

Chapter 3

The Statutory City

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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.

HANDBOOK FOR MINNESOTA CITIES

Chapter 3 The Statutory City

Minnesota law provides for two basic types of cities: statutory cities operating under the statutory city code and home rule charter cities operating under a local charter. Learn about the organization and general powers of statutory cities, the most common type of city in the state.

RELEVANT LINKS:

[Minn. Stat. ch. 412.](#)
[Minn. Stat. § 412.015.](#)
[Minn. Stat. § 412.016.](#)
[Minn. Stat. § 412.541.](#)

[Minn. Stat. § 412.015.](#)
[Minn. Stat. § 412.891.](#)

[Minn. Stat. ch. 462.](#) [Minn. Stat. ch. 419.](#) [Minn. Stat. § 459.06, subd. 1.](#)

[Minn. Stat. § 412.02.](#)
[Minn. Stat. § 412.541.](#)

[Minn. Stat. § 412.191.](#)
[Minn. Stat. § 412.02.](#)

I. The statutory city code

Most Minnesota cities are incorporated as statutory cities. All statutory cities operate under the statutory city code (city code) found at Chapter 412 of the Minnesota Statutes. Additionally, other statutes cover special cases or apply to home rule charter cities as well as to statutory cities. Although all statutory cities have the same basic powers, the code allows them to select one of several forms of organization. Statutory cities cannot change the city code, rather the state Legislature enacts any changes.

The great benefit of the city code is that it uniformly applies the laws regarding city government to all statutory cities in the state. As a result, the city code is the primary source of authority for the actions taken by statutory cities through their city councils. There is, however, an important exception: the city code covers certain statutory cities operating under cash-basis laws only to the extent that it does not conflict with those laws.

In addition to the city code, all cities—including home rule charter cities—receive authority from other state statutes. For example, powers and procedures for land-use planning, creating police civil service commissions, and municipal forest maintenance are detailed in laws outside the city code.

II. Forms of statutory city government

The Legislature has provided three “plans” or forms of organization for statutory cities: the Standard Plan, Optional Plan A, and Optional Plan B. These plans provide voters with a wide range of choices in determining the structure of their city government.

The Standard Plan has the common weak mayor-council form of government consisting of an elected mayor, an elected clerk (or a combined clerk-treasurer) who serves as a voting member of the council, and three or five council members. The treasurer is also an elected official but is not a member of the council.

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RELEVANT LINKS:

[Minn. Stat. § 412.581.](#)

[Minn. Stat. § 412.631.](#)
[Minn. Stat. § 412.611.](#)
[Minn. Stat. § 412.541, subd. 2.](#)

[Minn. Stat. § 414.02.](#)
[Minn. Stat. § 412.551.](#)

[Minn. Stat. § 412.02, subd. 6.](#)

[Minn. Stat. § 414.02, subd. 3\(f\).](#) [Minn. Stat. § 412.02, subd. 7.](#) [2024 Minn. Laws ch. 112, art. 3, § 13.](#) See Section II-F, *Adoption of Wards*.

[Minn. Stat. § 412.572.](#)
[1967 Minn. Laws ch. 289, § 17.](#)

[Minn. Stat. § 412.191, subd. 1.](#)

[Minn. Stat. § 412.02, subds. 1, 6.](#) [Minn. Stat. § 412.191, subd. 1.](#)

Optional Plan A is a modification of the Standard Plan. It retains the weak mayor-council characteristics, but provides for an appointed clerk, an appointed treasurer (or a combined clerk-treasurer), a mayor, and four or six council members.

Optional Plan B is the council-manager plan. This plan consists of an elected mayor and four or six council members with an appointed city manager. The city manager oversees administrative duties while the mayor and council maintain traditional policymaking roles. Plan B is available only to cities with a population over 1,000.

All new cities automatically organize under Plan A unless and until they complete the required legal steps to put one of the other plans into effect. This can happen at the vote on city incorporation. Voters must approve a change of plan.

The council of any statutory city can adopt an ordinance and submit to the city's voters the question of whether to increase the size of the city council to seven or reduce the size to five members. The ordinance must include a schedule of elections, ward and boundary changes, if applicable, and terms to accomplish the change. If a majority of those voting on the question at the next general election approve it, the ordinance goes into effect under the specified schedule.

In 2024, the Legislature passed a statute allowing cities to adopt an ordinance to create wards. Before this, only home rule cities and a few statutory cities that were originally incorporated by legislative procedure had ward systems.

