transit facilities because they facilitate transportation and access to transit. They facilitate access to and from a transportation system with scheduled stops from the structure."¹⁰¹⁰

Transit plays a vital role in a multimodal transportation system and transit users are specifically mentioned in the Minnesota Complete Streets law.¹⁰¹¹ Complete Streets considers the needs of transit users in the initiative's overarching goal to develop a multimodal transportation system that accommodates all transportation users.¹⁰¹² This law, combined with MnDOT's responsibility to interconnect and coordinate different modes of transportation,¹⁰¹³ demonstrates that transit is an integral part of Minnesota's transportation system. Additionally, MnDOT is responsible to increase use of transit as a percentage of all trips statewide by giving highest priority to the transportation modes with the greatest people-moving capacity and lowest long-term economic and environmental cost.¹⁰¹⁴

8.4 Accessibility Standards for Individuals with Disabilities

Federal and Minnesota laws and the agencies responsible for implementing these laws create general standards for planning, designing, and constructing publicly funded projects to ensure that transportation facilities are accessible to individuals with disabilities. The key element of accessibility law and transportation standards is the term facility, which is defined by federal regulations published by the U.S. DOT and Department of Justice (DOJ), and by the standards and guidelines published by the United States

Access Board. Though they vary slightly, each defines facility to include all or any portion of buildings, structures, vehicles, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.¹⁰¹⁵

Key Definitions****:

Transportation System Elements

Architectural or mechanical component[s] of a building, facility, space, site, or public right-of-way.¹⁰¹⁶

Public Right-of-Way

Public land or property, usually in interconnected corridors, that is acquired for or dedicated to transportation purposes.¹⁰¹⁷

Path of Travel

A continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, parking areas, and streets), an entrance to the facility, and other parts of the facility.¹⁰¹⁸

8.4.1 ACCESSIBILITY STANDARDS FOR TRANSPORTATION FACILITIES

Federal requirements for specific transportation facilities are provided in accessibility standards for individuals with disabilities in order to implement the requirements of the Americans with Disabilities Act (ADA), the Rehabilitation Act, and, to a more limited extent, the Architectural Barriers Act (ABA).¹⁰¹⁹ To be deemed accessible to individuals with disabilities, transportation facilities must comply with the accessibility requirements.¹⁰²⁰

Federal regulations provide general accessibility requirements for roads, walkways, parking lots, and other facilities provided by public entities.¹⁰²¹ They identify to whom the requirements apply and which facilities are covered.¹⁰²² Maintenance requirements for certain facilities are also addressed.¹⁰²³

The ADA and related regulations specify the extent to which new and existing transportation facilities must be accessible, and provide specific design standards certain transportation facilities must meet. Existing facilities are those



****Please note: The scope and applicability of the definitions to public rights of way for pedestrians and path of travel are currently the subject of a notice of proposed rulemaking for Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way; Shared Use Paths (78 Fed. Reg. 10110 (proposed Feb. 13, 2013) (to be codified at 36 C.F.R. pt 1190)) by the Architectural and Transportation Barriers Compliance Board (U.S. Access Board) as of the fall of 2013. Accordingly, the scope and applicability of this definition may change depending on the outcome of this federal rulemaking process. As this is an evolving issue, please see the U.S. Access Board's or U.S. DOT's website for updates.

“in existence on any given date, without regard to whether the facility may also be considered newly constructed under this part.”¹⁰²⁴ All existing facilities must be operated so that they are readily accessible to and usable by individuals with disabilities.¹⁰²⁵ Public entities may satisfy this requirement in a number of ways, including redesign, reassignment of services to accessible locations, altering existing facilities, and constructing new facilities.¹⁰²⁶ The ADA defines a new facility as a facility for which construction began on or after January 25, 1992. New public transportation facilities are required to be “readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.”¹⁰²⁷

The term path of travel is used to discuss the access that an individual with a disability may have to transportation facilities.¹⁰²⁸ Individuals with disabilities are often confronted by obstruction to their path of travel when attempting to access transportation facilities, such as sidewalks, crosswalks, and curb ramps or curb cuts. Many individuals with disabilities rely heavily on public transportation facilities to move around their community and meet their daily needs. However, they may face access barriers at points of entrance to the transportation system, such as bus stops and light rail stations. Federal regulations define the accessibility requirements for public and private entities that provide transportation services and facilities.¹⁰²⁹ Different transportation services and facilities may have different requirements.

Federal courts have clarified or interpreted several key issues concerning ADA compliance in response to alleged violations of the ADA by transportation agencies, including:

- What specific transportation facilities are covered under the ADA;¹⁰³⁰
- The level of access guaranteed by the ADA;¹⁰³¹
- The standards used to define the level of access;¹⁰³² and
- The consequences for failing to construct or alter transportation facilities according to appropriate standards.¹⁰³³

The scope of facilities included in the ADA is broad and can include any portion of a building or structure, passageways, parking lots,¹⁰³⁴ crosswalks, pedestrian underpasses, pedestrian overpasses, and any other outdoor designated pedestrian walkway.¹⁰³⁵ Transportation agencies use several sets of federal accessibility standards to ensure that transportation facilities qualify as accessible under the ADA.¹⁰³⁶ For example, both the U.S. DOT and the DOJ have the authority to publish access standards.¹⁰³⁷ The standards are designed to ensure that any transportation service, program, or activity “when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.”¹⁰³⁸

The overlap between the federal accessibility requirements and pedestrian, bicycle, and other non-motorized transportation facilities primarily arises in two circumstances. First, pedestrians, bicyclists, and other non-motorized transportation users often use transportation facilities that are required to meet specific federal requirements for individuals with disabilities, such as outdoor developed areas, including trails. Likewise, individuals with disabilities often use the same transportation facilities designed for pedestrian, bicycle, and other non-motorized transportation. New guidelines and standards are continuously being developed to address all types of facilities. For example, new guidelines regarding public right-of-way, including sidewalks, intersections, street crossings, and on-street parking, and shared use paths are being developed in order to ensure these means of transportation and recreation are accessible to indi-

viduals with disabilities.¹⁰³⁹ For this reason, federal access standards should be referenced and included in the planning, construction, and maintenance of pedestrian, bicycle, and other non-motorized transportation facilities impacted by the ADA and related accessibility regulations to ensure legally required access by transportation users of all abilities

