

# PART I

## Form and Structure of the Minnesota County

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### CHAPTER 1: LOCAL GOVERNMENT IN MINNESOTA

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# 1. Local government in Minnesota

Over the years, local governments in Minnesota have become increasingly complex—changing from simple service centers for a largely agricultural society to extended urban areas that serve as hubs for industry, commerce, and recreation. As transportation and communications systems have progressed, the interaction among all levels of government, including local, state, and federal has become necessary in order to provide a growing network of services. This chapter discusses the relationship of local government to state and federal government and outlines the different kinds of local government. Topics include:

## I. General nature of local government

### II. County government

### III. City government

### IV. Town

### V. Special districts

## I. General nature of local government

### A. Local government in the federal system

The U.S. Constitution does not mention local units of government. The division of powers described by the U.S. Constitution is between the states and the national government. The federal constitutional restrictions on the exercise of governmental powers refer to the states and the national government.

U.S. Const. Amend.  
XIV, §1

As creations of the individual states, however, local governmental units are subject to restrictions placed on them by the U.S. Constitution. Like a state, a local government cannot take action to deprive an individual of life, liberty or property without due process of law. The U.S. Constitution authorizes the federal government alone to act in matters of war, interstate commerce, coinage, and bankruptcy. Local governments and states cannot perform these activities.

With the exception of the District of Columbia, the federal government does not create local units of government or set their governmental organization and framework. State governments alone control the existence and powers of local governments within their boundaries.

Because of its superior financial resources, which remain in spite of the deficit, the federal government has maintained an indirect, administrative relationship with local governments. Through the use of loans and grants, the federal government is able to stimulate and regulate certain programs carried out by counties. In some areas, such as housing and redevelopment, federal aid goes directly to cities. In other areas, such as roads, wastewater treatment, and other infrastructure, state agencies administer or distribute federal aid to counties.

The federal government makes several mandates on local governments. Federal laws, such as the Occupational Safety and Health Act, the Fair Labor Standards Act, and other laws, are discussed in later chapters of the *Handbook*.

*City of Tacoma v. Taxpayers of Tacoma*, 357 U.S. 320, 78 S. Ct. 1209 (1958). This statement stems from one apparent interpretation of the case.

The federal government may appoint local governments to act as agents in the exercise of federal functions, as long as state law does not explicitly forbid local governments from acting in the manner requested by the federal government.

## B. Local government in Minnesota

[Minn. Const. art. XII, § 3.](#)

The Minnesota Constitution authorizes the Minnesota Legislature to provide for the “creation, organization, administration, consolidation, division, and dissolution of local government units and their functions, for the change of boundaries thereof, [and] for their elective and appointive officers.”

The term “local government” applies to counties, towns (townships), cities, and special-purpose districts, such as school districts, soil-conservation districts, hospital districts, regional-development commissions, and the Metropolitan Council. All of these units have essentially the same relationship to the state because they are established by state law and are subject to the ultimate control of the state.

[Minn. Const. art. XII, § 4; Minn. Stat. § 410.04.](#)

See [Handbook for Minnesota Cities, Chapter 4.](#)

[Minn. Stat. § 410.16; State v. City of Crookston](#), 252 Minn. 526, 91 N.W.2d 81 (Minn. 1958).

In Minnesota, local governments are subject to the absolute sovereignty of the state Legislature with one limited exception. This exception is in the constitutional home rule provision, which authorizes the enactment of laws that enable any city to establish a charter outlining its form of organization and its governmental powers. Even in this case, however, charter provisions must be in harmony with the Minnesota Constitution and with the state statutes that apply to home rule charter cities. State law can, in certain circumstances, override a charter.

## II. County government

[Minn. Stat. ch. 373](#) contains many provisions concerning the powers and duties of counties, but county authority is found in other statutes as well, particularly in [chapters 370-403](#)

Counties are administrative arms of the state and were created primarily to carry out certain mandates, such as providing welfare and a corrections system. Counties do not have broad powers like cities (see section III), and must have clear statutory authority to provide a service or regulate an activity.

[Minn. Stat. §§ 375.01; 375.025; 375.056.](#)

The governing bodies of counties are county boards, typically with five or seven members. Voters from districts dividing the county elect these board members or commissioners. All citizens, regardless of whether they live in a city, town or unorganized territory, are represented by a county commissioner.

