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### The Study of Minnesota's Orderly Annexation Statute: A Viable Alternative for Urban Growth; City of St. Joseph and St. Joseph Township, Stearns County, Minnesota

Katherine Liljequist  
*St. Cloud State University*

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This thesis submitted by Katherine Liljequist in partial fulfillment of the requirements for the Degree, Master of Science, is hereby approved

**THE STUDY OF MINNESOTA'S ORDERLY ANNEXATION STATUTE:  
A VIABLE ALTERNATIVE FOR URBAN GROWTH; CITY OF  
ST. JOSEPH AND ST. JOSEPH TOWNSHIP,  
STEARNS COUNTY, MINNESOTA**

by

**Katherine Liljequist**

**B.A., Moorhead State University, 1979**

A Thesis

Submitted to the Graduate Faculty

of

**St. Cloud State University**

**in Partial Fulfillment of the Requirements**

**for the Degree**

**Master of Science**

**St. Cloud, Minnesota**

**November, 1996**

This thesis submitted by Katherine Liljequist in partial fulfillment of the requirements for the Degree Master of Science at St. Cloud State University is hereby approved by the final evaluation committee.

Katherine Liljequist

This study analyzed the intent of Minnesota's Orderly Annexation Statute (414.0325) and local governmental implementation options. This statute provides for one or more townships and one or more municipalities to designate an area in need of annexation. The governments jointly determine how and when the annexation occurs and who has jurisdiction over said area. The study dealt with three main issues. First, it deals with the reasons this legislation was necessary and factors guiding this development process in 1978. Next, there is a review of state-wide applications by local units of government. Finally, this study addresses the role of the Minnesota State Municipal Board in the application of an Orderly Annexation Agreement. Upon review of available literature, this type of study has not been completed. It is anticipated that the results of this study will be utilized by the legislature to review the statute and possibly make revisions to better serve the citizens.

The case study dealt with the communities of St. Joseph and St. Joseph Township. A brief history of each community and their relationship is addressed. The research examined why they are considering an Orderly Annexation Agreement and what options are available to them. There is also an overview of the process of an Orderly Annexation Agreement including setting up a joint decision-making body to review the application and drafting that were addressed in their meetings. This study identifies the problems in drafting an Orderly Annexation Agreement addressed by the communities.

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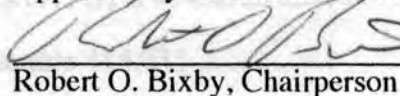
  
Robert O. Bixby, Chairperson



TABLE OF CONTENTS

	Page
LIST OF TABLES .....	vi
LIST OF FIGURES .....	vii
LIST OF PLATES .....	viii
<b>Chapter</b>	
1. INTRODUCTION .....	1
Related Studies .....	2
Purpose of the Study .....	3
2. THE ROLE OF ANNEXATION .....	7
Provision of Municipal Services .....	7
Annexation for Development .....	10
Sengstock Typology .....	13
3. MINNESOTA MUNICIPAL BOARD .....	18
Establishment of the Minnesota Municipal Board .....	18
Future of the Minnesota Municipal Board .....	22
4. ORDERLY ANNEXATION MINNESOTA STATUTE 414.0325 .....	25
Board Ordered Annexation--Minnesota Statute 414.031 .....	26
Annexation by Ordinance--Minnesota Statute 414.033 .....	28
Orderly Annexation--Minnesota Statute 414.0325 .....	29
Conclusion .....	34
5. APPLICATIONS OF ORDERLY ANNEXATION .....	36
Data .....	36

Chapter	Page
State Level .....	38
County Level .....	42
<b>6. CASE STUDY CITY OF ST. JOSEPH AND ST. JOSEPH TOWNSHIP STEARNS COUNTY, MINNESOTA .....</b>	<b>62</b>
Historical Background .....	65
The Township .....	66
The City .....	68
Population .....	72
Public Safety .....	75
Administration .....	75
Land-use Controls .....	76
Orderly Annexation .....	77
Merger .....	77
Conclusions .....	78
<b>7. CONCLUSION .....</b>	<b>83</b>
Recommendations .....	84
<b>REFERENCES .....</b>	<b>87</b>
<b>APPENDICES</b>	
A. Conditions for Commission to Base Decisions .....	94
B. Population Growth Figures .....	96
C. Figures on Six Counties .....	98

## LIST OF TABLES

Table	Page
1. States by Category of Sengstock Typology for Annexation Laws .....	15
2. St. Joseph Township and City of St. Joseph Number of Population and Housing Units .....	73
3. 1992 Orderly Annexations by Category 1992 Annexation by Ordinance by Category .....	49
4. 1993 Orderly Annexations by Category 1993 Annexations by Ordinance by Category .....	50
5. 1994 Orderly Annexations by Category 1994 Annexations by Ordinance by Category .....	51
6. 1995 Orderly Annexations by Category 1995 Annexations by Ordinance by Category .....	52
7. 1996 Orderly Annexations by Category 1996 Annexations by Ordinance by Category .....	53
8. Population Growth .....	74

## LIST OF FIGURES

Figure	Page
1. Minnesota Totals for Annexation .....	39
2. Minnesota--Number of Annexations .....	40
3. Minnesota--Average Acres Per Annexation .....	40
4. 1992 Orderly Annexations by Category .....	47
1992 Annexation by Ordinance by Category .....	49
5. 1993 Number of Annexations .....	48
5. 1993 Orderly Annexations by Category .....	49
6. 1993 Annexations by Ordinance by Category .....	50
6. 1994 Orderly Annexations by Category .....	50
1994 Annexations by Ordinance by Category .....	51
8. 1994 Average Acres Per Annexation .....	51
7. 1995 Orderly Annexations by Category .....	51
9. 1995 Annexations by Ordinance by Category .....	52
8. 1996 Orderly Annexations by Category .....	52
1996 Annexations by Ordinance by Category .....	53
11. Stearns County .....	53
9. Population Growth .....	74
12. Service Districts .....	80



## LIST OF PLATES

Plate		Page
1.	1992 Number of Annexations .....	44
2.	1993 Number of Annexations .....	45
3.	1994 Number of Annexations .....	46
4.	1995 Number of Annexations .....	47
5.	1996 Number of Annexations .....	48
6.	1992 Average Acres Per Annexation .....	55
7.	1993 Average Acres Per Annexation .....	56
8.	1994 Average Acres Per Annexation .....	57
9.	1995 Average Acres Per Annexation .....	58
10.	1996 Average Acres Per Annexation .....	59
11.	Stearns County .....	64
12.	Service Districts .....	80



## Dedication

I dedicate this to my parents, who's guidance throughout the years have made me the person I am today. And to my husband, Roger, and confidence, support and love I could not have completed this thesis.

**"In aggregate, municipal annexations have affected more people and greater area than any form of**

**governmental reorganization."**

(Marinado, 1976)

## Chapter I

### Dedication

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With this rural development came the growth of small towns which provide goods and services to the growing population. These small communities do not always have the resources to cope with this widespread influx of population. A study completed for the National Committee for Research on the 1980 Census showed small towns containing almost one-half of the population living outside metropolitan areas, with places varying in size from more than 100 to 50,000 people.

The growth within small-town America has helped shape the state legislative statutes pertaining to boundary adjustment in this country. Local government officials have had various tools to aid them in dealing with growth. Annexation statutes have probably been the tools utilized the most. "Municipal annexations have been the primary

## Chapter 1

### INTRODUCTION

The question of how cities should grow has been an increasing problem for the past century. During the twentieth century, cities have experienced a decline of the center city and rapid growth within the suburban areas of the city. "With the coming of the automobile, population deconcentration around large cities increased in relative importance as settlements spread into formerly rural areas" (Fuguitt, 1989, p. 69). Data gathered during the 70s showed faster population growth in rural areas than in urban areas for the first time in American history (Stokes, 1989). Between the years 1967 and 1975, more than 23 million acres of farmland had been utilized for non-agricultural uses (Popper, 1981).

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The growth within small-town America has helped shape the state legislative statutes pertaining to boundary adjustment in this country. Local government officials have had various tools to aid them in dealing with growth. Annexation statutes have probably been the tools utilized the most. "Municipal annexations have been the primary

means by which local governments, particularly those in metropolitan areas, regulated their physical expansion" (Galloway, 1985, p. 41).

Local governments in the state of Minnesota have three options available to them when considering annexation. These options are annexation by petition, annexation by ordinance, and orderly annexation. This study focused on the development and procedures of the Minnesota statute pertaining to orderly annexation (414.0325). An analytical review of the orderly annexations that have occurred within Minnesota during a five year period (1992-1996) is also included in this research. The analysis will be broken down on a county by county basis.

### Related Studies

There have been several studies concerning annexations and their relevance to municipal growth, most of them have been based on nationwide data. One such study determined that the more "favorable" the state laws are to the ease of annexation, the more likely municipalities are to annex surrounding territory (Wheeler, 1965). A contradicting study in 1979 found that these consistencies between the laws and the annexation practice did not exist (MacManus, 1979). The majority of the studies reviewed attempt to determine a relationship between the number of annexations and the type of annexation laws.

Galloway and Landis (1986) applied the Sengstock typology to annexations nationwide. The Sengstock typology is discussed at greater detail in the following chapter. They determined that the type of state law concerning boundary changes does have an influence on municipalities and their rate of annexation (Galloway & Landis, 1986). "The analysis has shown that state law does exert an influence on the extent to which a state's municipalities exercise annexation powers, even though legislative models do not explain the total variation among the states" (p. 42).

Liner (1990) also used the Sengstock typology. Liner studied annexations by 362 cities in 41 states over a 10 year period (1960-1970). Like Galloway and Landis, Liner



compared the type of annexation law to the rate of annexation, but added the element of population density. Liner's results suggested that annexation laws are less associated with the annexation of people than with land. In the data available for this study, the affected population per annexation was omitted in the reporting process.

### Purpose of the Study

A majority of the studies have been conducted on a national level. There is a need to study the annexation process at the state level to aid in determining the effectiveness of a particular category of annexation law. Minnesota has Quasi-Legislative Determinate annexation laws, according to the Sengstock typology. In short, that means that a third-party commission has the final jurisdiction concerning boundary adjustment decisions. It is important to determine how the annexation laws are being utilized at the county level for the state. The legislature may utilize this study as a tool in determining the effectiveness of the boundary adjustment statutes.

The rapid growth that has occurred outside municipal boundaries has raised some important growth and land use management issues. As stated in an article by Bollens (1949), "Many cities in the United States are continuing to annex as a means of relieving troublesome problems caused by the rapid and unregulated growth of adjacent unincorporated fringe areas" (p. 98). The problems municipalities faced in 1949 are still present today. This "rapid and unregulated growth" can also be referred to as urban sprawl. In 1968, the U.S. Advisory Commission on Intergovernmental Relations (ACIR) published a report concerning the burdens of urban sprawl. They referred to sprawl as "scattered, unrelated urban growth (leapfrogging)" and costly to municipalities for the provision of public services (U.S., ACIR, 1968). Another study showed that while annexation may provide for these services and for additional tax revenue for the municipality, the additional tax revenue was depleted by the cost of extending the services (Stokes, 1989). Ball and Rasmussen (1978) stated: "When little thought is given to



piecemeal development, city officials must undertake expensive and time consuming improvement programs to replace or upgrade existing facilities and services that are no longer adequate" (p. 8). This fiscal burden on municipalities may create negative attitudes toward annexations that could hinder annexations which should occur due to environmental or other reasons.

The ACIR also stated that urban sprawl is a product of ineffective land-use regulations by the local governing bodies (ACIR, 1968). Land-use decisions are being made without any consideration to the "detriment of surrounding communities" (Popper, 1981, p. 49). The issue of land-use decision making policy is important in the discussion of annexation and municipal growth. Land-use decisions made outside the urban governmental boundaries can have long term impacts on the annexing municipality and its fiscal budget.

Ford (1990) discussed in her book, Planning Small Town America, "fringe areas probably will always be the principal focus of growth in America" and the "bad land-use decisions appear in highest relief in the urban fringe" (p. 4). Therefore, good land-use decisions in the urban fringe areas should occur before any development occurs. It is important to note that non-urban growth, for the most part, is non-economical (Frankena & Koebernick, 1984). By using the term non-economical, the authors referred to the social factors of growth in the rural areas. People wanting to have the space and serenity of non-metropolitan life. This means that the population in the fringe areas may have different views concerning development and urbanization. The areas around most American towns contain most of the bad results of greed, lack of vision for the future, and uncoordinated land-use decisions (Ford, 1990). There exists a need for cooperation between adjacent governments concerning land-use decisions. This study focused on the cooperative nature of the Orderly Annexation Agreement as a possible solution to these issues.

To bring organization to haphazard boundary adjustment activities, the legislature adopted the Minnesota Municipal Commission in 1959 (later changed to Minnesota Municipal Board). Minnesota was the first state to establish such a commission (Commerce, 1979). Sixty percent of the total municipalities in the state of Minnesota reported boundary changes between 1970-1977 (Commerce, 1979). This study reviewed the establishment of this commission, its role in assistance to local government, and a recent review of its activities.

The research also included a case study of the small Central Minnesota town of St. Joseph and how it has worked together with the adjoining community of St. Joseph Township to form a cooperative Orderly Annexation Agreement. The study follows the history and development of the two communities and their discussion of various growth options. The citizens of the township do not want to lose their identity by becoming part of the city. The citizens of the city are also concerned about the extra burden of providing services to additional areas and how that may effect them financially. None of the studies reviewed for this thesis investigated the boundary adjustment process at this local level. There is a need to understand the concerns officials in both governing bodies have and how the public perceives this process.

Annexations and boundary changes are not one time isolated events. Therefore, it is important for each state to understand how their annexation laws are affecting local governments. Minnesota is experiencing rapid growth. "Some of the most rapidly growing suburban and ex-urban areas in Minnesota were still classified as rural in 1980" (Hart, 1985, p. 12). According to the census data, Minnesota experienced a growth rate of 28% from 1960 to 1990. Iowa, which also has a quasi-legislative form of government, experienced less than 1% growth. The national average was 39% (Department of Commerce, 1991). If this trend continues, these growth areas will be in need of city services at some point. It is important that our state laws continue to serve the needs of the

population. This research assists in reviewing how the present annexation laws are being utilized within the state of Minnesota and how they could better serve their purposes in the future.

## Chapter 2

### THE ROLE OF ANNEXATION

The process of annexation is the primary means in which cities accommodate growth. Statistics have shown that during the 70s approximately 61,000 annexations occurred across the United States. These annexations involved 8,700 square miles and affected over six million residents (Galloway & Landis, 1983). The first time that population figures pertaining to annexed areas were included in the census was 1960 (Brosley & Smith, 1973).

The reasoning behind municipal annexation falls into at least two categories. The first category deals with the provision of municipal services needed by urbanized areas outside of municipal boundaries. The second follows the view that municipalities need vacant space for new development to occur thus increasing their tax base.

#### Provision of Municipal Services

To define annexation in terms of providing municipal services, refer to a 1990 report that states "the express purpose of annexation is to make municipal that which is urban" (Mumphy, Wildgen, & Williams, 1990, p. 74). The 60s showed rural, small-town, non-metropolitan areas which previously had declining populations having growth spurts. During 1970-1975, two-thirds of all non-metropolitan counties showed net gains in population (Popper, 1981). The issues that local governments have faced in the past and will continue to face in the future are based on the opinion that "the forces of urbanization do not respect municipal boundaries" (ACIR, 1968). These forces of urbanization have

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put undue pressure on local municipalities. Some local governments have had to extend unplanned municipal services into the urbanized areas that exist beyond their boundaries.

Growth management decisions determine whether municipalities annex. The decision to annex, if not planned, may place undue hardship on a municipality. Annexation may force capital expenditures beyond the city's planned budget. These expenditures include the extension of sewer, fire, and police protection. These expenditures may in turn increase the local taxes on property of the city.

There are differing views concerning the extension of municipal services to developments that occur outside the municipal boundary. These areas are referred to as the fringe or frontier area. "The problems of how to plan for the orderly development of fringe areas, how to best extend municipal services and infrastructure, and most importantly how to pay for the cost of municipal expansion have manifested themselves for over one hundred years" (Galloway & Landis, 1986, p. 25). A municipality is organized to provide services to the citizens supporting it through taxes. A fringe area development can not force a municipality to provide it with city services. Five states have statutes within their systems that force territory on a municipality (Kelly, 1993). The actions of forced acceptance on a municipality are very rare, but do happen. The circumstances revolving around such issues are mainly environmental in nature such as citizens in need of city services due to failing septic systems.

Two-thirds of all states allow municipalities to set up special districts. These districts receive city services without being annexed into a municipality. A special district may contract with an adjacent municipality for water, sewer, fire or police protection. Three-fifths of the states have statutes allowing the sale of water services outside municipal boundaries (Sengstock, 1962). Minnesota has two statutes (MN State Statute 455.29 and 456.29 respectively) dating back to 1945, allowing for the extension of services beyond the municipal boundary. The creation of the special districts may be a desirable solution to the



extension of municipal services beyond the municipal boundaries (Popper, 1981). According to the Department of Commerce, the number of special districts in the United States has increased by 44.7% since 1962. Of the 33,131 total special districts in existence in 1995, 3,663 pertain to housing and community development (Department of Commerce, 1995).

Extending municipal services beyond the city boundaries can have long range ramifications. In the book, Rural and Small Town America, the authors argued that the extension of city services beyond the municipal boundary only encourages fringe area development, thus putting further pressure on the municipalities to provide a greater volume of services to an unincorporated area. They also stated that providing the services produces a climate unfavorable to annexations. The population in the fringe area is able to receive all the benefits of citizenship to a municipality without its inconveniences and burdens (Fuguitt, Brown, & Bealer, 1989). The view that citizens receiving the services should shoulder the cost of the services was addressed in Henry's book, The Crossroads Center Annexation. Henry stated that "those who benefit directly by the presence of an established community should help carry the tax burden of operating that community" (Henry, 1971, p. 326). An annexation plan in Wilmington, North Carolina stated that "annexation also promotes greater taxpayer equity and provides for an inclusive political system that enfranchises more citizens of the urban area but not necessarily needed or desired by everyone in the county" (City of Wilmington, 1995, p. 1).

Extension of services before annexation may have benefits. In a 1962 report, Sengstock referenced a 1947 article from the Michigan Municipal Review titled, Should Municipalities Furnish Services Outside of Corporate Limits? Sengstock (1962) argued that municipalities which extend their services to the fringe areas located within the adjoining township, create a feeling of dependency and climate receptive to annexation.

A case study of Tyndrum, Colorado also discussed the extension of municipal services before annexation. Colorado statutes provide authority to municipalities for planning in areas expected to be annexed in the near future. Because of this existing statute, the county government around Tyndrum ignored planning issues in the fringe area of the municipality. Therefore, Tyndrum adopted a comprehensive plan for the community that took into account the fringe area. The comprehensive plan covered the development adjustment of services and the selective extension of water and sewer services beyond the city borders. By including the fringe area within the comprehensive plan and extension of services, the city was able to influence development in the fringe area contiguous to present development. Tyndrum influenced land-use decisions that could have been costly when annexation occurred. The main benefit to Tyndrum's approach was the fiscal balance achieved by the advanced planning in the service extensions of sewer, water, fire, and police (Godschalk, Brower, McBennet, Vestal, & Herr, 1979).

### Annexation for Development

Ownership of land is an important issue that must be addressed in any discussion concerning annexation. Popper (1981) stated: "Ownership of land implies power, security, independence, fertility, and above, all, wealth. According to one estimate, at the end of 1975 almost 15% of the nation's wealth came from land holdings--about \$1.2 trillion. This figure represents the land's resale value" (p. 9). This statement pertains to the personal assets of individual citizens, but also reflects a municipality's fiscal worth. The value of the property within a municipality is, in part, income for the city from property tax. Development within a city increases its tax base; therefore, there is strong competition among cities for development projects. Some cities annexed wildly, assuming the property tax revenue would outweigh the fiscal cost for provision of services to these areas. This activity often turns out to be disastrous (Popper, 1981). The unmanaged change in the

boundaries of a city can drastically effect the planning and fiscal balance of the annexing municipality and the township as well (Isberg, 1982).

A study conducted by Klaff and Fuguitt (1978) suggested that annexation was pushed by the availability of land and not by absolute growth. This means that less congested an area is, the greater the possibility of that area being annexed. Developers have realized there is the least amount of resistance to annexation within a less congested area. The authors also showed that non-metro areas annexed land at a greater rate than metro areas (Klaff & Fuguitt, 1978).

There are 20 states in the United States that have towns or townships as one form of local government unit. Minnesota is one of these 20 (ACIR, 1992). It is important to take these units of government into consideration when discussing annexation. When a municipality within these 20 states annexes land, a township loses that territory and part of its tax base. Township governments object to annexation for two reasons. The first reason is the loss of the tax base necessary to keep their governmental structure solvent. The second reason townships object to municipal annexation is the piecemeal erosion of the township identity. Townships feel municipalities take the most valuable developable property and leave the less desirable portions (Ball & Rasmussen, 1978). "These tax base disputes consistently produce conflict between local governments seeking boundary changes and those who stand to lose their tax base if the changes are approved" (ACIR, 1992, p. 27). One must understand the social attitudes within an area if annexation proceeding are to be accepted. The township citizens often have differing views toward annexation. According to Lewis, about 2,000 annexations occur annually within the United States and many reports liken these proceeding to hostile takeovers (Lewis, 1989).

To understand the views of the population being annexed it may be helpful to recognize the forces behind annexation. When municipalities annex land for developmental purposes, the available prime land is usually agricultural land in nature. The majority of



this land is level, well drained, and near transportation (Popper, 1981). Therefore, farms adjacent to the cities and towns are most likely to fall under annexation first. This type of strip development of agricultural land along the roadways diminishes the viability of remaining interior properties by fragmenting the farms into non-contiguous parcels (Stokes, Watson, Keller, & Keller, 1989). Annexation practices of this type diminish the viability of a township.

If requests for annexation do not come from the rural population, then who is requesting this action? According to many scholars, many requests for annexation are initiated by developers and realtors. "Urban form is determined primarily by the actions of those whose profit is linked to the specific location of growth, namely developers, realtors, land speculators, and other elements of property capital" (Fleischmann, 1986, p. 133). Fleischmann studied the two municipalities of Milwaukee, Wisconsin and San Antonio, Texas. Fleischmann reviewed the annexations that occurred within the two cities over a 30 year period. It was found that developers and realtors initiated many of the annexations. In Milwaukee and San Antonio, 25% and 42%, respectively, of the annexations were initiated by builders and realtors. The request for annexation allowed for the extension of city services, thereby making the land development more valuable (Fleischmann, 1986). Developers often persuade communities to approve annexations of the prime developable areas and avoid the off-road areas with no developable prospects. This type of activity results in leap-frog development and environmental deterioration (Popper, 1981). The annexation pressure from developers may not be in the public interest due to the nature of the fringe or frontier population. Many people who live in the fringe area are concerned with their own land and consequently do not often attend the public hearings if it does not directly affect their property. The urban citizen has a tendency to defend the neighborhood and developers may find more resistance to development within these areas (Ford, 1990). Because of the rural nature of the population, decisions are

sometimes based on the persuasive power of the developer and not necessarily the community wishes.