8.4.2 ENSURING FACILITIES ARE ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES

The U.S. DOT and DOJ,¹⁰⁴⁰ along with the United States Access Board,¹⁰⁴¹ are responsible for publishing regulations and approving standards and guidelines for accessibility for individuals with disabilities.¹⁰⁴² The regulations, standards, and guidelines promulgated by these federal authorities include an explanation of the scope of the requirements, including a description of the transportation facilities that must be designed to meet the accessibility standards.¹⁰⁴³ This is to ensure that no individual is denied access to transportation services because of his or her disability. These laws apply to MnDOT, the Met Council, and county and municipal road authorities responsible for the construction and design of applicable transportation facilities. The Access Board develops advisory information for, and provides appropriate technical assistance to, individuals or entities with rights or duties under the regulations and guidelines.¹⁰⁴⁴ State and local transportation authorities that fail to follow these standards and guidelines can lead to discrimination against individuals with disabilities in violation of federal law.

Minnesota law also includes some specific accessibility requirements to the transportation system for individuals with disabilities. For example, Minnesota law specifically requires that new facilities or stations used in the provision of public transportation services, such as intercity and commuter light and rapid rail transportation, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.¹⁰⁴⁵ This requirement also applies to private entities constructing these facilities.¹⁰⁴⁶ This provision relates to pedestrian, bicycle, and other non-motorized transportation as it frequently interacts with transit facilities. (See Transit Discussion.)

Temporary Pedestrian Access Routes

When pedestrian facilities are impacted by maintenance or construction, Temporary Pedestrian Access Routes (TPARs) must be provided to the maximum extent feasible. TPARs are required to have the minimum attributes of the disturbed route.¹⁰⁴⁷ Creating an inclusive environment is an ADA requirement. MnDOT adopted the guidelines for TPARs under the Public Right-Of-Way Accessibility Guidelines (PROWAG), first published in November 2005.¹⁰⁴⁸ The Minnesota Manual on Uniform Traffic Control Devices (MMUTCD) also requires that pedestrian and bicyclist accessibility be maintained during construction or maintenance.¹⁰⁴⁹

8.4.3 LIMITATIONS ON ACCESSIBILITY REQUIREMENTS

While specific transportation services and facilities are required to be accessible to individuals with disabilities, there are some exceptions where accessibility may not be required. Where transportation authorities can show that meeting the ADA accessibility requirements will result in an unreasonable burden on the agency, the transportation authority may not be required to undertake those improvements.¹⁰⁵⁰ In these situations, the entity overseeing the design and construction of the new facility must show that it is structurally impracticable to meet ADA requirements.¹⁰⁵¹ However, full compliance will only

be considered impracticable in rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.¹⁰⁵² Impracticability can be based on different factors, including the structural feasibility of making the facility accessible,¹⁰⁵³ the cost of making a facility or service accessible,¹⁰⁵⁴ and whether the facility or service will in fact benefit individuals with disabilities.¹⁰⁵⁵

Chapter 9

Ambiguities, Conflicts, And Statutory Barriers

This review of federal and Minnesota law has identified statutory ambiguities, legal barriers, and conflicts between different laws regarding pedestrian, bicycle, and other non-motorized transportation. Identifying statutory barriers to Complete Streets implementation is also required under the Laws of Minnesota 2010, chapter 351, section 72. Therefore, these findings can also help identify potential barriers to Complete Streets.^{†††}

These issues are briefly summarized in this section, but they also appear throughout the report.

9.1 Legal Framework Supporting Pedestrians, Bicycles, and Non-Motorized Transportation

9.1.1 COORDINATION, CONSULTATION, AND COOPERATION BETWEEN GOVERNMENTAL ENTITIES

Laws often encourage or require different governmental entities to work together to develop and implement different aspects of the transportation system. In doing so, both Minnesota and federal law use a combination of the terms “coordination,” “consultation,” and “cooperation.” While these terms might seem interchangeable, they may have different legal meanings and require different actions depending on the context in which the term is used. While Minnesota law does not provide clear definitions for these terms, federal law defines them with regard to highway systems.

Key Definitions (Federal Law):

Cooperation:

The parties involved in carrying out the planning, programming and management systems processes work together to achieve a common goal or objective.¹⁰⁵⁶

††† Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

Consultation:

One party confers with another identified party and, prior to taking action(s), considers that party's views.¹⁰⁵⁷

Coordination:

The comparison of the transportation plans, programs, and schedules of one agency with related plans, programs, and schedules of other agencies or entities with legal standing, and adjustment of plans, programs, and schedules to achieve general consistency.¹⁰⁵⁸

Cooperation is often used in Minnesota law to require a certain governmental entity to work with other governmental entities in developing or carrying out a program or policy.¹⁰⁵⁹ For instance, the Met Council and the regional development commissions shall develop regional long-range transportation policy plans in cooperation with MnDOT and local units of government.¹⁰⁶⁰

Similar to cooperation, Minnesota law uses consultation when requiring a governmental entity to take into account others' opinions when developing or deciding on a particular plan or program.¹⁰⁶¹ For example, the state bikeway program established by MnDOT must be developed after consultation with the State Trail Council, local units of government, and bicyclist organizations.¹⁰⁶²

Minnesota law generally uses the term coordinate in regard to programs or plans that are in some manner dependent on each other.¹⁰⁶³ For example,

A municipality that prepares a community-based comprehensive municipal plan shall coordinate its plan with the plans, if any, of the county and the municipality's neighbors both in order to prevent the plan from having an adverse impact on other jurisdictions and to complement the plans of other jurisdictions.¹⁰⁶⁴

When no definition or further guidance surrounding the term exists, Minnesota law's use of coordination, cooperation, and consultation can be ambiguous, especially since the law uses these terms often and within the same provisions.¹⁰⁶⁵ Consistent and clear definitions for these terms together with a sanction or consequence for not following them could alleviate the surrounding ambiguities.