[Minn. Stat. § 382.01.](#)  
[Auditor. Minn. Stat. ch. 384.](#)

In most counties, voters also elect an at-large county auditor, treasurer, sheriff, attorney, and recorder, although these positions may be appointed by the board in some counties.

[Treasurer. Minn. Stat. ch. 385.](#)

[Sheriff. Minn. Stat. ch. 387.](#)

[Attorney. Minn. Stat. ch. 388.](#)

[Recorder. Minn. Stat. ch. 386.](#)

[Minn. Stat. §§ 375.48 - 49](#)

The board also has the power to appoint a county coordinator, whose responsibilities are determined by the board. The coordinator serves at the pleasure of the board.

## A. Forms of County Organization

[Minn. Stat. ch. 375A.](#) Counties have several options for their internal organization. Minnesota's Statutes recognize five formats for the organization of county government, referred to as "plans":

1. The Elected Executive plan;
2. The County Manager plan;
3. The At-Large Chair plan;
4. The County Administrator plan; and
5. The County Auditor-Administrator plan.

### 1. Elected Executive plan

[Minn. Stat. § 375A.02](#)

Under this plan, the chief executive officer of a county is elected by the voters of that county. The executive serves a term of four years. In the event that the position becomes vacant, the remainder of the term can be filled by the board of commissioners. The county executive serves as the administrative head of the county and performs all duties of an executive nature. Unlike a county coordinator, the board does not have the power to assign the executive's duties. The executive may veto any ordinance or resolution approved by the board.

### 2. County Manager plan

This plan is similar in most respects to the Elected Executive plan, except that the chief executive is appointed rather than elected. The largest differences are that, because the county manager is not elected, s/he does not receive veto power and does not have a set term of office.

#### a. Officers

[Minn. Stat. § 375A.04 subd. 2](#)

Under the Elected Executive and County Manager plans, the offices of county auditor, county treasurer, and county recorder are abolished and replaced with appointed department heads with similar duties. The offices of county coroner and county surveyor also become appointed, rather than elected, under the plans.

#### b. Boards and Commissions

[Minn. Stat. § 375A.04 subd. 1](#)

Under the Elected Executive and County Manager plans, administrative boards and commissions are abolished, and their duties are transferred to the county board.

### 3. At-Large Chair plan

Under this plan, all but one member of the board is elected to represent a district of the county. The chair of the board is elected by all the voters in the county, separate from the rest of the members of the board. The chair has a term of four years.

### 4. County Administrator plan

[Minn. Stat. § 375A.06](#)

The County Administrator plan is similar in many ways to the County Manager plan, except that the manager and the board retain less power. Unlike the County Manager plan, under this plan boards and commissions may remain, and county officers are still elected.

### 5. County Auditor-Administrator plan

[Minn. Stat. § 375A.08](#)

In counties where the offices of Auditor and Treasurer have not been combined (see Chapter 3, sec. II.F.3), and where Auditor is an elected office, the office of Auditor may be changed to Auditor-Administrator. The Auditor-Administrator is elected county-wide, and has the powers of a county administrator as described above.

## III. City government

For more information, see [Handbook for Minnesota Cities](#)

[Minn. Stat. § 414.01, subd. 1a \(2\).](#)

[Estimates from the 2000 census.](#)

Under Minnesota law, Minnesota cities are public corporations. The Legislature has described cities as the type of government that “most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes.”

About 80 percent of the people in Minnesota live in cities, even though cities only cover about 4.9 percent of the state’s land area. Since cities are where most people live, the basic goal of city government is to provide services. Elected city officials and city staff form an important pool of governmental experience. In many parts of the state, cities are the main governmental entities.

### B. Classes of cities by population

[Minn. Stat. § 410.01.](#)

For certain legislative purposes, state law divides the 854 cities in Minnesota into four classes based on population.

First Class cities are those with more than 100,000 inhabitants. Once a city becomes a First Class city, it will not lose that status unless its population decreases by 25 percent from the census figure that last qualified it as a First Class city. The cities of Minneapolis, St. Paul, and Duluth are First Class cities.

Second Class cities have populations of more than 20,000, but not more than 100,000. Currently, 48 cities meet this definition.

Third Class cities have populations of more than 10,000, but not more than 20,000. There are 40 cities that meet this definition.

Fourth Class cities have no more than 10,000 residents. There are 763 cities that meet this definition.

Changes in classification, if any, take effect when the secretary of state receives certified copies of the national census.

## C. Types of cities by government structure

See [Handbook for Minnesota Cities, Chapter 3](#) for Statutory Cities.