### Sengstock Typology

"The constitutions and laws of the 50 states set the rules for establishing and revising the boundaries of local governments" (ACIR, 1992, p. 1). There have been numerous studies (Landis & Galloway, 1986; Liner, 1990; MacManus & Thomas, 1979) conducted concerning how the various laws affect the boundary adjustment process. The main question asked within these studies deals with a concept that perhaps a certain type of annexation law serves the needs of a community better than another type. As early as 1950, statements were being made concerning the ease of annexation. Klaff and Fugitt (1978) discussed a 1950 statement by Amos Hawley which said that "annexation, the legal device by which cities enlarge their areas, is becoming increasingly difficult to employ" (p. 2). To aid in the scholarly study of the boundary adjustment process, Sengstock developed a typology system to categorize the various state laws concerning this topic. The Sengstock annexation typology is still being utilized within annexation law studies.

The Sengstock typology classifies state laws into one of five different categories based on where the responsibility for final approval of boundary adjustments lie (Galloway & Landis, 1986):

1. **Legislative Determination:** The final decision rests with the state legislature. They do not want to delegate the responsibilities or lack the ability to do so.
2. **Popular Determination:** The "residents" affected vote on the approval of annexation. Exactly who is considered a resident may vary depending on the definition within the individual state statute.
3. **Municipal Determination:** Municipal boundary adjustment approved by local governing bodies, through unilateral action.



4. **Judicial Determination:** Proposed annexations decided through the state's judiciary system.
5. **Quasi-Legislative or Administrative Determination:** The annexation approval is determined by an independent, non-judicial board or commission.

The statutory rules determine the ease of annexation within a state. The states with what are considered tough annexation laws are those states in which the landowners or residents hold the veto power (ACIR, 1992). The breakdown of the state within each category of the Sengstock typology according to a study by Galloway and Landis (1986), is found in Table 1.

Table 1

States by Category of Sengstock Typology for Annexation

Judicial Determination	Legislative Determination	Municipal Determination	Popular Determination
Mississippi Pennsylvania Virginia Delaware Illinois	Connecticut Vermont Hawaii Maine Massachusetts New Hampshire Rhode Island	Idaho Indiana Maryland Nebraska North Carolina Oklahoma Kentucky Texas Maryland Kansas Arkansas Tennessee	Alabama Arizona Colorado Florida Georgia Louisiana Michigan New Jersey New York Ohio Oregon South Carolina South Dakota West Virginia Wisconsin Wyoming

(Galloway & Landis, 1986, p. 12)

**Table 1**  
**States by Category of Sengstock Typology for Annexation Laws**

<u>Judicial Determination</u>	<u>Legislative Determination</u>	<u>Municipal Determination</u>	<u>Popular Determination</u>	<u>Quasi-Legislative Determination</u>
Mississippi Pennsylvania Virginia Delaware Illinois	Connecticut Vermont Hawaii Maine Massachusetts New Hampshire Rhode Island	Idaho Indiana Missouri Nebraska North Carolina Oklahoma Kentucky Texas Maryland Kansas Arkansas Tennessee	Alabama Arizona Colorado Florida Georgia Louisiana Montana New Jersey New York Ohio Oregon South Carolina South Dakota West Virginia Wisconsin Wyoming	Alaska California Iowa Kansas Michigan Minnesota Nevada North Dakota Utah Washington

(Galloway & Landis, 1986, p. 32)

In 1986, Galloway and Landis researched the correlation between the type of state law and the annexation activity within that state. Their research determined that those states which placed the decision making power of annexation in the hands of a municipality (Municipal Determination) or a third-party committee (Quasi-Legislative Determination) had a broader involvement among municipalities in the practice of annexation than the other annexation law classifications. They also determined that the Sengstock models for annexation statutes were poor indicators of the ease of annexation when studying frequency of annexation due to the many extra-legal factors (Galloway & Landis, 1986). Another study in 1990 also determined that states which placed the final decision of the municipality experienced greater annexation activity (Liner, 1990). There were two major studies concerning the annexation laws and annexation activity utilizing the Sengstock typology. MacManus and Thomas (1979) collected data on 243 U.S. cities concerning their annexation activity. They determined that "it appears on the surface that the legal difficulties/ complexities of the annexation process may not be a very significant deterrent to municipal annexation" (MacManus & Thomas, 1979, p. 22). Dusenbury's (1980) study covered only the southern states but found some contradiction to the MacManus and Thomas study. The Dusenbury study determined there is a relationship between state annexation laws and the level of activity and the volume of land involved (Galloway and Landis, 1986).

It has also been determined that there are regional variations in annexation activity. The states in the west and south regions of the United States account for three-fourths of the area and population annexed. The northeast region did not follow the other regional annexation patterns. Cities in this northeastern region were less likely to annex than municipalities in other regions of the U.S. (Klaff & Fuguitt, 1978). This pattern of regional annexations was also noted in Miller and Forstall's 1984 study. Within the states in the northeastern portion of the United States, towns and townships have incorporated.



Therefore, if any annexation occurs within this region, the area must first be deannexed from the other municipality, thus minimizing annexation activity.

The state of Minnesota's statutes for boundary adjustment fall under the Sengstock category of Quasi-Legislative. A commission called the Minnesota Municipal Board was set up to have the final ruling on any annexations within the state. The history behind the Minnesota Municipal Board and the breakdown of Minnesota's annexation statutes are found in the chapters to follow. It is important to understand these factors when evaluating the orderly annexation statute.

For any city to change its form of organization and governmental powers (Art. XII, Sec. 4, Minn. Stat. 410.04), The Minnesota State Legislature has provided local governments with the procedures for the creation, organization, administration, consolidation, division, and dissolution of local government units and their functions; for the changes of boundaries, . . . (Art. XII, Sec. 3) within the State Constitution.

As noted in the previous chapter, individual states determine the process which local governments must follow for boundary changes. The Quasi-Legislative or Administrative Determination category of the Sengstock typology calls for an independent, non-judicial commission to oversee annexation decisions. Minnesota's statutes regarding boundary adjustment falls within this category (Figure 1). The generic term for this commission is a boundary review commission. This chapter discusses the intent and establishment of such a commission according to Minnesota Statutes, as well as the makeup and role of the commission in annexation procedures.

#### Establishment of the Minnesota Municipal Board

The post-World War II period showed a rapid growth in the number of municipal incorporations across the United States. Between the years of 1957 and 1962 there were an average of 163 new municipalities each year (ACIR, 1992). As a result of this rapid



## Chapter 3

### MINNESOTA MUNICIPAL BOARD

The Minnesota constitution calls for absolute sovereignty of the local governments to the state legislature with one limited protection. This protection allows for any city to enact a charter outlining its form of organization and governmental powers (Art. XII, Sec. 4, Minn. Stat. 410.04.). The Minnesota State Legislature has provided local governments with the procedures for the "creation, organization, administration, consolidation, division, and dissolution of local government units and their functions, for the changes of boundaries. . ." (Art. XII, Sec. 3) within the State Constitution.

As noted in the previous chapter, individual states determine the process which local governments must follow for boundary changes. The Quasi-Legislative or Administrative Determination category of the Sengstock typology calls for an independent, non-judicial commission to oversee annexation decisions. Minnesota's statutes regarding boundary adjustment falls within this category (Figure 1). The generic term for this commission is a boundary review commission. This chapter discusses the intent and establishment of such a commission according to Minnesota Statutes, as well as the makeup and role of the commission in annexation procedures.

#### Establishment of the Minnesota Municipal Board

The post-World War II period showed a rapid growth in the number of municipal incorporations across the United States. Between the years of 1957 and 1962 there were an average of 163 new municipalities each year (ACIR, 1992). As a result of this rapid

growth there were concerns about unplanned development, fiscal disparity, and territorial disputes. There were questions concerning the viability of many small local governments (ACIR, 1992).

In 1959, due to the growth of new municipalities, the Minnesota Legislature granted county boards and district courts some decision making powers concerning boundary adjustment but there was still an ever-increasing demand put on the legislature to resolve boundary disputes (Local Government and Urban Affairs Committee Minutes, Exhibit A, Jan. 19, 1981). An atmosphere of municipal boundary chaos existed. The rapid growth within the five metropolitan counties included 45 new villages with nearly half having a population under 1,000. By the end of the 50s, there were 130 separate municipalities in the seven county Twin Cities area (Minnesota Municipal Board, 1986).

As a result of the increasing demand to settle boundary adjustment disputes, the legislature passed Minnesota Statute 414.01. The statute provided the framework for the creation of the Minnesota Municipal Commission to be the decision making body concerning incorporation and adjustment of municipal boundaries. This commission was the first of its kind to be established in the United States (ACIR, 1992). The commission established in Minnesota is formed at the state level, while other states may choose to have the commissions present at the county level. The Minnesota statute setting up the review commission has become a model for other states in setting up a similar system (Minnesota Municipal Commission Annual Report, 1974). The first subdivision of statute 414.01 sets forth the legislative intent of the statute:

The legislature finds that: (1) sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state; (2) municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes; (3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation; (4) annexation to existing municipalities of incorporated areas unable to supply municipal services should be facilitated; and (5) the consolidation of municipalities should be encouraged. (Minnesota Statute 414.01, Subdivision 1)

The legislation also chose to clarify the express purpose of the Minnesota Municipal Board within the same subsection described above:

It is the purpose of this chapter to empower the Minnesota municipal board to promote and regulate development of municipalities to provide for the extension of municipal government to areas which are developed or are in the process of being developed for intensive use for residential, commercial, industrial, and governmental purposes or are needed for such purposes; and to protect the stability of unincorporated areas which are used or developed for agricultural, open space, and rural residential purposes and are not presently needed for more intensive uses; and to protect the integrity of land use planning in municipalities and unincorporated areas so that the public interest in efficient local government will be properly recognized and served. (Minnesota statute 414.01, Subdivision 1)

The main work performed by the boundary review commissions revolves around annexation proposals, with petitions for consolidation being the next most prevalent. Actual proposals for new incorporations are rare at present (ACIR, 1992). As a result of the petitions before the commission, most of their decisions influence revenues of both municipalities and townships. The townships lose revenue in the reduction of their tax base. Municipalities add to their tax base with the annexation but are required to extend services to these newly annexed areas which may disrupt their fiscal budget if the annexation is not planned. The decisions also influence the provision of services covering a large section of the population. They must also solve inter jurisdictional disputes due to the nature of their decisions. Some boundary review commissions are required by state law to consider comprehensive land use plans when making their decisions, giving the commission power to reject proposals that contradict these plans. The Advisory Commission on Intergovernmental Relations has studied these commissions and have found that the majority of them can only consider proposals that are brought before them, which causes frustration among the commission members (ACIR, 1992). The commission is not allowed to initiate proceedings where they feel annexation would benefit all parties involved.

The boundary review commission is one method of regulating boundary adjustment and may not be appropriate for all states. Citizens may be reluctant to turn over their voice



in boundary change issues to a third party. However, the commissions can provide assistance in controversial matters, but lack the power to manage growth.

The commission has the power to order annexations under special conditions. They must analyze several factors concerning the land and population in question before issuing such an order. The conditions listed below are utilized by the commission when dealing with any boundary adjustment. These are included within the annual report of the commission (1974) and listed in Appendix A. The commission has the power to alter any of the boundaries within the annexation proposal in order to preserve the symmetry of the area or include property which is now or is about to become urban or suburban in character.

The commission also performs many other duties. They oversee boundary adjustment hearings. They are an information resource to the legislature and work to inform and educate population and local governments (Local Government and Urban Affairs Committee Minutes. Exhibit A, January 19, 1981).

The make-up of the Minnesota Municipal Board is set within Statute 414.01, Subdivision 2. The board consists of five members, three permanent and two temporary. The three permanent members are appointed by the governor and approved by the state senate. According to state law, one of the three permanent members must be an attorney and one must be from outside the metro area. The members serve staggered six year terms so there is a new member every two years. The members of the commission are not given a salary but are reimbursed for their traveling expenses and given a per diem for each meeting attended.

The two remaining members must be county commissioners from the county in which the majority of the land affected by the current proposal is located but not representing part of the affected area.



### Future of the Minnesota Municipal Board

A study conducted by the Advisory Commission on Intergovernmental Relations (1992), referred to as the ACIR, reviewed the performance of boundary review commissions. They found that the presence of a boundary review commission does not change the fact that boundary adjustment issues are argumentative in nature. They determined that the number of boundary disputes have been reduced to a certain extent within areas that have these commissions. It was not determined that this number was reduced as a direct result of the commission or if there was a reluctance of citizens to raise boundary issues because it was likely to be refused by the commission. The establishment of such a commission "raises questions about citizen self-determination. . . they may have little influence." (p. 25). Indeed, some commissions have become quite controversial and their decisions challenged within the court system. The establishment of boundary review commissions dropped off sharply, only four have been established since 1969. The ACIR research could not confidently state that review commissions do or do not reduce the amount or increase the quality of annexation activity or land use development. They also concluded that states with boundary review commissions should "evaluate carefully the objectives that can and should be achieved by such an agency" (p. 35). There are studies reaching opposing results. According to Liner's study (1990), where there is a boundary review commission, annexation of more population may occur more readily than in areas of unilateral decision making or judicial determination.

The role of the Minnesota Municipal Board has also come under question. At the January 19, 1981 meeting of the Local Government and Urban Affairs Committee the Chairman, Senator Wegener, discussed the annexation law changes that had a direct effect on the Municipal Board. Prior to 1979, if a municipality wanted to annex property within a township, the board was notified and handled all of the proceedings. After the 1979 changes in the Minnesota statutes, a municipality must begin discussions with the local

government and residents. Once an agreement is reached, the municipal board is notified. Senator Wegener state that "this really takes away the full power the Board has and gives it to the cities who must show that annexation would be beneficial to both the cities and towns" (p. 1).

During the 1996 legislative session the Senate Metropolitan and Local Government Committee discussed recommendation of a bill that would have adverse affects on the duties of the Municipal Board. The bill under review contained three sections. The first section called for automatic annexation in an area where the state has ordered sewer service. The second called for a halt to most non-farming development outside the municipal boundaries. The final and most detrimental to the Board, transferred the duties of the Minnesota Municipal Board to other state agencies (St. Cloud Times, 1996). This action would have disbanded the Quasi-Legislative Determination within the state of Minnesota. The bill may have resulted from a 1991 study of annexation in Minnesota that recommended the elimination or reduction in power of the Municipal Board and suggested the contested annexations be heard by an administrative law judge (Briggs & Morgan, 1991).

Township government supporters were also fighting the inclusion of two more sections within the above mentioned bill. The first would have done away with the 1992 statute revision that stopped annexation elections. Annexation elections place the acceptance of annexation proposals in the hands of the population effected by the annexation. The second section of the bill would have limited the ability of cities to annex beyond an Orderly Annexation Agreement. After much debate the entire bill failed to get out of committee. The committee voted 8-7 to table the township favored bill. (St. Cloud Times, 1996).

A great deal of controversy exists concerning the current role of the Municipal Board within the framework of the Minnesota legislature. A series of articles in the St.

Cloud Times in February, 1996, substantially debated the board's ability to order consolidation studies. However, an editorial appearing in the St. Cloud Times (1996), summed up the need for such a commission:

The municipal board has played an important role for 37 years. Consolidation often is in the best interest of municipalities and townships, preventing some serious developmental mistakes and seeing that residents of growing areas receive essential services and adequate environmental and health protections. Too often local officials and vocal resident groups are too caught up in protecting political turf to recognize the long term needs. A third party is necessary. The Minnesota Municipal Board exists to encourage communities to work together to reach mutually agreeable solutions at the local level. But where that cooperation doesn't happen, the board must have the ability to press the issue.

The Municipal Board's responsibilities have gone through many changes over the past years. The board is under much scrutiny recently and there appears to be a faction within the state that feels the board is no longer necessary. The townships and municipalities have a bitter debate concerning the annexation issue. These issues will be under discussion during election time and at next years committee meetings. Reviewing the annexation legislation will continue in importance in the coming year.

The previous chapter discussed the make up and duties of the Minnesota Municipal Board, they are all described in the legislative statute 414. This chapter reviews Statute 414 throughout for many revisions and additions, mainly concentrating on annexation 414.0325. This statute deals with orderly annexation within the state of Minnesota. Orderly annexation is "an agreement between a city and a township providing for the eventual annexation of a portion of township land to a city" (Hondale & Long, 1996, p. 7). In determining whether orderly annexation is a viable alternative for urban growth, it is important to look at why and how the legislation developed

## Chapter 4

### ORDERLY ANNEXATION MINNESOTA STATUTE 414.0325

On April 24, 1959, the State Legislature approved Minnesota Statute 414. This statute created a Municipal Commission to "hear petitions for the incorporation of villages, the annexation to municipalities of contiguous unincorporated and incorporated property, the detachment of property from a municipality, the appropriation of funds for the same" (Session Laws of Minnesota, 1959, Chapter 686, H.F. No. 1277). The statute also provided the guidelines for the above mentioned annexations, incorporation, and consolidations. This was the first legislation of its kind in the nation. Therefore the lawmakers had no precedents to refer to in the statute's development. Since the creation of the statute, the legislature has amended it several times. Sometimes the wording was changed for clarification purposes while, in some instances, additional sections were necessary to accommodate the ways the statute was being utilized. These changes will be discussed in detail within this chapter.

The previous chapter discussed the make up and duties of the Minnesota Municipal Board, these are all determined in the legislative statute 414. This chapter reviews Statute 414 throughout the many revisions and additions, mainly concentrating on subsection 414.0325. This statute deals with orderly annexation within the state of Minnesota. Orderly annexation is "an agreement between a city and a township providing for the eventual annexation of a portion of township land to a city" (Hondale & Love, 1996. p. 9). In determining whether orderly annexation is a viable alternative for urban growth, it is important to look at why and how the legislation developed.



Before reviewing the statute history, it is necessary to understand the choices before local governments in Minnesota dealing with boundary adjustment, specifically annexation. There are presently three options available to municipalities in Minnesota statutes. They are Orderly Annexation, Annexation by Ordinance and Annexation by board order. The type of annexation procedures used by a local governing body may depend on land ownership, size and other characteristics.

When a petition is received by the board, the annexation must meet three criteria based on Minnesota statutes. The three criteria are found in Minnesota statute 414.031 to 414.033. The first is that the land to be annexed must adjoin the corporate limits on the city requesting the annexation. Secondly, the land may not already be part of another municipality. If this would be the case, there would have to be concurrent procedures of detachment and annexation found in statute 414.061. Finally, the board "may order the proposed annexation if the property is now, or is about to become urban or suburban in character because the municipal government is required to protect the public health, safety, and welfare" (Minnesota Statute 414.011 subd.4). This criteria must be considered on any of the three annexation options.

#### Board Ordered Annexation--Minnesota Statute 414.031

This statute is also referred to as "Contested Annexation" (Briggs & Morgan, 1991, p. 9). The petition for annexation may be initiated by one of four methods.

1. Resolution of a municipality
2. Resolution of a township
3. Petition of 20% of property owners or 100 property owners whichever is less
4. Joint resolution of municipality/township

The fourth method was added to the statute by amendment in the 1978 legislative session (Laws of Minnesota for 1978, Chapter 705, S.F. No. 910, p. 626). This method is often utilized when other avenues of initiating boundary adjustments are not viable due to potential controversy. When the petition for annexation is received by the board, a hearing date is set, not to exceed 120 days or before 30 days from the date the petition is received (League of Minnesota Cities, 1993).

Prior to 1992, an annexation election was held in the area of the proposed annexation (St. Cloud Times, 1996). Only the residents in the area under consideration were eligible to vote. The decision for or against annexation was placed in the hands of the citizens; a majority vote either way determined the outcome of the annexation proceedings. The concept of an annexation election was overturned by the 1992 legislation in favor of a hearing before the Municipal Board (St. Cloud Times, 1992).

The Municipal Board must consider certain factors in reaching a final decision. Briefly those factors involve population growth, terrain, present development, possible present or future environmental concerns, fiscal data of both parties involved, effects on adjacent communities, present state of services, and governmental aid (Hondale & Love, 1996).

When dealing with denial of the proposed annexation the wording in the statute is very significant. The statute states that the board shall deny the annexation if the monetary benefit to the municipality is beyond reason to the benefit conferred on the annexed area. Basically that means that the city cannot annex property solely for financial gain. The statute states that the board may (meaning it is left up to the discretion of the board members) deny annexation if the township would suffer undue hardship with the loss of the annexed property or if the annexation would better benefit the residents of the property. In such a case, the township's fiscal situation may be harmed beyond the ability to serve

the remaining citizens and the citizens of the annexed property are only approving of the annexation for financial gain.

Annexation by Ordinance--Minnesota  
Statute 414.033

The U.S. Advisory Commission on Intergovernmental Relations issued a report in 1968 on the urban and rural policies for future growth. Within this report they cited a 1961 report titled, Governmental Structure, Organization, and Planning in Metropolitan Areas, that urged states to allow their municipalities to initiate annexations proceedings.

Annexation by ordinance first became a part of annexation law in 1961 (Session Laws for Minnesota, Chapter 645, H.F No. 1346) and eventually became 414.033 in 1969 (Chapter 1146, H.F. No. 1642). Under Minnesota statute 414.033 there are particular circumstances that allow a municipality to annex property without action from the municipal board. The law takes into account that land falling under the criteria listed below is already urban in character.

These criteria are as follows:

1. The city owns the land to be annexed
2. The land is completely surrounded by land already belonging within the municipal boundaries
3. If all (100%) of the landowners petition for annexation and the land is already within an orderly annexation agreement

Under the above criteria the city must provide copies of their ordinance allowing for the annexation to occur to the municipal board, town clerk, the county auditor, and the secretary of state. The annexation becomes effective when the board approves the filing (League of Minnesota Cities, 1993).

There is another criterion by which municipalities may annex land by ordinance. This section has had many revisions over the years. Basically, subdivision 3 of 414.033



states: "that if 60% of the property abuts the municipality and is 40 acres or less in size the municipality may annex by ordinance. The township must be served notice and if the town objects to this action within 90 days, a hearing must be held by the municipal board to attempt to resolve the issue." This clause was added to the statute in 1965. At the time, the land had to abut the municipality by 75% or more and border it on three sides. The waiting period was also just 60 days (Session Laws of Minnesota for 1965, Chapter 899, H.F. 253). The "60%" figure was entered into law in 1969 and the wording concerning bordering on three sides was not present (Session Laws of Minnesota for 1969, Chapter 1146, H.F. 1642). The criteria concerning the "less than 40 acres" was added in 1978 (Chapter 705, S.F. 910) according to the session laws.