9.1.2 DEFINITION OF CONTEXT SENSITIVE SOLUTIONS

Minnesota's Complete Streets law requires MnDOT to implement a Complete Streets policy that integrates "principles of context-sensitive solutions."¹⁰⁶⁶ Yet, Minnesota law does not provide a definition of context-sensitive solutions for MnDOT to use. The failure of Minnesota law to provide a definition of context-sensitive solutions while requiring MnDOT to integrate these principles into the mandatory Complete Streets policy is a barrier to the implementation of Complete Streets in Minnesota.

9.1.3 DISTINGUISHING BETWEEN LEGALLY ENFORCEABLE STANDARDS AND GUIDELINES

Transportation facility standards and guidelines issued by governmental authorities are written in a sim-

ilar manner to statutes and regulations and consequently sound alike.¹⁰⁶⁷ In fact, many laws take their language from standards and guidelines developed by expert organizations because the governmental authority drafting the law (legislature or agency) adopts the standards or guidelines into the law. In general, standards and guidelines are only legally enforceable if specifically incorporated into statutes or regulations, or referenced in law.¹⁰⁶⁸ Otherwise, they are generally provided as recommendations and best practices rather than requirements.¹⁰⁶⁹ For example, the ADA Standards for Transportation Facilities incorporated into the Code of Federal Regulations almost exactly match the ADA and ABA Accessibility Standards and Guidelines for Buildings and Facilities.¹⁰⁷⁰ As a result, it can be difficult for the public to differentiate between a legally enforceable provision and one that is not based solely on the provision's language.

9.2 Civil and Human Rights

9.2.1 LEGAL PROTECTIONS OF INDIVIDUALS WITH DISABILITIES

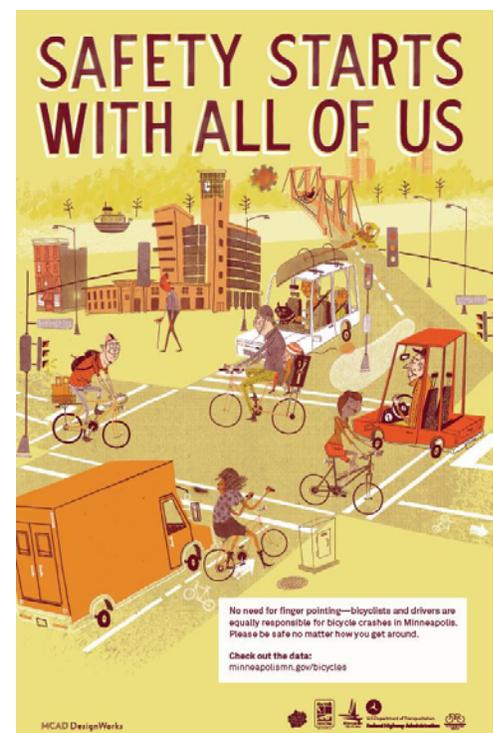
The definition of disability in Minnesota's Human Rights Act goes beyond the federal definition. Under federal law a disability must "substantially" limit a disabled person's major life activities to be covered under the ADA. However, the Minnesota Human Rights Act only requires that the disability "materially" limit one or more major life activities.¹⁰⁷¹ This lesser standard lowers the bar individuals must meet to demonstrate that they have a disability.¹⁰⁷² However, no Minnesota court has found that a disability that "materially" limited an individual's ability did not also "substantially" limit an individual's ability, rendering the practical distinction between the two standards unclear.¹⁰⁷³

9.2.2 ENVIRONMENTAL REVIEW OF THE CONSTRUCTION OF PEDESTRIAN, BICYCLE, AND NON-MOTORIZED TRANSPORTATION FACILITIES

Pedestrian and bicycle projects are generally exempt from Environmental Review as categorical exclusions under both NEPA and MEPA. Both NEPA and MEPA specifically exclude the construction of pedestrian and bicycle facilities as stand-alone projects from environmental review. However, federal and Minnesota environmental laws do not indicate how this exclusion should apply if pedestrian and bicycle facilities are part of a larger project that must undergo environmental review. It is also unclear how the Executive Order on Environmental Justice applies to the exclusion of pedestrian and bicycle facilities.

9.2.3 USE OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES ON ROADWAYS

Individuals using electric personal assistive mobility devices may only use the device on a roadway under specific circumstances, including "while making a direct crossing of a roadway in a marked or unmarked crosswalk."¹⁰⁷⁴



Crosswalks are legally defined as “that portion of a roadway ordinarily included with the prolongation or connection of the lateral lines of sidewalks at intersections” or “any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.”¹⁰⁷⁵

Using this definition, a “marked crosswalk” would be “any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface,” while an “unmarked crosswalk” would be the “prolongation or connection of the lateral lines of sidewalks at intersections” as this portion of the crosswalk definition does not involve specific markings on the surface.

As a result, an individual using an electric personal assistive mobility device is restricted from crossing a roadway at an intersection without sidewalks or a marked crosswalk. This is a statutory barrier to Complete Streets and accessibility of individuals utilizing electric personal assistive mobility devices because of a disability and relying on sidewalks to enable them to cross a roadway.

9.3 Safety Issues

9.3.1 ENSURING THE SAFETY OF PEDESTRIANS, BICYCLISTS, AND OTHER NON-MOTORIZED TRANSPORTATION

Current laws may not adequately protect the safety of pedestrians, bicyclists, and other non-motorized transportation users. Except when specifically prohibited by law, roads and highways are shared-use facilities and can be used by pedestrians, bicyclists, and other non-motorized transportation users. While use of these facilities can increase non-motorized transportation user access to the transportation system, such use can be unsafe and inconvenient for those users. For example, on roadways without sidewalks or bicycle lanes, the rights and responsibilities of each transportation user may overlap and/or be unclear. This may cause confusion regarding rights of way or different paths of travel and result in accidents. This is especially a concern for non-motorized transportation users on highways with high speed limits.

