

MEMORANDUM

TO: St. Anthony Village

FROM: Jay R. Lindgren, City Attorney

DATE: January 30, 2026

I. Introduction

This memorandum briefly analyzes whether the City of St. Anthony Village (“St. Anthony”) may lawfully enact an ordinance prohibiting Immigration and Customs Enforcement (“ICE”) from staging their operations on City Property (or at minimum requiring a permit); requiring ICE to give notice of its operations in St. Anthony; or prohibiting the use of face masks during ICE enforcement operations. This analysis also discusses whether St. Anthony may intervene in ongoing federal litigation contesting ICE operations. Although the law is unsettled and rapidly evolving, *the short answer* is that St. Anthony may enact ordinances governing ICE operations, but those ordinances must be neutrally drafted and may not directly regulate or discriminate against federal officers specifically. In summary:

- An ordinance prohibiting any immigration enforcement (regardless of the identity of the enforcers) on city property passes legal muster.
- An ordinance prohibiting face masks generally and requiring body cameras may also survive legal scrutiny but appears to be on weaker grounds because it regulates federal equipment.
- An ordinance specifically requiring ICE to give notice of operations likely offends principles of intergovernmental immunity because it directly regulates federal operations.
- An ordinance prohibiting evictions exceeds St. Anthony’s police powers.
- St. Anthony could potentially intervene in ongoing federal litigation but should consider whether the benefits justify the potential risk and expense.

II. Analysis

Question: May St. Anthony prohibit federal agents from using city parks and public spaces or otherwise require permits for part?

Short Answer: St. Anthony may enact an ordinance to this effect, but only if the ordinance is neutrally worded, and does not discriminate against federal officers.

Analysis

Intergovernmental immunity prohibits States from discriminating against the Federal Government. *United States v. Washington*, 142 S. Ct. 1976, 1984, 213 L. Ed. 2d 336 (2022). Under that doctrine, the U.S. Supreme Court has stated that states may not regulate the federal government directly or burdening the Federal Government more than other actors. *North Dakota v. United States*, 495 U.S. 423, 434, 110 S. Ct. 1986, 1994 (1990).

St. Anthony will not offend principles of intergovernmental immunity if its proposed ordinance is neutrally drafted and does not discriminate against the federal government. Federal courts routinely uphold such neutral ordinances and statutes. See, e.g., *United States v. New Jersey*, Civil Action No. 20-1364 (FLW) (TJB), 2021 U.S. Dist. LEXIS 14089, at *36 (D.N.J. Jan. 26, 2021) (concluding that a state law did not offend inter-governmental immunity because it did not single out the federal government).

Here, St. Anthony may likely enact an ordinance *generally* prohibiting officials enforcing immigration laws from staging in public parks, provided that the ordinance does not single out federal or ICE officers. Other municipalities in Minnesota have enacted or are considering such provisions. Mayor Jacob Frey, for instance, has already issued an executive [order](#) prohibiting ICE from using parks and public spaces as staging areas, and St. Paul appears to be considering a similar [ordinance](#).

St. Anthony's eventual ordinance may not, however, target ICE or federal officers directly, or it will likely constitute an invalid contravention of intergovernmental immunity. *CoreCivic, Inc. v. Governor of N.J.*, 145 F.4th 315, 319 (3d Cir. 2025) (concluding that a New Jersey statute violated intergovernmental immunity because it directly regulated the federal government by banning contracts that only the federal government could make).

Question: May St. Anthony require ICE to notify the city of their presence in parks?

Answer: St. Anthony may likely not require ICE to inform the City if they intend to operate in the city

Analysis:

Federal law is clear that if St. Anthony's eventual ordinance discriminates against or directly regulates ICE or federal officers, it will violate intergovernmental immunity. *CoreCivic, Inc. v. Governor of N.J.*, 145 F.4th 315, 319 (3d Cir. 2025) (concluding that a New Jersey statute violated intergovernmental immunity because it directly regulated the federal government by banning contracts that only the federal government could make). Requiring ICE agents specifically to wear face masks would offend this principle.

Question: May St. Anthony require law enforcement to wear body cameras and prohibit face masks?

Answer: St. Anthony may likely prohibit face masks and require body cameras for all law enforcement *generally*, but this proposed ordinance could be on weaker legal footing.

Analysis:

As previously discussed, St. Anthony may regulate the activities of law enforcement *generally*. *United States v. New York*, No. 1:25-CV-744 (MAD/PJE), 2025 LX 506308, at *46 (N.D.N.Y. Nov. 17, 2025). St. Anthony may not, however, directly regulate federal officers of discriminate against them. *CoreCivic, Inc.*, 145 F.4th at 319. Here, although St. Anthony should phrase its prospective ordinance neutrally, it nevertheless could be challenged in court as a direct regulation on the equipment and activity of ICE agents.