See [Handbook for Minnesota Cities, Chapter 4](#) for Home Rule Charter Cities

Minnesota has two basic types of cities: statutory cities and home rule charter cities. The Handbook for Minnesota Cities discusses these two types of cities in detail, but here is some basic information that describes their differences.

### 1. Statutory cities

[Minn. Stat. ch. 412.](#)

Most cities in Minnesota are incorporated as statutory cities. They operate under Chapter 412 of the Minnesota Statutes, commonly known as the statutory city code, and under a number of other statutes that apply to all cities. Although all statutory cities possess the same basic powers, the code permits them to select one of several forms of organization. The Legislature may, at its discretion, change any part of the city code. There are 747 statutory cities.

### 2. Home rule charter cities

[Minn. Stat. ch. 410.](#)

Currently, 107 cities have adopted home rule charters. State law allows any city to adopt a charter, which in effect is a local constitution approved by the local voters. Cities have a wide range of discretion in adopting charters; charters may provide for any form of city government subject only to state laws that uniformly apply to all cities in the state.

### 3. How to change from a statutory city to a home rule charter city

[Minn. Stat. §§ 410.05-410.30.](#)

In order to change from a statutory city to a home rule charter city, the district court of the judicial district in which the city is located may appoint a charter commission to frame and amend a charter. A petition signed by at least ten percent of the city's voters can request this action. If this type of petition is received, the court must appoint a charter commission.

The charter commission determines whether a charter is necessary or desirable. If the commission determines a charter is necessary, it then drafts a proposed charter. A charter generally deals with the organization and operation of city government.

The draft of the proposed charter is delivered to the city council, which must submit it to the voters within six months. If 51 percent of the votes cast on the proposed charter support the charter, the charter is adopted and takes effect 30 days after the election. The charter commission may propose amendments to the charter, which must also be adopted by the voters. Proposed amendments can also be proposed by petition of the voters in the city. The charter can be abandoned in the same way it is amended.

## **D. Forms of city organization**

Cities in Minnesota have used four administrative patterns or formats in their internal organization:

- Weak mayor-council,
- Strong mayor-council,
- Council-manager, and
- Commission.

The weak mayor-council plan is by far the most common plan in Minnesota.

The mayor's powers in weak mayor-council communities are no greater than those of any other member of the council, with the exception of the mayor's role as presiding officer at council meetings and several other minor duties. No individual council member holds specific administrative powers.

Many statutory Standard Plan and Plan A cities create a city administrator position by resolution or ordinance and specify the responsibilities of the position. City administrators are appointed because of their professional qualifications; this is not a political appointment. Many cities have also created combined city clerk-administrator positions.

The strong mayor-council plan is rare in Minnesota; only three cities use this administrative format. Home rule charter cities are the only cities that may have this form of organization. Under the strong mayor-council plan, the mayor is responsible for the operation of all administrative agencies and departments within the city.

Some home rule charter cities and those 16 statutory cities operating under Optional Plan B in the statutory city code have a council-manager form of government. Only statutory cities with populations of more than 1,000 may adopt Optional Plan B. Under this form, the council has policy-making and legislative authority, but administration of the government is the manager's responsibility.

The commission form of organization is no longer used in Minnesota.

Under this form of organization, each of the elected council members is responsible for a particular administrative department so that, in addition to duties as a legislative official, the council member is also a department head. Many cities, particularly those without an administrator, employ an informal commission structure, assigning one or two council members to devote particular attention to specific city services such as public safety or public works.

## IV. Town (township) government

[Minn. Stat. § 414.01, subd. 1 \(2\).](#)

For specific information on town government, contact the Minnesota Association of Townships, P.O. Box 267, St. Michael, MN 55376 (763) 497-2330

The Legislature describes township government as the form of local government that most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes.

People often incorrectly use the term “town” to describe a small city. In the strictest sense, a town is the governmental or political organization, while a township refers to the geographical congressional territory without connection to the governmental organization. For the most part, Minnesota laws, particularly state statutes, use the terms interchangeably, as will the *Handbook*.

Town boards govern most of the land outside cities. In some counties, there is unorganized territory; that is, areas outside city borders that have no town government. In these cases, the county board performs some of the functions of a town board.

[Minn. Stat. chs. 365; 366; 367; 368.](#)

The boards that govern towns are composed of three or five members called supervisors. State laws allow a variety of optional plans of town government. These deal with appointment of the clerk and treasurer, combination of these two offices, and the appointment of a town administrator. Historically, most towns have had limited governmental powers and, as a result, were unable to provide a wide range of services to their citizens.