9.3.2 REPORTING ACCIDENTS INVOLVING PEDESTRIANS, BICYCLISTS, AND NON-MOTORIZED VEHICLES

Minnesota traffic regulations require reporting of accidents involving vehicles that result in bodily injury or death of any individual to a local police department if the accident occurred in a municipality, to the state patrol if it occurs on a state trunk highway, or to the county sheriff.¹⁰⁷⁶ This law creates ambiguities and potential statutory barriers to the implementation of Complete Streets in two ways: the actual publication of traffic accidents (Minnesota Crash Facts) does not include all accidents involving pedestrians, bicyclists, and other non-motorized transportation; and accidents involving pedestrians, bicyclists, and non-motorized transportation on railroad property and trail systems may not fall under the scope of these traffic regulations.

9.3.2.1 Traffic Accident Publication

DPS is required to tabulate and publish statistical information regarding the number and circumstances

of traffic accidents to inform the public and better address potential traffic hazards.¹⁰⁷⁷ Minnesota Crash Facts is the title of the formal report. Minnesota Crash Facts explicitly states that crash information is not included in the publication¹⁰⁷⁸ for pedestrian/rail, pedestrian/bicycle, and bicycle crashes not involving motor vehicles, despite several pedestrian/bicycle fatalities on light rail lines in the Twin Cities metro area.¹⁰⁷⁹ Additionally, Minnesota Crash Facts only publishes information of motor vehicle traffic accidents that occur on roadways.

9.3.2.2 Limitations to Requirements of Accident Reporting

The requirement to report and publish traffic accidents is included in Minnesota's Traffic Regulations.¹⁰⁸⁰ These regulations only apply to the operation of vehicles upon highways, and upon highways, streets, private roads, and roadways situated on property owned, leased, or occupied by the regents of the University of Minnesota, or the University of Minnesota.¹⁰⁸¹ In addition, Minnesota law specifically excludes devices used exclusively on stationary rails or tracks from the definition of a vehicle, such as railroad trains, light rail trains, and street cars on stationary tracks. (Minnesota law defines a vehicle as "every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks."¹⁰⁸²)

As a result, Minnesota traffic regulations do not require reporting accidents on railroad property involving pedestrians and trains, or on other facilities, such as recreational trails, not covered by these traffic regulations. For this reason, accident reports may not capture many accidents impacting pedestrians, bicyclists, and other non-motorized transportation users.

The absence of public information regarding all accidents involving pedestrians, bicycles, and other non-motorized transportation accidents hinders the understanding of risks and safety of all transportation users and facilities. This could also impact the development of design standards that address the safety of facilities. The failure of the law to adequately account for all accidents involving pedestrians, bicyclists, and non-motorized transportation users is a statutory barrier to the implementation of Complete Streets.

9.3.3 PASSING OF BICYCLES AND PEDESTRIANS

Vehicles passing a bicycle or other individual proceeding in the same direction on the roadway are required to leave a safe distance, no less than three feet clearance, and maintain this clearance until safely past the bicyclist or individual.¹⁰⁸³ Yet, there is no similar requirement for vehicles to leave a safe distance when passing pedestrians who are walking or moving on the left side of the road against traffic because of no available or accessible sidewalks.¹⁰⁸⁴ The failure of Minnesota law to require vehicles maintain a safe distance when passing pedestrians walking on the road is a barrier to the implementation of Complete Streets.

9.3.4 MAINTENANCE RESPONSIBILITIES FOR BICYCLE AND RECREATIONAL VEHICLE LANES

While Minnesota law generally indicates which governmental entity is responsible for maintaining a particular road, it can be unclear which governmental entity is responsible for maintaining sidewalks, bicycle and recreational vehicle lanes, and other areas beside streets and roads. The following law illustrates this ambiguity:

The responsibility for maintaining bicycle and recreational vehicle lanes within the limits of trunk highway rights-of-way shall be the responsibility of MnDOT when the facility is located immediately adjacent to the roadway (highway shoulder); or the responsibility of the appropriate local or other governmental unit when the facility is separate from the roadway.¹⁰⁸⁵

While this law provides some direction, Minnesota transportation law neither defines “right-of-way” or “separate from the roadway,” nor does it further clarify what the right-of-way includes. Determining the responsible governmental entity for bicycle and recreational vehicle lanes depends on understanding what should be considered within the “right-of-way” or “separate from” a roadway. The lack of a state definition regarding this area makes determining the governmental entity responsible for maintenance of these areas difficult.

A common conception is that a road’s “right-of-way” is the area along that particular road.¹⁰⁸⁶ However, if a road’s right-of-way is the area alongside, at what point is that area or facility considered “within the limits” of the right-of-way or separate from the roadway? Minnesota law frequently refers to different roads’ rights-of-ways¹⁰⁸⁷ and alludes to what a right-of-way may be or include. For example,

- “Right-of-way” statutes use the phrases “within the limits of any highway” and “on or along any highway.”¹⁰⁸⁸
- The minimum widths of right-of-way for state aid routes must be at least 60 feet within cities and 66 feet in rural areas.¹⁰⁸⁹
- Additional widths of right-of-way for state aid routes may be necessary to properly maintain the ditch section, drainage structure, and the clear zone.¹⁰⁹⁰
- Lands and properties may be required for a state aid route right-of-way to accommodate the design width of the street or highway, including necessary width for sidewalks and bicycle paths.¹⁰⁹¹
- Certain funds are available for bicycle paths and sidewalks only if located within the permanent right-of-way of a certain state aid route or within an easement generally parallel with a state aid route.¹⁰⁹²

These transportation laws use the term “right-of-way” in connection with roads, ditches, and specific widths required for bicycle paths and sidewalks. Although these facilities are associated with a right-of-way, there is still no transportation law that defines the term.