Question: May St. Anthony prohibit evictions during the pendency of ICE operations?

Answer: St. Anthony may not impose an eviction moratorium specifically responding to ICE actions in the city.

Analysis: A city moratorium on evictions in response to the ongoing ICE presence in the community faces two obstacles. First, St. Anthony would need to show that the eviction provisions of the Minnesota Landlord/Tenant Code would not preempt the moratorium. Second, the moratorium would also need to survive a constitutional challenge under the Contract Clause.

If a state statute and local ordinance contain terms that are irreconcilable with one another, the state statute preempts and thus invalidates the local ordinance. *Graco v. City of Minneapolis*, N.W.2d 756, 816 (Minn. 2020). Under Minnesota law, “a conflict exists where the ordinance forbids what the statute expressly permits.” *Id.* at 760. Minnesota Statutes authorize landlords to evict tenants for, among other things, nonpayment of rent and breaches of the lease. Minn. Stat. § 504B.268, .285, .291. The eviction moratorium would forbid what the state law permits.

Minneapolis, St. Paul, and Roseville recently passed resolutions urging Governor Walz to invoke his emergency powers to declare a state-wide eviction moratorium. St. Anthony could join them and pass a similar resolution to apply pressure on the Governor to exercise his authority under the Emergency Management Act to impose a state-wide moratorium.

A moratorium would also need to survive a Contract Clause challenge. Under the Contract Clause of the U.S. Constitution, a state may not pass a law “impairing the obligation of contract.” U.S. Const., Art. I, § 10. The Contract Clause’s protections apply against local governments as well as states. *Jennissen v. City of Bloomington*, 938 N.W.2d 808 (Minn. 2020). To survive a Contract Clause challenge, St. Anthony would have to show that the eviction moratorium serves a “significant and legitimate public purpose” and that the means are “reasonable” in light of that public interest. During the COVID-19 crisis, Governor Walz used the Emergency Management Act to impose a state-wide eviction moratorium. *Heights Apartments, LLC v. Walz*, 30 F.4th 720, 731–32 (8th Cir. 2022). The government’s interest in protecting citizens from eviction due to the effects of a pathogen is a legitimate government interest. In this case, St. Anthony would be protecting residents from the secondary impacts of the government itself.

Question: May St. Anthony prohibit towing and storage fees during the pendency of ICE operations?

Answer: St. Anthony may prohibit towing and storage fees but must abide by state statutes allowing private property owners to tow cars on their property.

Analysis:

The states and their political subdivisions “historically possess police power to protect public health and safety.” *R.J. Reynolds Tobacco Co. v. City of Edina*, 60 F.4th 1170, 1176 (8th Cir. 2021) (citing U.S. Const. amend. X). The State of Minnesota has delegated authority to the City to enforce traffic laws and regulate motor vehicles. Minn. Stat. § 169.04. That said, Minnesota protects the owners of private property to “authorize . . . the towing of a motor vehicle unlawfully parked on the private property.” Minn. Stat. § 168B.035, subd. 6. Accordingly. St. Anthony must respect this limitation on its ability to preclude towing.

Question: May St. Anthony intervene in ongoing federal litigation regarding ICE operations?

Answer: St. Anthony may intervene, but should consider the best mechanism, and must consider whether the expense justifies the outcome.

Analysis:

The Federal Rules of Civil Procedure allow St. Anthony to intervene in federal suits as a *party* if it has a sufficient legFed. R. Civ. P. 24. Intervention will be a matter for district court discretion. *Keech v. Sanimax USA, LLC*, No. 18-0683 (JRT/HB), 2020 U.S. Dist. LEXIS 9752, at *6 (D. Minn. Jan. 21, 2020). Moreover, intervening as a party would require participating actively in the suit, and would bind St. Anthony to any judgments and orders.

St. Anthony may also choose to submit an *amicus curiae* brief, where it expresses its opinion on the case but is not a party. Federal courts have broad discretion to permit the filing of *amicus curiae* briefs where such submission may assist the Court. See, e.g., *S.E.C. v. Carebourn Capital, L.P.*, No. 21- cv-2114 (KMM/JFD), 2023 WL 4947458, at *1 (D. Minn. Aug. 3, 2023) (“A determination on a request to participate as *amicus curiae* is discretionary, and the court may grant or refuse leave according as it deems the proffered information timely, useful, or otherwise.” (quotation omitted)). This is a less risky option because it would not bind St. Anthony to any ensuing judgments or expose it to liability.

III. Conclusion

Put simply, St. Anthony may legislate to mitigate ICE operations, but any resulting ordinance may not specifically burden or discriminate against federal or ICE officials. St. Anthony may also attempt to intervene in ongoing federal litigation protesting ICE actions but should consider whether the time and effort justifies the expense.