If unplatted land does not exceed 200 acres or the land is already platted, a majority of the landowners may initiate a petition for annexation. All parties involved are served notice and have a 90 period in which to object to the annexation. If objections occur, the municipal board must step in to hold a hearing. If there are no objections, the board may pass an ordinance annexing the land to the municipality. However, if the petition was not signed by 100% of the property owners of the area to be annexed, a public hearing must be held (Minnesota Statute 414.033, Subd. 5.). The board will not approve an annexation ordinance without the showing of facts proving the public hearing is not necessary.

#### Orderly Annexation--Minnesota Statute 414.0325

Orderly annexation became law during the 1969 legislative session (Chapter 1146, H.F. No. 1642). Orderly annexation calls for one or more townships and one or more municipalities to come together and form an agreement in the designation of an unincorporated area in need of orderly annexation. As an example, a township and an adjoining municipality may determine that an unincorporated area or areas may soon be annexed into the municipality.



The Executive Secretary of the Municipal Board said the orderly annexation section of the laws governing boundary changes was the most important part of the law (Local Governments Committee, 1977). The Secretary described another aspect of orderly annexation that allows a city and township to get together and discuss planning and future bond adjustments. These negotiations would allow townships to develop fiscal cushions for lost revenue. But a main point of the statement was that orderly annexation agreements provide guarantees against annexations and that the land involved in an orderly annexation stays within the township until the agreed upon time that annexation may occur. Usually, the annexations are noncontested. Orderly annexation is a very flexible concept because it may be applied to a wide variety of rural and urban development policies. It also ensures that new development will occur on the urban fringe areas when the municipal services can be provided in such a way as to not disrupt the fiscal stability of the municipality (Ball & Rasmussen, 1978).

A representative from the League of Minnesota Cities stated that orderly annexation was a viable alternative to straight annexation but felt the amendment that year needed to have more flexibility for municipalities (Local Governments Committee, 1977).

The process for implementation of the orderly annexation statute is very complex. It begins with two government bodies discussing many issues facing their communities, then entering into a joint resolution. This resolution designates an area or areas of the township and gives jurisdiction to the municipal board to grant the annexations on a gradual basis, possibly extending them over a number of years. As a result, annexations within the designated area of orderly annexation may be initiated as development occurs and the city may provide services. Another advantage of the joint resolution is the ability "to solve boundary disputes at the local level" (Ball & Rasmussen, 1978, p. 11).

The concept of timed annexation benefits municipalities and townships as well. Annexation disputes can be costly to municipalities and townships. The orderly annexation

statute promotes cooperation and allows for planning on a long-range basis between both units of government (Ball & Rasmussen, 1978). The orderly annexation concept has been promoted by the municipal board due to the fact that it encourages cooperation and negotiation at the local level.

The governments involved in the development of the joint resolution have the power to limit the action the municipal board may take. If the resolution states that no adjustment to the boundaries may be made, then the board must follow these guidelines. Under the previous two options for annexation, "the annexation by board order and the annexation by ordinance, the board may adjust the boundaries of the annexation area if they deem the changes to better serve the communities involved" (Minnesota Statute 414.031 and 414.033).

When the resolution is received by the board a hearing must be set if the resolution states that no consideration by the board is necessary (League of Minnesota Cities, 1974). It has been found that the hearings under an orderly annexation agreement are more amicable than the hearings conducted under the other two annexation options (Local Government and Urban Affairs Committee Minutes, January 19, 1981, Exhibit A). Annexations that are necessary for both governing bodies and the population are not always completed due to the battles that occur as a result of the annexation procedures. The local governments involved in orderly annexation work out the complexities of the annexation agreement before it reaches the costly hearing stage.

The resolution may ask the board to help in the decision process. If so, the board may order annexation if (Minnesota Statute 414.0325):

1. The area is now, or is about to become urban or suburban in character, and the municipality is capable of providing services within a reasonable time,
2. The existing township form of government is not adequate to protect the public health, safety, and welfare, or

3. The annexation would be in the best interest of the area proposed for annexation.

When the municipal board has been given a joint resolution designating an area under orderly annexation, annexations may occur to any area within the agreement by the submission of a resolution to the original joint resolution or by the board on its own motion (League of Minnesota Cities, 1993). Denial of an annexation resolution may occur if there is a conflict with any of the provisions set forth in the joint resolution. There is no annexation election that is required for an annexation to occur.

The municipal board may order an area to be considered for orderly annexation whenever the pollution control agency or other state agency, pursuant to Minnesota Statute Sections 115.03, 115.071, 115.49 or any other law giving a state agency similar powers, orders a municipality to extend a municipal service to a designated unincorporated area. (Minnesota Statute 414.0325, 1978)

This section of the statute was enacted on May 23, 1973 (Laws of Minnesota for 1973, Chapter 621, H.F. No. 1508). According to the minutes of the Local Governments Committee from March 18, 1977, the Executive Director of the Municipal Board stated that the provision pertaining to the Pollution Control Agency provision had never been utilized in any annexation proceedings since it became law in 1973. There was discussion at that time among the committee members to revise the provision that was not effective and may cause difficulties for municipalities in the future. As of the 1992 statute review, the provision was still contained within the statute.

In 1973, Statute 414.068 was added to the boundary adjustment legislation pertaining to zoning and subdivision regulation within an orderly annexation area. This section laid the ground rules for any area designated within an orderly annexation area before it becomes part of the municipality. The annexing municipality may extend its zoning regulations to include the entire area if the county and townships agree to exclude the area from their zoning ordinances (Laws of Minnesota for 1973, Chapter 621, H.F.



No. 1508). When the bill was created in 1973, it stated that if the township and county do not agree to exclude the area then the zoning is controlled by a three member committee with a member from the county, city and township.

According to the 1992 Minnesota Statutes, 414.0325 Subd 5, the joint resolution entered into by the participating municipality and township may provide the framework for a board to oversee planning in the area designated within the agreement. This board is then granted all the powers contained in sections 462.351 to 462.364, which are the statutes that lay the foundation for municipal planning. The resolution may also designate whether to include all or part of the land under the agreement to be under the planning and land-use control of this board. If no provision is made for this board in the resolution, then the provisions are the same as in 1973 when the statute became law.

According to the minutes of the Local Governments Committee in March of 1977 and in a review of the changes that have occurred, statutes pertaining to orderly annexation it appears that there was an attempt to clarify and simplify numerous areas within the statute. The most discussed section of the law is the wording that first appeared in 1961. Where the words "so conditioned as to be properly subjected to municipal government" were mentioned, the lawmakers saw fit to change to "now or is about to become, urban or suburban in character" (Session Laws of Minnesota for 1961, Chapter 645, H.F. No. 1346, pp. 1202-1203). The original statement was possibly referring to areas that appear more like a municipality than a rural setting but not yet under the jurisdiction of a municipality.

This wording has plagued officials. In the 1977 meeting of the Local Governments Committee, the executive director of the municipal board and the lawyer for the township both stated that this wording containing urban or suburban in character was "very fuzzy and leads to confusion" (Tape, 1977). The township attorney stated during this same



meeting that urban or suburban in nature can not be easily proven by fact. As of 1992 the wording has not been changed.

### Conclusion

The U.S. Advisory Commission on Intergovernmental Relations (1968) published a report which stated that the states should supply institutional arrangements that allow "areawide forces on an areawide scale" (p. 164) for public officials and citizens at the local level. Their recommendation that local units of government should cooperate through joint agreements and orderly annexation legislation for Minnesota was first approved in 1969. Orderly annexation allows local governments to work out their boundary adjustment agreements at the local level. Popper (1981) quoted one of the best known documents concerning land-use, Rockefeller Brothers Fund Task Force on Land Use and Urban Growth titled, The Use of Land. It stated: "Important development should be regulated by governments that represent all the people whose lives are likely to be affected by it, including those who could benefit from it as well as those who could be harmed by it" (p. 12). This philosophy follows the intent of the orderly annexation legislation.

In 1969 the legislation approved a section of 414.01 pertaining the municipal board. This section laid out the views of the legislature regarding boundary adjustment (Session Laws for Minnesota in 1969, Chapter 1146, H.F. No. 1642):

1. Sound urban development is essential to the continued economic growth of this state
2. Municipal government is necessary to provide the government services essential to sound urban development and for the protection of health, safety, and welfare in areas being used intensively for residential, commercial, industrial, institutional, and governmental purposes or in areas undergoing such development.

3. The public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation.
4. Annexation to or consolidation with existing municipalities or unincorporated areas unable to supply municipal services should be facilitated.
5. The consolidation of municipalities should be encouraged.

According to a study (1991) conducted for the League of Minnesota Cities, annexation attempts are likely to fail where the annexing body finds opposition and controversy; the Minnesota laws governing boundary adjustments, as they existed in 1991, appeared to have a bias against annexation (Briggs & Morgan, 1991). The study also stated that these boundary adjustment laws and the processes that must be followed are putting a great monetary burden on the taxpayers of Minnesota. It may appear from the results of the 1991 study by Briggs and Morgan that the tools available to the municipal board, which are the state statutes, make it difficult to achieve the objectives set forth by the legislature in 1969. The research (1991) determined that if any controversy existed against the annexation, the annexation attempt was dropped by the municipality and that there may be procedural bias against annexation. There appears to be a fear of entering into costly legal battles. The 1991 study also stated that many cities across the state feel the present laws governing boundary adjustment actually prevent cities from annexing areas within the townships. Local governments in Minnesota receive responsibility for boundary adjustment agreements, but many local government officials are reluctant to utilize these powers due to the limited financial and other resources available to them. They felt there is also "increasing liability exposure for improperly exercising these powers" (Jamik, 1993, p. 11). These complexities within the statute need to be addressed by the legislature to allow the laws to better serve the citizens of Minnesota.

## Chapter 5

### APPLICATIONS OF ORDERLY ANNEXATION

It is important to discuss how the Minnesota orderly annexation statute is being utilized by local governments. Questions include the number, type, and reason annexation was necessary. In reviewing this data, the legislature may have another tool with which to determine if revisions in the statute are necessary.

The need to study annexation activity at the local level is very important. The task of reviewing each and every annexation activity would be an arduous task. This chapter attempts to sift through the multitude of data available to decision-makers and possibly point out areas that are unique or common in the annexation activity. This information would be helpful in determining possible study areas that may be reviewed on an individual level.

This chapter reviews annexation activity within the state of Minnesota for fiscal years 1992 through 1996. This five year period may be sufficient to reveal trends in the annexation data; 1992 through 1996 delivered the most current data available for the study. The population growth by county from 1950 through 1990 is also presented.

#### Data

The Minnesota Municipal Board Annual Reports were utilized for this study. Any data pertaining to annexation activity throughout this chapter was derived from these annual reports. The fiscal year for the board runs from July 1 to June 30. Therefore, fiscal year 1992 covered the period from July 1, 1991, through June 30, 1992. All



reference to a year within this study follows the fiscal year of the municipal board. The annual reports provided a complete breakdown of activity that came before the board during each fiscal year. The main sections handled in the review deal with orderly annexation and annexation by ordinance. These two categories make up the majority of board activity. The sections provide data for individual case numbers reviewed by the board.

It is important to note that the individual case numbers dealing with orderly annexation do not represent a single orderly annexation agreement. An orderly annexation agreement between a municipality and a township may cover a large area of land. When any portion of land within this annexation area is going to be annexed, it receives a separate case or docket number. If two areas are being annexed at the same time but are not adjacent to each other, they will each receive a separate number and will appear in the data as such. For example, there may be five different case numbers within one board meeting that all fall under the same orderly annexation agreement.

This chapter compares annexation activity between orderly annexation and annexation by ordinance at the county and state level. Each case or docket number provides the information pertaining to each boundary adjustment such as the two local bodies of government involved in the action, usually a city and township, the county, acreage, date, and reasons why the action was implemented.

Population data presented is broken down by county. This data includes population figures from 1950, 1960, 1970, 1980, and 1990 (Appendix B). The information is discussed in relationship to the annexation activity as it occurred by county. It is necessary to review population growth over a 40 year period in each county; annexation is a growth issue. There is no attempt to determine correlation of annexation activity with population growth, there are just too many other factors involved with annexation.



### State Level

According to the Bureau of Census (1979), between the years 1970 and 1977, over 60% of the municipalities with a population of over 2,500 reported boundary changes in Minnesota covering 154,496 acres and effecting over 32,000 people. North Dakota and Wyoming had 100% of the municipalities reporting boundary changes. These boundary changes would have covered any annexation, consolidation, or detachments.

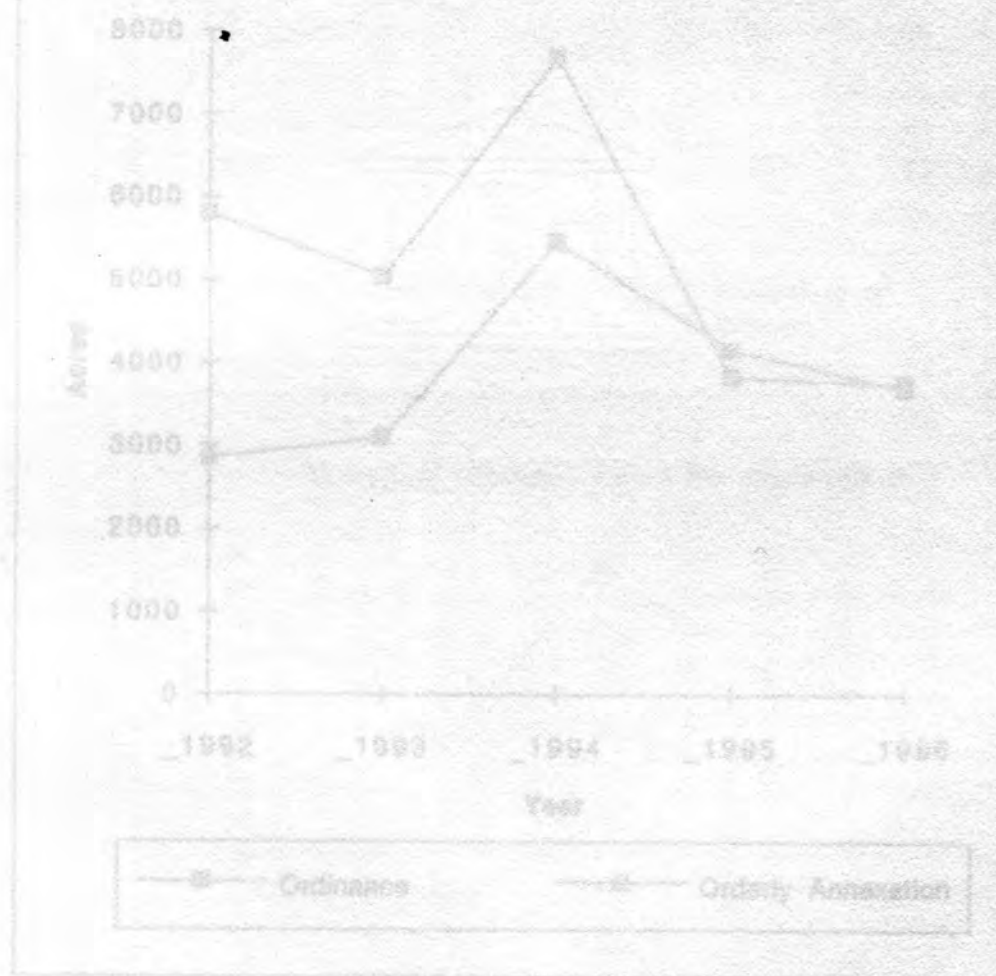


Figure 1. Minnesota Totals for Annexation

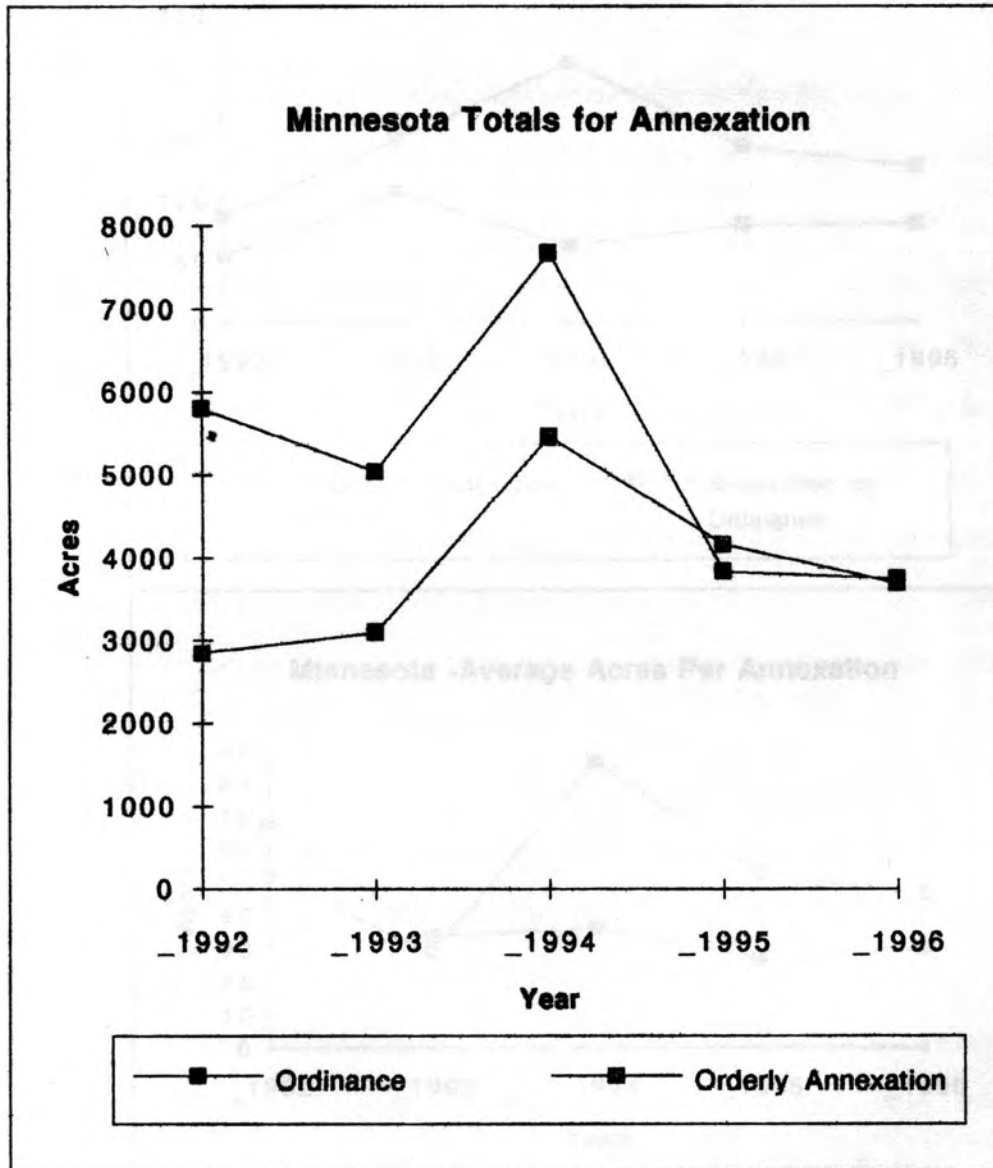


Figure 1. Minnesota Totals for Annexation

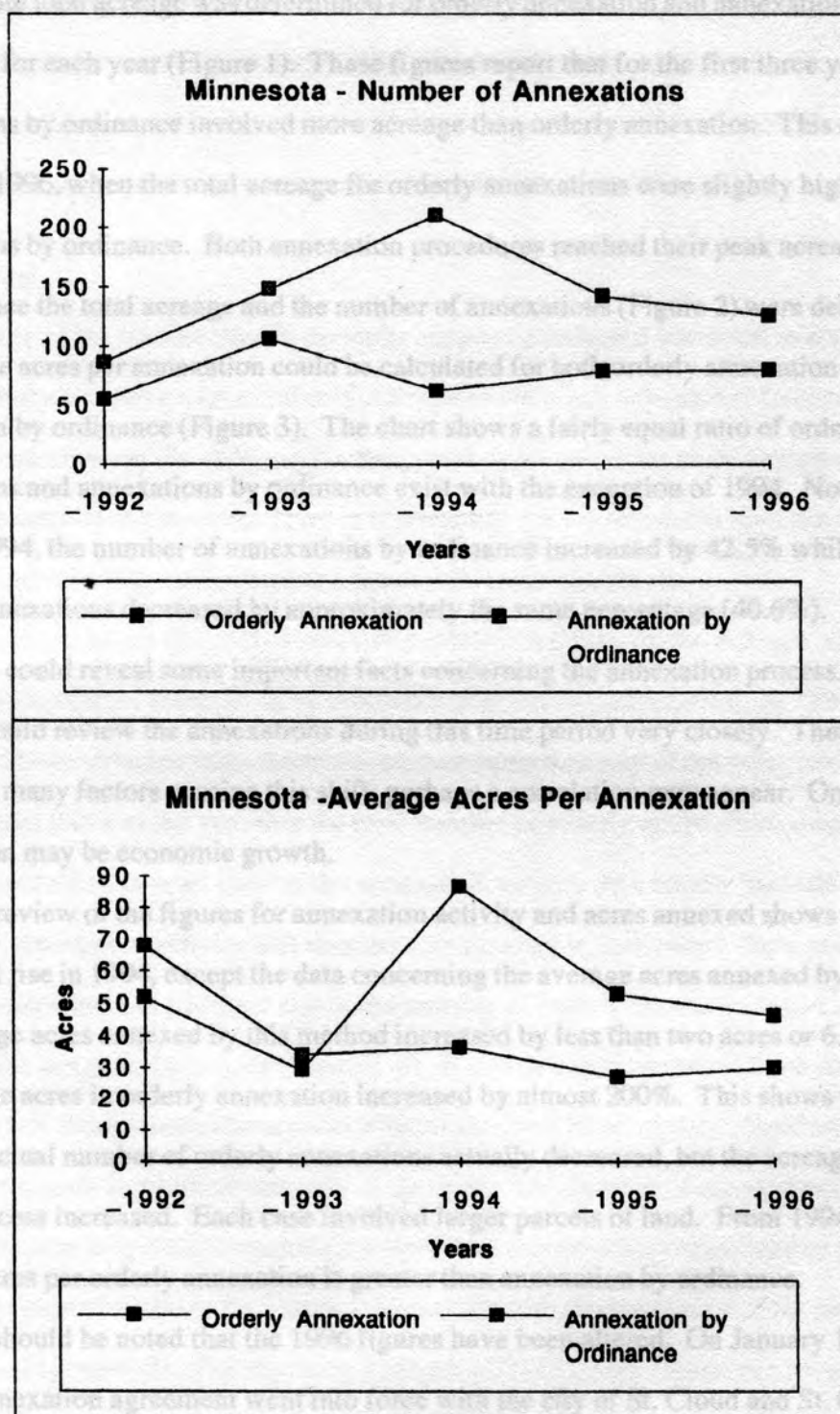


Figure 2. Minnesota--Number of Annexations

Figure 3. Minnesota--Average Acres Per Annexation

State total acreage was determined for orderly annexation and annexation by ordinance for each year (Figure 1). These figures report that for the first three year period, annexations by ordinance involved more acreage than orderly annexation. This changed in 1995 and 1996, when the total acreage for orderly annexations were slightly higher than annexations by ordinance. Both annexation procedures reached their peak acreage in 1994.