In the absence of a definition of a road “right-of-way” in Minnesota’s transportation law, some groups have relied on the definition of a “right-of-way” from Minnesota’s Telephone, Telegraph, Telecommunications statute.¹⁰⁹³ The definition of a public right of way from this statute is:

The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the local government unit has an interest, including other dedicated rights-of-way for travel purposes and utility easements of local government units.¹⁰⁹⁴

This definition seems to suggest that it would apply to transportation laws and facilities and would help

inform the meaning of a road's "right-of-way" and its maintenance. However, this definition's location within the Telephone, Telegraph, Telecommunications statute and the lack of reference to it within transportation laws suggest that this definition does not apply to transportation facilities for the purpose of defining maintenance responsibility. It leaves the meaning of "right-of-way" and what it includes unclear within Minnesota law.

Further guidance may be found in the federal Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way; Shared Use Paths, defining public right of way as:

Public land or property, usually in interconnected corridors, that is acquired for or dedicated to transportation purposes.¹⁰⁹⁵

These guidelines and their applicability to certain transportation facilities are, however, currently under review as part of a proposed rulemaking process. Accordingly, the scope and applicability of this definition may change or be clarified when the final rule is published. (For more information on these guidelines, see Federal and State Standards and Guidelines.)

9.3.5 PEDESTRIAN RIGHTS TO CROSS INTERSECTIONS AT UNMARKED CROSSWALKS

Minnesota law is ambiguous in regards to the rights of pedestrians crossing roads at intersections controlled by traffic signals that do not have sidewalks. Minnesota law indicates that:

Pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk. Every driver of a vehicle shall yield the right-of-way to such pedestrian, except that the pedestrian shall yield the right-of-way to vehicles lawfully within the intersection at the time that the green signal indication is first shown.¹⁰⁹⁶

Crosswalks are legally defined as "that portion of a roadway ordinarily included with the prolongation or connection of the lateral lines of sidewalks at intersections" or "any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface."¹⁰⁹⁷

Using this definition, a "marked crosswalk" would be "any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface." An "unmarked crosswalk" would be the "portion of a roadway ordinarily included with the prolongation or connection of the lateral lines of sidewalks at intersections" as this portion of the crosswalk definition does not involve specific markings on the surface.

Accordingly, at a signalized intersection without sidewalks, if there is no marked crosswalk, a pedestrian does not have the right-of-way even when facing a sole green signal. A pedestrian at an intersection without sidewalks and facing a green signal that is not specifically for pedestrian traffic might assume that the green traffic signal also gives that pedestrian the right to proceed. Strangely, in the absence of any crosswalk (marked or not) and sidewalks, the pedestrians crossing an intersection without a signal have the right of way.¹⁰⁹⁸ The two statutes governing pedestrians' right of way when crossing at signalized and unsignalized intersections are in conflict; at unsignalized intersections, the pedestrians' right to cross is

not tied to the existence of a marked or unmarked crosswalk but at signalized intersections, the pedestrians' right to cross is tied to the existence of marked or unmarked crosswalk.

9.3.6 PEDESTRIAN SAFETY WHEN WALKING ON LEFT SIDE OF ROADWAY

When sidewalks are not available or accessible, pedestrians are required, when practicable, to walk or move on the left side of the roadway or its shoulder and give way to oncoming traffic. The requirement that pedestrians “give way to oncoming traffic” may not be possible in many situations, especially if the individual is using a wheelchair and there is a curb. Likewise, if the shoulder is unpaved, individuals using a wheelchair may not have an accessible transportation facility available to them. The lack of safe and accessible options for pedestrians walking against traffic is a barrier to the implementation of Complete Streets.

9.3.7 STOPPING AT SIDEWALKS

Drivers of vehicles within business or residential districts emerging from an alley, driveway, or building must stop the vehicle prior to driving on a sidewalk or into the sidewalk area and yield the right-of-way to any pedestrian or other traffic on the sidewalk.¹⁰⁹⁹ However, there is no similar requirement that vehicles yield to pedestrians and other traffic on the sidewalk when pulling into an alley, driveway, or building. The failure to require vehicle drivers to yield the right-of-way to pedestrians or other traffic on the sidewalk when pulling into an alley, driveway, or building is a barrier to the implementation of Complete Streets.

9.3.8 IMPACT OF ON-STREET PARKING ON PEDESTRIANS, BICYCLES, AND NON-MOTORIZED TRANSPORTATION

On-street parking can conflict with non-motorized travel if there is not a separate facility for pedestrians, bicyclists, and other non-motorized transportation users. On streets without bicycle lanes, for instance, bicyclists and motorists may be confused as to who has the right of way. As a result, on streets without clearly marked parking and bicycle lanes, bicyclists are more likely to veer closer to parked vehicles when being passed by a motorist, putting them at greater risk for colliding with an opening car door.¹¹⁰⁰ Unless roads are carefully planned out and clearly marked, parked vehicles on shoulders or roads can be a barrier to safe pedestrian, bicycle, and other non-motorized travel. Absence of laws governing rights of different road users under these circumstances creates an ambiguity.



9.3.9 SAFETY OF PEDESTRIANS, BICYCLES, AND NON-MOTORIZED TRANSPORTATION ON SHOULDERS

Minnesota law includes different definitions of shoulder that create ambiguity regarding the use of shoulders for pedestrian, bicycle, and other non-motorized transportation on different types of roadways. For example, whether or not a roadway includes the shoulder can impact whether signage at a railroad crossing must be visible to non-motorized transportation users on the shoulder.

In the absence of specific pedestrian and bicycle facilities, bicyclists and pedestrians can travel along and across roads, streets, highways, and bridges using the shoulder. In the absence of both specific pedestrian and bicycle facilities and a shoulder, bicycling and pedestrian travel is allowed on the road. As a result, the rights and responsibilities of non-motorized transportation users vary depending on which transportation facilities are available for their use.

