Minnesota Association of Townships
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The Interaction of Township, Federal, and State Law

The American form of Government can be said to be a dual one; the federal government and the states are distinct sovereigns. "In our federal system, the National Government possesses only limited powers; the States and the people retain the remainder. The States have broad authority to enact legislation for the public good—what we have often called a police power." *United States v. Lopez*, 514 U.S. 549, 567 (1995). The Federal Government, by contrast, has no such authority and "can exercise only the powers granted to it," *McCulloch v. Maryland*, 4 Wheat. 316, 405, (1819). As outlined in TP-1000A, Townships are creatures of the state legislature. Townships "have no inherent power and possess only such powers as are expressly conferred by statute or implied as necessary in aid of those powers which have been expressly conferred."[1] In other words, Townships derive their powers from a delegation of the sovereign power held by the State. While it is rare for Township actions to cross paths with federal law, it is by no means unheard of.[2] As such, when the Federal government acts within its proper sphere its laws and treaties control over contrary State or Township regulations.[3]

This interaction is called preemption. A similar process can occur at the State level when the State of Minnesota has chosen to regulate a particular area. This document will first discuss federal preemption and then will describe the State equivalent.

There are two major categories of situations in which Federal law can preempt[4] state or local authority: express preemption or implicit preemption. Express preemption is when congress, acting within its proper sphere, expressly provides that State or local government may not regulate a specific area. For example, the Food Drug & Cosmetics Act expressly establishes that state and local Governments may not impose different requirements for things like cosmetics labelling or packaging.[5]

Even in the absence of express preemptive language, federal law may preempt state or local regulation by indicating an intent to occupy an entire field of regulation.[6] Finally, if Congress has

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[1] *Northern States Power Co. v. City of Granite Falls*, 463 N.W.2d 541, 543 (Minn. App. 1990) (quoting *Mangold Midwest Co. v. Village of Richfield*, 143 N.W.2d 813, 820 (Minn. 1966)).
[2] One common example in which this can occur are content-based speech restrictions at town meetings which fall afoul of the First Amendment to the federal constitution.
[3] U.S. Const. art. VI, cl. 2.
[4] That is control or override contrary state or local authority.
[5] 21 U.S.C. § 379
[6] So called "field preemption" or "occupying the field" occurs when "the intent to displace state law altogether can be inferred from a framework of regulation "so pervasive ... that Congress left no room for the States to supplement it" or where there is a "federal interest ... so dominant that the federal system will be assumed to preclude

not displaced state regulation entirely, it may nonetheless preempt state law to the extent that the state law actually conflicts with federal law, and such a conflict arises when compliance with both state and federal law is impossible or when state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.[7]

Of course, similar principles can be applied to the relationship between the State of Minnesota and townships.[8] For example, with regards to pesticides the Minnesota legislature has expressly preempted local controls inconsistent with Chapter 18B.[9]

The Minnesota Supreme Court has identified what it characterizes as a "general principle for conflict preemption."[10] Specifically "conflicts which would render an ordinance invalid exist only when both the ordinance and the statute contain express or implied terms that are irreconcilable with each other."[11] They have identified three standards to illustrate when an irreconcilable conflict between a municipal regulation and state law exists. "First, a "conflict exists where the ordinance permits what the statute forbids." Second, "a conflict exists where the ordinance forbids what the statute expressly permits." Third, "no conflict exists where the ordinance, though different, is merely additional and complementary to or in aid and furtherance of the statute."[12]

Obviously, these questions cannot be answered in a general way. Each potential area of regulation is different and each statutory scheme should be read in the event of a concern.

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enforcement of state laws on the same subject." *Arizona v. United States*, 567 U.S. 387, 399 (2012) (quoting *Rice v. Santa Fe Elevator Corp*., 331 U.S. 218, 230 (1947)).

[7] See *Fla. Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142–43 (1963) (State law is preempted when compliance with both federal and state regulation is physically impossible); See also *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941) (State law can be preempted when it poses a sufficient obstacle to the accomplishment and execution of the full purposes and objectives of congress.)

[8] *Minnesota Agr. Aircraft Ass'n v. Twp. of Mantrap*, 498 N.W.2d 40, 42 (Minn. Ct. App. 1993) (analogizing Minnesota law of preemption to its federal equivalents); *see also Minnesota Chamber of Com. v. City of Minneapolis*, 944 N.W.2d 441, 447 (Minn. 2020) (Minnesota recognizes field preemption, conflict preemption and implied preemption.)

[9] "Except as specifically provided in this chapter, the provisions of this chapter preempt ordinances by local governments that prohibit or regulate any matter relating to the registration, labeling, distribution, sale, handling, use, application, or disposal of pesticides." Minn. Stat. § 18B.02

[10] *Minnesota Chamber of Com. v. City of Minneapolis*, 944 N.W.2d 441, 447 (Minn. 2020).

[11] *Id*.

[12] *Id*.