Once the total acreage and the number of annexations (Figure 2) were determined, the average acres per annexation could be calculated for both orderly annexation and annexation by ordinance (Figure 3). The chart shows a fairly equal ratio of orderly annexations and annexations by ordinance exist with the exception of 1994. Note that from 1993 to 1994, the number of annexations by ordinance increased by 42.5% while the orderly annexations decreased by approximately the same percentage (40.6%). This shift in the data could reveal some important facts concerning the annexation process. Future studies should review the annexations during this time period very closely. There could have been many factors causing this shift; perhaps a correlation may appear. One possible explanation may be economic growth.

A review of the figures for annexation activity and acres annexed shows a significant rise in 1994, except the data concerning the average acres annexed by ordinance. The average acres annexed by this method increased by less than two acres or 6.7% while the average acres in orderly annexation increased by almost 200%. This shows that in 1994 the actual number of orderly annexations actually decreased, but the acreage involved in this process increased. Each case involved larger parcels of land. From 1994 on, the average acres per orderly annexation is greater than annexation by ordinance.

It should be noted that the 1996 figures have been altered. On January 1, 1996, an orderly annexation agreement went into force with the city of St. Cloud and St. Cloud Township. The entire township was annexed into the municipal boundaries of St. Cloud. This amounted to 11,500 acres within two annexation procedures. The figures for 1996



were skewed due to the large volume of acreage in these two actions. It was determined that these figures should be removed for the initial analysis stage. If the St. Cloud acreage was added to the data, total acreage for 1996 would go from 3,695 to 15,195 acres, raising the average acreage per orderly annexation from 46.19 to 185.30 acres.

### County Level

Many of the studies cited in previous chapters conducted statistical analysis on the national level attempting to determine if one type of boundary adjustment determinant is better than another usually utilizing the Sengstock typology. This study reviews annexation activity at the county level in Minnesota. This is where the laws are applied and patterns of activity may become more evident than at the state level.

County data for the study years 1992-1996 found that, on the average, almost 19 more counties utilized annexation by ordinance than orderly annexation. In 1994, more counties were involved in more annexation procedures than any of the other study years. Also note that this was the year that the total number of orderly annexations dropped.

To obtain an overall view of the annexation activity on a county basis throughout Minnesota, annexation activity was thematically mapped by individual study year. The following maps include a breakdown of the number of orderly annexations and annexations by ordinance per year, by county (Plates 1-5). It can be easily observed from the maps that the majority of orderly annexations consistently occurred in the central Minnesota counties and Mower county in southeastern area of the state. The number of annexations by ordinance appear to spread throughout the state with no particular centralization pattern.

The charts following the Plates 1-5 coincide with the reasons cited for each annexation (Figures 4-8). The reporting methods utilized by the Minnesota Municipal Board categorized the reason for annexation as follows:

1. Residential
2. Commercial
3. Industrial
4. Institutional
5. Environmental
6. City Services
7. Contiguity
8. City-owned Land
9. Agricultural Land
10. Other (roads, right of way, state-owned land)

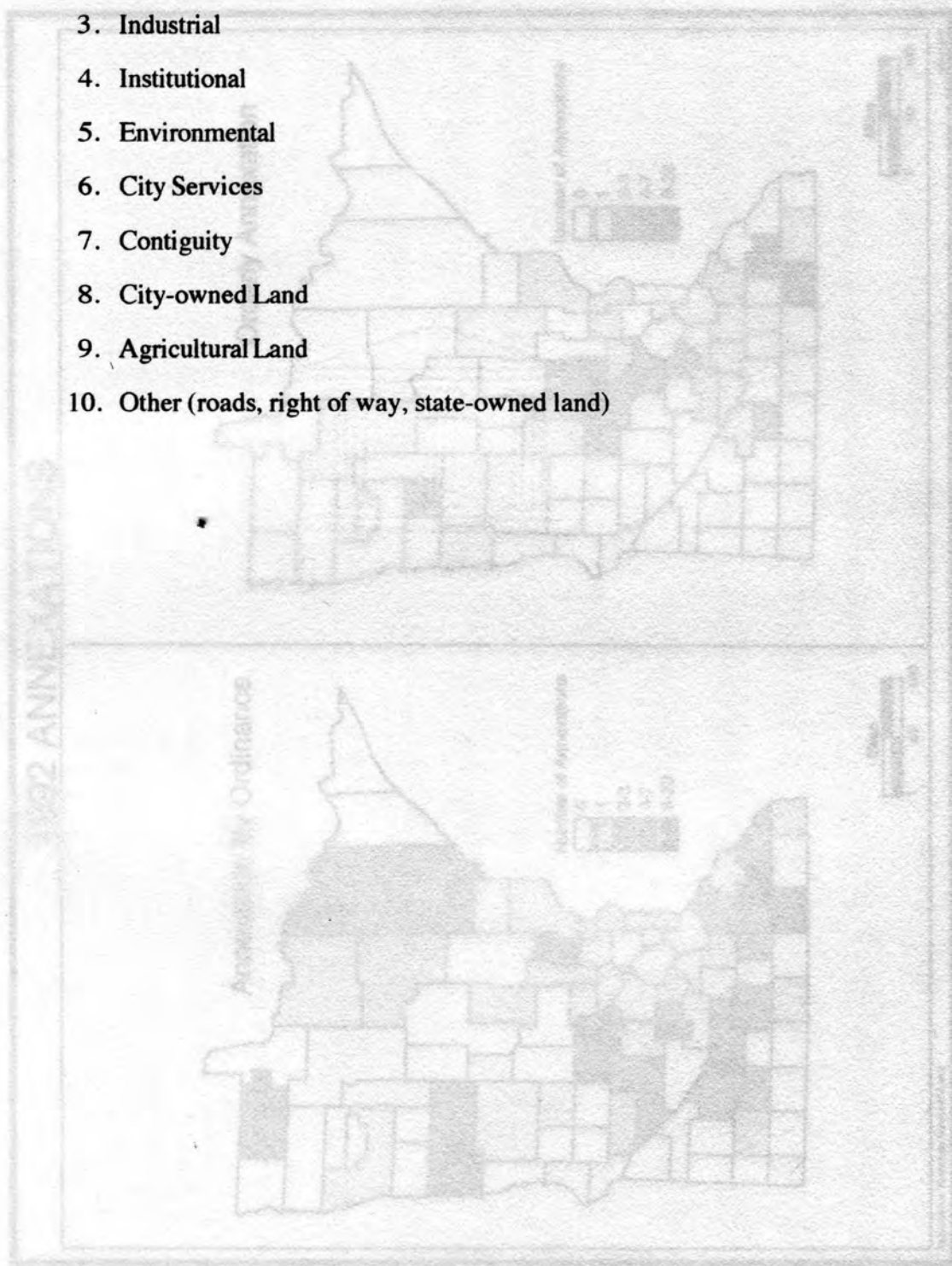
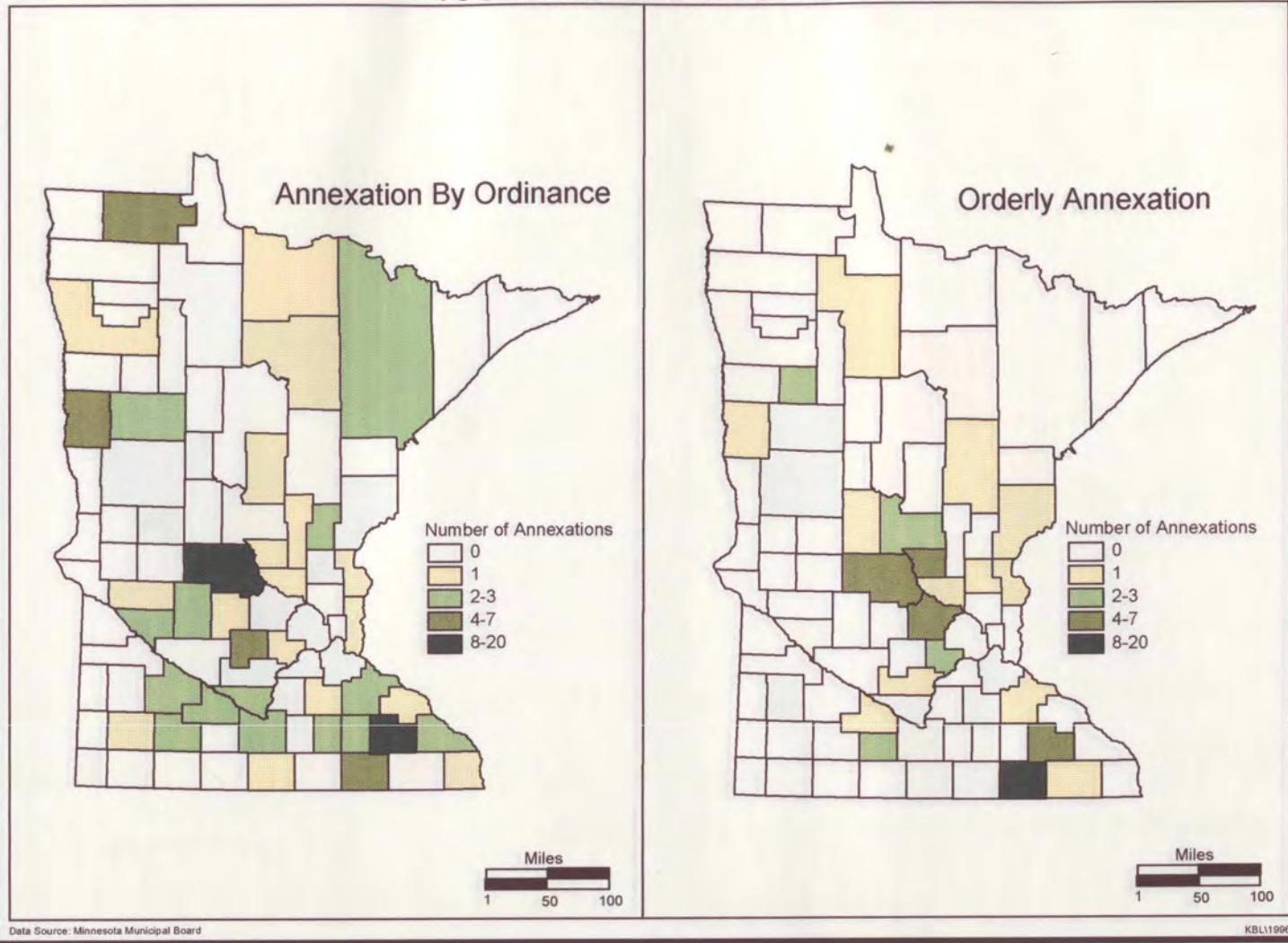
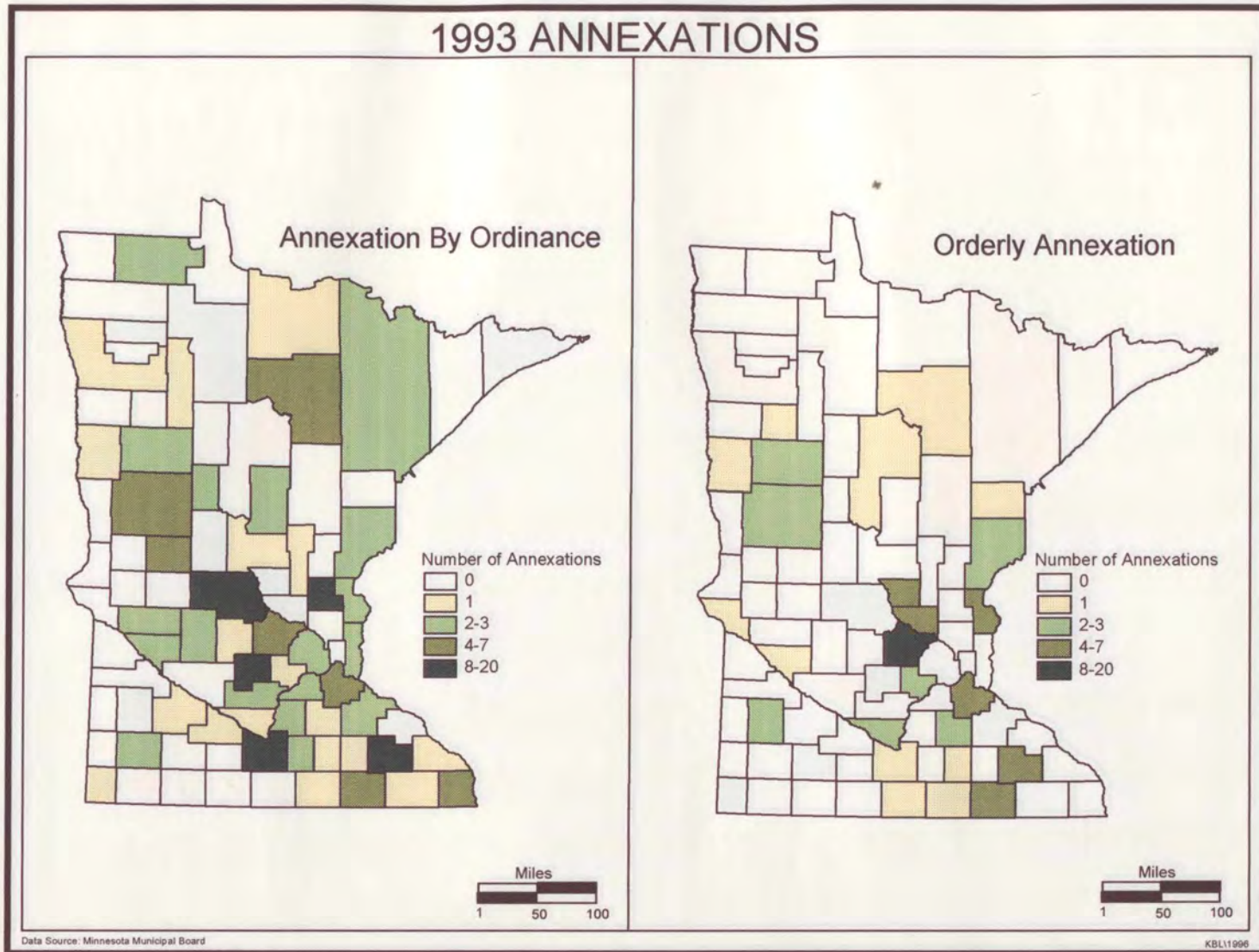


Plate 1. 1992 Number of Annexations

# 1992 ANNEXATIONS

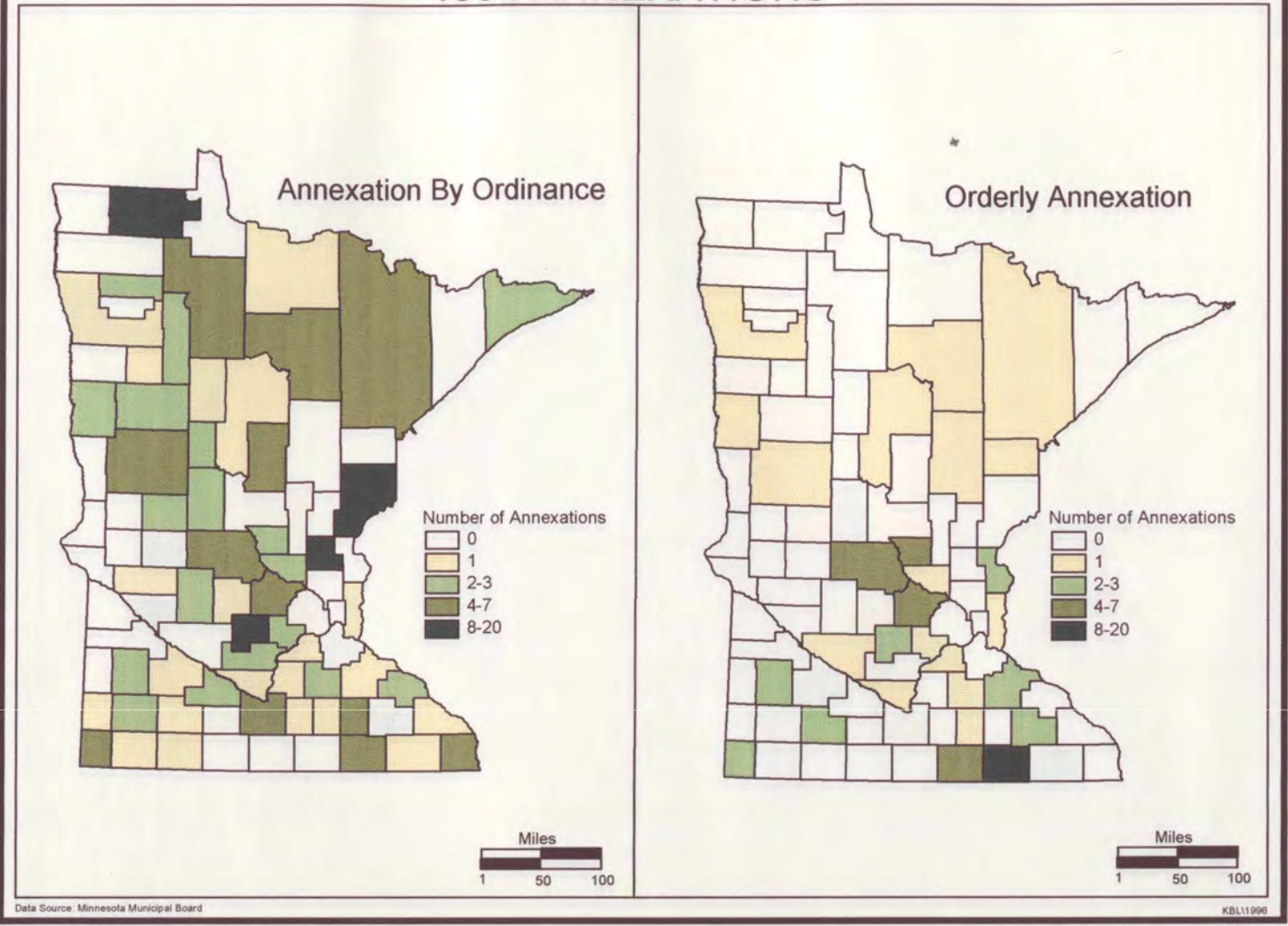


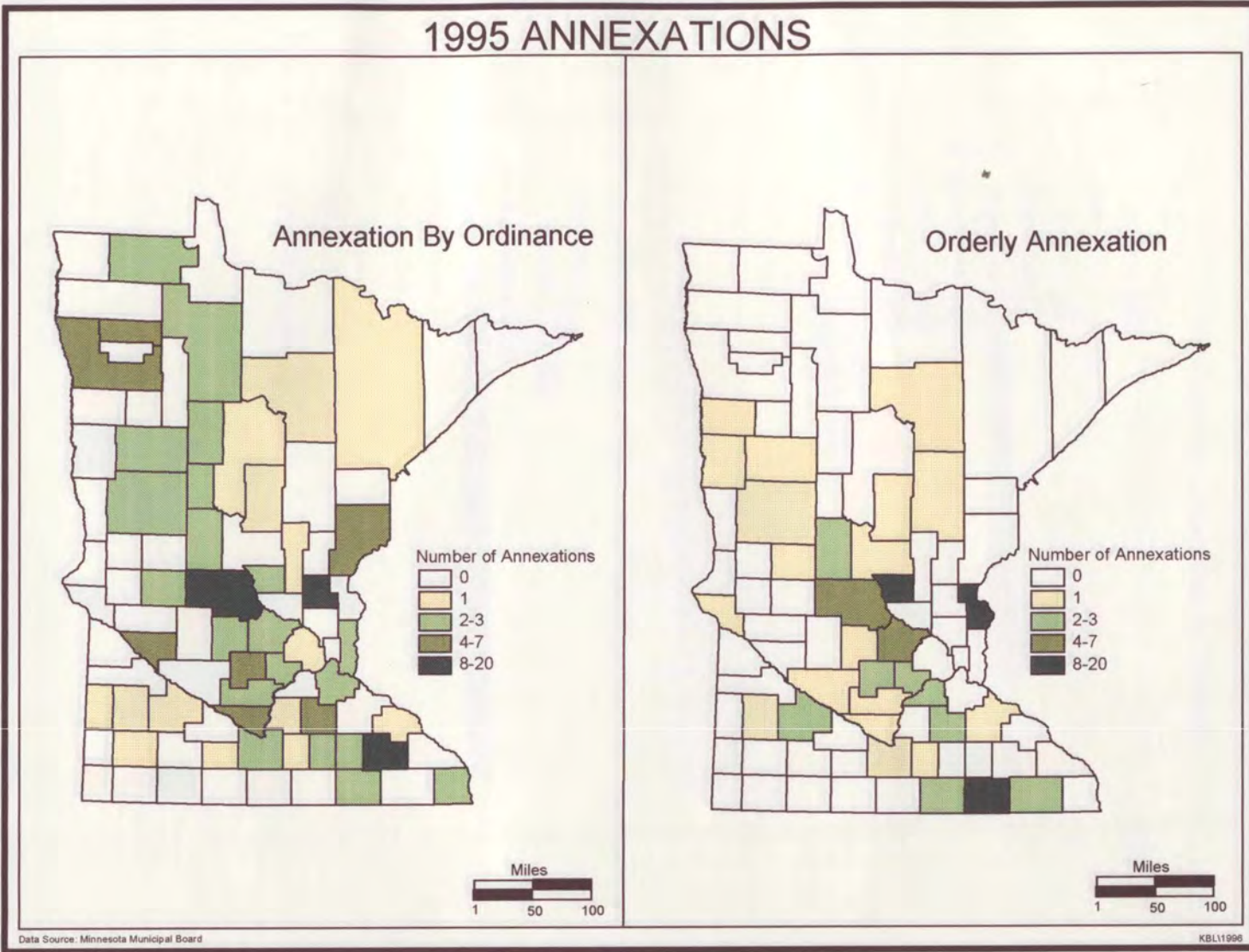






# 1994 ANNEXATIONS









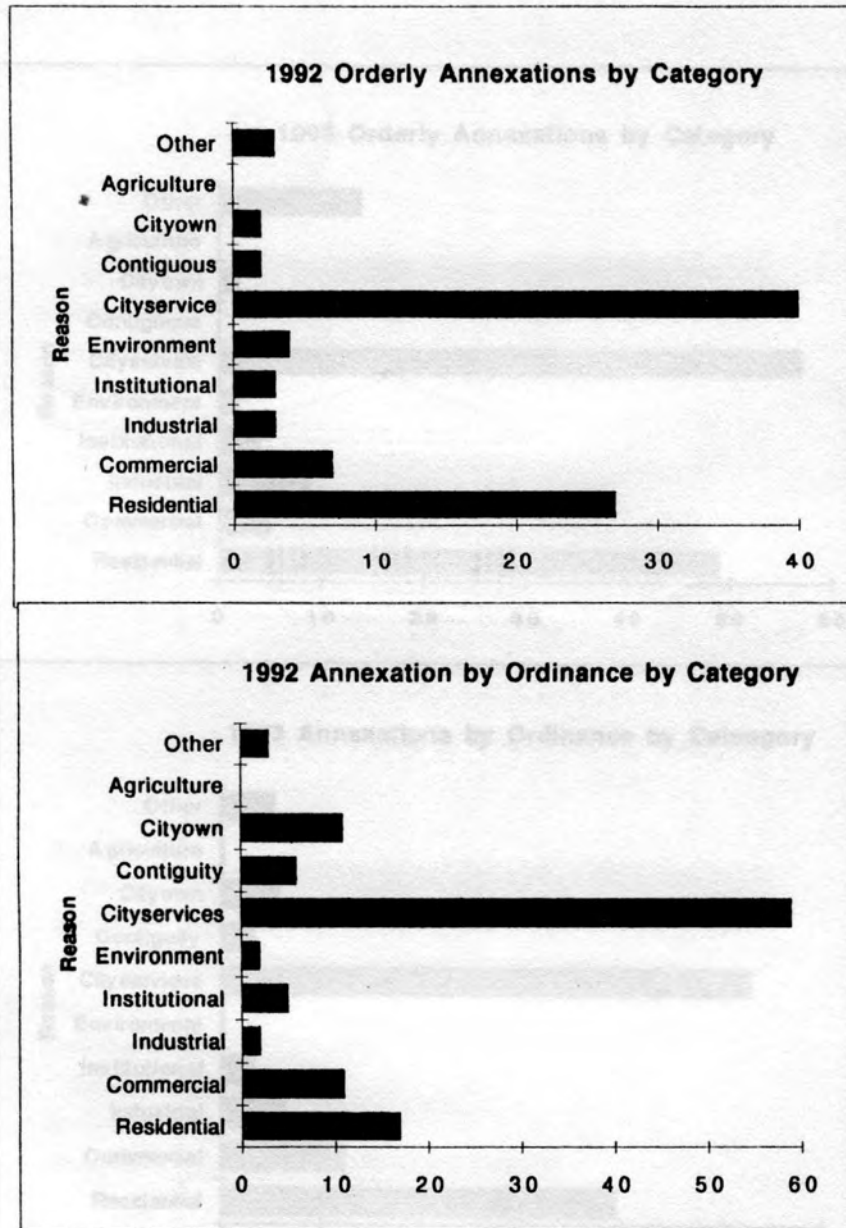


Figure 4. 1992 Orderly Annexations by Category  
 1992 Annexation by Ordinance by Category



