# HANDBOOK FOR MINNESOTA CITIES

## Chapter 16

**Intergovernmental Cooperation**

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This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.
Chapter 16
Intergovernmental Cooperation

Understand city powers and processes to promote cooperation between governments such as contracting, the joint powers act, land use planning and regional development, city extra-territorial powers and banding with others in local government associations. Collaboration accomplishes more for cities with complex responsibilities and shrinking resources.

I. Benefits of cooperation

There are more than 89,000 units of government in the United States. The combined number of cities, counties, and towns in Minnesota exceeds 2,700. When schools, federally recognized tribal governments and other special purpose districts are included the number of government units increases to more than 3,500. Few states have more units of government than Minnesota.

These units of government provide a variety of services. Because few, if any, governmental services are the exclusive responsibility of one unit or level of government, communication and cooperation are often required. With increasingly complex responsibilities and limited resources, the need for cooperation among local governments is growing. By creating full and harmonious working agreements with other interested units, city officials can accomplish more through collaboration than through conflict.

II. The Joint Powers Act

Minnesota cities receive their authority to cooperate with other units of government from state law. The Joint Powers Act provides broad authority for intergovernmental cooperation. In addition, other statutes authorize cooperation between cities and other units of government for particular projects and programs.

Under the Joint Powers Act (Act), any city may enter into an agreement with one or more governmental units to cooperatively exercise powers that are common to all parties. For the purposes of the Act, the term “governmental unit” includes:

- Cities.
- Counties.
- Towns.
- School districts.
- Service cooperative under Minn. Stat. § 123A.21.
Local governments may enter into agreements whereby one entity provides services on behalf of all the participating units of government. For example, two or more cities may establish a joint powers agency (with a separate governing body) for police protection. Or, a city may enter into an agreement for the county sheriff to perform all law enforcement activities within the city. When exercising shared powers, local governments (as well as their officers and employees) are not necessarily confined to their territorial limits.

A wide range of programs and activities are provided cooperatively. For example, cities are engaged in the joint operation of ambulance services, cemeteries, police radio services, public hospitals, parks and recreational programs, sanitary landfills, incinerators, property tax assessment, regional planning, as well as sewage disposal plants and systems. The joint purchase and use of equipment and supplies has been found to be particularly beneficial.

Before exercising common powers, each governing body (e.g., city council) must formally approve the joint powers agreement. The agreement must state its purpose and the power exercised jointly. It must also describe the method the units will use to accomplish their goals, or the way they will exercise their powers. Generally, the agreement must also address the following factors:

- A method of disbursing funds consistent (as far as practicable) with each party’s usual methods of distribution (however, contracts let and purchases made must conform to requirements applicable to any one of the parties in the agreement).
- Strict accountability of all funds.
- A reporting of all receipts and disbursements.
• A definite (or “fixed”) term for the agreement, conditions for terminating the agreement, or both.
• The distribution of property acquired and the return of any surplus monies when the cooperative is dissolved.

When an agreement creates a joint board to administer the program, the board must be representative of the parties to the agreement. The agreement may specify the number, composition, qualifications, and terms of board members. These specifications prevail over any statutory or charter requirements that apply when the entities exercise the authority on their own. For example, if two cities operate separate libraries, they might need two five-member library boards. Under a joint powers agreement, a single board could administer both libraries. Residency requirements for holding office do not apply to officers appointed under a joint powers agreement.

A joint power agreement should also address liability. It is possible to allocate risk and minimize the potential for costly and complex “internal” conflicts through well-drafted joint powers agreements. It is also possible that separate or additional insurance coverage will be required. For some joint activities, the city’s insurance policy may cover the cooperative exercise of powers (typical examples are mutual aid agreements and service contracts). However, joint powers that are separate entities must carry their own insurance.

State tort liability limits apply to joint powers arrangements, specifically noting that a single limit applies regardless of the number of governmental units participating in the joint powers entity or arrangement (this was done in response to a federal court decision that found each member of a joint powers entity individually liable up to the state tort caps). The statutory tort caps for the state and local units of government are adjusted by the legislature from time to time.

III. Statutorily authorized cooperation

In addition to the Joint Powers Act, cities have specific statutory authorization to undertake certain joint programs with other units of government. While the statutes give cities the power to undertake the following tasks jointly, these activities could also be done under a joint powers agreement:

• Employ an assessor jointly with other communities.
• Join with contiguous statutory cities and towns to maintain public cemeteries.
• Operate a joint municipal police department with adjacent cities.
• Contract with a county, city or township for police protection.
• Operate an ambulance service with other political subdivisions.
• Operate recreational facilities or programs for senior citizens.
• Operate a community recreation program as a joint effort involving a city (or cities), the county, school district, and neighboring townships. (Frequently, a city and a school district will jointly establish a recreation board or program).