A. The Standard Plan

In 1967, the Legislature required every city operating under the Standard Plan of city government to assume the Plan A form by January 1, 1970, unless the voters rejected it before then. In Minnesota, only 78 out of the 856 cities remain on the so-called "Standard" Plan, rendering the term somewhat dated and misleading.

The Standard Plan was the form used by most smaller Minnesota cities before 1970. As in all plans, the Standard Plan has a council of five or seven members. It is different from other plans because an elected clerk fills one of the council seats.

Voters also elect a treasurer if the city has not combined the positions of clerk and treasurer. The treasurer, however, is not a member of the council. By ordinance and a vote of the electorate, the city may increase the council size to seven members or reduce it to five members.

RELEVANT LINKS:

A.G. Op. 471-H (Mar. 29, 1957). [Minn. Stat. § 412.191, subd. 4](#). See Handbook, *Elected Officials and Council Structure and Role*.

See Handbook, *Elected Officials and Council Structure and Role*.

See Handbook, *Elected Officials and Council Structure and Role* and Handbook, *City Administrative Staff*. Minn. Stat. § 412.02, subd. 1. Minn. Stat. § 412.191, subd. 1.

Minn. Stat. § 412.541, subd. 1.

Minn. Stat. § 412.581.

Minn. Stat. § 412.591.

See Handbook, *City Administrative Staff*.

As council members, the mayor and clerk have the same duties and powers as the other council members. In addition, they have their own special duties. The council possesses all legislative and administrative powers. It cannot delegate the power to enact ordinances or to prescribe rules and regulations without statutory authorization. All administrative personnel are appointed by, and are directly accountable to the council. For example, the council is responsible for the direction of the police chief, the liquor-store manager, and the street superintendent. The council also appoints members of independent and advisory boards and commissions.

The council can, however, delegate certain functions to appointed administrative boards. For example, state statutes authorize the establishment of a utilities commission, a civil-service commission, and a park board with direct responsibility for their specific programs. The council may also establish advisory boards, such as a planning commission, to conduct studies and make recommendations.

1. Distinct features of the Standard Plan

- The council consists of a mayor, a clerk, and three or five council members.
- Voters elect a clerk and a treasurer. The city may combine these offices into one elective office of clerk-treasurer.
- The council has all administrative authority and responsibility.
- The council has the power to appoint people to independent and advisory boards and commissions, and to delegate certain functions to these bodies.

B. Plan A

Optional Plan A is a simple change in organization from the Standard Plan. In Minnesota, 652 cities presently operate under Plan A, making this by far the most common form of government. In Plan A cities, the clerk is no longer a member of the council, and that position is filled with a fourth (or sixth) elected council member. Another change is that the council appoints the clerk and treasurer (or clerk-treasurer) for indefinite terms of office. The duties of these two appointed officers are the same under Plan A as they are under the Standard Plan of government except that the clerk is not a member of the council and cannot vote at council meetings.

This plan allows cities to hire trained and experienced people who can perform the complex duties of the clerk and treasurer. Because the council appoints people to these positions, it has more control over how these employees perform their functions than it does under the Standard Plan where voters elect these positions.

RELEVANT LINKS:

[Minn. Stat. § 415.16.](#)

To help select qualified people for these positions, state law allows the council to appoint people who are not residents of the city and generally prohibits the council from requiring residence as a condition of employment. In the selection of a clerk, for example, many cities have gone outside the city to hire a person with training and experience in city management.

1. Distinct features of Plan A

- A five or seven-member council, consisting of a mayor and four or six council members, runs the government.
- The council appoints a clerk and a treasurer (or a combined clerk-treasurer) for indefinite terms. The council may remove these employees at any time in accordance with applicable employment laws and city policies and contracts.
- The council may appoint independent boards and commissions, such as a utilities commission, and advisory bodies, such as a planning commission.
- The council appoints all personnel, including the police chief, attorney, fire chief, and liquor store manager.
- The council has all the administrative and legislative authority and responsibility that councils in Standard Plan cities have.

C. Plan B

[Minn. Stat. §§ 412.601–.751.](#)

See Handbook, [The Home Rule Charter City](#).

Optional Plan B is a council-manager plan of government available only to cities with a population greater than 1,000. At present, only 19 statutory cities operate under this plan, but about 30 cities in Minnesota have adopted the council-manager form under their home rule charters. Some of these cities previously operated as Plan B statutory cities.

