

PART I
FORM AND STRUCTURE OF THE MINNESOTA COUNTY

CHAPTER 2: CHANGE OF BOUNDARIES, NAME, and COUNTY SEAT

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1. Change of boundaries, name, and county seat

I. Changing boundaries

II. Changing county seats

III. Consolidation

IV. Change of name

V. Change of boundaries within the county

I. Changing boundaries

[Minn. Stat. § 370.01](#)

The boundaries of counties can be changed in two ways:

- The boundaries of counties may be changed by taking territory from a county and attaching it to an adjoining county; and
- New counties may be established out of territory of one or more existing counties.

A. Procedure

[Minn. Stat. § 370.02](#)

Voters must present a petition detailing the change requested. A separate petition must be filed for each affected county, signed by at least one-fourth of those voting in each county at the last preceding election. The petition must be filed with the secretary of state, and with the auditor of each county, at least 90 days before any general election. If a new county is proposed, one-fourth of those voting in the new county in the preceding election must have signed the petition.

[Minn. Stat. § 370.02](#)

A proposal for a new county must state the name of the proposed county, its proposed boundaries, the name and location of the proposed county seat, and the names and places of residence of the persons who shall constitute the first county board.

[Minn. Stat. § 370.03](#)

The secretary of state must certify the validity of the petition. Once the petition is deemed valid, the secretary of state shall notify the governor, who shall issue a proclamation at least 60 days before the election directing that the question be submitted to the voters. Only one such proposition may be put to the voters in one election.

[Minn. Stat. §§ 370.06 - 07](#)

The results of the election must be reported from each affected county and from the proposed new county, if applicable. The proposition passes if it receives a majority vote in each affected county, and if applicable, in the proposed new county.

- [Minn. Stat. §§ 370.07 - 08](#) If the proposition has passed, the governor must make a proclamation declaring it adopted within 10 days of the canvass. Upon this proclamation, the proposed change becomes effective. If a new county was established, it becomes officially organized. However, it remains attached to the county from which it was taken until the board has qualified and appointed the officers.
- [Minn. Stat. §§ 370.10 - 13](#) If a boundary change results in the abolition of a commission district and any county board has fewer than 5 members or an even number of members, a special election shall be held in which a commissioner is elected at large. Subsequent to this election, the county must be redistricted at least 6 months before the next general election.
- [Minn. Stat. § 370.17](#) If towns or school districts are divided by the changed county lines, they shall be reorganized by the county board of the county in which they are placed. The board may also attach them to adjoining towns or districts.
- [Minn. Stat. § 370.18;](#)
[Minn. Stat. § 370.21](#) The county recorder of the county from which real estate is transferred must transmit the proper records to the county in which the real estate is now located. The recorder must also transmit the records of the original plats of any land transferred. The county auditor shall similarly transcribe any records and documents which affect the area of the boundary change.
- [Minn. Stat. §§ 370.19 - 23](#) When a new county is created, it may levy a tax for the current year. The sharing of tax revenues and responsibility for indebtedness after a boundary change is outlined in [Minn. Stat. §§ 370.19 - 23](#).

B. Conditions

- [Minn. Stat. § 370.01](#) Boundary changes are subject to a number of conditions.
- A new county must contain at least 400 square miles and have at least 4,000 inhabitants.
 - A proposed new county must have a total taxable market value of at least 35 percent of (i) the total taxable market value of the existing county, or (ii) the average total taxable market value of the existing counties included in the proposition.
 - An existing county may not be reduced in area below 400 square miles, have less than 4,000 inhabitants, or have a total taxable market value of less than that required of a new county.
 - No change in the boundaries of any county larger than 2,500 square miles may detach from the existing county any territory within 12 miles of the county seat.