Over the past two decades, the Legislature has greatly expanded the authority of towns to provide general governmental services. To accommodate growing towns in need of more services, the Legislature has created a class of towns called “urban towns.”

[Minn. Stat. § 368.01.](#)

Urban towns are towns that have platted portions where 1,000 or more people reside, or which meet other statutory criteria. These towns have many of the same powers statutory cities have under the statutory city code. The Legislature has also created several urban towns through special laws that define their powers.

Among the few powers that urban towns may not exercise are the following: annexing abutting land; owning or operating gas, heat, light or power systems; establishing a municipal liquor store; and, establishing a civil-service system.

## V. Special districts

Special-purpose districts are those units of local government created or authorized by state law to perform specific duties or provide specific services in a limited situation. Nationwide, the number of special-purpose units of government is increasing. In Minnesota, however, the trend has been to avoid creating new units of local government and to assign the solution of new problems to the already existing general-purpose local governments—cities, counties, and towns.

### E. Special service districts

Minn. Stat. §§  
428A.01-428A.101.

Any county can create a special-service district under the general law, but most special-service districts are created under special laws that apply to a specific county. In either case, the basic concept is the same.

A special-service district is a defined area within the jurisdiction of a local government unit where special services are provided and the costs of the special services are paid from revenues collected from service charges imposed within that area. Under the general law, a special-service district is created by ordinance. The county either defines the special services to be provided by ordinance, or, in a special law permitting the establishment of a district, the area may be specified in the law. Only property that is classified and used for commercial, industrial or public-utility purposes can be included in a special-service district.

Special services generally do not include services that are ordinarily provided throughout the county from general-fund revenues, unless an increased level of services is provided in the special-service district. The special-service charges are levied against the net tax capacity of the benefited property in the district and are collected in the same manner as property taxes.

### F. Lake-improvement districts

Minn. Stat. §§  
103B.501-  
103B.581; 459.20.

County boards may create lake-improvement districts for lakes within their boundaries, or a combination of cities and towns may create a district for a lake located within their joint boundaries. The governing body of the county, city, town, or a combination of them, may be the governing body of the lake-improvement district or a governing body may be appointed.

Lake-improvement districts have a variety of powers and may undertake various projects to improve the lake and its adjacent shoreline. All the powers of a lake-improvement district are first granted by the state to the general-purpose unit of government, which then delegates any or all of the powers to the lake improvement district. This is an example of how the Legislature has dealt with the creation of special-purpose districts. The general-purpose units of government that have the authority for a project, such as lake improvement, may create a special-purpose district.

## G. Soil-and-water-conservation districts

[Minn. Stat. ch. 103C.](#) The Legislature has established soil-and-water-conservation districts that geographically cover every part of the state. The boundaries of such districts are generally consistent with county boundaries. Soil-and-water-conservation districts include not only the unincorporated area of a county, but also the cities within a county.

Cities may receive valuable information from these districts, including soil information, maps of prime agricultural land, and maps of wetlands. Cities and counties may cooperate with soil-and-water-conservation districts for special improvements such as drainage and flood control.

The governing bodies of soil-and-water-conservation districts are made up of five supervisors. Districts within the county nominate people to serve on the board of supervisors, and voters within the county elect them at large.

## H. Watershed districts

[Minn. Stat. ch. 103D.](#) A watershed district is created through petition. Its governing body is a board of managers. Watershed districts have considerable land and water-use regulation authority. They may make improvements within their boundaries. When land and water-use regulations of the watershed district are not consistent with city development plans, city officials should work closely with watershed district managers to resolve these conflicts.

## I. School districts

[Minn. Stat. ch. 123A;](#) Every area of the state has a school district organized to provide public education.  
[Minn. Stat. § 471.59.](#) Cities and counties cooperate with these districts in the areas of elections, continuing adult education, and recreation programs.

## J. Regional-development commissions and the Metropolitan Council

[Minn. Stat. §§ 462.381-462.398.](#) Regional-development commissions and the Metropolitan Council contain several counties within their boundaries. They provide technical assistance for cities. In the metropolitan area, certain regulations of the Metropolitan Council govern city land-use activities and other matters. The Metropolitan Council also has operating authority in the areas of wastewater collection and treatment, transit services, and other areas where a regional approach is necessary.  
[Minn. Stat. chs. 473-473H.](#)

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