In addition, cities have long assisted one another with fire protection under mutual aid agreements. Contracts between cities and townships are also very common.

Furthermore, cities may enter into agreements with their respective county boards. For example, cities may contract for:

• Library services.
• Police protection.
• Planning assistance and enforcement of land use controls.

Finally, there are limitless opportunities for intergovernmental cooperation in the performance of administrative duties. Examples include the following cooperative activities:

• Cities can save money through joint purchasing programs carried out cooperatively with other units of government. Considerable savings are also possible through the establishment of equipment pools.
• Some communities hire inspectors (such as building inspectors) under the Joint Powers Act.
• Many communities operate utility services through contract or joint ownership or extend their utility services into unincorporated areas. Municipal utilities (electric and water) are authorized to enter into joint ventures with other municipal utilities, municipal power agencies, cooperative associations, or investor-owned utilities. A municipal gas agency and any municipal utility authorized to provide gas facilities or services may enter into a joint venture that was incorporated before June 30, 2004. The joint venture, and any municipal gas agency that is a member of the joint venture, may provide gas utility service.
• Municipalities also enter into employee sharing or exchange agreements (such as the joint hiring of a city administrator or finance director).

City officials can address certain responsibilities more effectively (and often more economically) through contracts or agreements with other governmental units.
IV. Contracts

Cities also can enter into contracts. Contractual arrangements between governments, or contracts between governmental units and nonprofit and/or profit-making firms, may also be a way to keep costs to a minimum. For example, many cities contract for the following:

- Legal services.
- Auto towing.
- Trash collection.
- Snowplowing.
- Tree trimming.
- Animal control.
- Social services.

As a supplement to the city attorney, the League of Minnesota Cities Insurance Trust (LMCIT) is available to review contracts, joint powers and mutual aid agreements.

V. Intergovernmental cooperation and coordination in planning

Minnesota has a legislative framework for planning at all governmental levels. This section includes a brief review of some of the actual and potential planning activities of state and local governments and the extent to which they require coordinated activity.

A. Land use

County boards may conduct planning activities and enact traditional land use controls. Cities may contract with the county for planning and zoning services. Counties may also prepare comprehensive plans or official controls for use within a city upon request. County regulations are not effective within a city unless formally adopted by the city council. As most counties have planning and land use control ordinances, coordination between city councils and county boards is good practice.

In many areas of the state, cities sit near one another. Cities in the seven-county metropolitan area must submit their proposed comprehensive plans to adjacent governmental units and affected school districts for review and comment.

Cities and counties are generally encouraged to develop community-based plans to facilitate cooperative agreements among adjacent communities and coordinate planning.
This helps to ensure compatibility of one community’s development with that in neighboring areas. A city that chooses to participate in a community-based plan must cooperate with neighboring governmental units.

The state or any of its political subdivisions must give 30 days prior written notice to any affected township, county, or city of any action related to sanitary landfills; waste disposal sites; construction of new buildings, roads, and related facilities (where the cost exceeds $15,000); park establishments; or boundary expansions. However, failure to give this notice is not grounds for a civil or criminal action, imposition of a civil or criminal penalty, or challenge or invalidation of any action.

B. Regional development

There are currently 10 regional development commissions: Northwest, Headwaters, and Arrowhead in northern Minnesota; Region Five, Mid-Minnesota, Upper Minnesota Valley, and East Central in central Minnesota; Southwest and Region Nine in southern Minnesota; and the Metropolitan Council in the Twin Cities metropolitan area.

Commissions (except for the Metropolitan Council) are made up of representatives from public interest groups and local elected officials from counties, cities, townships, and school districts. These units select members to represent them on the commission.

A regional development commission (RDC) is authorized to receive public and private funding for regional purposes. It may prepare a comprehensive development plan for the region, consisting of policy statements, goals, standards, programs, and maps prescribing guides for the region’s economic development. The RDC may also review and make recommendations on any local plans or development proposals the commission believes have a substantial effect on regional development.

RDCs (or, in regions not served by an RDC, a regional organization selected by the commissioner of the Department of Employment and Economic Development, for example, the West Central Initiative) may develop a program to support planning on behalf of local units of government.