[Minn. Stat. § 412.191, subd. 1.](#) [Minn. Stat. § 412.02, subd. 1.](#) [Minn. Stat. § 412.611.](#)

Under Plan B, the elected city council consists of a mayor and four or six council members. All policy and legislative decisions are the responsibility of the council. The council delegates the administrative duties to a city manager. The manager is accountable to the council for the effective administration of city business in accordance with council decisions.

1. City manager

[Minn. Stat. § 412.641.](#)
See Handbook, [City Administrative Staff](#).

Under Plan B, the council chooses a manager on the sole bases of their training, experience, and administrative qualifications. The manager does not need to be a resident of the city, but needs to be appointed as soon as practicable after adopting this plan. The term of office is indefinite and the council may remove the manager at any time.

RELEVANT LINKS:

[Minn. Stat. § 412.641.](#)

[Minn. Stat. § 412.611.](#)
[Minn. Stat. § 412.651.](#)
[Minn. Stat. § 412.661.](#)

If the manager has been in office for at least one year, however, they may demand that the council make written charges and hold a public hearing before their final removal. The law does not require specific grounds for dismissal, either before or after the hearing. Pending the hearing and removal, the council may suspend the manager and designate a properly qualified person to perform the manager's duties.

The manager has responsibility for administering all city business and is answerable to the council. The law prohibits the council as a whole or any of the individual council members from interfering with the manager's authority to hire employees. It also prohibits a council member from attempting to give orders to any administrative person who is subordinate to the manager. Instead, the council must exert all its control through the manager. But individual council members can still obtain information about city business from employees other than the manager.

2. Clerk, treasurer, other city employees

[Minn. Stat. § 412.651, subd. 3.](#) [Minn. Stat. § 412.681.](#)
[A.G. Op. 469-a-2 \(Sept. 20, 1951\).](#) [Minn. Stat. § 412.561, subd. 1.](#) [Minn. Stat. § 412.691.](#)

Plan B provides for a manager, an appointed clerk, an appointed treasurer, and any other officers subordinate to the manager that the council might create through ordinances. The manager appoints the clerk, treasurer, heads of departments, and all subordinate officers and employees. The manager also appoints the city attorney, but the council must confirm the appointment. In the performance of their duties, the clerk and treasurer are subject to the direction of the manager, but their functions are largely the same as those of their counterparts in other cities. An exception to this rule is that the manager, not the clerk, signs written instruments, such as contracts, on behalf of the city along with the mayor. The council can abolish positions it has created by ordinance or can combine positions as it deems fit. It can also direct the manager to perform the duties of any of the various offices except treasurer.

3. Boards and commissions

[Minn. Stat. § 412.621.](#)

Plan B abolishes all independent administrative boards and commissions except for advisory entities and the civil-service commission, if there is one. The council itself must assume the functions of these boards such as the library board, park board, and public utility commission. The council may continue or create commissions for joint operations with other units of government. For example, the council could create a park board that would administer parks under a cooperative program with two or more cities acting together. The council also could establish advisory boards or commissions to study a municipal function or investigate a subject of interest to the city.

RELEVANT LINKS:

See Handbook, *Elected Officials and Council Structure and Role*.
Minn. Stat. § 412.621, subd. 2.

As a result, the city may continue to have a planning commission after the adoption of Plan B. If a city abandons Plan B and adopts the Standard Plan or Plan A, the city may again establish independent boards and commissions as authorized by law.

4. Manager's duties

Minn. Stat. § 412.651.

Under Plan B, the manager has the following duties:

- Enforcing certain state statutes, city ordinances, and resolutions.
- Appointing the clerk and all department heads and subordinate employees on the basis of merit and fitness. Where there are civil-service provisions applicable to the city, they are binding upon the manager.
- Removing the clerk, all department heads, and subordinate employees except for the city attorney.
- Exercising administrative control over all city departments and divisions.
- Attending all meetings of the council with the right of participating in the discussion, but not voting.
- Recommending to the council ordinances and resolutions necessary for the welfare of citizens and the efficient administration of the city.
- Making reports on the city's financial condition and needs.
- Preparing and submitting the annual budget to the council.
- Preparing, if the council directs, an administrative code for council adoption and suggesting amendments after adoption.
- Assuming all other duties required under state laws, city ordinances, and council resolutions.
- Acting as the chief purchasing agent for the city. As purchasing agents, managers are responsible for all purchasing. Managers may, without prior council approval, make purchases and let contracts when the amount is \$20,000 or less, unless the city council mandates a lower limit. City councils must audit claims resulting from such transactions. Larger purchases and contracts need council approval after manager recommendation.
- Signing all contracts, bonds, and other financial instruments of the city alongside the mayor, doing so in the city's name.