9.4 Applying Minnesota Transportation Laws to Pedestrians, Bicycles, and Non-Motorized Transportation

9.4.1 APPLICABILITY OF MINNESOTA TRAFFIC REGULATIONS TO PEDESTRIAN, BICYCLE, AND NON-MOTORIZED TRANSPORTATION ON TRAILS AND OTHER OFF-ROAD FACILITIES

The traffic regulations in Minnesota Statutes apply exclusively to the operation of vehicles operated:

- Upon highways, and
- Upon highways, streets, private roads, and roadways situated on property owned, leased, or occupied by the University of Minnesota with certain exceptions.¹¹⁰¹

Accordingly, all vehicle operators, including non-motorized vehicle drivers, must comply with traffic rules while on highways (defined broadly to include all roads for purposes of vehicular traffic¹¹⁰²) and University of Minnesota property. It is unclear then which rules govern traffic on non-motorized facilities such as pedestrian bridges and bicycle paths and trails. On sidewalks, a person bicycling must yield to pedestrians. Likewise, it is unclear which rules apply to traffic on recreational facilities such as state and forest trails under the authority of the Minnesota DNR. As a result, without proper signage it is unclear who has the right of way, if anyone, when pedestrians, bicyclists, horseback riders, inline-skaters, and other non-motorized transportation users encounter each other on these facilities. Sidewalks are different. Bicycling is generally not allowed on sidewalks in business districts.

9.4.2 CLASSIFICATION OF NEW MODES OF TRANSPORTATION AS MOTORIZED OR NON-MOTORIZED

Ambiguities exist concerning the definitions of vehicle, motorized vehicle, and non-motorized vehicle. Minnesota law does not define non-motorized vehicle. It does, however, define motor vehicle as every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires. Motor vehicle does not include an electric personal assistive mobility device or a vehicle moved solely by human power.¹¹⁰³ Minnesota law also defines pedestrian as any person afoot or in a wheelchair.¹¹⁰⁴

However, it is unclear how other uses fit within these classifications. For example, while the legal definition of pedestrian identifies people on foot and using wheelchairs, it does not indicate whether individuals using skates or skateboards are pedestrians or individual drivers of vehicles. Similarly, it is unclear

whether individuals using non-motorized, foot-powered scooters are pedestrians, bicyclists, or neither. This distinction could be important as pedestrians have different rights and responsibilities than drivers of vehicles depending on the location or situation. As one example, the Minnesota Court of Appeals found that the DWI laws did not apply to persons riding two-wheel Segway transportation devices. The Court found that because Minnesota law restricts the use of Segways on highways, a person riding a Segway was technically a pedestrian and not a motor vehicle driver (despite the use of a self-propelled transportation device).¹¹⁰⁵ Such confusion is a result of ambiguous statutory language defining types of transportation users and modes.

There is, however, clarity in the law about people who use assistive devices while operating as a pedestrian. Those using these devices are pedestrians under the law.

9.4.3 REQUIREMENTS TO PROVIDE LINKS BETWEEN DIFFERENT TRANSPORTATION FACILITIES FOR PEDESTRIANS, BICYCLES, AND NON-MOTORIZED TRANSPORTATION

Pedestrians, bicyclists, and other non-motorized transportation users often move between different transportation facilities. For example, a bicycle lane may end on a major highway and continue on as a trail. To accommodate this, Minnesota law requires MnDOT to provide for the interconnection and coordination of different modes of transportation in its statewide transportation plan.¹¹⁰⁶ However, further specification regarding design and construction standards for such connections is not provided. The Minnesota Manual on Traffic Control Devices is one way these interactions can be managed and designed. Also, MnDOT has rule making authority for bicycle and recreational vehicle lanes.¹¹⁰⁷ MnDOT's rule-making can provide specificity regarding interconnection and coordination between different modes of transportation through the transportation system. These administrative rules include standards and other components to design bicycle and pedestrian facilities as well as recreational vehicles. The ambiguities raised include how these connections are classified and subsequently governed and whether they are considered transportation facilities. If shared use facilities are located in the public right-of-way, such as street crossings and intersections, ADA standards and guidelines apply.



9.4.4 TYPES OF CROSSING

Crossing is a term used throughout federal and Minnesota law to refer to specifically designated crossings as well as more general and undefined crossings. A crossing can be a specific point where pedes-

trians cross another transportation facility, such as pedestrian safety crossings and crossings for seniors or disabled persons. A crossing can also be a place where a pedestrian crosses other transportation facilities, such as a road, at an unmarked intersection.¹¹⁰⁸ Minnesota’s Complete Streets law also uses the term crossing, indicating how Complete Streets consider the needs of motorists, pedestrians, transit users and vehicles, and bicyclists moving along and across roads, intersections, and crossings in a manner that is sensitive to the locality and recognizing how needs vary in urban, suburban, and rural settings.¹¹⁰⁹ The inconsistent use of the term crossing creates some ambiguity regarding the rights and responsibilities of individuals crossing at informal crossings. For example, in 2000, the legislature removed the term “unmarked crosswalk” from Minn. Stat. § 169.21 and replaced it with the words, “at an intersection with no marked crosswalk.”¹¹¹⁰ However, the term “unmarked crosswalk” still remains in other places in the statutes. See Minn. Stat. §§ 169.06, subd. 5(1) iii; 169.212 (2013). Pedestrians’ right of way is tied to the existence of “unmarked crosswalks” in some statutes. This inconsistency is a statutory barrier to clearly defining the pedestrians’ rights.

9.4.5 USE OF “RECREATIONAL VEHICLE” IN MINNESOTA LAW

Under Minnesota law, the definition of recreational vehicle lanes explicitly includes a provision for the construction of bicycle and pedestrian facilities,¹¹¹¹ whereas the definition of recreational vehicle generally excludes bicyclists and pedestrians, focusing on motorized vehicles.¹¹¹² Recreational vehicle lanes are, however, often discussed in conjunction with bicycle lanes, suggesting similarities and differences. For example, the recreational vehicle lanes statute indicates, “it is in the interests of the public health, safety and welfare, to provide for the addition of bicycle and recreational vehicle lanes to proposed and existing public highways.”¹¹¹³ The different uses of the term recreational vehicle in Minnesota law creates ambiguity regarding whether recreational vehicle also includes transportation by bicycle and whether recreational vehicle lanes are limited to motorized vehicles, or whether they also support pedestrian, bicycle, and other non-motorized transportation.