Planning must be related to issues of regional or statewide significance and may include, but is not limited to, the following:

- Local planning and development assistance (which may include local zoning ordinances and land use plans).
• Community or economic development plans (which may include workforce development plans, housing development plans and market analysis, JOBZ administration, grant writing assistance, and grant administration).
• Environment and natural resources plans (which may include solid waste management plans, wastewater management plans, and renewable energy development plans).
• Rural community health services.
• The development of geographical information systems (GIS) to serve regional needs (including hardware and software purchases and related labor costs).

Cities may submit their comprehensive plans to the RDC for review, comment, and advice. RDCs may also contract to provide basic administrative, research, and planning services for local units of government.

Commissions may levy taxes on all taxable property in the region. Maximum levies vary by region, pursuant to a formula provided by statute. After making such a tax levy, a commission may issue certificates of indebtedness in an amount not to exceed 50 percent of all certified taxes in the region.

VI. Extra-territorial powers of cities

The term “extra-territorial powers” refers to the authority a city government can exercise over property located outside its city limits. In general, a city’s jurisdiction is confined to its territorial limits. However, there are important exceptions to this rule.

Minnesota cities have no general or inherent authority to extend their police powers beyond city limits. The courts have said that city police power is limited to the area within the city’s boundaries, even though exercising that power within these limits may affect land outside its boundaries. The same rule applies when a city owns property outside the city limits. A city may exercise all the usual rights associated with land ownership, but may not exercise police powers, unless specifically authorized by state law.

A. Subdivisions and zoning

That said, Minnesota cities may extend their zoning and subdivision regulations to townships (or “unincorporated territories”) within two miles of their city limits. When so extended, zoning ordinances may be enforced in the same manner and to the same extent as within the city’s limits.
A city may not extend its zoning or subdivision regulations if the town has adopted its own regulations.

In situations where there are two or more noncontiguous (no common boundaries) cities with boundaries less than four miles apart, each city may extend its zoning and subdivision regulations to the unincorporated areas at an equal distance from its boundaries.

When subdivision or zoning regulations are extended into unincorporated land outside the city boundary, any affected city council, county board, or town board may petition the county auditor to establish a joint planning board. Such joint boards consist of an equal number of members appointed from each political subdivision. This joint board adopts zoning and subdivision regulations under the Municipal Planning Act for the entire area within two miles of the city and designates one of the governing bodies to serve as the governing body and board of appeals and adjustment. During the time before the joint board adopts subdivision regulations, the city’s subdivision regulations apply.

### B. Building code

The State Building Code is the minimum standard that applies statewide for the construction, reconstruction, alteration, repair and use of all buildings and other structures. Cities may, by ordinance and with permission of the township board, extend their administration and enforcement of the State Building Code up to two miles outside their borders if the code is not administered in the territory.

### C. Street or road improvements

A city may make street or road improvements outside city limits with the consent of the affected township, or the county if the property is in unorganized territory (an area of the county that is not part of a township or city). Once the area is annexed into the city, the city may levy special assessments against the improved properties, but the city must follow special assessment procedures provided in state law.

### D. Taxation and special assessment

Usually, a Minnesota city cannot levy a tax or special assessment against property located outside its corporate boundaries. There are exceptions to this general rule.

### E. Utilities

Another extra-territorial power pertains to city utilities.
In general, Minnesota cities may extend utility services outside their limits to serve adjoining areas.

Before preparing detailed plans for the extension of water, sewer, electrical, or other utility services into an unincorporated area, a city must meet at least once with the town board of the affected area and the county planning commission in joint session to review the plans. The city may then proceed with the proposed extension. For example, a city may extend any waterworks or gas plant outside its limits and furnish service to consumers in the outside area at such rates and on such terms as the council or the utility commission shall determine. Cities may prefer not to extend sewer and water into an adjacent township; instead, the property requesting service may be annexed into the city.

A city may not extend utility service into another incorporated city without that city’s consent. In the case of electric light and power service, a city may extend electric lines up to 30 miles from the corporate limits, but only after a successful vote to extend the service at a special election held on a date authorized by law. Again, there is a prohibition against going into another incorporated city without that city’s consent. The Department of Commerce has set exclusive service areas for all electric utilities that limit extension of city electric service, with certain exceptions. No statutory city has authority to regulate the rates or services of private utilities that function outside city limits.

Cities may own and operate a telephone exchange within their own borders, but they may not operate a telephone exchange that serves residences outside city limits.

### VII. League of Minnesota Cities

Representing more than 800 member cities, the League of Minnesota Cities (LMC) promotes excellence in local government for all Minnesota cities. League efforts focus on:

- Policy development.
- Advocacy.
- Research and analysis.
- Information sharing.
- Education and training.
- Insurance coverage and risk management.
- Products and services.