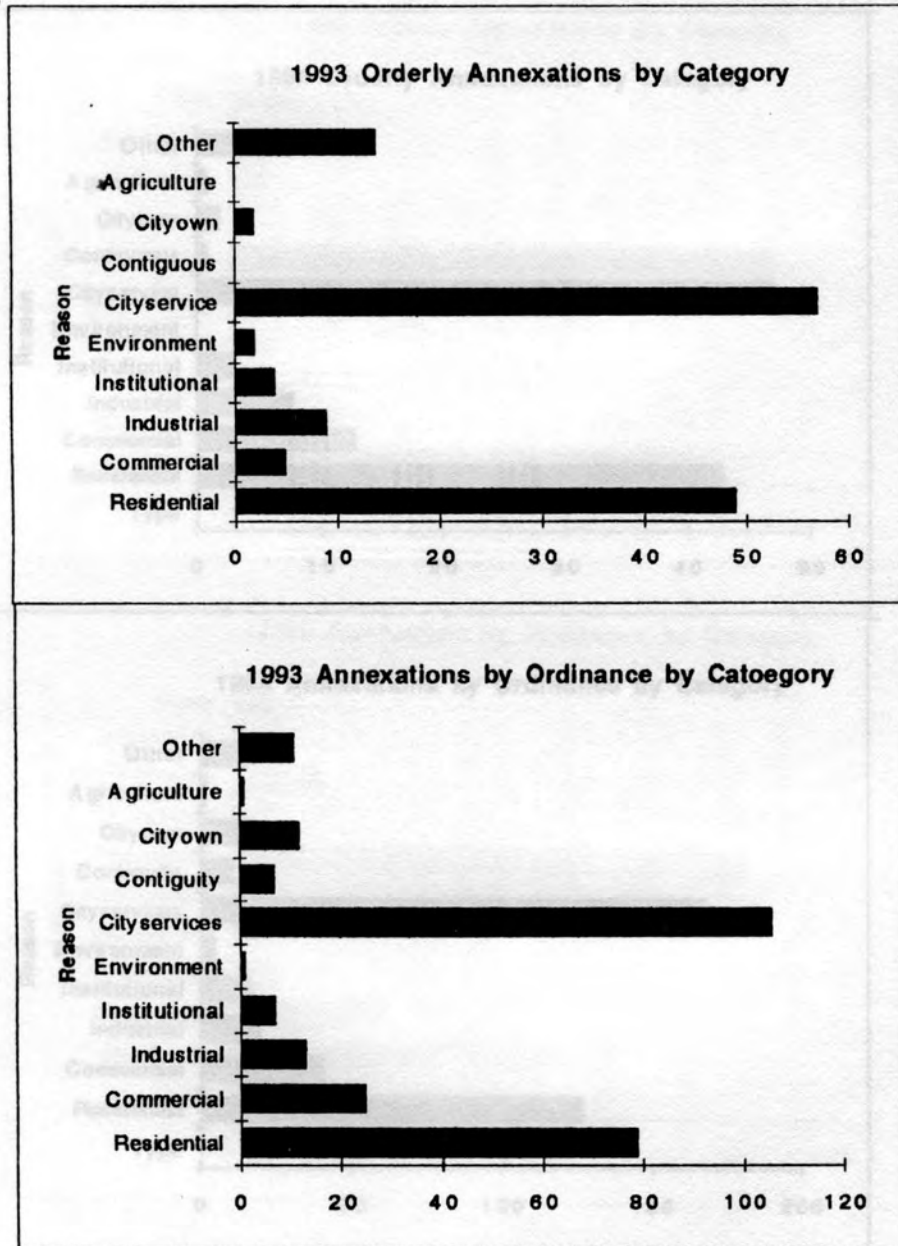


Figure 5. 1993 Orderly Annexations by Category  
 1993 Annexation by Ordinance by Category

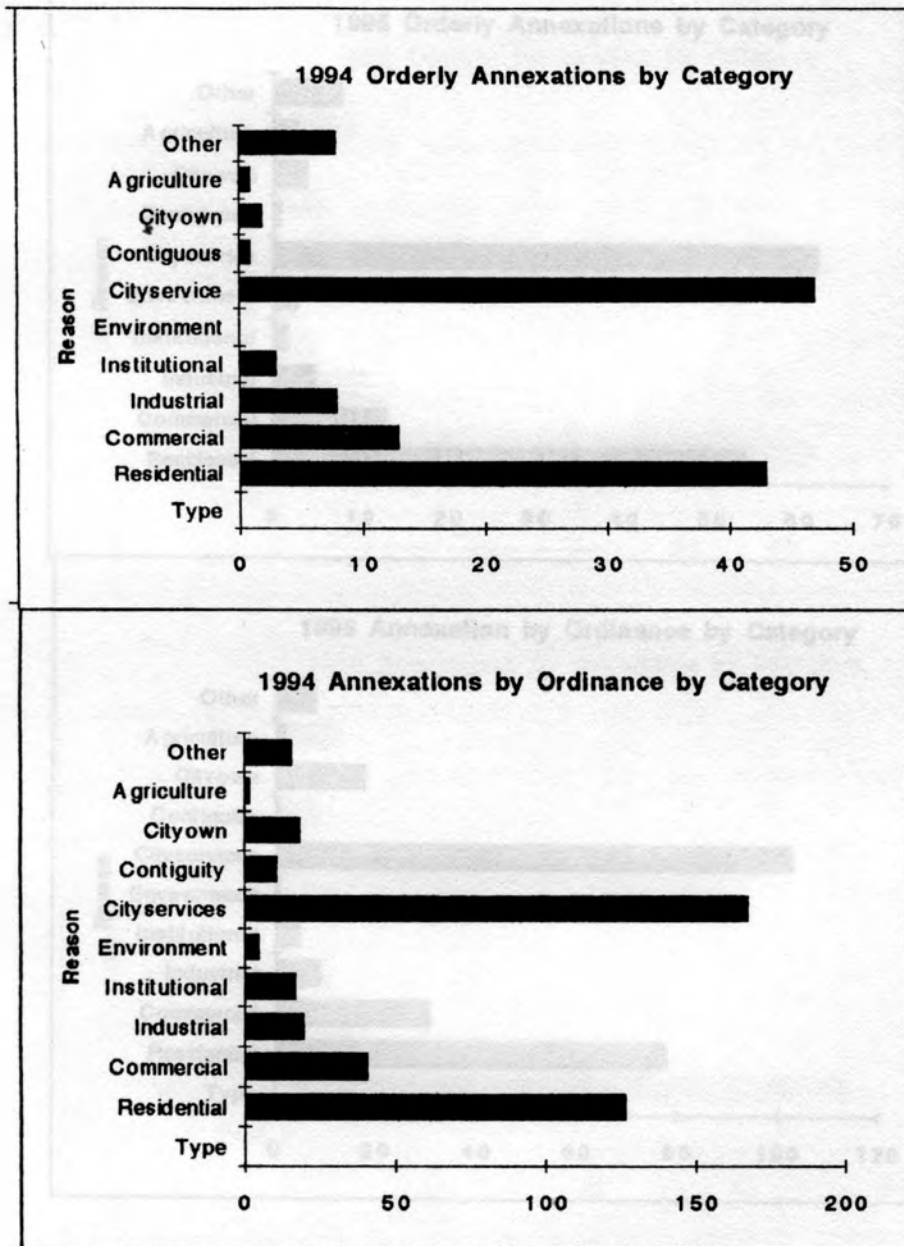


Figure 6. 1994 Orderly Annexations by Category  
 1994 Annexation by Ordinance by Category

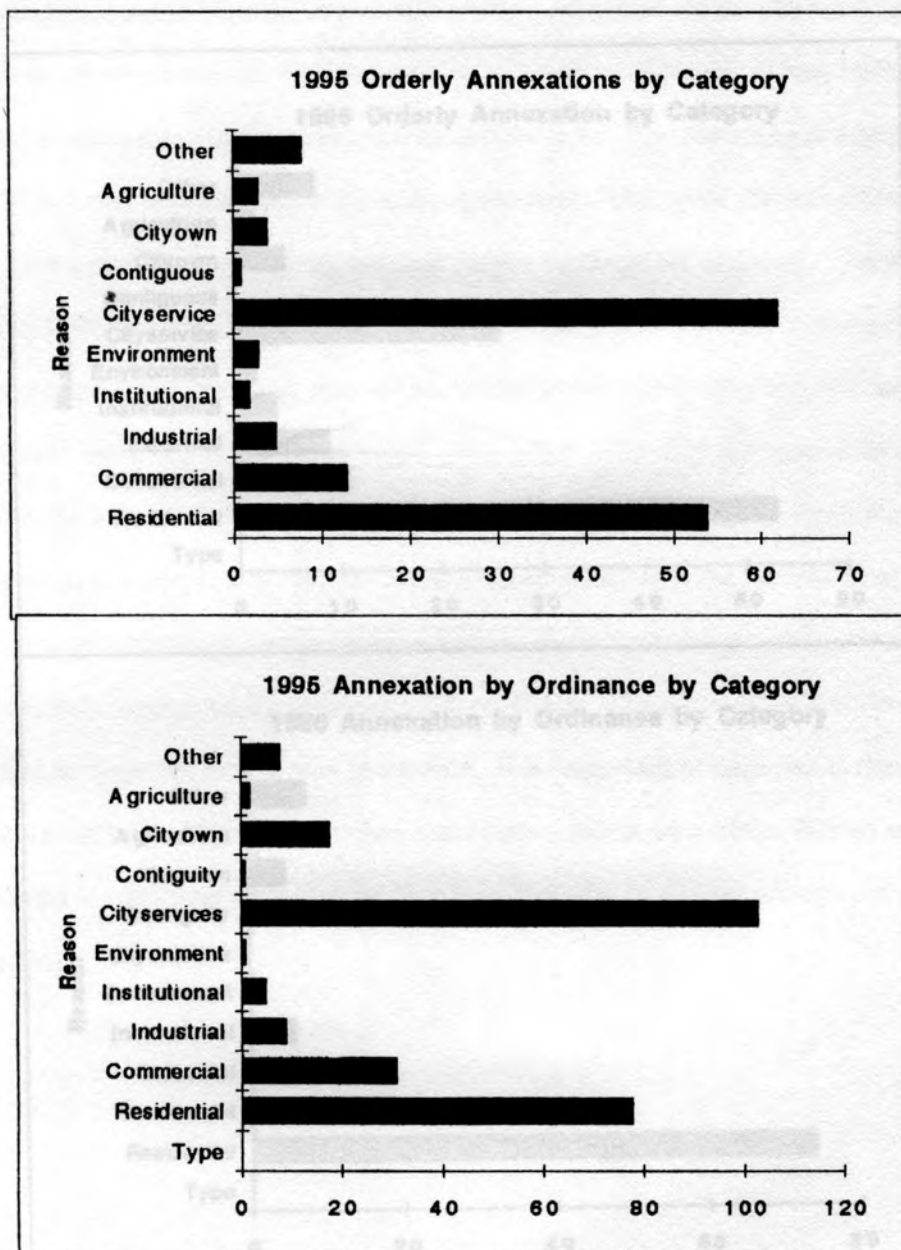


Figure 7. 1995 Orderly Annexations by Category  
1995 Annexation by Ordinance by Category



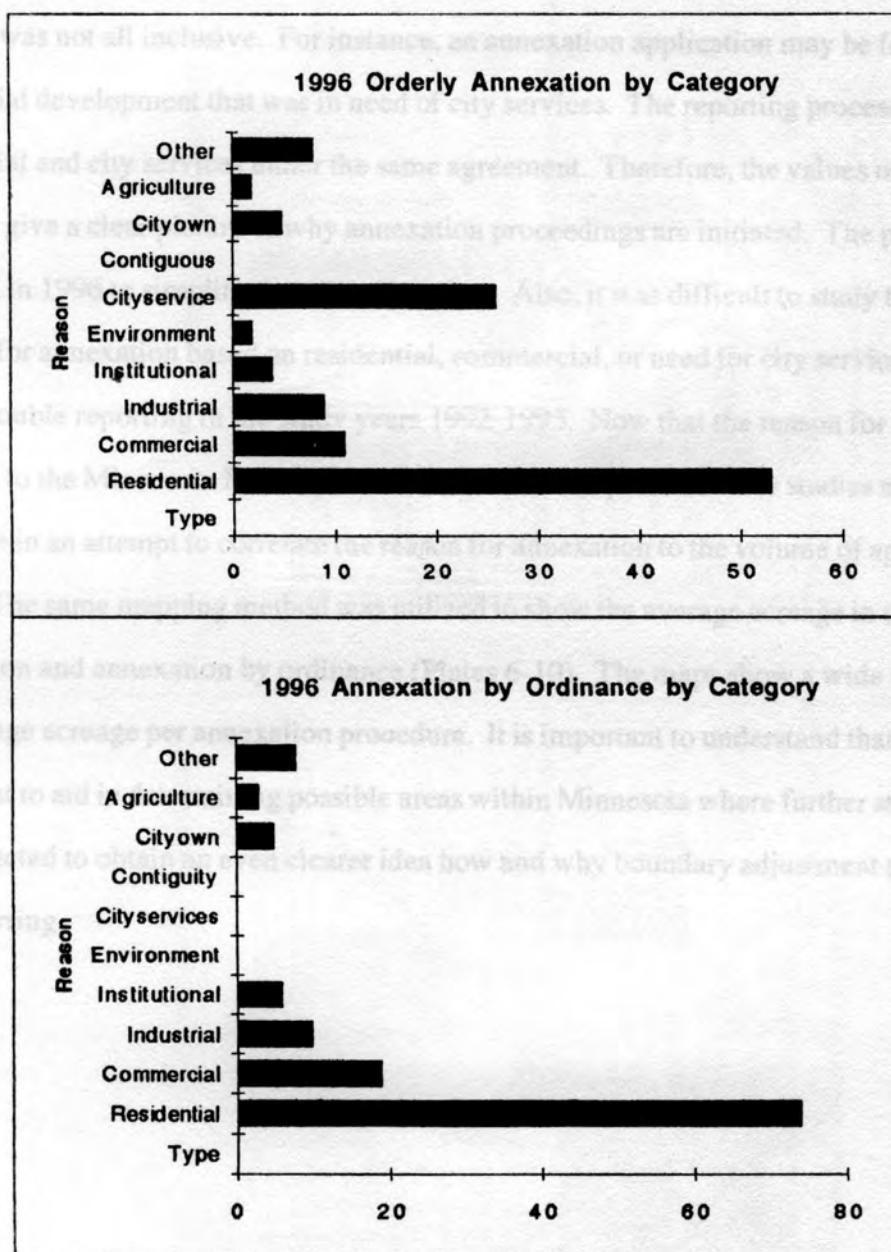


Figure 8. 1996 Orderly Annexations by Category  
1996 Annexation by Ordinance by Category

It was felt that these charts may be helpful in understanding the forces that may be acting on the annexation numbers discussed earlier. However, it is important to understand the reporting process to better interpret information presented on the charts. The reporting method was not all inclusive. For instance, an annexation application may be for a residential development that was in need of city services. The reporting process would cite residential and city services under the same agreement. Therefore, the values on the charts may not give a clear picture of why annexation proceedings are initiated. The process was changed in 1996 to simplify the record keeping. Also, it was difficult to study the different reasons for annexation based on residential, commercial, or need for city services because of this double reporting in the study years 1992-1995. Now that the reason for annexation reported to the Minnesota Municipal Board has been simplified, future studies may address this issue in an attempt to correlate the reason for annexation to the volume of applications.

The same mapping method was utilized to show the average acreage in orderly annexation and annexation by ordinance (Plates 6-10). The maps show a wide dispersal of the average acreage per annexation procedure. It is important to understand that these maps are meant to aid in determining possible areas within Minnesota where further studies may be conducted to obtain an even clearer idea how and why boundary adjustment procedures are occurring.