II. Changing county seats

- [Minn. Stat. § 372.01](#) To request a change in the county seat, voters must present a petition, signed by at least 60 percent of those voting in the last general election, in the following form:
- [Minn. Stat. § 372.01](#) “To the county board of the county of, Minnesota: The undersigned legal voters of this county request that the county seat be changed to (here designate the place)”
- [Minn. Stat. § 372.01;](#) Along with the petition, they must present affidavits of at least two of the signers stating that (a) the petition signatures are genuine,(b) they were signed within 60 days before the date of the affidavits, and (c) when signing the petition the petitioners were legal voters of the county. If multiple petitions are presented to the auditor at substantially the same time, they shall be combined into one.
- [Minn. Stat. § 372.10](#)
- [Minn. Stat. §§ 372.01 - 02](#) The auditor must file an order for a special meeting of the county board, to be held between 15 and 20 days from the filing of the order, between 9:00 a.m. and 5:00 p.m. The auditor must post notice of this meeting at least ten days before the meeting in each town, and at least two weeks before the meeting in the county seat.
- [Minn. Stat. §§ 372.03 - 06](#) The county board shall meet to determine whether any signatures should be stricken from the petition because they fail to meet one of the three criteria listed above. If the petition still contains the signatures of at least 60 percent of those voting in the last general election, a special election shall be held in no less than 20 days and no greater than 30 days. The auditor shall give two weeks' published notice of the election in all the newspapers in the county, and ten days' posted notice in each town. The clerk of each town and city in the county must also give at least ten days' posted notice in election district.
- [Minn. Stat. § 372.07](#) Ballots must include the words: “For changing the county seat to (here name the place). Yes. No.”
- [Minn. Stat. § 372.08](#) If 55 percent of all the votes cast at the election are in favor of the change, the board change the county seat in no sooner than 60 days, and no longer than 90 days.
- [Minn. Stat. § 372.09;](#)
[Minn. Stat. § 372.11](#) Only one proposed county seat may be put before voters at one time, and elections to change county seats may only be held once every five years.

III. Consolidation

- [Minn. Stat. § 371.01](#) Two or more counties may be consolidated into one; the method for doing this is described in [Minn. Stat.ch. 371](#).
- The procedure bringing the consolidation question to voters is quite similar to the process for changing county boundaries described in sec. I.A.

- [Minn. Stat. § 371.02](#) A separate petition must be filed for each affected county, signed by at least one-fourth of those voting in each county at the last preceding election. The petition must be filed with the secretary of state at least 90 days before any general election. The proposal must state the counties to be consolidated, the name of the proposed county, and the name and location of the proposed county seat.
- [Minn. Stat. § 371.03](#) The secretary of state must certify the validity of the petition. Once the petition is deemed valid, the secretary of state shall notify the governor, who shall issue a proclamation at least 60 days before the election directing that the question be submitted to the voters.
- [Minn. Stat. § 371.05](#) Ballots must include the following language:
 “Shall the following named counties (inserting the names) be consolidated into a single county?
 Yes.....
 No.....”
- [Minn. Stat. §§ 371.07](#) The proposition passes if it receives 60 percent of the vote in each affected county. If the proposition has passed, the governor must make a proclamation declaring the result. The consolidation then becomes effective on January 1.
- [Minn. Stat. §§ 371.08](#) The governor shall appoint the first board of county commissioners for the new county within 60 days after issuing the proclamation. The officers of each affected county shall continue in office until the consolidation proceedings become effective.
- [Minn. Stat. § 371.09](#) The board of county commissioners for the new county shall meet at the county seat at a time designated in the order of the governor, and elect one of its number as chair. The auditor of the county in which the county seat is located shall act as the recording officer of the board. At the meeting, the board shall divide the new county into commissioner districts. This order shall be filed with the auditor of each county affected. Before the consolidation becomes effective, the board shall appoint officers of the new county.
- [Minn. Stat. § 371.12](#)
- [Minn. Stat. § 371.10](#)
[Minn. Stat. § 371.11](#) The board must meet in July to levy a tax for the new county. When the tax is levied, auditors of the counties affected shall meet at the county seat and set the local tax rate for the new county. Each auditor shall deliver the appropriate books to the treasurer of the new county for collection. The officers of the new county shall have all the powers and duties for the collection of delinquent taxes previously levied by the consolidated counties.
- [Minn. Stat. § 371.14](#) When the consolidation becomes effective, the new county shall become vested with the title to all real and personal property, other than money in cash or on deposit, of the consolidated counties. The territory within the consolidated counties shall remain liable for all indebtedness of the respective counties when the consolidation becomes effective.
 The new county shall have authority to enforce any contract and to collect any claims of the consolidated counties by suit or otherwise.

IV. Change of name

[Minn. Stat. § 375.39.](#)

A county may change its official name after successful completion of the following procedure.

- A number of voters equal to 55 percent of the number voting in the last general election must petition for the name change. The request must be filed with the county auditor.
- The county auditor must then give public notice of the filing of the petition by publishing it in the official newspaper of the county.
- At the next meeting of the board 30 days or more after the date of the notice, the petition will be considered.
- If the petition is granted, the board makes a formal order to that effect, which must be filed with the county auditor. The name change becomes effective after filing.