9.4.6 PEDESTRIAN, BICYCLE, AND NON-MOTORIZED TRANSPORTATION ACCESS TO TRANSPORTATION FACILITIES

Bicycling and pedestrian travel is legal on most roads, streets, and highways. However, Minnesota law allows MnDOT and other public authorities to prohibit pedestrians, bicycles, or other non-motorized traffic on controlled-access highways if they are found to be incompatible with the normal and safe flow of traffic.¹¹¹⁴ Yet, there is no clear guidance in the law as to what the “normal and safe flow of traffic” is or who ultimately decides what is incompatible with the normal and safe flow of traffic.

Minnesota law allows MnDOT and local road authorities to restrict bicycle use on roads when they would impede the regular flow of traffic, even though bicycles themselves are one component of the legal definition of traffic.¹¹¹⁵ In addition, the law does not define what “impeding the regular flow of traffic” entails or what traffic impediment would warrant restriction of bicycle access. Although bicycles fit within the legal definition of “traffic,” it is unclear whether a bicyclist moving at a normal pace for bicycle traffic and is not impeding other traffic would be restricted from road use. A bicycle that is traveling slower than a car should not be restricted for not going as fast as, since there is no minimum speed limit on most roads.

9.4.7 SCHOOL DISTRICT SUPPORT FOR WALKING AND BICYCLING TO SCHOOL

School districts are required to ensure that students are able to get to and from public school, mainly through busing.¹¹¹⁶ However, school districts are not required to provide busing to students living within a certain distance from the school (as determined by school district policies),¹¹¹⁷ presumably because these students are able to walk or bike to school.

Schools and school districts do not have any specific legal responsibility to ensure that students are able to safely walk and bike to school. While the Safe Routes to School (SRTS) movement and rules allowing schools to implement safety patrols provide some additional resources to support children walking and biking to school, neither federal nor Minnesota law requires schools to support walking and biking to school in the same way that they must provide busing or other motorized transportation. There is an absence of laws addressing how school children can safely and easily use roads for transportation to and from school. This focus on motorized transportation may create a barrier to expanding opportunities for children to walk or bike to school.

9.4.8 MNDOT'S AUTHORITY TO IMPLEMENT STATE BIKEWAY PROGRAM NOT ON THE STATE HIGHWAY SYSTEM

MnDOT is required to establish a program for the development of bikeways primarily on existing road rights-of-way. This program is required to include a system of bikeways that are established, developed, maintained, and operated by MnDOT.¹¹¹⁸ While MnDOT is responsible for developing the program after consultation with the State Trail Council, local units of government, and bicyclist organizations,¹¹¹⁹ the law does not indicate what authority MnDOT has to implement the bikeway program, especially on road rights-of-way over which MnDOT does not have authority (i.e., county state aid roads and municipal state aid streets). While MnDOT has sole jurisdiction to establish, design, and construct bicycle or recreational vehicle lanes on state trunk highway rights-of-way, the law is ambiguous in regards to the authority of MnDOT to actually establish, develop, maintain or operate bikeways not on MnDOT right-of-way.

9.5 Planning and Funding a Transportation System Supporting Pedestrian, Bicycle, and Non-Motorized Transportation

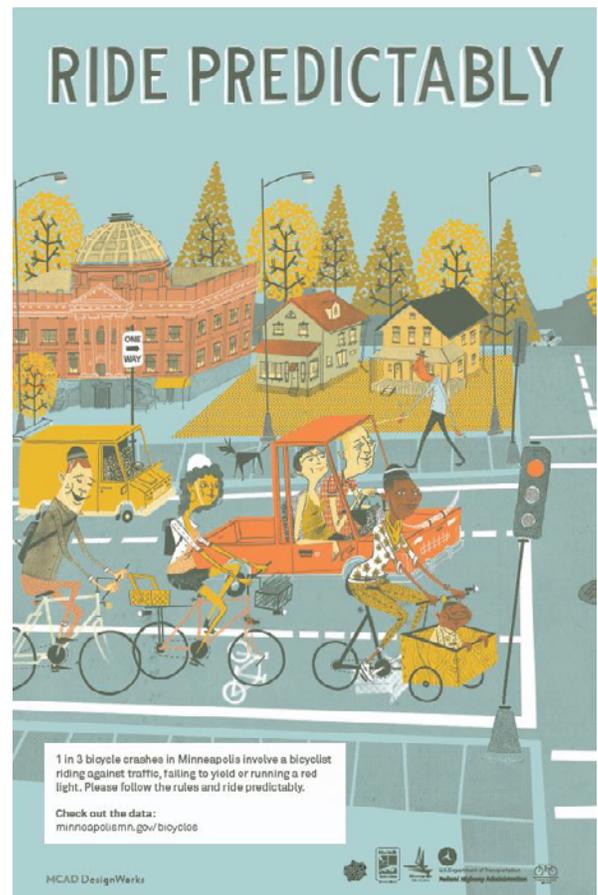
9.5.1 DISTINGUISHING BETWEEN RECREATION AND TRANSPORTATION

The difference between a transportation facility and a recreation facility can impact the funding available to plan, construct, and maintain different facilities. Funding for bicycle and pedestrian facilities is connected to the primary function and purpose of the facility, generally separated into recreation or transportation. As a result, the definition of recreation versus transportation is important in the funding and programming of projects. Federal guidance provides that any closed loop facility, such as a path around a lake with no other access by another transportation facility, is for recreational rather than transportation purposes.¹¹²⁰ In contrast, facilities capable of leading a user from one point to another, such as a path or trail from a park to a school, are transportation facilities.¹¹²¹ The purpose for which a person happens to be using a facility is generally not the determining factor. This distinction matters for funding purposes

because certain funding will only fund certain types of facilities.¹¹²² While the law makes this distinction, it is not obvious to those using these facilities, especially when the same facility is used for both transportation and recreation.