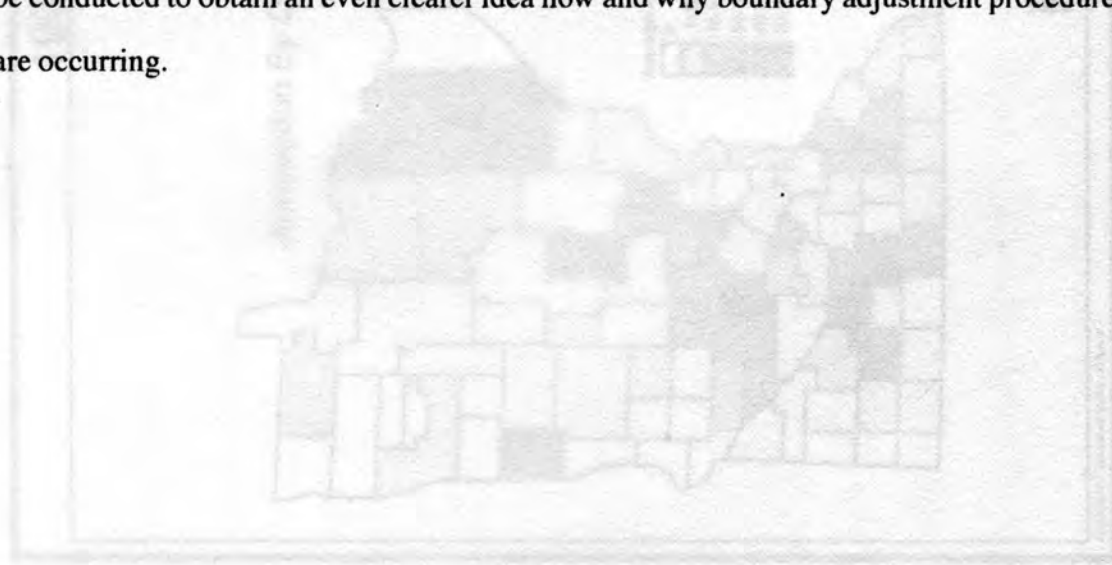
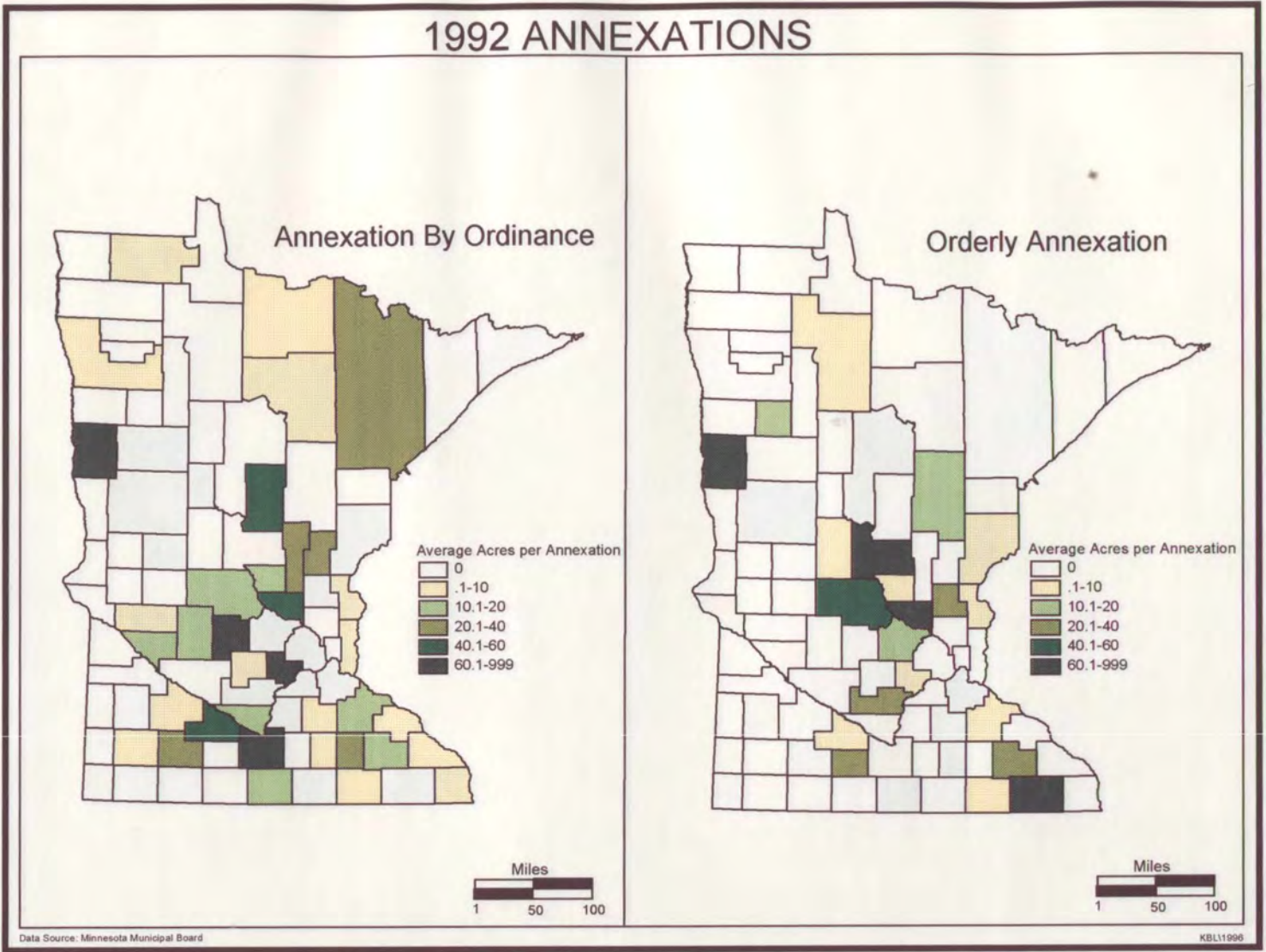
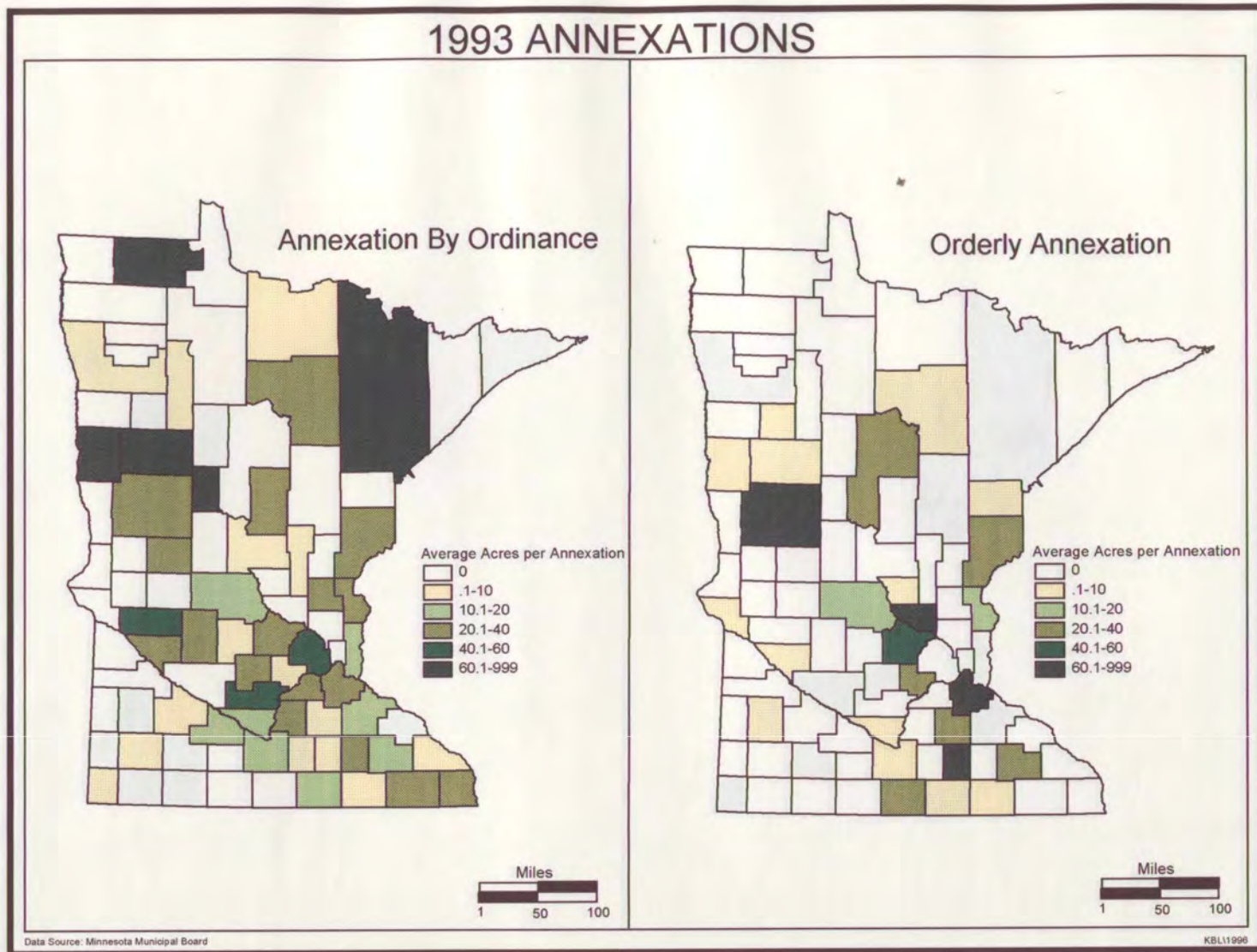
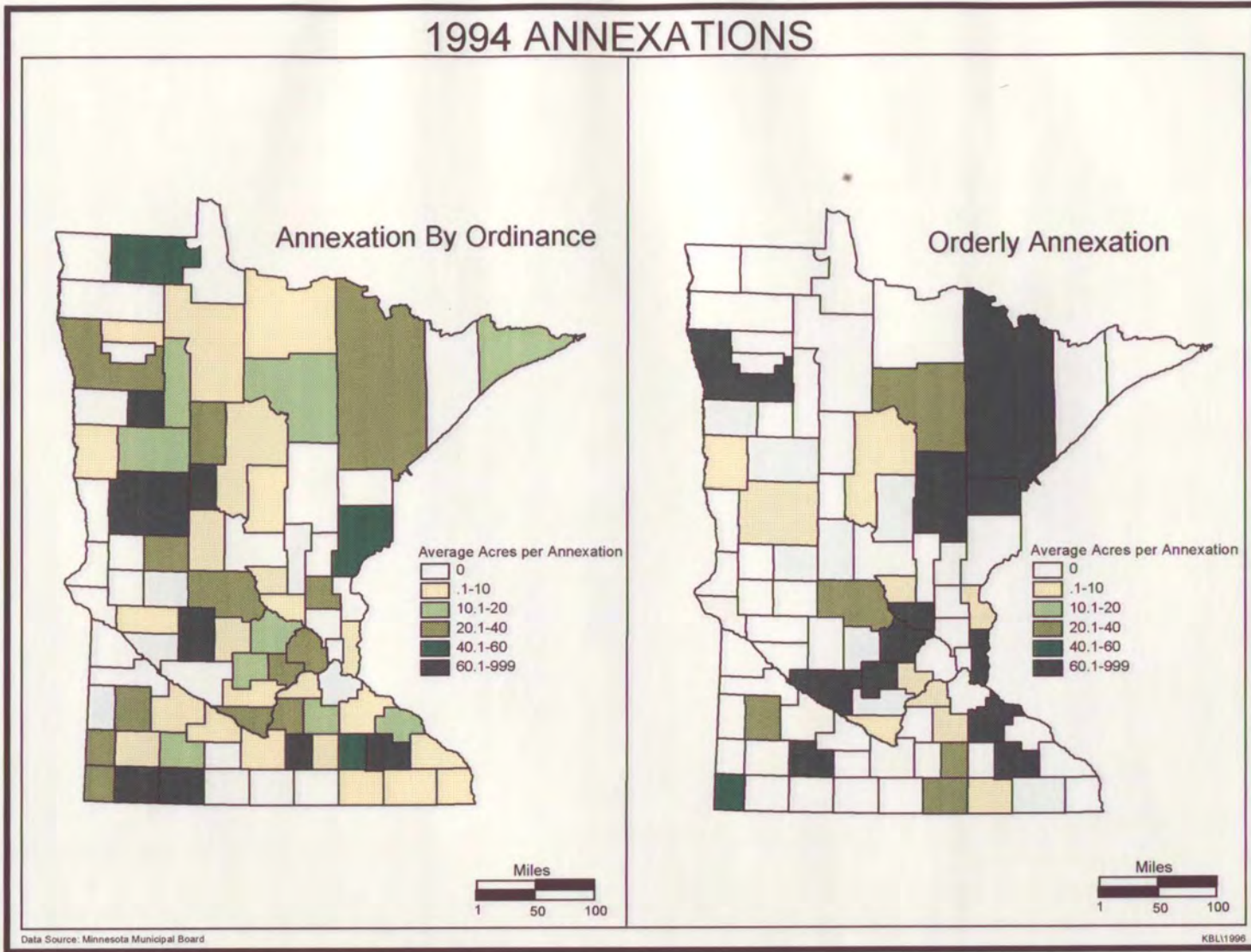


Plate 6. 1992 Average Acreage Per Annexation

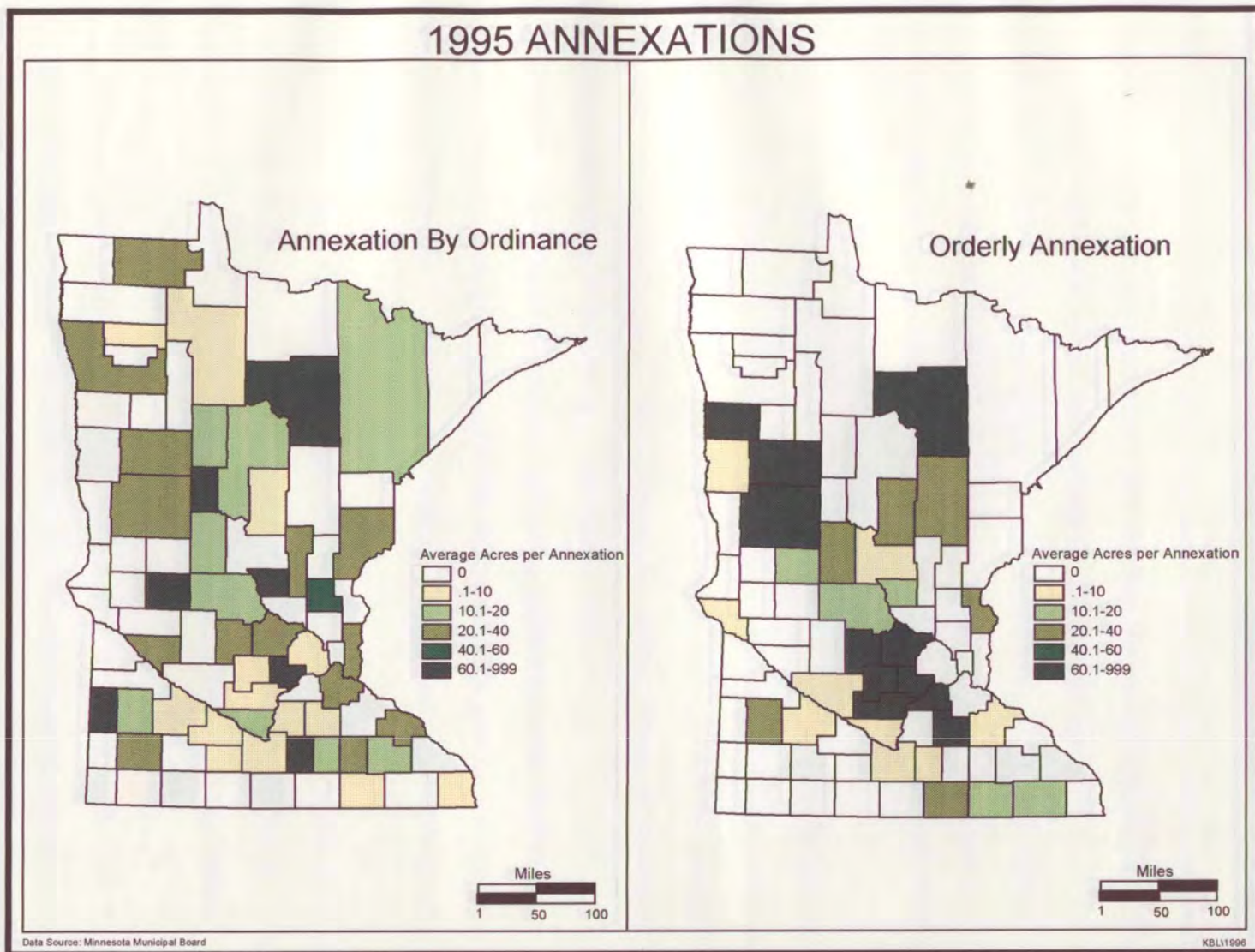




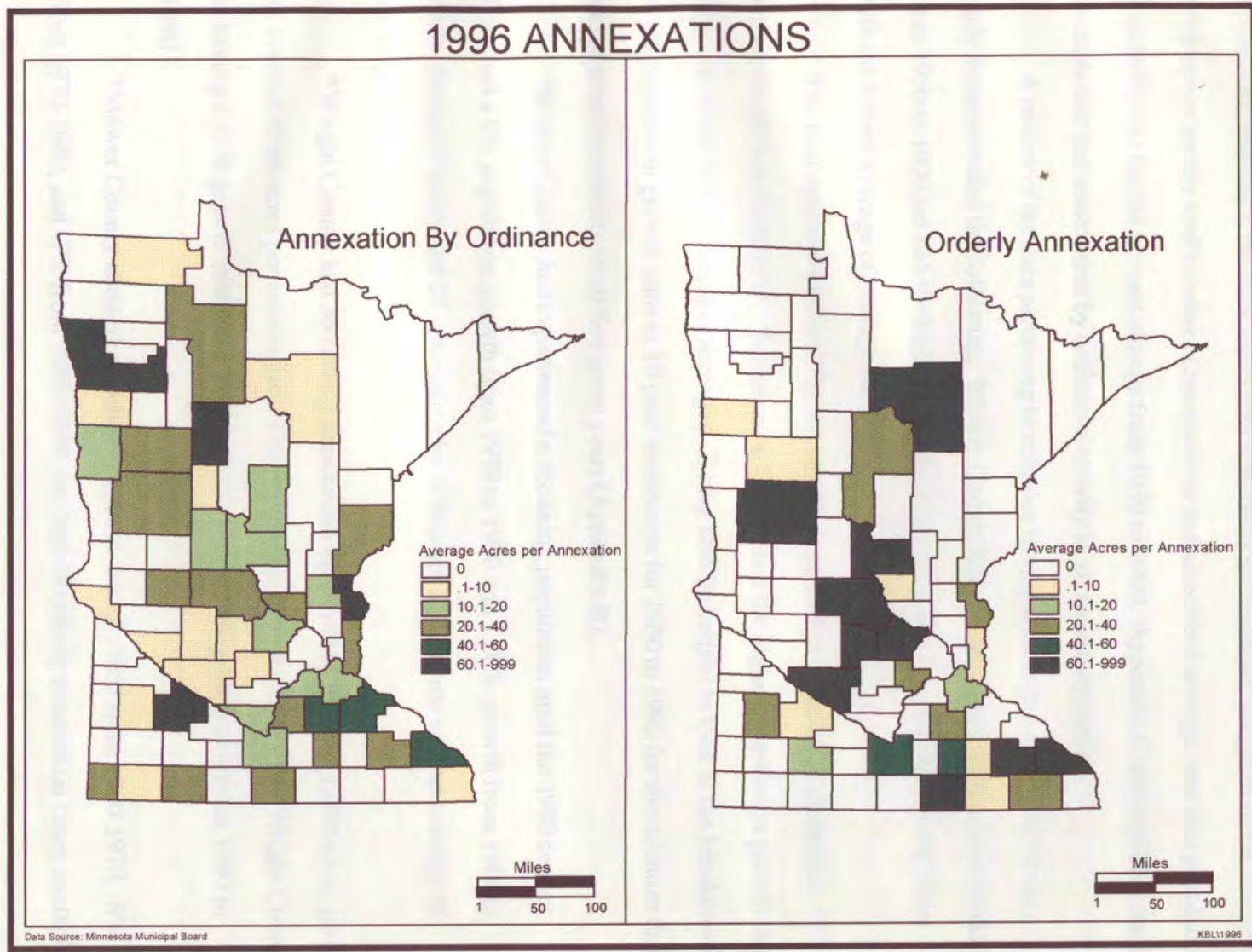












There were six counties that had orderly annexation activity in all five study years. These counties are Carver, Wright, Chisago, Benton, Stearns, and Mower. Refer to Appendix C to review the data associated with these six counties. Included in the information are the total number of annexations and associated acreage, and also population growth figures for the percent change from 1950 to 1990. Appendix C also includes the 16 counties that had annexation by ordinance activity in all five study years.

A review of the data pertaining to counties having annexation activity in all the study years revealed the following. Mower County had a negative population growth rate from 1950 to 1990 yet had the highest orderly annexation activity in all five study years with the lowest average of acreage per annexation.

The near opposite held true for the counties that had annexation by ordinance activity in all five study years. Washington County had the highest population growth rate with one of the lowest averages acreages. It may also be helpful to look at the breakdown of the population growth rates in 10 year increments for 1950 to 1990 for the counties that had annexation activity in all five study years (Appendix B).

\*Roseau County had experienced a declining population until the 1980 census. They had a 9% population growth from 1970 to 1990 and a 20% growth from 1980 to 1990. Roseau County had 21 annexation by ordinance agreements with an average of 39.57 acres.

\*Wright County had 36 orderly annexation agreements, totaling 2,448 acres, giving an average of 68 acres per annexation. The population growth charts show Wright County as having a 51% growth rate from 1970 to 1980 with a 17% growth rate from 1980 to 1990.

\*Mower County showed a declining growth rate of -10% from 1960-1970, -8% from 1970-1980, and -7% from 1980-1990, but had 44 orderly annexation cases averaging

6.22 acres each from 1992-1996. Why were these annexations occurring? Was there economic growth or need for city services that was fostering these annexations?

The answer to the question of why these annexation activities occurred as they did, would need further study in evaluating the numerous factors that could be effecting annexation in general. As stated previously, the review of annexation activity within the state of Minnesota during these study years is not meant to determine why these activities occurred. The answer in reference to why these annexations occurred should be the base of additional studies. There are too many factors involved within individual cases to make such broad assumptions during this study. However, it is important to determine the volume and size of annexations, orderly or by ordinance, to aid legislatures in determining where possible study areas may be located and if a review of the procedures are necessary.

governing bodies. For example, Searns County changed the building restrictions within their sub-divisions ordinance in 1991 as a result of concerns about nitrate contamination for on-site septic systems. Restrictions include limitation of development of particular tracts of land and large minimum lot sizes (APO, 1995). These restrictions put additional pressure on development within the township.

Many of the previous studies concerning annexation laws did not include a local case study (Ball & Rasmussen, 1976; Galloway & Landis, 1986; Klaff & Fugitt, 1978). By looking at the two governing bodies addressing the issues that effect them individually and as adjoining governmental units, researchers may see how the statutes are being viewed and utilized on the local level.

The City of St. Joseph (St. Joe) and St. Joseph Township (Town) are located within Searns County in the state of Minnesota (Plate 1). They are attempting to deal with the issues of municipal growth, demands for public services, and adequate tax base to finance needed governmental services. Since 1978, St. Joe has annexed well over 500



## Chapter 6

### CASE STUDY CITY OF ST. JOSEPH AND ST. JOSEPH TOWNSHIP STEARNS COUNTY, MINNESOTA

Across the country, townships and cities face numerous problems associated with growth and development. Residential, commercial, and industrial development pressure city government for developable land. Township governments are looking for ways, through annexation to adjoining municipalities, to continue providing services to their population as their tax base shrinks. Environmental issues are also adding pressure to all governing bodies. For example, Stearns County changed the building restrictions within their sub-division ordinance in 1991 as a result of concerns about nitrate contaminates for on-site septic systems. Restrictions include limitation of development of particular tracts of land and large minimum lot sizes (APO, 1995). These restrictions put additional pressure on development within the township.

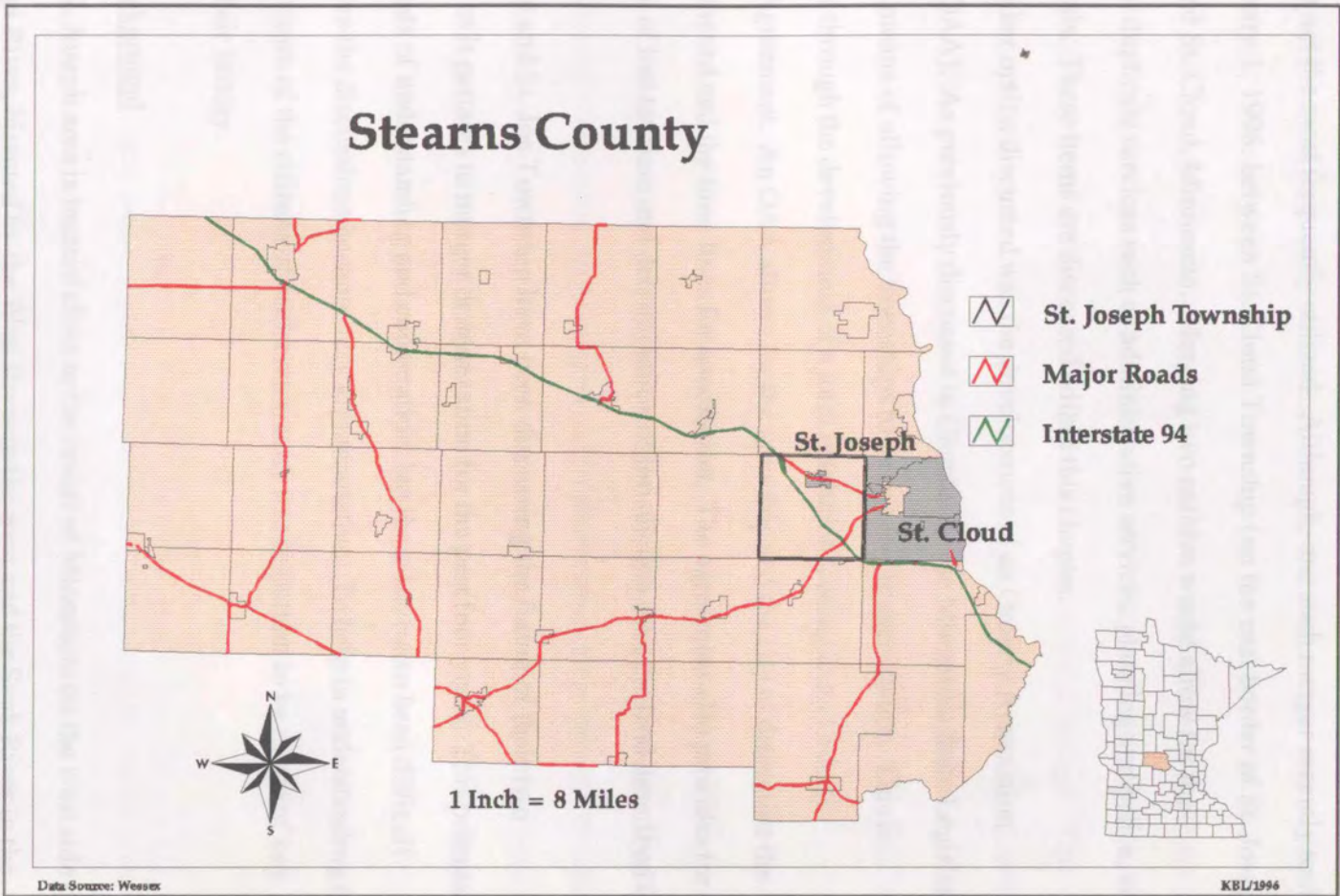
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The City of St. Joseph (St. Joe) and St. Joseph Township (Town) are located within Stearns County in the state of Minnesota (Plate 11). They are attempting to deal with the issues of municipal growth, demands for public services, and adequate tax base to finance needed governmental services. Since 1978, St. Joe has annexed well over 500

acres of township land. The 1992 city annexation of an industrial park originally located within the St. Joseph Township significantly reduced the township's tax base. As a result of this annexation, township officials began questioning the future economic stability of their township. Discussions began between St. Joe and the Town in 1992. Many issues were reviewed to assist officials in the decision-making process. This chapter reviews their planning process and studies the elements of this process such as population growth patterns, administration, land use controls, and public safety. An overview of how and why these two communities developed is also included in this case study. This historical overview will aid in the understanding of how the citizens have interacted in the past and how they may cooperate at this time.