5. City budget

Minn. Stat. §§ 412.701–.731.

One of the most important provisions of Plan B is that the manager must prepare estimates for an annual budget and submit them to the council. The manager must budget on a “funds” basis and must include all city funds except for the bond, utilities, and special-assessment funds. These funds may, however, be included at the discretion of the council.

RELEVANT LINKS:

[Minn. Stat. §§ 412.701–.731.](#)

See Handbook, [Municipal Budgeting](#).

[Minn. Stat. §§ 412.721–.731.](#)

[Minn. Stat. §§ 412.701–.751.](#)

[Minn. Stat. § 412.741.](#)
[Minn. Stat. § 412.271.](#)
See Handbook,
[Expenditures, Purchasing and Contracts](#).

[Minn. Stat. § 412.751.](#)
[Minn. Stat. § 475.755.](#)

Budgeting and appropriations procedures should include all the monies the city receives and spends. The manager may use either a cash or an accrual basis for preparing the budget.

A cash budget is one that includes only those items for which the city actually receives money (cash) in the case of receipts or pays out in the case of disbursements or expenditures, during the 12-month period covered by the budget.

An accrual basis budget is one that includes only those funds that become due and payable to the city during the budget year, whether the city actually receives payment, and those expenses that the city incurred during the year no matter when the city pays them.

The main purpose of a budget is to collect data on the anticipated revenues and expenses of the city for the coming year, and to allow for comprehensive fiscal planning. The budget should include anticipated revenues and expenditures for the next year. Once the council has approved the budget, the manager may not change it without the council's consent. The manager has the duty to strictly enforce the provisions of the budget.

The laws establishing the Plan B form of government detail the procedures for preparing and adopting a budget. These procedures are flexible and could easily apply to all cities regardless of their form of government.

6. Payment of claims and emergency borrowing

Two other special features of Plan B relate to the payment of claims against the city and to emergency borrowing procedures.

Plan B cities follow the usual city procedure for the payment of claims: filing of a claim, audit, approval, and issuance of orders. In Plan B cities, however, the manager and mayor, rather than the clerk, must sign the order, and there is no authorization for marking an order "not paid for want of funds." Every council resolution or motion authorizing a disbursement and every order must specify the purpose of the disbursement and the fund the city will use to pay it. The manager must also note on each contract showing which fund the city will use to pay it.

Although the law prohibits the council from marking an order "not paid for want of funds," Plan B city councils may authorize the treasurer to sell emergency debt certificates under certain unforeseen circumstances. The authorization must be done by an ordinance approved by all members of the council. The emergency debt certificates must mature within two years or less, must be repaid by levy, and may not bear interest at a rate more than seven percent per year.

RELEVANT LINKS:

7. Distinct features of Plan B

Plan B cities have the following distinct features:

See Handbook, *City Administrative Staff*. Minn. Stat. § 412.191, subd. 1. Minn. Stat. § 412.02, subd. 1. Minn. Stat. § 412.611.

[Minn. Stat. § 412.651.](#)

[Minn. Stat. § 412.621.](#)

[Minn. Stat. § 412.651.](#)

[Minn. Stat. § 412.741.](#)
[Minn. Stat. § 412.751.](#)
[Minn. Stat. § 475.755.](#)

- A council composed of an elected mayor and four (or six) elected council members run the government. The council exercises legislative authority and appoints a city manager to exercise administrative authority.
- A city manager, appointed by and responsible to the council, must effectively administer city business in accordance with the decisions of the council.
- The manager appoints a clerk and treasurer for indefinite terms.
- The manager appoints an attorney subject to the approval of the council.
- All independent administrative boards and commissions, except for a civil-service board (if there is one), expire and the council assumes their functions.
- Advisory boards and commissions may continue to operate.
- The manager has full responsibility, subject to existing civil-service rules and regulations, to appoint and remove all city administrative officials and employees except for the city attorney.
- The manager must prepare estimates for an annual budget and submit them to the council.
- No general authorization exists for marking an order “not paid for want of funds.”
- A council may, in specified circumstances, authorize the treasurer to issue certain emergency-debt certificates.