A change in name does not affect any liability, obligation, power, duty, law or ordinance of the county except the county must thereafter use the new name.

V. Change of boundaries within the county

C. Annexation

[Minn. Stat. ch. 414](#)
[Handbook for](#)
[Minnesota Cities, ch. 2](#)

Annexation proceedings between cities and towns change the structure of local governments and their relationships with the county. Cities may also annex unincorporated land, thus significantly reducing the county's responsibilities in these locations. A summary of the annexation process follows. For more details, see [Minn. Stat. ch. 414](#) or the *Handbook for Minnesota Cities*.

1. Statutory requirements for annexation

[Minn. Stat. §§ 414.031-414.033.](#)

Annexation of land cannot occur unless it meets the following three requirements:

[Minn. Stat. § 414.031, subd. 4.](#)

[Minn. Stat. § 414.011, subd. 6.](#)

See, 2 McQuillin *Municipal Corporations* § 7.20 (3rd ed. Revised 1996) (citing cases to this effect); See also, *State v. Village of Mound*, 234 Minn. 531, 48 N.W.2d 855 (Minn. 1951); *Village of Orono v. Village of Long Lake*, 247 Minn. 264, 77 N.W.2d 46 (Minn. 1956).

[Minn. Stat. § 414.031, subd. 4.](#)

Village of Orono v. Village of Long Lake, 247 Minn. 264, 77 N.W.2d 46 (Minn. 1956).

[Minn. Stat. § 414.061.](#)

See Section VI on detachment.

Contact [Municipal Boundary Adjustments](#) for more information at [Office of Administrative Hearings, Municipal Boundary Adjustments](#), P.O. Box 64620, St. Paul, MN 55164; (651) 361-7900.

First, the land must adjoin the corporate limits of the annexing city. The statute speaks of annexation of unincorporated territory abutting a city. Land abuts a city when its boundaries and those of the city coincide or touch one another so that after annexation, the annexed territory will be united with the city in forming a homogeneous community that can provide all of its parts with the benefits of local government. The statute defines “abuts” to include areas with boundaries that at least touch one another at a single point, or with boundaries that would touch but for an intervening road, railroad, waterway or parcel of publicly owned land. In those cases where an annexation needs the approval of Municipal Boundary Adjustments, it may alter the boundaries of the area to preserve or improve the symmetry of the area.

Second, Municipal Boundary Adjustments may approve an annexation if it finds city governance of the area is necessary to protect the public health, safety, and welfare; if annexation is found to be in the best interests of the city and the territory to be annexed; or, if land is, or is about to become, suburban or urban in character. This generally refers to land in close proximity to the city, of limited size, suburban in character, and with a community of interest so it will adapt to city government.

Third, the land may not already be part of another city. A concurrent action of the involved cities, however, could result in a detachment from one and annexation to the other through a different procedure.

2. Annexation procedures

Although the statutes set out three different annexation procedures, only one procedure may apply in any given situation. The appropriate procedure depends on the ownership, size, and other characteristics of the land under consideration. For annexation purposes, the jurisdiction and authority of Municipal Boundary Adjustments is uniform for all communities throughout the state. Municipal Boundary Adjustments has information to assist units of government in presenting evidence in boundary-adjustment proceedings.

The three annexation procedures are applicable in different situations and require completing certain steps.

a. Annexation by ordinance

Minn. Stat. § 414.033.

In some circumstances, a city may annex unincorporated property simply by passing an ordinance declaring the land as annexed to the city. Cities may annex by ordinance when: (1) the city owns the land to be annexed; (2) the land is completely surrounded by land already within city limits; (3) the land abuts the city and the area to be annexed is 120 acres or less, not presently served or capable of being served by available public wastewater facilities, and all the landowners petition the city for annexation; or (4) the land is within two miles of the city and has been approved for platting after Aug. 1, 1995, and the platted lots average 21,780 square-feet or less.

The law considers land described above to be urban in character. The city can annex it merely by passing an ordinance in all these situations. Before a city may annex land under the criteria specified in 2, 3 or 4 above, it must serve notice of intent to annex upon the town board and all landowners within and contiguous to the area to be annexed, and hold a public hearing.

Minn. Stat. §§ 115.49, subd. 2a; 414.0335.

Land may also be annexed by ordinance if the Minnesota Pollution Control Agency (MPCA) has required the city to extend a government service outside its jurisdiction into an unincorporated area.