Plate 11. Stearns County





The options, discussed by the city and town, dealt with full merger or orderly annexation. In the case of merger, the township would cease to exist in the legal terms. This option is not the most frequently utilized. Although, one such merger recently took place on January 1, 1996, between St. Cloud Township (on the east border of St. Joseph Township) and St. Cloud, Minnesota. Merging two entities would allow for the elimination of duplicate services such as administrative services, planning and police, and elected officials. These items are discussed within this chapter.

The other option discussed was the development of an Orderly Annexation Agreement (OAA). As previously discussed in Chapter 4, the Minnesota State Legislature has provided means of allowing the townships to have a say in their future. This is accomplished through the development of a joint resolution leading to an Orderly Annexation Agreement. An OAA allows for the township and the city to determine the areas to be annexed and the time-lines for annexation. The agreement also provides for compensation of lost tax base and determination of jurisdiction over the land described in the OAA.

St. Joe and St. Joe Township have been discussing the future of their two communities as it pertains to merger or annexation for the past four years. This process has seen periods of understanding and cooperation, but there have also been difficult meetings where the discussions became very argumentative. To help in understanding the attitudes and views of the citizens of each community it is important to be aware of key elements of their history.

#### Historical Background

The St. Joseph area is located close to the center of Minnesota on the west side of the Mississippi River, bisected by the Watt River in the west and the Sauk River in the southwest. The area lies at an altitude of 1,100 feet with a rich, black top-soil, 1-2 feet deep. Mixed forest and granite outcropping make up a majority of the landscape. The

largest granite outcroppings lie in section 27 south of the present city of St. Joseph (Mitchell, 1915). "Pockets of swamp land are scattered throughout with the largest areas located in the north central and south east portions of the township, consuming roughly 2,200 acres of land" (St. Joseph Township Comprehensive Plan, 1986).

In 1854, there were two main settlement groups in this area called the Yankees and the Germans. The Yankee settlers from the eastern part of the United States settled in the southeast corner of the township in section 27, around the granite outcroppings. The settlers were joined by many others once the word spread to the east about the availability of rich farm land. The northwestern settlement was primarily German immigrants. Peter Loso, in August, 1854, claimed sections 9 and 10 and formed what is now the City of St. Joseph.

A priest, Father Pierz, was a missionary to the Sioux and Dakota Indians in the area who brought Benedictine priests from Pennsylvania and nuns to assist him in his work (Loso, 1989). This began a deep commitment to religion which is still present today with the strong community support of the College of St. Benedict and a large catholic church.

As with many early settlements, there was a spirit of cooperation to help others through the difficult times. "They participated in community projects such as building the school and church, and also become the village officials or town board members. The tradition of active participation in community life was considered as important then as it is now" (Loso, 1989, p. 11).

### The Township

St. Joseph Township was organized in 1858 and covered about 81 square miles. It was reduced to its present size by the establishment of St. Wendell, Collegetown, and Avon townships. In the first series of meetings after its organization, three supervisors were elected and six road districts were assigned. Township citizens were required to put in at least two days of work on the roads each year (Loso, 1989, p. 53).

The citizens of the township led a hard farming life, just like many of the settlers of their day. The farmers started raising grain crops and food crops along with chickens and hogs to sustain them through the harsh Minnesota winters. The first flour mill was constructed in 1856. The mechanization of farming, such as the invention of planting machinery and early tractors allowed for greater acreage to be devoted to grains and corn (Walter Studio, 1971).

The number of farms in Stearns County reached a high in 1935 at 4,896 with crops such as wheat, buckwheat, rye, oats, corn, and clover. Dairy farming was also a large part of the farming economy. Stearns County was the top dairy producing county in the state of Minnesota in 1941, but declined in the 1980s (Brinkman, 1988). The farms became very specialized. Farmers have tapped maple trees for syrup, begun oyster-mushroom, and even rabbit farms. Its rich tradition is shown by the fact that presently the township has five century farms. A century farm is one in which the land has been owned by members of the same family for 100 years or more.

The area of the township is approximately 21,888 acres according to the 1986 St. Joseph Township Comprehensive Plan minus the annexation of the city that have taken place since the adoption of the plan (Heim, 1993). The major land-use in the township is agriculture, then residential and commercial. The concentration of residential development is located near Kraemer Lake and the city limits of St. Joseph. These are the areas where future environmental concerns may exist regarding shore-line development and the aging septic systems.

Between 1978 and 1993, the City of St. Joseph annexed 534.73 acres of township land. About 175 acres were commercial or industrial in nature. The remaining acreage was residential developments and the College of St. Benedict (College of St. Ben's). The largest parcel annexed was the College of St. Ben's in 1992 which amounted to 146.59 acres and made up 25% of the present city's size. The annexation was under an orderly



annexation agreement and was approved by the municipal board on July 2, 1992 (Minnesota Municipal Board Annual Report, 1993). This annexation was not opposed by the township supervisors, with the provision that the city would implement the transportation plan previously adopted by the Township of St. Joseph. The supervisor's felt that the previous work done with the College of St. Ben's to preserve this corridor was very important. This corridor had been negotiated with the College officials and the township prior to annexation (Minutes, April 22, 1992). Due to political reasons, this transportation plan has not been adopted by St. Joe's City Council at the time of this paper. This has been a controversial issue between the township and the city. The Planning Commission for the City has shown opposition to this corridor. It cites that the development of this roadway would upset the natural and orderly flow of campus traffic (Heim, Potential Transportation Issues). Several township officials feel this issue needs to be addressed as the discussion of annexation or merger continues (Minutes, May 17, 1993). The adoption of this transportation plan was a condition set by township officials for agreement to the St. Ben's annexation. The annexation had been completed but the conditions for that annexation agreement have not been met by the city officials of St. Joseph.

### The City

In 1889, the citizens of St. Joseph voted 46-18 to incorporate as a village. Trustees were elected and the first order of business was the concern over the supply of drinking water. The first well was contracted for in February, 1890. Health and safety have always been major concerns of the local government. The fire department, which was organized in 1885, changed its name to St. Joseph Fire Department in 1892 (Loso, 1989). As the population increased in the area, service businesses developed in St. Joseph. The businesses were typical of the times, general store, bank, wagon maker, and other businesses that serviced the farmers. Along with this economic growth, the dedication to

the church and education became apparent. The Sisters of St. Benedict started an academy for girls, which is now the second largest employer in the City of St. Joseph (Loso, 1989). Meanwhile, St. John's Seminary served the boys in the area.

In terms of the land-use within the city, residential developments make up about 20% of total land-use. Prior to the 1992 annexation of the Rennie Industrial area, industrial land only made up 2% of the total land-use. This figure is presently at 20%. Commercial use only makes up 1% of the total land-use. A unique situation exists in St. Joe; the College of St. Beq's and the convent's land holdings make up 25% of the city as of 1994. These areas probably will not be available for development in the near future (Heim, Development Patterns). The remaining land is undevelopable due to wetland restrictions. The commercial area of the city has not dramatically changed for many years. Further expansion of the downtown area would have to displace residential areas (City of St. Joseph Comprehensive Plan, Draft, 1993).

For many years, the City of Joseph provided the services necessary to a farming community. As the town developed and prospered, the population increased. With this population increase, the necessity for municipal services grew. In 1949, the city of St. Joseph built a new water tower and drilled a new well. This was also necessary due to the new water pollution standards at the time. With the municipal growth, the city saw a need for orderly growth and establishment of a Planning Commission. This commission created the first zoning regulations and made recommendations to the council on variances, future growth and requests for annexations. In the 60s the Pollution Control Agency implemented higher waste water standards, which forced St. Joseph to build a new waste water treatment facility (Loso, 1989). This facility discharged the processed waste water into the south fork of Watt River to Rossier and Watt Lakes (SEH, 1993). When the standards again became stricter, the council looked into alternatives to updating their waste water treatment facility.

In 1986, St. Joseph contracted with St. Cloud to process their waste water. At the current contract rate, the city could grow two and one-half times without exceeding the flow rate for sewage treatment in the current contracts. This is based on the figures of 80 gallons/person/day. The current contract with St. Cloud is for 600,000 gallons per day. In 1992, the city was sending 250,000 gallons per day for treatment. The City Engineers prepared a report taking into account nine sections of the township as a study area. If the entire study area was developed, the City would exceed the sewage disposal contract by 4.5 times (SEH, 1993).

There has been a history of orderly annexation agreements between the two governing bodies. In 1975, St. Joseph entered into an Orderly Annexation Agreement with St. Joseph Township. The agreement covered approximately two sections of land adjacent to the municipal boundaries. The area was divided up into two zones:

Zone 1 - 1-5 year annexation

Zone 2 - 5 - 10 year annexation

The agreement stated that annexation would not take place "unless the area involved is or is about to become urban or sub-urban in character and unless the City is capable of providing municipal services such as water, sanitary sewers and storm sewers" (OAA, 1975, p. 2).

The township abutted only townships until the merger of St. Cloud and St. Cloud Township on January 1, 1996. The area of the new municipality of St. Cloud, that is adjacent to the township, is not developed at this time. The outward development of St. Cloud will probably not reach this area within the next 20 years. Therefore, it would not be feasible for St. Cloud to attempt annexation of any portion of St. Joseph Township. The city of St. Joseph is completely surrounded by the township of St. Joseph. Its location prevents it from abutting any other jurisdictions. The Area Planning Organization (APO) has estimated that the city of St. Joe will add 701 new housing units from 1990 to



2015, with an estimated population growth to 7,649. This figure represents a doubling of the population in 1990. To achieve this projected growth the city must continue to annex portions of the surrounding township.

At the January 17, 1991, City Council meeting, Councilperson Sodlo stated that a township official brought up the concept of consolidation of the township with the City of St. Joseph. The council suggested that Councilperson Hazen start studying the consolidation issue. The two governing bodies began meeting to discuss the issue. The issues of the township's decreasing tax base, extension of city services beyond the city limits, need for long range planning, and consolidation were discussed at the March 2, 1992, meeting. At this meeting, they all agreed to have the city engineer study seven sections for future service of sewer and water. City Councilperson Loso, in 1993, stated that he felt Orderly Annexation was the best path to take, but township officials still wanted to review the merger issue. Township officials felt orderly annexations would leave the least desirable portions of the township to them (Special Session, March 30, 1993). Together, the governing bodies decided to set up a joint committee. This committee would have members from the Township Board and the City Council. Its role would be to review the issues involved in entering into either an Orderly Annexation Agreement or Merger. The name of the committee was called "The Greater Saint Joseph Area Committee" (GSJAC). The GSJAC began to review and evaluate many components affected by these discussions. They sought advice from the Mayor of Sartell, a city which had recently entered into an orderly annexation agreement with the adjoining township of LeSauk. The GSJAC reviewed Sartell and LeSauk's procedures and determined that they would hire a mediator to sit on their review board to guide discussion. Bob Heim was hired to fill this position. Heim sat on the LeSauk Town Board during their negotiations with Sartell.

The following sections will compare many of the components that are necessary for review before the joint committee could reach a decision.

## Population

St. Joseph and St. Joseph Township belong to the St. Cloud Metropolitan Statistical Area (MSA), which is one of the fastest growing MSAs in the state. "Between 1970 and 1980, it (St. Joe Township) had the largest population increase of all Metro Area townships, growing by 51.7%. From 1980 to 1990, growth in St. Joseph Township had slowed to just 4.4%" (APO, 1995, p. 5). According to the State Demographer's Office, from 1970 to 1990 the Township and the City added 72% to their total population. The pattern of growth was similar to that which was occurring across the nation. There appeared to be a trend from slower, scattered development to faster and more concentrated development practices. This is evident by the growth of housing developments on the fringe of the city limits. These developments have been systematically annexed, usually at the developer's request. The developers saw the necessity for city services to allow for more concentrated housing and, therefore, more profit. There was slower growth during the 1980s as new housing construction declined, but this growth had increased substantially in the 1990s.

The Area Planning Organization (APO) had prepared a report concerning the updated 1990 Census data. The Census Bureau has acknowledged an error occurred in the publication of the 1990 census data for St. Joseph and St. Joseph Township. The corrected figures shown in Table 2 are from the APO report concerning this issue:

The APO has projected that 20,000 new housing units will be added to the Metro area (St. Cloud, Waukegan, St. Joseph, Saint Rapids, and surrounding townships) before the year 2015. They feel that 80% of these will require connection to a city sewer system (APO, 1991).

Table 2

## St. Joseph Township and City of St. Joseph Number of Population and Housing Units

<u>UNITS</u>	<u>POPULATION</u>	<u>HOUSING UNITS</u>
TOWNSHIP:		
Original	2,567	822
Updated	3,045	856
CITY:		
Original *	3,294	759
Updated	3,349	834

The APO's responsibility in the development of land-use and transportation plans is for the projection of area growth patterns. Figure 9 shows the projected population figures for the township and city through the year 2015 (APO, 1995). As the chart shows, the APO projects rapid growth in the city and a small but steady growth rate in the township in the next 20 years. The City of St. Joe is completely surrounded by the Township of St. Joe. The question, then, is where is this projected growth to occur? The city will need to annex portions of the township as the pressures of growth continue. This projection by the APO was developed with the belief that annexation of township land will continue as the need for city services increase due to economic and environmental reasons.

The APO has projected that 20,000 new housing units will be added to the Metro area (St. Cloud, Waite Park, St. Joseph, Sauk Rapids, and surrounding townships) before the year 2015. They feel that 80% of these will require connection to a city sewer system (APO, 1995).



Public Safety

As with many small governing bodies, police and fire protection are major issues in any planning process. The city and the township have provided a high level of fire protection for the citizens of the area since the late 1800s. There is strong community pride that has developed in the ability to protect one's own community. The volunteer fire department and rescue squad has high ratings with the insurance companies and also continues to be well regarded for a number of their fire protection. As the meeting progressed with the Joint Board (JCSJACT), the discussion of building a new fire hall began. This topic has, to some extent, taken over the conversation. The fire and rescue department is striving about their fire protection and the quality of their services. This is a major expense and has resulted in higher rates for the citizens of the township. As the fire hall has been renewed the board members what is a major topic of discussion. The City Association or Mayor.

### Population Growth

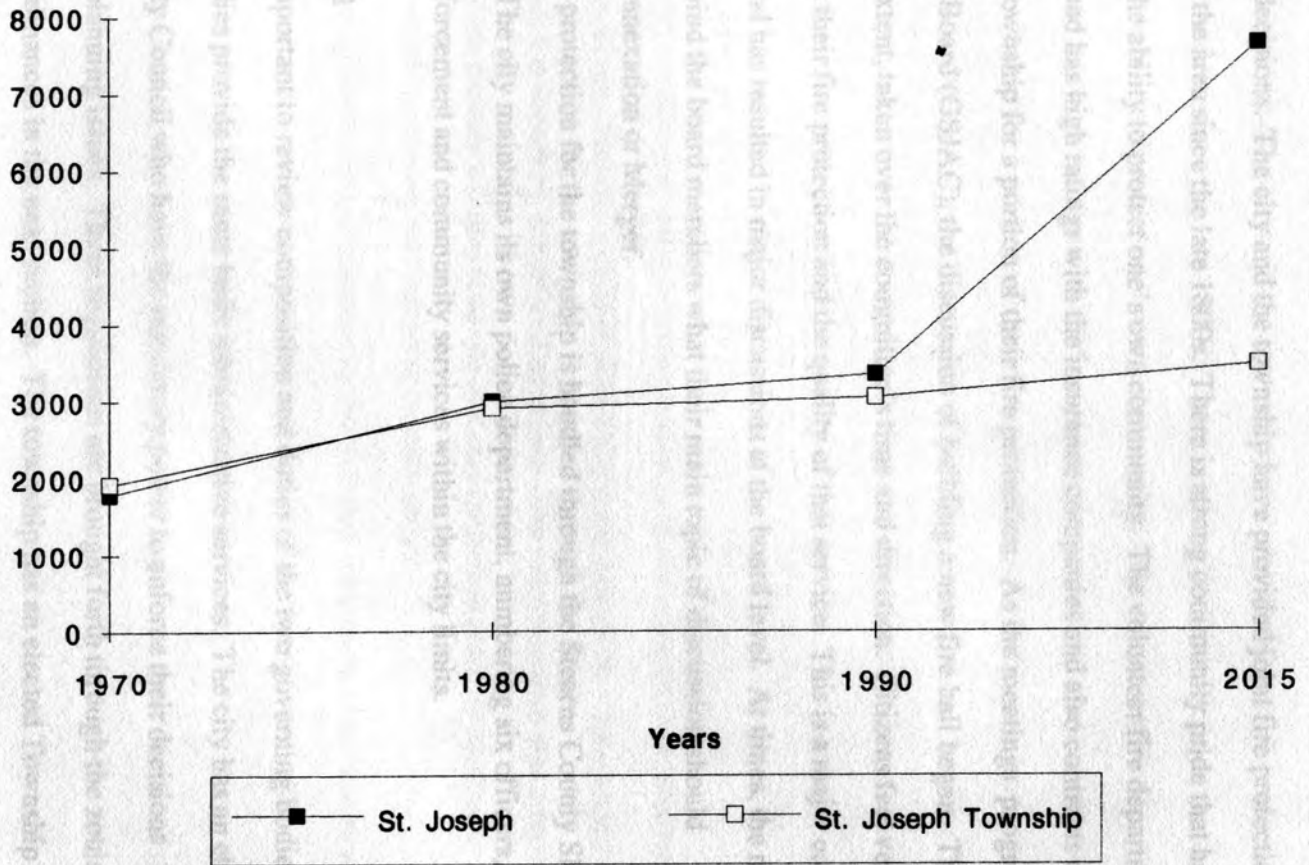


Figure 9. Population Growth

It is important to review and evaluate the services of the city and township. Both governing bodies provide the same level of services. The City Association Mayor and City Council also have the same level of services. The City Association is responsible for the city's decisions pertaining to public safety. The township is responsible for the township and subdivision services. The township is responsible for the township Board which works in the same capacity of the city's governing body. Both communities have governing bodies. Each has a Park Board to handle the park budget, oversee the improvements, and new park developments in residential areas. The Subdivision

### Public Safety

As with many small governing bodies, police and fire protection are major issues in any planning decisions. The city and the township have provided joint fire protection for the citizens of the area since the late 1800s. There is strong community pride that has developed in the ability to protect one's own community. The volunteer fire department and rescue squad has high ratings with the insurance companies and also contracts out to St. Wendell Township for a portion of their fire protection. As the meetings progressed with the Joint Board (GSJAC), the discussion of building a new fire hall began. This topic has, to some extent, taken over the committee's time and direction. Citizens feel very strongly about their fire protection and the quality of that service. This is a major capital expenditure and has resulted in major discussions at the board level. At times, the mediator has had to remind the board members what their main topic of discussion should be--Orderly Annexation or Merger.

Police protection for the township is handled through the Stearns County Sheriff's Department. The city maintains its own police department, numbering six officers, who handle law enforcement and community services within the city limits.

### Administration

It is important to review composition and duties of the two governing bodies. Both governing bodies provide the same basic administrative services. The city has an elected Mayor and City Council who have the regulatory power to enforce their decisions pertaining to planning issues. These regulations are brought forth through the zoning and subdivision ordinances in the next section. The township has an elected Township Board which works in the same capacity of the city's governing body. Both communities have separate Planning Commissions which have an advisory position to the respective governing bodies. Each has a Park Board to handle the park budget, oversee improvements, and new park developments in residential areas. The Subdivision

Regulations for the City of St. Joe require a developer to donate 8% of the market value of the land in cash to the Park Board for development of park area to be utilized by the residents of the new development. They have an option of dedicating park land within the new development with the approval of the Council and the Park Board.

The two communities have cooperated in regard to fire protection for the area. The first fire department was organized in 1885 and had volunteers from both communities. Today there is a Joint Fire Board representing both communities. There are presently major expenditures being discussed at the joint meeting pertaining to the building of a new fire hall. They are planning well into the future and making recommendations based on the township and city eventually becoming one entity.

#### Land-use Controls

The APO has assisted both governing bodies in the development of their respective Comprehensive Plans. The city's current plan was adopted in 1979. The updated plan has been completed, but is waiting for official adoption. The township plan was adopted in 1986. These plans include a future land-use and transportation plan. Both the city and township have working zoning and subdivision ordinances.

A review of the zoning ordinances by Heim found difference in minimum lot sizes, set backs, and some allowed uses. These differences were to be expected within township and city governments. Their goals and objectives stated in the individual plans were identical. It appeared the township attempted to control haphazard growth around the township to localized development close to the city limits of St. Joseph in the event that city services may be necessary (Heim, Zoning and Subdivision Ordinances). Both plans address the need for joint planning.

The City of St. Joseph has annexed 534.73 acres of land between 1978 and 1993. The population projections through the year 2015 show rapid growth for the city. The only means for the city to accommodate this growth is through annexation of township land.



The township supervisors realize that annexation will continue to diminish their tax base and make it more difficult for them to sustain the services needed by residents. Options include merger; where the township will cease to exist with the area being incorporated into the City of St. Joe, and Orderly Annexation. Under an OAA, the township and the city develop zones for which annexation into the city will probably occur within the specified number of years.