D. Changing the form of government

[Minn. Stat. § 412.551.](#)

[Minn. Stat. § 412.571.](#)
[Minn. Stat. § 412.572.](#)
[Minn. Stat. § 412.541.](#)

Changing the form of government in a statutory city requires two procedures. The first procedure involves completing the necessary legal steps, which include the initiation of the proposal, its submission to the voters, and the certification of the results to the county auditor and the secretary of state.

The second procedure is the gradual alteration of the government structure to conform to the requirements of the new plan. This step takes time because the change cannot cut short the term of office for an elected official or change the time of election for any elected person. All cities use the Plan A form of organization, unless they have voted to remain on the Standard Plan or to adopt Plan B. Newly incorporated cities, however, may choose their form of government.

1. Changing to an Optional Plan

[Minn. Stat. §§ 412.541–572.](#)

Cities must take several steps to change to an Optional Plan.

RELEVANT LINKS:**a. Initiating the proposal**

Minn. Stat. § 412.551, subd. 1.

A city may initiate the proposal in one of two ways: The council can, upon its own motion, submit an Optional Plan for voter consideration. Alternatively, the voters may require the council to submit the question to the voters by presenting a written petition with a number of voter signatures equal to at least 15 percent of the total number of people voting in the last city election.

Once the council has received a petition requesting a referendum on one of the optional forms of government, it is doubtful that the council could submit a different plan at the same election or could call an earlier election for a vote on a different plan. Such actions would circumvent the provision making the petition mandatory and the law's requirement that only one plan can be submitted at such an election.

b. Submitting the plan to the voters

See Handbook, *Election Procedures*. See LMC information memo, *City Special Elections*.

Minn. Stat. § 412.551, subd. 1.

Ordinarily, the council has discretion to determine whether the Optional Plan question should go to the voters at either a regular election or a special election. If the council decides on a special election, it must also set its date. The procedures for calling a special election on the adoption of an Optional Plan are the same as for any other special election.

Only one plan can be submitted to the voters at any election. However, when incorporating a city, any plan must be submitted at the election on incorporation if the incorporation petition requests it and, if Optional Plan B is proposed, the population of the city will be more than 1,000.

Minn. Stat. § 205.10, subd. 1.

A petition requesting the submission of an Optional Plan to the voters may also request a special election on the question. A special election petition, however, requires a number of signers equal to 20 percent of the number of voters voting at the last city election, rather than the 15 percent for the Optional Plan petition. If petitioners present a special election request that meets the 20-percent requirement, the council must order a special election and set a date for it. If the council fails to comply within a reasonable time, a court order could presumably force the city to act.

The attorney general has suggested that the city must hold an election when voters submit a proper petition.

Minn. Stat. § 412.551, subd. 2.

When submitting an Optional Plan question to the voters, the question on the ballot must follow substantially one of the following:

For plan A: "Shall Optional Plan A, modifying the Standard Plan of city government by providing for the appointment by the council of the clerk and treasurer [or clerk-treasurer], be adopted for the government of the city?"

RELEVANT LINKS:

[Minn. Stat. § 412.551, subds. 3, 4.](#)

[Minn. Stat. § 205.10, subd. 1.](#)

[Minn. Stat. § 414.02, subd. 3\(g\).](#) [Minn. Stat. § 412.551, subd. 1.](#)

[Minn. Stat. § 412.571, subd. 2.](#)

[A.G. Op. 470-L \(Oct. 8, 1951\).](#)
[A.G. Op. 471-M \(Apr. 12, 1956\).](#)

[Minn. Stat. § 412.541, subd. 1.](#) [Minn. Stat. § 412.571, subd. 1.](#) [Minn. Stat. § 412.591, subd. 1.](#)

For plan B: “Shall Optional Plan B, providing for the council-manager form of city government, be adopted for the government of the city?”

The question should be followed by the words: “Yes” and “No” with an oval or similar target shape to the left of each word so that voters can indicate their choices.