Minn. Stat. § 414.033, subs. 7, 12.

Except when a town or city objects to an annexation, no action by Municipal Boundary Adjustments is necessary to annex land in this manner. However, the city must file copies of the annexing ordinance with Municipal Boundary Adjustments, the county auditor, the town clerk, and the secretary of state. The annexation does not become effective until Municipal Boundary Adjustments approves the ordinance.

b. Orderly annexation

Minn. Stat. § 414.0325.

Municipal Boundary Adjustments promotes orderly annexation because it emphasizes negotiation and agreement. At least ten days before the city or township adopts an orderly-annexation agreement, a notice of the intent to include property in an orderly-annexation area must be published in a newspaper of general circulation in both the township and city.

Minn. Stat. § 414.0325.

One or more townships and one or more cities can initiate an orderly-annexation process by passing a joint resolution designating an unincorporated area in need of orderly annexation. One or more cities, by joint resolution with the county may also designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

Once Municipal Boundary Adjustments has received the joint resolution, an initiation of an annexation of any part of the designated area can occur by either the submission of a resolution from any party to the original joint resolution or by Municipal Boundary Adjustments on its own motion.

Minn. Stat. § 414.0325, subd. 6.

An orderly-annexation agreement is a binding contract upon all parties to the agreement, and is enforceable in the district court in the county in which the unincorporated property in question is located.

[Minn. Stat. § 414.09.](#)

[Minn. R. 6000.0100-.3400.](#)

[Minn. Stat. § 414.0325, subds. 1, 3; *City of Waite Park v. Minn. Office of Admin. Hearings, No. A05-1888* \(Minn. Ct. App. July 18, 2006\) \(unpublished decision\).](#)

When Municipal Boundary Adjustments receives a joint resolution for annexation of part of the designated orderly-annexation area, it must schedule a hearing following the requirements for hearings in other annexation actions. If the joint resolution provides for the conditions for annexation of an area and states that board consideration is not necessary, Municipal Boundary Adjustments may review and comment on the resolution, but it shall, within 30 days, order the annexation under the terms of the resolution.

If the resolution allows for consideration by Municipal Boundary Adjustments, it may order the annexation if it makes any of the following findings:

- The area proposed for annexation is currently, or is about to become, urban or suburban in character, and the annexing city is capable of providing the needed services within a reasonable time.
- The existing town form of government is not adequate to protect public health, safety and welfare.
- Annexation would be in the best interest of the proposed area.

Municipal Boundary Adjustments may deny the annexation if it conflicts with any provision of the joint agreement. Municipal Boundary Adjustments may increase or decrease the boundaries of the proposed annexation to include property that is in need of, or will be in need of, city services, unless the joint resolution states no alteration of boundaries is appropriate.

If Municipal Boundary Adjustments denies annexation, the law prohibits any other proceedings for the annexation of substantially the same area within two years of its order, unless a majority of the area's property owners initiate the new proceeding and affected parties to the resolution support the resolution.

[Minn. Stat. § 471.59.](#)

[Minn. Stat. §§ 462.35 - .364.](#)

In the area designated for orderly annexation, a joint resolution may provide for the establishment of a planning and land-use-control board under the Joint Powers Act. This board would have all of the powers contained in the Municipal Planning Act.

[Minn. Stat. § 462.357, subd. 1.](#)

[Minn. Stat. § 462.358, subd. 1.](#)

If the joint resolution does not provide for joint planning and land-use control, the following procedures take effect. If the county and townships agree to exclude the area from their zoning and subdivision ordinances, the city may extend its zoning and subdivision regulations to include the orderly-annexation area. If the county and township do not agree to such extraterritorial zoning and subdivision regulation, zoning and subdivision regulation within the orderly-annexation area will be under the control of a three-member committee.

Contact [Municipal Boundary Adjustments](#) for more information at Office of Administrative Hearings, [Municipal Boundary Adjustments](#), P.O. Box 64620, St. Paul, MN 55164; (651) 361-7900.

c. Petition, hearing, and order by Municipal Boundary Adjustments

[Minn. Stat. § 414.031.](#)

If a city cannot annex land by ordinance or by orderly annexation, the annexing procedure is outlined in this section.

Before initiating any boundary-adjustment request, the city, township, county or property owner should meet to discuss planning issues. Any affected party may call a meeting at which the public should be allowed to participate.

