

N.D.A.G. Letter to Furuseth (July 8, 1985)

July 8, 1985

Mr. Peter H. Furuseth
Assistant City Attorney
P. O. Box 1306
Williston, North Dakota 58801

Dear Mr. Furuseth:

Thank you for your letter of June 17, 1985, concerning the authority of a non-home rule city to establish fees for violations of municipal speed limit ordinances where the fees exceed the amount provided in the North Dakota Century Code.

As you note in your letter, this question was addressed in a prior Attorney General's opinion (1982 N.D. Op. Att'y Gen. 188). This particular opinion concluded that a nonhome rule city may not establish a fee for violations of speed limit ordinances where the fee exceeds the amount provided for in N.D.C.C. § 39-06.1-06. This conclusion was reached on the basis of N.D.C.C. § 40-05-06(2) which states that a fee may be established for every violation of a city ordinance regulating traffic so long as the fee does not exceed the limits for the equivalent categories of violations set forth in N.D.C.C. § 39-06.1-06.

With this conclusion I am in complete agreement and can find no indication of any subsequent change of statute to affect the validity of this opinion. It is true that the analysis portion of the 1982 opinion is no longer accurate due to changes in the fee schedules provided for in N.D.C.C. § 39-06.1-06. For example, a violation of a speed limit ordinance is no longer considered a "moving" violation. However, these changes do not affect the overall conclusion that a home rule city may not establish a fee for the violation of a speed limit ordinance where that fee exceeds the amount provided for in N.D.C.C. § 39-06.1-06(3).

Sincerely,

Nicholas J. Spaeth

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