Passage requires a majority “Yes” vote on the question. Once an Optional Plan goes into effect, the city may not change it for three years. If the vote fails, the city continues to operate under its existing form of government. In this case, voters may not successfully petition the council to call a special election on the question of adopting that Optional Plan for six months. This restriction does not apply to the council, which may generally call a special election at any time.

c. Certifying the plan’s adoption

[Minn. Stat. § 412.551, subd. 5.](#) [Minn. Stat. § 205.185, subd. 3.](#)

When a majority of the voters approve an Optional Plan, the clerk must promptly notify the county auditor and the secretary of state by filing a certificate stating the date of the election, the question submitted, and the vote. If the voters reject a proposed change in the form of government, the clerk must certify the election results to the county auditor.

New cities are incorporated directly under Plan A but may adopt an alternate plan by following the procedures outlined above, including submission to the voters at the election on city incorporation.

2. Changing to Plan A

After the adoption of Plan A, the elected clerk and treasurer serve out the balance of their respective terms.

During this period, their relationship to the council is the same as before, with the clerk continuing in the dual role of council member and administrative officer. If a vacancy occurs in any of these offices before the end of the incumbent’s term, the council must fill the vacancy just as it would have done had the city not adopted the Optional Plan. A successor, during the unexpired term, serves in the same manner and with the same duties as the predecessor. The successor to the clerk, for example, would continue to act as a member of the council until the end of the term.

Plan A goes into full effect upon the expiration of the term of the incumbent clerk. When that term expires, the council appoints a new clerk who performs the duties given by statute and by council action.

RELEVANT LINKS:

[Minn. Stat. § 412.571, subd. 1.](#) [Minn. Stat. § 412.02, subd. 2.](#)

[Minn. Stat. § 412.571, subd. 1.](#) [A.G. Op. 472-C \(Sept. 10, 1964\).](#)

See Handbook, [*Elected Officials and Council Structure and Role*](#).

[A.G. Op. 484e-4 \(Dec. 17, 1957\).](#)

[Minn. Stat. § 412.571.](#)

[Minn. Stat. § 412.641, subd. 2.](#) [Minn. Stat. § 412.621, subd. 2.](#)

[Minn. Stat. § 412.571, subd. 2.](#) [Minn. Stat. § 412.681.](#)

The main differences are that the council appoints the clerk for an indefinite term, the clerk is no longer a member of the council, and the council may remove that person at any time as permitted under the city's personnel policy, any relevant city contracts, and state law. When the treasurer's term ends, in cities with a separate elected treasurer, the council should likewise appoint someone to fill this position.

To replace the clerk on the council, voters elect an additional council member at the election that precedes the end of the incumbent clerk's term. The new council member serves a term of four years beginning on the first Monday in January of the next year. If a majority of the other council members are chosen at the election, however, then the new council member's initial term is for two years before returning to four-year terms. This new council member is like any other person serving as a member of the council and receiving a council member's compensation.

When the voters adopt an Optional Plan at the same election at which they elect the clerk, the elected clerk becomes the fourth or sixth council member upon taking office in January, unless the council wishes to appoint that person to the office of clerk. The council must then declare a vacancy in the position of the council member and fill the vacancy as it normally would.

When voters elect the treasurer in the election at which they adopt an Optional Plan, the election for treasurer is nullified. At the first council meeting in the following year, the council should fill the office of treasurer by appointment for an indefinite term.

3. Changing to Plan B

When a city adopts Plan B, the status of the incumbent clerk and treasurer is the same as in a city adopting Plan A. Plan B goes into effect as soon as the voters adopt it, but it does not become fully operative until the council appoints and qualifies the first city manager.

The council must make this appointment as soon as practicable after voters adopt the plan. When the manager has taken office, the independent boards and commissions go out of existence, except for an existing civil-service commission. The city council absorbs the powers of these outgoing entities.

When changing from a Standard Plan to Plan B, the manager cannot remove the elected incumbent clerk and treasurer before the expiration of their respective terms, but these positions become subordinate to the manager and are subject to the manager's direction. The statutes, however, specify the duties of the treasurer; therefore, the manager may not curtail the treasurer's duties or assign another officer to perform those duties during the holdover period.

RELEVANT LINKS:

A.G. Op. 470-L (Oct. 8, 1951). A.G. Op. 471-M (Apr. 12, 1956).

[Minn. Stat. § 412.651, subd. 3.](#)

If a vacancy in the office of the elective clerk or treasurer occurs before the expiration of the incumbent's term, it is the council—and not the manager—who appoints the successor. As in the case of Plan A cities, the appointment is only for the unexpired term. When the terms of the clerk and treasurer expire, the manager appoints the successors. The manager also has the power to remove them.