### Orderly Annexation

The orderly annexation option reviewed by the GSJAC was discussed in depth in Chapter 4. It is important to note that the board reviewed the possibility of a trip point. The GSJAC also reviewed the inclusion of a trip point within the OAA. A trip point is the final dissolution of the township. This is when the remaining township tax base is too small for the township to properly provide services to the remainder of the citizens. At this time the remaining township will be merged with the city. This point is usually predetermined by both communities (Heim, 1993).

### Merger

A merger agreement legally combines the two communities into one. The merger can be the long-range solution to municipal growth. In 1977, Hibbing initiated annexation proceeding on a large portion of the Stuntz community. This annexation would have effected the tax base of Stuntz to the point that the Minnesota Municipal Board initiated merger talks because Stuntz would no longer be able to adequately provide services to the remaining population (Rasmussen, 1980). The discussions resulted in Minnesota's largest geographic merger in 1979.

In most merger agreements there is usually the establishment of service districts. The criteria for these levels are based on the level of municipal service provided. The number of levels vary but run the range from full-service to minimum service. The

minimum service districts would receive only those services they received from the township government (Heim, 1993). In the event that the agreement is for a merger, the city may then enter into negotiations with the City of St. Cloud for additional municipal sanitary sewer. The provision for city water would most likely be developed within the new city.

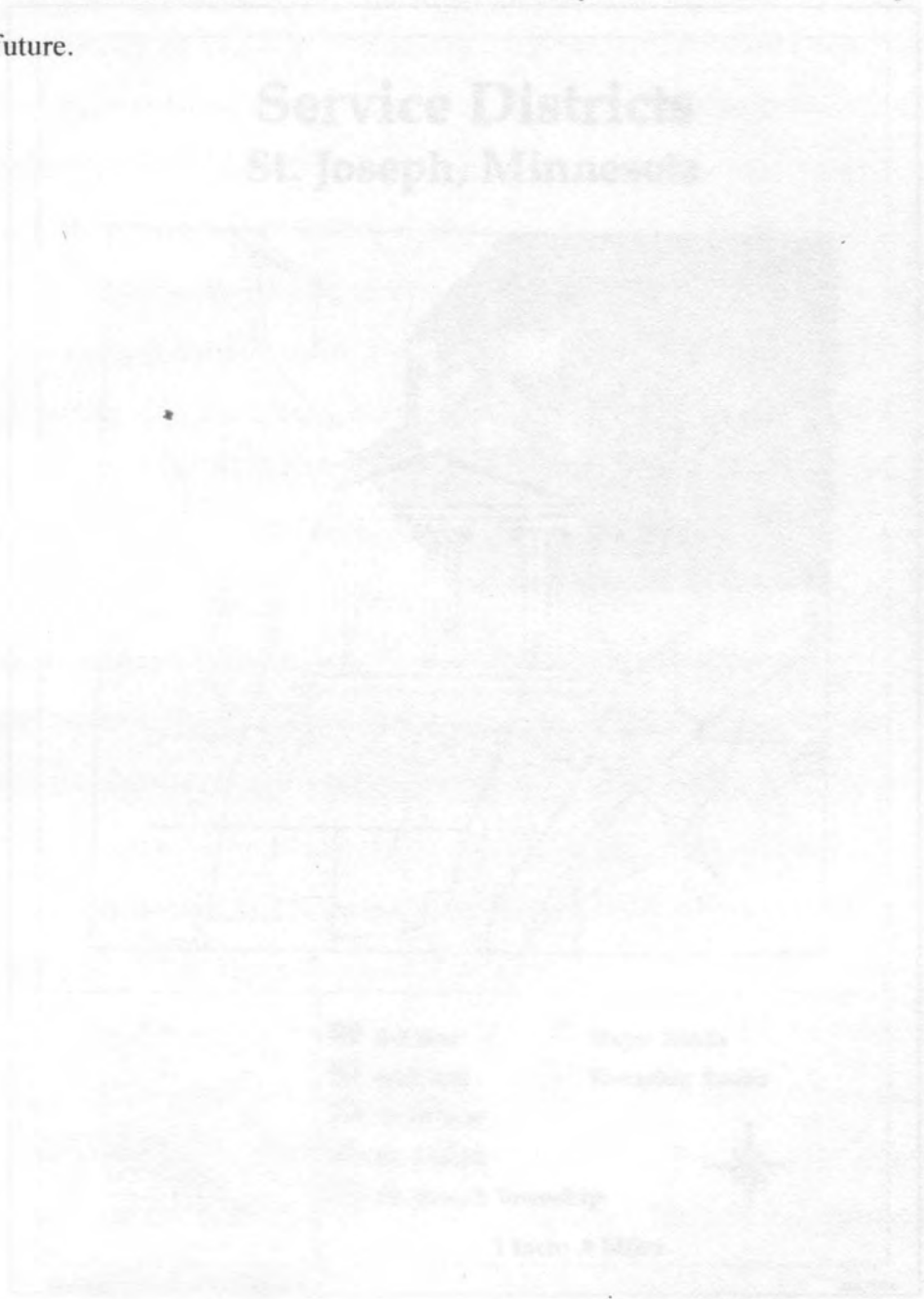
Tax distribution is also addressed in merger discussions. Will citizens that are outside of the service districts or do not receive city sewer and water, pay the same tax rate as those that do? The cities may choose to assess those properties that are benefiting from the services or spread the tax burden out throughout the entire community. The most desirable solution is to directly assess those properties who directly benefit (Isberg, 1982).

### Conclusions

On November 28, 1995, the Joint Committee voted unanimously to proceed with a partial Orderly Annexation Agreement. This decision culminates four years of intense discussion between the township and city. Both parties came to the bargaining table with two different ideas concerning the outcome. The city felt the OAA was the best option and the township wanted merger. In discussions with the City Administrator, Stapelton, in January, 1996, she felt that the township officials decided that the merger option was not the choice of their population. This possibly could have been influenced by the embittered situation between neighboring St. Cloud and St. Cloud Township and the resulting merger.

The Joint Committee voted at their January 16, 1996, meeting to adopt the Future Landuse Map developed by the APO. This map also shows the Service Districts for the next 20 years (Plate 12) The breakdown of the Service Districts were for 0-5 years, 6-10 years, and 11-20 years. These boundaries will serve as boundaries for the OAA. Another process now begins. The Joint Committee will begin to draft the OAA document with the information necessary for Municipal Board approval. Some of the items addressed will be to finalize the areas under the agreement (with legal descriptions), set up the decision-

making body to oversee planning, and to determine the frequency of review for the OAA. The committee also discussed the need to inform the public and receive their input in the near future.



Map 12. Service Districts



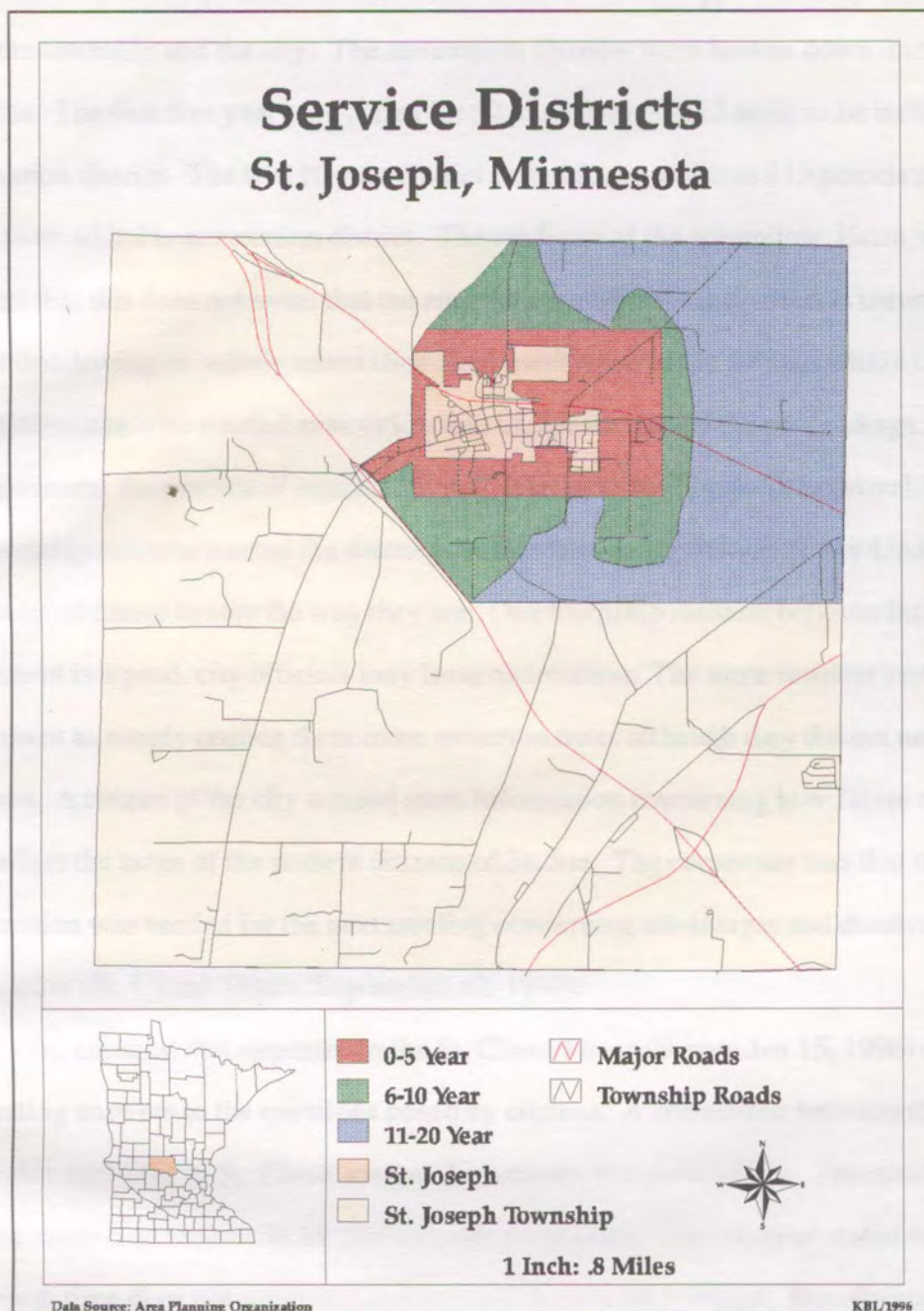


Plate 12. Service Districts

The first of a series of public meetings was held on September 11, 1996. The specifics of the orderly annexation plan were discussed with approximately 140 citizens of both the township and the city. The annexation districts were broken down into two districts. The first five year plan called for 52 parcels or 941.22 acres to be included in the annexation district. The 6 to 10 year district called for an addition 115 parcels or 1,313.91 acres to be added to annexation district. The mediator of the committee, Heim, told the citizens that this does not mean that the annexation within these districts is inevitable. Heim stated that having an orderly annexation agreement allowed the citizens within the annexation area who wanted annexation into St. Joe, to initiate the proceedings. Without the agreement the process of annexation may take up to two years for approval. Many of the township citizens wanted the discussions concerning annexation of any kind to cease; they wanted things to stay the way they are. One township resident believes that once the agreement is signed, city officials may force annexation. The same resident views the agreement as simply costing them more money in taxes although they did not need the city services. A citizen of the city wanted more information concerning how future annexations may affect the taxes of the present citizens of St. Joe. The consensus was that more information was needed for the next meeting concerning advantages and disadvantages of annexation (St. Cloud Times, September 12, 1996).

An editorial that appeared in the St. Cloud Times (September 15, 1996) contained interesting answers to the questions posed by citizens. A correlation between the St. Cloud Township and City of St. Cloud merger discussions was pointed out. The rural residents had the same concerns as the St. Joe Township residents. The editorial stated that in areas of growth time does not stand still as many residents wish it would. Development is inevitable, and the citizens would be better off taking this time to develop an understanding of the orderly annexation process and what they could do to make the agreement better. The final statement of the article summed up to purpose of the entire process: "At some

point, areas of the township will grow to the point they require municipal services. Planning for that now, before any crises develop, will do more to preserve the type of community residents want than any effort to cling to the status quo."

Public hearings will be planned to take this decision to the citizens. They will be informed of the full process their elected officials went through to reach the decision of an OAA. The statute states that the decision to enter into an OAA lies in the hands of the elected officials. This decision does not go before the public for a vote. There will be much debate and some citizens will feel the board's decision was wrong, but the review process was set by the state legislature and followed by this committee.

St. Joe and St. Joe Township have had a history of cooperation since the first settlers in the late 1800s. The joint committee has continued this cooperation and have ensured a future of orderly development and provision of services to ensure the public health and safety of its citizens. This will be accomplished through the development of their OAA. I believe this tool for urban growth, provided by our lawmakers, will serve these two communities well.

This case study was meant to be a descriptive study showing the steps two communities took in reviewing the options for growth available through the structure of the annexation statutes at the present time. Future studies may involve concentrating of the personal views and attitudes of the citizens affected by the action.



## Chapter 7

### CONCLUSION

In determining if changes should or should not occur in the orderly annexation legislation, it is important to review where we have come from and the process of how we got to where we are concerning boundary adjustment legislation. It can then be determined what are the best steps to take for the future. This study accomplished the task described above.

This study reviewed the beginning of the legislation governing boundary adjustments and a discussion concerning the function of the Minnesota Municipal Board. Boundary issues will always present significant problems because of the nature of the action. There is a need to approach these issues differently. Factors dictating how boundary adjustments are received include community sentiments and political traditions, and are constantly changing. Since land is also a resource, not just a commodity, the supply is limited. We must work to achieve the best use of the resource. Many of the land use decisions that are made are irreversible, so we must ensure the decisions are made with the best tools available.

As stated earlier, one of the main factors for annexation is the need for open land on the urban fringe. This fringe will always be present. As long as there is undeveloped land near the borders of municipalities, the urban fringe or frontier will just keep moving out and development occurs. Therefore, as long as development exists, there will be the problem of handling boundary adjustments. This is an ongoing study as long as there remains undeveloped land outside the municipal boundaries.

## Recommendations

More work needs to be done at the state level on annexation. Detailed studies need to be conducted on individual annexation agreements to determine the factors involved in initiating the procedures. This study has identified areas where these detailed studies may begin. The case study provides a framework in which to begin these studies and gives insight into the development process of an orderly annexation agreement.

Additional studies should concentrate around the 1994 annexation procedures. There appears to be a large amount of fluctuation during this time period. It is important to identify factors, social or economical, that may have effected the figures for this time period.

The municipal board should call for more detailed data concerning individual annexations and the factors involved. Local governments must be required to report more detailed data concerning the factors behind the agreements and the population effected by these actions. This data would aid in determining the factors pushing the annexation process. By understanding these factors, the legislature has another tool in which to determine what, if any, changes need to occur in the legislation.

The legislators need to review the language of the annexation ordinances. The vague references to urban or suburban in character need more investigation. Local governments need more concrete guidelines to follow if the ordinance is to be utilized to the fullest.

Future studies could look at economic factors influencing annexations between the towns and cities. The number of contested annexations versus the number of orderly annexations could help in determining the cost effectiveness of orderly annexation. The number of annexation cases involving annexation by ordinance still exceed the orderly annexation cases during the five study years. But the study also shows that the average acre per annexation in Minnesota during the same five years is greater under orderly

annexation than annexation by ordinance. The local governments are annexing larger portions per agreement by orderly annexation and, as of 1995, the total acres annexed under orderly annexation exceeded annexation by ordinance.

The municipal board should continue to push the effectiveness of the orderly annexation option as a means of forming cooperation among neighboring local governments involved in a process that will eventually occur at some point in the future. Development is inevitable.

Annexations are not one time isolated events. They occur time and time again. Each one may be unique in the factors guiding its initiation, but the processes are still guided by the same legislation. This is why it is important that the legislature has an adequate understanding how this legislation is being utilized throughout the state. Numbers on a sheet of paper are just numbers; the data mean something; and relationships may be determined by utilizing thematic mapping.

This study was developed to provide an overview of the orderly annexation legislation development and process to be utilized as a tool. This tool may aid legislators in the following ways:

- Determine if changes are necessary in the statute,
- Give legislation a geographical representation of annexation activity over a five year study period,
- Follow the process within a rural community and gain insight to their needs and desires toward the annexation process,
- Provide direction in determining the framework of future studies concerning annexation.

Annexation is an important issue that affects the lives of thousands of people across Minnesota and the nation as a whole. The better we understand the process, the factors



guiding the process, and views of the populations affected, the better equipped we are to make the process work in the most effective and efficient manner possible.

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## APPENDICES

### Conditioning for Construction in Bone Tissue

Factors Utilized by Minnesota Municipal Board  
in the Decision Making Process

1. Review of population growth, past, present and future
2. Area of property proposed for annexation
3. Present pattern of development character within community being annexed and annexing body.
4. Comprehensive plan for development
5. Type of planning control presently exercised and proposed for annexation
6. Topography
7. Human services being provided

APPENDIX A

8. Listing of potential environmental concerns
9. Fiscal data **Conditions for Commission to Base Decisions**
10. Relationship and effect on communities adjacent to area being annexed or merged
11. Analysis whether annexation, consolidation or incorporation is best for provision of services.
12. Adequacy of township government
13. Availability of space within annexing jurisdiction
14. Plans for provision of services to area under review
15. Degree of contiguity of boundaries
16. Viability of township retaining other annexation of proposed land

Source: 1976 Annual Report, Minnesota Municipal Board



Factors Utilized by Minnesota Municipal Board  
in the Decision-Making Process

1. Review of population growth, past, present and future.
2. Area of property proposed for annexation
3. Present pattern of development (landuse) within property being annexed and annexing body.
4. Comprehensive plan for development
5. Type of planning control presently over land proposed for annexation
6. Topography
7. Present services being provided
8. Existing or potential environmental concerns
9. Fiscal data of annexing municipality and property in question
10. Relationship and effect on communities adjacent to area, such as school districts
11. Analysis whether annexation, consolidation, or incorporation is best for provisal of services.
12. Adequacy of township government
13. Availability of space within annexing government
14. Plans for provisal of services to area under proposal
15. Degree of contiguity of boundaries
16. Viability of township remaining after annexation of proposed land

Source: 1974 Annual Report, Minnesota Municipal Board

Percent of Population Growth  
Counties with Association Activity  
1950-1990

Ordinary Association

County	1950-1969	1970-1979	1980-1989	1990-1999
Carver	18	33	31	29
Wright	8	30	51	17
Cassago	6	30	47	19
Hendon	9	21	21	20
Stream	14	19	13	18
Mower	13	16	8	7

APPENDIX B

Population Growth Figures

Sycamore	14	15	9	10
Steele	18	8	10	1
McLeod	10	7	7	8
Crow Wing	4	8	20	6
Blue Earth	16	18	0	3
Roseau	16	3	9	20
Rice	8	7	11	7
Nicollet	12	4	18	4
Washington	52	38	37	28
Houston	13	5	3	1
Itasca	14	7	21	3
Carver	35	28	8	16
Sac	15	2	29	3
Meeker	5	0	1	7
Polk	8	5	1	3
Rainier	2	4	3	11

Data Source: Population of the States and Counties of the United States: 1950 to 1990, U.S. Department of Commerce, Bureau of the Census, March, 1990.

Percent of Population Growth  
Counties with Annexation Activity  
1992-1996

**Orderly Annexation**

<u>County</u>	<u>1950-1960</u>	<u>1960-1970</u>	<u>1970-1980</u>	<u>1980-1990</u>
Carver	18	33	31	29
Wright	8	30	51	17
Chisago	6	30	47	19
Benton	9	21	21	20
Stearns	14	19	13	10
Mower	15	-10	-8	-7

**Annexation By Ordinance**

Stearns	14	19	13	10
Steele	18	8	13	1
McLeod	10	13	7	8
Crow Wing	4	8	20	6
Blue Earth	16	18	0	3
Roseau	-16	-5	9	20
Rice	8	7	11	7
Nicollet	12	4	10	4
Washington	52	58	37	28
Houston	15	6	5	1
Itasca	14	-7	21	-5
Olmstead	36	28	9	16
Becker	-3.5	2	20	-5
Meeker	-.5	0	1	-7
Polk	.8	-5	1	-7
Redwing	-2	-8	-3	-11

Data Source: Population of the States and Counties of the United States: 1790 to 1990., U.S. Department of Commerce, Bureau of the Census. March, 1996.



1992 - 1996  
 County Data for Annexation Activity  
 In All Study Years

Ordinary Annexation

COUNTY	% POP GROWTH (1991-1992)	NUMBER OF ANNEXATIONS	POPULATION	PERCENTAGE
Carver	154	1	1,000	0.01
Wright	138	1	1,000	0.01
Chicago	141	1	1,000	0.01
Broken	80	1	1,000	0.01
Sutton*	80	1	1,000	0.01
Alcona	17	1	1,000	0.01

APPENDIX C

County Data for Annexation Activity

Washington	27	1	1,000	0.01
Cherokee	27	1	1,000	0.01
Beaufort	27	1	1,000	0.01
Franklin	27	1	1,000	0.01
McLean	27	1	1,000	0.01
Clay Wing	27	1	1,000	0.01
Blue Earth	27	1	1,000	0.01
Winn	27	1	1,000	0.01
Wadena	27	1	1,000	0.01
Houston	27	1	1,000	0.01
Iowa	27	1	1,000	0.01
Snyder	27	1	1,000	0.01
Walter	27	1	1,000	0.01
Keosauqua	27	1	1,000	0.01
Polk	27	1	1,000	0.01
Red Wing	27	1	1,000	0.01

\*Sutton data for County - population data not available for 1992 after the annexation of St. Cloud Township.  
 Data Source: Minnesota Municipal League Annual Report 1993

1992 - 1996  
County Data for Annexation Activity  
In All Study Years

**Orderly Annexation**

<u>COUNTY</u>	<u>% POP. GROWTH 1950-1990</u>	<u>NUMBER OF ANNEXATIONS</u>	<u>TOTAL ACREAGE</u>	<u>AVERAGE</u>
Carver	164	8	370	46.25
Wright	148	36	2448	68.00
Chisago	141	22	424	19.28
Benton	90	27	255	9.44
Stearns*	68	42	1696	40.38
Mower	-12	44	274	6.22

**Annexation By Ordinance**

Washington	322	8	139	17.38
Olmstead	121	78	3134	40.18
Stearns	68	47	957	20.36
Steele	45	12	195	16.25
McLeod	44	41	624	15.22
Crow Wing	43	16	293	18.31
Blue Earth	41	18	1073	59.61
Rice	36	10	134	13.4
Nicollet	34	15	194	12.93
Houston	28	14	123	8.79
Itasca	23	13	474	36.46
Becker	12	12	3809	317.42
Meeker	10	7	170	24.29
Roseau	4	21	831	39.57
Polk	-9	9	469	52.11
Red Wing	-22	7	358	51.14

\*Stearns data for Orderly Annexation does not include the 11,500 acres for annexation of St. Cloud Township.

Data Source: Minnesota Municipal Board Annual Reports