

---

Local governments in Minnesota are “creatures of the state” and subject to the will of the state legislature, within any constitutional restrictions. This publication provides a brief overview on how the state and local governments interrelate.

---

## “Local Government”

“Local government” is a general term for those governmental entities or political subdivisions of the state that provide functions and services at the local level. In Minnesota, the term usually refers to counties, towns, and cities. Single- or multipurpose (special) districts are frequently included in the term “political subdivision” but are less often defined as local governments.

Cities and towns are general purpose local governments. Counties were originally established to be administrative arms of the state to administer elections, tax assessments and collections, and state programs. Over time, counties have been given more authority to function as general purpose local governments.

## “Creatures of the State”

All local governmental units are “creatures of the state” and subject to state law. The U.S. Constitution is silent on local government. Control of local government is not one of the enumerated federal powers of the Constitution, nor is it expressly prohibited to the states. It is, therefore, a residual power left to the states and people by the Tenth Amendment. Furthermore, local units of government do not have recourse to the federal constitution in order to resist state legislative interference or control. *Williams v. Mayor and City Council of Baltimore*, 289 U.S. 36, 40, 53 S.Ct. 431, 432 (1933) (“A municipal corporation, created by a state for the better ordering of government, has no privileges or immunities under the Federal Constitution which it may invoke in opposition to the will of its creator.”).

Under the Minnesota Constitution, “The legislature may provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units and their functions, for the change of boundaries thereof, for their elective and appointive officers including qualifications for office and for the transfer of county seats. A county boundary may not be changed or county seat transferred until approved in each county affected by a majority of the voters voting on the question.” *Minn. Const. art. XII*, § 3. Several chapters of Minnesota Statutes are devoted to just these purposes.

## Powers of a Municipal Corporation: Dillon’s Rule

Local governments “possess only those powers that are conferred by statute or implied as necessary to carry out legislatively conferred powers.” *Breza v. City of Minnetrista*, 725 N.W.2d 106, 110 (Minn. 2006). This basic principle of what powers a local government has follows the principle first stated in 1872 in a treatise on municipal corporations, written by Iowa Supreme Court Judge John F. Dillon; it is known as Dillon’s Rule. The two major modifications the legislature has made to the rule are the authority for cities to adopt home rule charters and the broad grant of authority to legislate for the general welfare.

## Modification of Dillon’s Rule: Home Rule Charters

The legislature has granted cities the authority to adopt home rule charters; this action is the first significant mechanism in diminishing the practical effect of Dillon’s Rule. A home rule charter, or a local constitution, not only provides for the particular governmental organization of a municipality but also provides for substantive authority to be exercised by the governing body for the community. A charter must be consistent with the state constitution, and state law can overrule a charter provision.

The Minnesota Constitution authorizes any local government unit, when authorized by law, to adopt a home rule charter for its government. [Minn. Const. art. XII, § 4](#). A charter must be approved by the voters of the local government unit as prescribed by general law.

A city may adopt a home rule charter following the procedures in [Minnesota Statutes, chapter 410](#). Of the 853 cities in the state, 107 are home rule charter cities and the others are known as statutory cities. There is no general law enabling other local units of government to adopt home rule charters. A 1987 special law allowed Ramsey County to establish a commission to study the need or desirability of a home rule charter for the county, and if necessary to prepare and present a charter to the voters of the county. [Laws 1987, ch. 103](#) (codified in [Minn. Stat. §§ 383A.551](#), et seq.) The voters approved a charter in 1990.

## Modification of Dillon’s Rule: General Welfare

The statutory authority to legislate for the general welfare also mitigates the severity of Dillon’s Rule. It is a broad grant of authority for a local government to exercise any power not enumerated specifically that contributes to the protection of the health, morals, peace, and good order of the community; promotes its welfare in trade, commerce, and manufacture; or aids in carrying out all appropriate objects contemplated in the creation of a city.

All statutory cities and towns in Minnesota have authority to legislate for the general welfare. [Minn. Stat. §§ 412.221](#), subd. 32; [365.10](#), subd. 17; [368.01](#), subd. 19. A home rule charter city may include a general welfare clause or “all powers” clause within its charter, or rely on the statute that allows a home rule charter city to use powers granted to statutory cities. [Minn. Stat. § 410.33](#).

Counties do not have “general welfare” authority, although [Minnesota Statutes, section 145A.05](#), is sometimes viewed as providing a relatively broad grant of authority by authorizing ordinances protecting the public health.



*Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.*