4. Changes to all optional plans

[Minn. Stat. § 412.561.](#)

The statutory city code is applicable to all cities operating under the Standard Plan, Plan A, and Plan B, to the extent that it is consistent with the statutory provisions relating to the plan under which the city is operating. The same is true of all the ordinances passed by the city prior to the adoption of the new plan. The old ordinances are still in effect until the council repeals or amends them. If the ordinances are inconsistent with the state law governing the newly adopted Optional Plan, they are likely ineffectual. So, for example, the ordinances for the preservation of the peace would still be valid and effective, but ordinances establishing certain council committees or prescribing plan-specific duties for certain officers might be inoperative.

[Minn. Stat. § 412.561, subd. 3.](#)

The change to another plan does not change judicial proceedings that began prior to the city's adoption of another plan, nor does it change rights or liabilities acquired before the adoption.

The council and city officers must make organizational, accounting, and other adjustments consistent with their new form of government.

5. Changing from one plan to another

[Minn. Stat. § 412.551.](#)

The voters or the council may request a change to another plan so long as the current plan has been in effect for three or more years. The three steps of initiation, submission to voters, and certification are the same as for the original adoption proceedings.

[Minn. Stat. § 412.571.](#)

When a city changes from one Optional Plan to another, incumbent members of the council continue to serve until the expiration of their respective terms, and the change does not affect the election schedule.

A.G. Op. 484-E-4 (Nov. 20, 1957).

When the council receives a petition requesting a transfer from one Optional Plan to another, or initiates such a proposal itself, only one question, that of adopting the suggested Optional Plan, goes on the ballot. An affirmative vote means the adoption of the proposed Optional Plan. A negative vote, however, means only the rejection of the proposed option. The city would continue to operate under the Optional Plan that was already in effect; it would not revert to the Standard Plan.

RELEVANT LINKS:

[Minn. Stat. § 412.551, subd. 4.](#)

[Minn. Stat. § 412.571, subd. 4.](#)

[Minn. Stat. § 412.571, subd. 5.](#) [Minn. Stat. § 412.02, subd. 1.](#)

[Minn. Stat. § 412.02, subd. 7.](#)

[Minn. Stat. § 205.10.](#)

E. Abandoning Plan A or Plan B

Either the voters through petition, or the council through its own motion, may request a vote on the abandonment of a plan. The council may submit a question on the abandonment of a plan after three years have passed since the plan's adoption. A vote in favor of abandoning an Optional Plan means the city will revert to the Standard Plan.

The question goes to the voters in the same manner as the original adoption proposal did, simply substituting the word "abandoned" in place of the word "adopted" on the ballot question. If the voters favor abandonment, the incumbent council members continue in office until their terms expire.

At the next regular city election, the voters elect one less council member. They will also elect a clerk. The clerk does not serve as a member of the council until the first council meeting in the year following the election.

The appointed treasurer, if there is not a clerk-treasurer, would continue to hold office until voters elect a successor and they officially begin the term of office. The position is elected at the first city election in which the clerk is not elected; the clerk and treasurer may not be elected in the same year.

F. Adoption of wards

The Minnesota Legislature recently passed a law allowing statutory cities to adopt a system of electing city council members by ward. A city council may adopt an ordinance to implement ward elections in the following circumstances:

- If the ordinance is submitted to voters at a regular or special election and the ordinance is adopted at least 180 days before that election.
- When the city is approved or ordered to do so by a court in response to a challenge to the city's method of conducting elections.

If the city is petitioned by at least 15 percent of the voters voting at the last city election asking that the prospect of ward elections be put to the voters, the city must adopt an ordinance and submit the ordinance to the voters for approval at an election.

In both circumstances, the ordinance must designate the ward boundaries and state whether the city will operate as a standard plan or optional plan city, requiring approval if changed. If a majority of those voting on the ballot question approve, the ordinance goes into effect at the next regular city election. Normal special election requirements apply if the question is presented at a special election, unless the requirements conflict with the ward-specific requirements above.

RELEVANT LINKS:

[Minn. Stat. § 205.84.](#)

If a city chooses to elect council members by ward, it must follow Minnesota laws related to redistricting, including creating wards that are as equal in population as practicable and are a compact, contiguous territory. The city must also either confirm or redraw ward boundaries after the federal census is officially certified. Council members must be residents of their ward, but a change in ward boundaries does not prevent a council member from finishing their term.