A petition for a public hearing before Municipal Boundary Adjustments may come from: (1) a resolution of the annexing city; (2) a resolution of the town containing the area to be annexed; (3) a petition of 20 percent of the property owners or 100 property owners, whichever is less, residing in the area to be annexed; or (4) a resolution of the city council, together with a resolution of the town board, stating a desire to annex the entire township to the city. In addition, in the case of state-owned property, the executive council of the state may petition for a hearing. For jurisdictional purposes, the petition should also show the area meets the three minimum statutory requirements for annexation.

[Minn. Stat. § 414.065.](#)

All petitions for boundary adjustment must include a fact-finding form. The form must detail the results of the planning meeting outlined above if one was held. If the boundary adjustment is contested, Municipal Boundary Adjustments may require the parties to meet at least three times over a 60-day period. At least one of the meetings must be open to the public and allow public comment. In addition, a contested boundary adjustment will trigger the preparation of a fact-finding report by Municipal Boundary Adjustments.

[Minn. Stat. § 414.01, subd. 16.](#)

[Minn. Stat. § 414.12.](#)

If efforts to resolve boundary issues fail, and the issues have not previously been mediated, the parties may be required to participate in an alternative-dispute-resolution process.

[Minn. Stat. § 414.0333.](#)

There must be a joint informational meeting of the city council of the annexing city and the town board of supervisors of the township containing the land proposed to be annexed or included in annexation proceedings.

After mediation and arbitration, Municipal Boundary Adjustments or its designated decision-maker (mediator or arbitrator) may order the annexation if it makes any of the following findings:

- City government of the property will protect the public health, welfare, and safety.
- The property is, or is about to become, urban or suburban in character.
- Annexation would be in the best interest of the subject area.

Municipal Boundary Adjustments or its designated decision-maker may deny the annexation if it makes any of the following findings:

Town of Burnsville v. City of Bloomington, 268 Minn. 84, 128 N.W.2d 97 (Minn. 1964).

- The increase in revenues for the annexing city bears no reasonable relation to the monetary value of benefits conferred upon the annexed area.
- Annexation of all or a part of the property to an adjacent city would better serve the interest of the residents of the property.
- The remainder of the town would suffer undue hardship.

Municipal Boundary Adjustments or its designated decision-maker may alter the boundaries of the area to be annexed. If Municipal Boundary Adjustments or its designated decision-maker determines another city or town could better serve part of the area, Municipal Boundary Adjustments may initiate and approve annexation on its own motion by conducting further hearings and issuing orders.

[Minn. Stat. § 414.031, subd. 4a.](#)

Whenever annexation by Municipal Boundary Adjustment's order involves the annexation of an entire township, the order must include a provision for the election of new city officers.

[Minn. Stat. §§ 414.031, subd. 4a; 414.09.](#)

Municipal Boundary Adjustments may also order the election of new city officers as part of any other annexation order under this procedure.

3. Apportionment of assets, liabilities, and population

[Minn. Stat. § 414.067.](#)

Whenever Municipal Boundary Adjustments divides an existing governmental unit, it must apportion property and obligations. It should consider the value of land in the existing town, the indebtedness, the taxes due and delinquent, other revenue accrued but not received, and the ability of the rest of the town to function effectively.

The order cannot relieve any property from any tax liability for payment of bonded indebtedness, but the taxable property in the new city may become primarily liable. When a city annexes an entire town or consolidates with an existing city, all money, claims or properties, including real estate and any taxes that have been levied (whether collected or uncollected), become the annexing city’s property. The city has full authority to use and dispose of such property.

Any bonded indebtedness of the town annexed to an existing city is borne only by the property within the boundaries of the former town. However, the governing bodies may, by resolution, agree the new city will assume the former town’s bonded indebtedness that was outstanding at the time of the annexation.

[Minn. Stat. § 414.036](#)

Unless otherwise agreed to by the annexing municipality and the affected town, when an order or other approval annexes part of a town to a city, the order or other approval must provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the order.

4. Appeals

[Minn. Stat. § 414.07.](#)

Any person aggrieved by an annexation order may appeal it in district court if the person contends Municipal Boundary Adjustments lacked jurisdiction or exceeded its jurisdiction; the order was arbitrary, fraudulent, capricious or oppressive; or, the order was based on an erroneous theory of law.

[Rockford Township v. City of Rockford, 608 N.W.2d 903 \(Minn. Ct. App. 2000\).](#)

The appeal must be filed within 30 days of the director’s annexation order in the district court of the county where the majority of the area is located. An appeal does not stop the order.

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