State law expressly allows cities to pay dues to the League of Minnesota Cities, as well as the actual and necessary expenses for delegates to attend League meetings.
The League is a member of the National League of Cities (NLC), as are all the other state leagues in the United States. Through cooperative action with the NLC and other state leagues, the League has contacts with Congress, federal agencies, and national public administration organizations.

The League develops, expresses, and advocates policies and positions concerning the governance and management of cities and the delivery of city services. The League communicates these policies and positions to the Minnesota Legislature, the governor’s office, state agencies, Congress, the National League of Cities, and others involved in policy-making. Cities working cooperatively through the League are in the best position to have a greater impact on legislation of importance to city government.

Minnesota city officials can influence federal policies by applying to serve on National League of Cities (NLC) policy committees. By virtue of the League’s membership in the National League of Cities, any LMC member is eligible to serve on an NLC policy committee. To be eligible to serve on an NLC steering committee (a smaller policy development group that drafts policies for policy committee consideration), cities must become “direct member cities” of NLC, which requires separate dues. Other benefits of direct NLC membership and the costs involved can be found on the NLC web site.

There are many ways for member city officials to get involved in the LMC policy process and to become effective advocates on city issues.

The League’s annual City Policies publication addresses more than 100 legislative issues that impact cities and serves as the foundation for the League’s advocacy efforts. Policies are considered, discussed, and revised each year with considerable member input.

At the League’s annual conference in June, city officials from across the state recommend and review policies. City officials also sign up to serve on one of four policy committees. The policy committees meet throughout the summer to draft revisions to the City Policies. Once the policy committees finalize proposed revisions to the City Policies, the committees make specific policy recommendations to the League’s Board of Directors.

The League then distributes the draft policies to member cities and solicits their comments. City officials attending League-sponsored regional meetings (held in the fall throughout the state) review and provide additional feedback on the draft policies.
In the late fall and early winter, the League Board of Directors reviews the draft policies and member comments on those draft policies. The Board may amend the policies at their discretion.

The Board then adopts the policies that become the foundation for League advocacy efforts during the following session of the state Legislature. The Board also has the authority to amend the City Policies during the legislative session, as it deems appropriate.

In addition to the League policy process, members can become informed advocates through several League resources, including the Cities Bulletin, Minnesota Cities magazine, the annual Law Summaries publication, the League web site, League member forums (listservs), conferences and additional training events.

City officials can communicate with state legislators, the governor, state agencies, and Congressional representatives in several ways:

- in person (in their community or at lawmakers’ offices);
- by phone, e-mail, or letter; and
- by council resolution.

In contacting lawmakers, officials should be specific, using bill numbers and titles, referring to specific LMC policies or bill summaries, and stating clearly what action they want a lawmaker to take.

Finally, city officials may contact the League with requests for action or information on specific issues. With their continuous and concerted efforts, city officials help others at all levels of government understand city government.

VIII. Other city government associations

Three affiliates of the League of Minnesota Cities—Metro Cities, the Coalition of Greater Minnesota Cities, and the Minnesota Association of Small Cities—are formally represented on the League Board of Directors.

Metro Cities is a service and advocacy organization for cities in the metropolitan area. Membership is open to cities in the seven-county metropolitan area that are also members of the League of Minnesota Cities. Cities in counties adjacent to the seven-county metropolitan area may become associate members.

The Coalition of Greater Minnesota Cities (CGMC) is a nonprofit, nonpartisan advocacy organization representing cities located outside of the Twin Cities metropolitan area.
The Minnesota Association of Small Cities (MAOSC) is also an advocacy association. Their membership is limited to cities with a population of less than 5,000.

IX. Other local government associations

Counties, townships, and school boards in Minnesota also have their own associations. The Association of Minnesota Counties (AMC) is a voluntary statewide organization that assists the state’s 87 counties in providing effective county governance for the people of Minnesota. AMC works closely with the legislative and administrative branches of government to try to ensure that legislation and policies favorable to counties are enacted. In addition, the association provides educational programs, training, research, and communications for county officials.

The Minnesota Association of Townships (MAT) is a voluntary membership organization representing the interests of Minnesota’s organized townships and elected township officers. MAT provides education, training, and technical services to township officers and represents townships before the state Legislature and state agencies. It is the founder of the Minnesota Center for Small Communities (MCSC).

The Minnesota School Boards Association (MSBA) supports, promotes and enhances the work of public school boards. MSBA is a private nonprofit organization that provides technical assistance; cost-saving programs; and advocacy, training, research, and referral services for all of Minnesota’s public schools. Membership in MSBA is voluntary.

There are several other government associations that League officials and staff work closely with when common interests allow.