9.5.2 INVOLVEMENT OF MINNESOTA METROPOLITAN PLANNING ORGANIZATIONS IN PEDESTRIAN, BICYCLE, AND NON-MOTORIZED TRANSPORTATION UNDER MINNESOTA LAW

Metropolitan Planning Organizations (MPOs) are technically a creation of federal transportation law. However, federal law requires states, including Minnesota, to work with MPOs for statewide and regional transportation planning. Minnesota law also provides direction to MPOs in the state. For example, Minnesota law specifically discusses the role of the Met Council in transportation planning and provides additional requirements to support and address the needs of pedestrian, bicycle, and other non-motorized transportation that go beyond those found in federal law. However, Minnesota law provides little direction regarding the role of other Minnesota MPOs in supporting and addressing the needs of pedestrian, bicycle, and other non-motorized transportation outside of the Twin Cities metropolitan area. The lack of direction to other MPOs throughout the state may limit the creation of regional transportation systems supporting pedestrian, bicycle, and other non-motorized transportation in these other metropolitan areas.



CONCLUSION

The transportation system exists to support transportation and travel for all individuals. But, this system does not exist in a vacuum. Federal and state laws create a vast and comprehensive framework that seeks to ensure that the transportation system exists in harmony with other national priorities and goals, including civil rights protections, the environment, economy, and educational and health systems, to name a few. The transportation system, by its nature, has evolved in response to developments in different national and regional priorities and the changing face of transportation as different modes have developed. In spite of these changes, pedestrian, bicycle, and other non-motorized transportation remain a critical, integral, and fundamental part of the transportation system. Minnesota and federal laws provide both the framework for who is responsible for creating, constructing, operating, and maintaining the system and specific direction and details regarding what elements or facilities the system will include.###

The governmental entities responsible for different aspects of the transportation system are far ranging and encompass agencies at the federal, state, tribal, and local levels. MnDOT is primarily responsible for ensuring that Minnesota's transportation system functions appropriately and meets the needs of all users.¹¹²³ At the same time, MnDOT must work closely with other road authorities responsible for specific roads, highways, and other transportation facilities under their jurisdiction.¹¹²⁴ Coordination between and among governmental entities is a common theme for developing and maintaining pedestrian, bicycle, and other non-motorized transportation facilities and programs. Intergovernmental cooperation and public involvement are both critical to ensuring that the transportation system is planned and designed to meet the needs of all users and provides a seamless multimodal system throughout the state. Bicycle, pedestrian and non-motorized transportation goes beyond the road and street network. It includes the use of trails and paths that are located throughout the state.

While Minnesota's Complete Streets law provides a vision for a transportation system that addresses the safety and accessibility needs of users of all ages and abilities, there are many laws that address aspects of pedestrian, bicycle, and non-motorized transportation that go far beyond Minnesota's Complete Streets law. As Minnesota looks to the future, addressing the needs of pedestrian, bicycle, and other non-motorized transportation remains a fundamental and critical component of the planning, development, construction, operation, and maintenance of all aspects of the transportation system. This review of federal and Minnesota laws regarding pedestrian, bicycle, and other non-motorized transportation provides insight into the breadth and depth of laws that protect, provide support for, and encourage bicycle and pedestrian transportation. Minnesota and federal laws affirm MnDOT's mandate to provide an integrated and multimodal transportation system, including bicycle and pedestrian transportation.¹¹²⁵ All levels of government, federal, state, regional, and local, are involved in providing bicycle and pedestrian transportation facilities to meet the needs of all users.

Legal citations are in the endnotes found at the end of this document. This citation style was used to increase readability and flow of the report. Readers may click on the endnote number at the end of words or phrases to bring them to the citation within the endnote section, and click on the endnote number in the endnote section to bring readers back to the body of the report where the applicable word or phrase is located.

APPENDICES

Appendix A Applicable Federal Law

Appendix B Applicable Minnesota Law

Appendix C Case Summaries

Appendix D Classes of Transportation Users

Appendix E Categories and Chapters of Minnesota Laws Related to Non-Motorized Transportation

PHOTO ATTRIBUTIONS

- Image 1 (bicyclists on Midtown Greenway, Minneapolis) – © Public Health Law Center.
- Image 2 (bus in Uptown, Minneapolis) – © Public Health Law Center.
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- Image 24 (bicycle/pedestrian bridge over river) – © Frank Kovalchek, <http://www.flickr.com/photos/72213316@N00>.
- Image 25 (bicycle parked on recreation trail) – © McGheiver, <http://commons.wikimedia.org/wiki/User:McGheiver>.
- Image 26 (parking, snow route, and bikeway signs along road) – © Public Health Law Center.
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- Image 32 (bicycle/pedestrian bridge over river) – © Frank Kovalchek, <http://www.flickr.com/photos/72213316@N00>.
- Image 33 (bicyclists on shared-use trail) – © Rails to Trails Conservancy, <http://www.flickr.com/photos/railstotrails>.
- Image 34 (“bicyclists yield to pedestrians” sign) – © Public Health Law Center.
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Image 38 (bicycle/pedestrian bridge) – © Gerry Dincher, <http://www.flickr.com/photos/gerrydincher>.

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Image 45 (Minneapolis “safety starts with all of us” poster) – © City of Minneapolis, MCAD DesignWorks.

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Image 47 (end of a bicycle lane) – © Neal Jennings, <http://www.flickr.com/photos/sweetone>.

Image 48 (Minneapolis “ride predictably” poster) – © City of Minneapolis, MCAD DesignWorks.

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- 436 See, e.g., MINN. STAT. §§123B.86; 123B.88 123B.885; 123B.90 - 123B.92 (2013).
- 437 See MINN. STAT. §§ 123B.84; 123B.86; 123B.88; 123B.92 (2013).
- 438 See MINN. STAT. §§ 86A.02; 86A.05 (2013).
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- 441 MINN. STAT. §§ 85 (2013).
- 442 MINN. STAT. § 86A.03, subd. 3 (2013).
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- 627 23 U.S.C. § 101(a)(29) (2013).
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- 629 23 U.S.C. § 133(b)(6); 23 USC § 217 (2013).
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- ¹¹¹¹ MINN. STAT. § 160.262, subd. 4 (2013).
- ¹¹¹² See, e.g., MINN. STAT. §§ 168.002, subd. 27, 169.011, subd. 62, 169A.03, subd. 16 (2013); MINN. R. 6213.0100, subp. 6, 8810.6000, subp 17 (2013).
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