[Minn. Stat. § 204B.135.](#)

Cities may not redistrict wards before the legislature has been redistricted. Wards must be redistricted within 60 days after the legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever comes first.

[Minn. Stat. § 204B.135, subd. 5.](#)

Cities may recoup some redistricting expenses through a tax levied by the county and distributed by the county auditor.

III. General powers of a statutory city

[Minn. Stat. ch. 412. Minn. Stat. § 412.211. Minn. Stat. § 412.221.](#)

The basic listing of powers of statutory cities, whether they are Standard Plan, Plan A, or Plan B cities, is in the law called the statutory city code (city code). That list contains most, but not all, of the powers that councils can exercise. For example, the city code authorizes cities to do the following:

[Minn. Stat. § 412.111.](#)

- Create departments and advisory boards, and appoint officers, employees, and agents necessary for the city to conduct city affairs.
- Prescribe the duties and compensation conditions for its employees and remove them when it decides removal promotes the public welfare.
- Make the annual tax levy and exercise full authority over the financial affairs of the city.
- Own and operate any waterworks, district heating system, or gas, light, power, or heat plant.
- Purchase gas, electricity, water, or heat for wholesale prices and resell it to local consumers.

[Minn. Stat. § 412.251.](#)
[Minn. Stat. § 412.241.](#)

[Minn. Stat. § 412.321, subd. 1.](#)

[Minn. Stat. § 412.491.](#)
[Minn. Stat. § 412.501.](#)

[Minn. Stat. § 412.831.](#)
[Minn. Stat. § 412.861.](#)

- Provide parks, parkways, recreational facilities, and, in cities of more than 1,000 in population, a park board.
- Designate a legal newspaper.
- Prosecute people who violate ordinances.

Scattered throughout the statutes are many powers that statutory cities can exercise. Among these are the following:

[Minn. Stat. §§ 462.351–.365.](#)

[Minn. Stat. §§ 469.001–.047.](#)

- Plan for the future development of the city and take steps to implement that plan.
- Carry out a program of housing and redevelopment in the city.

RELEVANT LINKS:

[Minn. Stat. ch. 429.](#)
[Minn. Stat. ch. 475.](#)
[Minn. Stat. § 462.358.](#)
[Minn. Stat. ch. 505.](#)
[Minn. Stat. § 459.14.](#)
[Minn. Stat. § 459.06.](#)
[Minn. Stat. § 416.01.](#)
[Minn. Stat. § 134.07.](#)
[Minn. Stat. § 360.032.](#)

- Levy special assessments for public improvements.
- Borrow money by issuing bonds.
- Control the subdivision of land.
- Provide off-street parking facilities.
- Acquire and maintain a municipal forest.
- Construct and maintain war memorial buildings.
- Operate libraries.
- Construct and operate municipal airports.

See [LMC Handbook for Minnesota Cities](#), *Table of Contents*.

Cities have many powers in addition to these. To determine whether a statutory city has a certain power, begin by checking the table of contents of this Handbook, use the search engine connected to the online version of this Handbook, or contact the League. City officials in statutory cities should refer to statutes when they have questions concerning city authority.

A common problem that arises in a discussion of city powers is the interpretation of how the powers apply in practice. Will the courts allow cities to exercise only those powers that a law strictly spells out, or will they allow a city to exercise any functions or powers reasonably related to a statutory grant of authority? Traditionally, the courts solved this problem by referring to a rule that Judge John F. Dillon put forth in 1872. Dillon's rule held that a strict or literal interpretation of the law should be used in defining municipal powers.

Minnesota courts, however, have deviated markedly from Dillon's rule. They have tended toward more expansive interpretations of statutory or charter grants of authority to cities. In commenting upon the interpretation of city authority to promote the general welfare, the Minnesota Supreme Court has stated: "The council's estimate of the general welfare should be followed unless it is plainly erroneous." The result of this thinking is that cities can generally assume that they can exercise any powers statutes expressly grant to them as well as any powers that directly relate to the statutory grant and that are necessary for fulfilling it.

City of Duluth v. Cerveny, 218 Minn. 511, 16 N.W. 779 (1944). See also *Tousley v. Leach*, 180 Minn. 293, 230 N.W. 788 (1930). *Sverkerson v. City of Minneapolis*, 204 Minn. 388, 283 N.W. 555 (1939). *City of St. Paul v. Fielding & Shepley, Inc.*, 155 Minn. 471, 194 N.W. 18 (1923).